



FREEDOM OF INFORMATION REQUEST



Request Number: F-2021-01046

Keyword: Crime

Subject: Modern Slavery Sexual Exploitation

Request and Answer:

Your request for information has now been considered. In respect of Section 1(1) (a) of the Act we can confirm that the Police Service of Northern Ireland does hold some information to which your request relates and this is being provided to you. We further consider the information you seek in Request 4 is exempt by virtue of Sections 31 and 40 of FOIA and have detailed our rationale as to why these exemptions apply. In relation to Request 1, Request 2 and Request 3, PSNI are issuing a Neither Confirm nor Deny (NCND) response and will explain this further below. We have also provided you with links to guidance issued by the Information Commissioner’s Office which we have followed in responding to your request.

Request 1

How many crimes were recorded under the Modern Slavery Act 2015, involving sexual exploitation, for each of the last 3 financial years?

- a. 2018-19
- b. 2019-20
- c. 2020-21

Request 2

How many of the crimes identified in Question 1, involved any potential victims recorded as being Romanian nationals, in each of the last 3 financial years?

- a. 2018-19
- b. 2019-20
- c. 2020-21

Answer to Request 1 & 2

In response to your requests, please see the table below.

	2018/2019	2019/2020	2020/2021
Modern Slavery involving Sexual Exploitation	21	17	19
Of which the nationality was Romanian	1	5	1
Cases where type of trafficking was not available	0	4	3

Please note: Nationality was not available for approximately 10 percent of the records.

Partial NCND

In addition to the response provided above, The Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny that it holds any other information relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

Section 23(5) - Information Supplied by, or concerning, certain Security Bodies - confirmation or denial would likely prejudice information directly or indirectly supplied to the public authority by, or relates to, any specified bodies.

Section 30(3) – Investigations and proceedings conducted by public authorities - confirmation or denial would likely prejudice investigations and proceedings conducted by public authorities

The full text of exemptions can be found at www.legislation.gov.uk and further guidance on how they operate can be located on the Information Commissioners Office website www.ico.org.uk.

'Neither Confirm nor Deny' (NCND)

There may be occasions when complying with the duty to confirm or deny under section 1(1) (a) would in itself disclose sensitive or potentially damaging information that falls under an exemption. In these circumstances, the Act allows a public authority to respond by refusing to confirm or deny whether it holds the requested information.

The decision to issue a 'neither confirm nor deny' response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held. The starting point and main focus in most cases will be theoretical considerations about the consequences of confirming or denying that a particular type of information is held. The decision to neither confirm nor deny is separate from a decision not to disclose information and needs to be taken entirely on its own merits.

PSNI follow the Information Commissioner's Guidance in relation to 'NCND' and you may find it helpful to refer to this at the following link:

[https://ico.org.uk/media/for-organisations/documents/1166/when to refuse to confirm or deny section 1 foia.pdf](https://ico.org.uk/media/for-organisations/documents/1166/when_to_refuse_to_confirm_or_deny_section_1_foia.pdf)

Exemptions explained

Section 23(5) is an absolute exemption and there is no requirement to consider the public interest in this case.

Section 23(5) – Information supplied by, or relating to, bodies dealing with security matters

Section 1(1) (a) of the Act requires a public authority to confirm whether it holds the information that has been requested. Section 23(5) provides an exemption from this duty. Section 23(5) of the FOIA states that “the duty confirm or deny does not arise if, or to the extent that, compliance with section 1(1) (a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied by, or relates to, any of the bodies specified in subsection (3).”

The police service in its' fight against crime and terrorism may engage at times with the bodies listed at Section 23 of the FOIA and on occasions there may be information provided to police from one of these bodies. As advised above the decision to issue a NCND response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held. The NCND response is used to avoid risks caused by providing inconsistent responses to a series of similar requests where the information may originate from a number of

sources and not necessarily a security body.

Section 30 is a class based qualified exemption and there is a requirement to consider the public interest to ensure neither confirming or denying any other information is held is appropriate.

Section 30(3) - Investigations and proceedings conducted by public authorities

Where Section 30(3) applies, PSNI neither confirm nor deny it holds any other information relating to investigations or proceedings, this is subject to a public interest test. The ability to neither confirm nor deny, can only be maintained in the public interest if confirmation or denial would interfere with the effective conduct of the investigations or proceedings.

Public Interest Test

Factors favouring confirmation or denial for Section 30

Confirming or denying whether information exists relevant to this request would lead to increasing transparency of police investigations and actions taken (or not).

Factors against confirmation or denial for Section 30

Whilst there is a public interest in the transparency of policing operations and providing assurance that the PSNI is appropriately and effectively dealing with crime, there is a strong public interest in safeguarding the integrity of police investigations and operations and in maintaining confidence in the Police Service. Confirmation or denial that any information is held relevant to the request would undermine any investigative process and compromise the integrity of any operations.

Decision

Any release under FOIA is considered a disclosure to the world, not just to the individual making the request. Police forces work in conjunction with other agencies and on a daily basis information is freely shared in line with information sharing protocols.

Anything that places that confidence at risk, no matter how generic, would undermine any trust or confidence individuals have in the PSNI. It is our opinion that for these reasons the balance favours neither confirming nor denying if the requested information is held.

However, this should not be taken as conclusive evidence that the information you requested does or does not exist.

Request 3

How many of the crimes identified in Question 2 involved online adverts from Adult Services Websites? If necessary, please do a keyword search for the terms 'Adult Services Website', 'ASW', 'Adultworks' and 'Vivastreet'. Please give a figure per year for each of the last 3 financial years.

- a. 2018-19
- b. 2019-20
- c. 2020-21

Answer

In accordance with the Act, in relation to request 3, the PSNI can neither confirm nor deny that it holds the information you have requested.

Section 1 of the Freedom of Information Act 2000 (FOIA) places two duties on public authorities. Unless exemptions apply, the first duty at Section 1(1) (a) is to confirm or deny whether the information specified in the request is held. The second duty at Section 1(1) (b) is to disclose information that has been confirmed as being held.

Where exemptions are relied upon Section 17(1) of FOIA requires that we provide the applicant with a notice which

- a) states that fact,
- b) specifies the exemption(s) in question and
- c) states (if that would not otherwise be apparent) why the exemption applies.

The Police Service of Northern Ireland (PSNI) can Neither Confirm Nor Deny that it holds the information relevant to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply by virtue of the following exemptions:

Section 23(5) - Information Supplied by, or concerning, certain Security Bodies - confirmation or denial would likely prejudice information directly or indirectly supplied to the public authority by, or relates to, any specified bodies.

Section 30(3) – Investigations and proceedings conducted by public authorities - confirmation or denial would likely prejudice investigations and proceedings conducted by public authorities

Section 31(3) Law Enforcement - The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1) (a) would or would be likely to, prejudice any of the matters mentioned in subsection (1).

The full text of exemptions can be found at www.legislation.gov.uk and further guidance on how they operate can be located on the Information Commissioners Office website www.ico.org.uk.

Neither Confirm nor Deny' (NCND)

There may be occasions when complying with the duty to confirm or deny under section 1(1) (a) would in itself disclose sensitive or potentially damaging information that falls under an exemption. In these circumstances, the Act allows a public authority to respond by refusing to confirm or deny whether it holds the requested information.

The decision to issue a 'neither confirm nor deny' response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held. The starting point and main focus in most cases will be theoretical considerations about the consequences of confirming or denying that a particular type of information is held. The decision to neither confirm nor deny is separate from a decision not to disclose information and needs to be taken entirely on its own merits.

PSNI follow the Information Commissioner's Guidance in relation to 'NCND' and you may find it helpful to refer to this at the following link:

https://ico.org.uk/media/for-organisations/documents/1166/when_to_refuse_to_confirm_or_deny_section_1_foia.pdf

Section 23 is a class based absolute exemption and there is no requirement to consider the public interest. Confirming or denying the existence of whether any other information is held would contravene the constrictions laid out within Section 23 of the Freedom of Information Act 2000 in that this stipulates a generic bar on disclosure of any information applied by, or concerning, certain Security Bodies.

Section 30 is a class based qualified exemption and there is a requirement to consider the public interest.

Sections 31 is a prejudice based qualified exemption and there is a requirement to evidence the prejudice (harm) in disclosure and consider the public interest to ensure neither confirming or denying that information is held is appropriate.

Section 23(5) – Information supplied by, or relating to, bodies dealing with security matters

Section 1(1) (a) of the Act requires a public authority to confirm whether it holds the information that has been requested. Section 23(5) provides an exemption from this duty. Section 23(5) of the FOIA states that “the duty confirm or deny does not arise if, or to the extent that, compliance with section 1(1) (a) would involve the disclosure of any information (whether or not already recorded) which was directly or indirectly supplied by, or relates to, any of the bodies specified in subsection (3).”

The police service in its’ fight against crime and terrorism may engage at times with the bodies listed at Section 23 of the FOIA and on occasions there may be information provided to police from one of these bodies. As advised above the decision to issue a NCND response is not affected by whether we do or do not hold the information but relates to the consequences of confirming or denying the information is held. The NCND response is used to avoid risks caused by providing inconsistent responses to a series of similar requests where the information may originate from a number of sources and not necessarily a security body.

Overall Harm for NCND

Although it is acknowledged that there are investigations into modern slavery within the guise of sexual exploitation, the impact of confirming nor denying whether information relevant to this request, irrespective of what information is or isn’t held, would be inappropriate as it would reveal the intricacies of police investigations into such matters.

In addition to confirm or deny whether any information is held relating to victims exploited through the involvement of Adult services websites, has the potential of undermining the flow of information (intelligence) into the Police Service and other outside agencies relating to the methodology within these types of offences. Confirmation or denial would also undermine both ongoing investigations and the Authorised Professional Practice for Information Management. This could in turn lead to police officers having to be removed from their frontline duties in order to increase manpower on an investigation.

Finally, sexual exploitation is not only a national problem but a global one. In order to ensure the police delivers effective law enforcement we liaise with various other national agencies to provide suitable support. Not only would police investigations be compromised, but any enquiries or investigations that other agencies may be undertaking would also be compromised.

Public Interest Test

Factors favouring confirmation or denial for Section 30

Confirming or denying whether information exists relevant to this request would lead to a better informed general public by identifying that the police robustly investigate allegations made against a public authority for such serious matters. This fact alone may encourage individuals to provide intelligence in order to assist with investigations and would also promote public trust in providing transparency and demonstrating openness and accountability into whether the police are currently focusing their investigations.

The public are also entitled to know how public funds are spent, particularly in the current economic climate. The issue of Modern Slavery and sexual exploitation is a highly emotive subject area often attracting high profile media and public interest connotations. Confirmation or denial that any information exists could provide reassurance to the general public.

Factors against confirmation or denial for Section 30

Modern-day policing is intelligence led and the police shares information with other law enforcement agencies as part of their investigative process. To confirm or not whether specific information is held about an ongoing investigation into sexual exploitation could hinder the prevention and detection of crime as well as undermine the partnership approach to investigations and law enforcement.

Should offenders take evasive action to avoid detection, police resources may well be diverted from frontline duties and other areas of policing in order to locate and apprehend these individuals. In addition, the safety of individuals and victims would be compromised.

Factors favouring confirmation or denial for Section 31

It is recognised that there is a general public interest in the topic of Modern Slavery overall. The public interest favours disclosure of the requested information as it will allow the public to be better informed and brought into the discussion on law enforcement matters and preventative solutions.

Factors against confirmation or denial for Section 31

Confirming whether or not information is held in this case would suggest that the police fail to take their responsibility to protect the safety of individuals seriously. Public safety is of paramount importance and if offenders are provided with specific detail of ongoing police and other law enforcement agency investigations, undoubtedly offenders could use this to their advantage. In addition, public safety would be compromised as it may encourage offenders to carry out further crimes.

The police rely on information being supplied by the public. Irrespective of what information is or isn't held, by applying a substantive exemption(s) would indicate that information into sexual exploitation via online Adult services is held and may be actively under investigation. Such action would act as a deterrent any person who might otherwise provide intelligence to the force which would further undermine public safety, with repercussions that could hinder the prevention or detection of crime.

Decision

The points above highlight the merits of confirming or denying that information pertinent to this request exists. The Police Service relies heavily on the public providing information to assist in criminal investigations and has a duty to protect and defend vulnerable individuals. The public has an expectation that any information they provide will be treated with confidence and in line with the APP Information Management Module. Anything which places that confidence at risk, no matter how generic, would undermine any trust or confidence individuals have in the Police Service.

In addition, the effective delivery of operational law enforcement takes priority and is at the forefront of the police to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained. This includes ensuring our relationship with other law enforcement agencies runs smoothly in the joint approach to multi-agency investigations.

Therefore, at this moment in time, it is our opinion that for these issues the balance test for confirming, nor denying, that information is held is not made out.

No inference can be taken from this refusal that information does or does not exist.

Request 4

Of the crimes identified in Question 2, how many involved potential Romanian victims recorded as being under the age of 18? Please give a figure per year for each of the last 3 financial years. In each year, if possible please provide the age of the youngest potential victim.

- a. 2018-19
- b 2019-20
- c. 2020-21

Answer

The information requested has been withheld in full, as it refers to low level data and to ensure that any person **cannot be identified** it has been fully exempt for the reasons as articulated below.

Section 17(1) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- (a) states that fact,
- (b) specifies the exemption in question and
- (c) states (if not otherwise apparent) why the exemption applies.

The exemptions, as well as the factors the Department considered when deciding where the public interest lies, are listed below:

Section 31(1) (a) (b) – Law Enforcement – the prevention or detection of crime and the apprehension or prosecution of offenders.

Section 40(2)(a)(b) by virtue of Section 40(3)(A)(a) – Personal Information

The full text of exemptions can be found at www.legislation.gov.uk and further guidance on how they operate can be located on the Information Commissioners Office website www.ico.org.uk.

Section 40 (2) of the FOIA is an absolute exemption which means there is no requirement on the PSNI to consider whether there is a public interest in disclosure. It is an interface exemption and we must consider whether release of the information would breach the General Data Protection Regulations ('GDPR') or the Data Protection Act 2018 ('DPA'). Personal information in relation to a person, and therefore this information constitutes information which can identify an individual is 'personal data' under the GDPR (Article 4) and DPA (Part 1 s.3).

Under the Freedom of Information Act, PSNI must consider if information can be released into the public domain. We have therefore considered whether the disclosure of this personal data is subject to the exemption at Section 40(2) of the Freedom of Information Act 2000 by virtue of s40 (3)(A)(a). As information is 'personal data', PSNI considered whether disclosure would contravene any of the six data protection principles contained within the GDPR or DPA.

The six data protection principles are good information handling standards which PSNI must comply with in relation to how it handles personal information, including deciding whether to disclose it or not. In particular, the first principle requires personal data to be processed in a lawful and fair manner. In considering whether it is 'fair' to any individual to release information about them, PSNI considered the likely expectations of those individuals and the nature of the information involved. Individuals must have confidence that their information is treated sensitively and appropriately by PSNI. We consider those individuals would not have any reasonable expectation PSNI would disclose such information of this nature about them. We consider it would be extremely unfair to those individuals and therefore a breach of the first principle of data protection legislation.

This information is therefore exempt under section 40 (2) of the FOIA as it contravenes data protection legislation to release it and the PSNI has made the decision to withhold that information

Section 31(1) (a) (b) – Law Enforcement – the prevention or detection of crime and the apprehension or prosecution of offenders.

Our rationale in relation to the application of Section 31 has been articulated in the response to request number 3.

If you have any queries regarding your request or the decision please do not hesitate to contact me on 028 9070 0164. When contacting the Corporate Information Branch, please quote the reference number listed at the beginning of this letter.

If you are dissatisfied in any way with the handling of your request, you have the right to request a

review. You should do this as soon as possible or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Corporate Information Branch, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing foi@psni.pnn.police.uk.

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that PSNI replies under Freedom of Information may be released into the public domain via our website @ www.psnipolice.uk

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.