

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** FOI-2020-01938

**Keyword:** Organisational Information/Governance

**Subject:** MARAC information sharing

### Request and Answer:

Your request for information has now been considered. In respect of Section 1(1)(a) of the Act I can confirm that the Police Service of Northern Ireland does hold information to which your request relates. The decision has been taken not to supply the information you have requested and the reasons for this are set out in more detail 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

I wanted to make an FOI for the MARAC information sharing protocol?

### Answer

Release of a redacted version of the document was considered, however the record owner has confirmed that as substantial redaction would be required the document would be rendered meaningless. Therefore, this information is being withheld pursuant to Section 31, 38 & 40 of the FOIA and the following explanation is provided.

Section 17(1) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland ('PSNI'), 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** – Information would be likely to prejudice (a) the prevention or detection of crime (b) the apprehension or prosecution of offenders.

**Section 38 (1)(a)(b) Health & Safety** – endanger the physical or mental health of an individual or (b) endanger the safety of any individual.

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

personal data and disclosure would contravene any of the Data Protection principles.

The full text of exemptions can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk) and further guidance on how they operate can be located on the Information Commissioners Office website [www.ico.org.uk](http://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'). Third party personal information, is contained within the document i.e. names and contact details of PSNI personnel and strategic leads in partner agencies and this constitutes '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. I 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. 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 & 38** are prejudice based qualified exemptions which means that the legislators have identified that the harm (prejudice) in disclosure as well as the public interest considerations need to be evidenced and articulated to the applicant.

### **Harm**

A disclosure under the Freedom of Information Act is a release into the public domain and not just to the individual requesting the information. Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals.

The MARAC process was established to provide an effective multi-agency response to high risk victims of domestic abuse and any associated children or vulnerable persons by sharing relevant information on victims, alleged perpetrators and families. The MARAC definition of high risk is "at risk for further serious harm or homicide". The alleged perpetrator is not informed that s/he will be discussed at the MARAC as this would raise the risk level of the victim and families.

The MARAC ISA is not published in the public domain as this may alert perpetrators to the process and put victims at greater risk as well as a public loss of confidence in the process. Disclosure of information could increase the risk of domestic abuse to many victims and result in a loss of public confidence in the process. Publication could subvert police tactics to protect the victim and to hold the perpetrator to account for their behaviour.

The MARAC ISA also contains details of PSNI personnel and partner agencies and disclosure could

result in bombardment of telephone/email systems, frustrating police systems and hindering the law enforcement role of police.

#### Factors Favouring Release – Section 31

The PSNI must be accountable for their procedures. The public would be better informed of processes in place in such circumstance and how police utilise public funds to prevent and detect crimes of this nature.

#### Factors Favouring Retention – Section 31

Disclosure of information could alert perpetrators to the process and aid them to evade police, thus hindering the prevention and detection of crime, compromising the law enforcement role of police and ultimately impacting police resources.

Release of contact details of PSNI personnel contained in the document could risk the bombardment of telephone/email systems in attempt to obtain further information. This could increase the risk of cyber-crime and hinder legitimate emails being received.

#### Factors Favouring Release – Section 38

Releasing the requested information would promote transparency and openness. Disclosure would improve the public's knowledge and understanding in relation to this type of crime.

#### Factors Favouring Retention – Section 38

Release of information could increase the risk of domestic abuse to many victims and their families. PSNI will not release any information which may endanger an individual's safety.

### **Decision**

It is acknowledged that wherever possible policing procedures must be transparent and accountable. However, police need to make balanced judgements which justify why some information needs to remain exempt and unpublished.

Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a release to the world in general, not just to the individual requesting the information.

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. Whilst there is a public interest in the transparency of policing and providing assurance that the Police Service is appropriately and effectively dealing with this type of crime there is also a very strong public interest in safeguarding the law enforcement role of police.

Section 38 of the Freedom of Information Act 2000 protects an individual's physical health and mental wellbeing whether the harm is real or perceived. PSNI consider that disclosure of this document into the public domain may have the potential to increase the risk to victims and their families.

Whilst the PSNI would always wish to be transparent and accountable, the safety of individuals is paramount and I have determined that the release of this information, into the public domain would not be in the public interest.

### **Request 2**

I wanted to make an FOI for a contact for the MARAC steering group?

### **Answer**

The Police Service of Northern Ireland can advise there is no MARAC Steering Group. However, under Section 16 FOIA PSNI will always try to assist you and provide advice where we can, as such we can advise that there is a 'MARAC Operational Board'. Providing a contact for this board is exempt under Section 40(2)(a)(b) by virtue of 40(3)(A)(a) Personal Information, details of

which are explained above.

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](mailto: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](http://www.psnipolice.uk)

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