



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2022-02122

**Keyword:** Policing Themes, Operations and Investigations    Investigations and Operations

**Subject:** Protected Persons

### Request and Answer:

In relation to request no F-2022-02122 the Police Service of Northern Ireland (PSNI) is providing an NCND response and will explain this further in the response below.

### Clarification to Requester

Can you advise as to what you mean by protected persons services/protected persons care?

### Clarification Received

These are victims of crime who have, say, been moved out of their home and area for safety reasons/their home is a crime scene.

### Previously we asked the following

Can you advise as to what you mean by protected persons services/protected persons care?

### And you advised the following

These are victims of crime who have, say, been moved out of their home and area for safety reasons/their home is a crime scene.

### However one of the Record Owners has advised

1. Are the victims of crime to include the public, police officers and police staff?
2. Also can you advise on what types of crime?

I specifically mean the numbers of people who are in protected care (been moved out of their home and area for safety reasons/their home is a crime scene) as a result of gang related crime.

I am writing to request information under the Freedom of Information Act 2000. In order to assist you, I will endeavour to be as specific as possible.

I would like data and information in response to the following questions, as pertaining to Police Service NI's domain:

### Request 1

How many people in NI are in the protected persons service/protected persons care?

## **Request 2**

Are people categorised according to levels of threat? If so, please provide information on how many people are in each level. (E.g. serious threat etc.)

## **Request 3**

How many people in NI in protected care are in temporary accommodation?

## **Request 4**

How many people in NI in protected care have been in temporary accommodation for more than one year?

## **Request 5**

How many people in NI in protected care have been permanently rehomed in the last three years?

## **Answers**

In accordance with the Act, this letter represents a Refusal Notice for these requests. The Police Service of Northern Ireland 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 24(2) National Security.**  
**Section 30(3) Police Investigations**  
**Section 31(3) Law Enforcement**  
**Section 38(2) Health and Safety**  
**Section 40(5) Personal Information**

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).

### **'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)

**Section 40** is a class based absolute exemptions which means there is no requirement to articulate any public interest considerations or harm.

**Section 24** is a qualified prejudice based exemption and evidence of harm and a public interest test must be conducted.

**Section 30** is a qualified class based exemption and a public interest test must be conducted.

**Section 31** is a qualified prejudice based exemption and evidence of harm and a public interest test must be conducted.

**Section 38** is a qualified prejudice based exemption and evidence of harm and a public interest test must be conducted

### **Section 40(5B)(a)(i) - Personal Information**

The release of information under Freedom of Information (FOI) 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, therefore a release under FOI is considered a disclosure to the world in general.

To confirm or deny that PSNI hold or do not hold information would in fact confirm information about an individual. This would amount to a release into the public domain of personal information about an individual and likely to cause distress. The individual would have no expectation that these details would be released into the public domain; therefore PSNI would breach its data protection obligations and be unfair to individuals.

### **Harm in complying with s1(1)(a) – to confirm or not whether information is held**

Any release under the Freedom of Information Act is a disclosure to the world, not just to the individual making the request. By merely neither confirming nor denying whether information is held could aid in the location of individuals who may have been placed into protective custody. Any information relating to a person or person(s) who have been placed in protective custody which may compromise their protection will obviously place those people in grave danger. The impact of providing intelligence which aids in the location or identity of those persons could include the diverting of additional police resources, and the costs of having to potentially relocate people, which would need to be carried out promptly and covertly for their own safety. This would lead to an undermining of the culture of mutual trust and security which underpins witness protection schemes. Also, there will inevitably be a link between the persons on any scheme and an investigation. All these factors will in turn be likely to have a negative effect on the community, be it in the diversion of resources from other areas, the collapse of ongoing cases or appeals and an increase in crime as people are unwilling to come forward as witnesses fearing the police will not be able to protect them.

## **Public Interest Considerations**

### **Section 24(2) National Security**

#### **Factors favouring Confirmation or Denial**

Confirmation or denial of whether information is held may aid public debate on appropriate information sharing techniques between the PSNI as well as other agencies. Additionally the public are entitled to know how public funds are spent and resources distributed within an area of policing. In the current climate of cuts and with the call for transparency of public spending this would enable improved public debate.

### **Factors against Confirmation or Denial**

Any information shared between agencies (intelligence) has the potential to cover all aspects of criminal activity, be it threats to life, future planned robberies or intelligence relating to terrorist activity. Confirmation or denial could highlight to those intent on seeking out protected individuals whether or not information has been shared. Confirming such would dramatically weaken the effectiveness of intelligence led policing.

The public entrust the PSNI to make appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with any information, no matter how generic that is.

### **Section 30(3) Investigations**

#### **Factors favouring complying with Section 1(1)(a) confirming that information is held**

Confirming or denying that information exists relevant to this request would lead to a better informed public improving their knowledge and understanding of how the PSNI deal with their responsibility in line with the UK Protected Persons Service.

To confirm whether or not information is held would enhance public knowledge of the effectiveness of information sharing with other agencies as well as provide reassurance that public funds are being spent appropriately.

#### **Factors against complying with Section 1(1)(a) confirming or denying that information is held**

By its very nature, information relating to witness protection schemes is highly sensitive in nature. Under FOI there is a requirement to comply with Section 1(1)(a) and confirm what information is held. In some cases it is that confirmation, or not, which could disclose facts harmful to witness protection schemes and in such cases the PSNI takes advantage of its ability under FOI legislation to, where appropriate, neither confirm nor deny that the information requested is or is not held.

In some cases witnesses are being protected due to ongoing investigations. Information which could be used to undermine prosecutions or aid offenders is not in the public interest.

### **Section 31(3) Law Enforcement**

#### **Factors favouring complying with Section 1(1)(a) confirming information is held**

By confirming or denying that information relevant to the request exists, would lead to better public awareness into the PSNI's responsibility to protect witnesses and other vulnerable people. This awareness may lead to more information (intelligence) being submitted from the public which may culminate in a reduction of crime.

#### **Factors against complying with Section 1(1)(a) confirming or denying that information is held**

The PSNI has a duty to protect and defend vulnerable persons and part of this process is carried out in conjunction with receiving and sharing information from other partnership agencies. Members of the public are entitled to know that information about them is handled sensitively, confidentially and appropriately. People willing to give information or evidence which places them, and/or their families in grave danger do so on the understanding that the protection will be provided in an environment of absolute confidentiality. Any disclosure which undermines this trust and confidence means it is likely that people will be less willing to come forward and provide information to the police, which will impact on our ability to detect and prevent crime.

The PSNI will never disclose information which could undermine the partnership approach to law enforcement.

Confirmation or denial that information is held would seriously undermine the PSNI's ability to deliver effective law enforcement by impacting on police resources as frontline police officers will have to be removed from their duties and resourced to police the relocation of individuals into other protective custody.

In some cases witnesses are being protected due to ongoing investigations. Information which could be used to undermine prosecutions or aid offenders is not in the public interest.

### **Section 38(2) Health and Safety**

#### **Factors favouring complying with Section 1(1)(a) confirming information is held**

Confirmation of whether information is or isn't held would provide reassurance to the general public that information is shared between different agencies who have a duty to protect vulnerable individuals. This awareness could be used to improve any public consultations/debates in relation to this subject.

#### **Factors against complying with Section 1(1)(a) confirming or denying that information is held**

Confirming or denying this information exists could lead to the loss of public confidence in the PSNI's ability to protect the wellbeing of the community.

In circumstances such as this, information sharing is a vital tool in ensuring the safety and anonymity of individual(s) who may require protective custody. Any disclosure which could place the safety of an individual at increased risk is not in the public interest.

Disclosure of this information cannot only lead to individuals being targeted and caused physical harm but also other members of the public in the vicinity, or police officers trying to protect people. Also, information that causes speculation has in the past caused innocent people to be targeted following rumour and speculation.

### **Balancing Test**

The PSNI is tasked with protecting the public and solving crime. A disclosure under Freedom of Information is a release of information to the world in general. In relation to this request the PSNI will not disclose any information which would confirm or not whether an individual has been provided with witness protection, as to do so would compromise the health and safety of those individuals. The PSNI has a duty of care to the public in general, which includes individuals who provide information in confidence to assist the police in their law enforcement role. The PSNI will not release information, no matter how generic, which could place the safety of an individual at risk or undermine the effective delivery of day-to-day law enforcement.

The public also entrust the PSNI to make appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with any information that is released. In this case, and irrespective of what information is or isn't held, to merely confirm or deny that information is held would provide information which would assist those intent on causing harm. Any incident that results from confirmation or denial would, by default, affect national security.

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 with is made out.

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

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

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 Corporate Information Manager, 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 remain dissatisfied with the handling of your request, you may make a complaint to the Information Commissioner's Office, under Section 50 of the Freedom of Information Act, 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', or use the ICO self-service portal available at [www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/](http://www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/)

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 their 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.