



FREEDOM OF INFORMATION REQUEST



Request Number: F-2022-02261

Keyword: Organisational Information Technology and Equipment

Subject: Mobile Phones Sent To Israel

Request and Answer:

In relation to request number **FOI-2022-02261** Police Service of Northern Ireland is providing an NCND response and will explain this further in the response below.

Request 1

In the past 5 years, how many times have the PSNI sent mobile phones to Israel to gain access and information from them devices?

Request 2

Can I have a breakdown of the cost yearly and how much it cost in total for each device?

Answers 1-2

In accordance with the Act, this letter represents a Refusal Notice for this particular request. 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 – The duty to confirm or deny does not arise if exemption from section 1(1)(b) is required to protect national security.

Section 27(4) International Relations - The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a)

Section 31(3) – Law Enforcement – The duty to confirm or deny does not arise if compliance with section 1(1)(a) would prejudice prevention or detection of crime.

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

Sections 24, 27, and 31 are prejudice based qualified exemptions and there is a requirement to articulate the harm that would be caused in confirming or denying that any other information is held as well as carrying out a public interest test.

Harm

Disclosure under FOIA is a release to the public at large. Whilst not questioning the motives of the applicant, confirming or denying that information is held regarding business with specified companies in Israel, would show criminals the capacity, tactical abilities and capabilities of the force, allowing them to conduct their criminality and avoid detection. Confirming or denying any information is held relevant to this request, would lead to an increase of harm to investigations and compromise law enforcement. This would be to the detriment of providing an efficient policing service and a failure in providing a duty of care to all members of the public.

The threat from terrorism cannot be ignored. It is generally recognised that the international security landscape is increasingly complex and unpredictable. Since 2006, the UK Government has published the threat level, based upon current intelligence and based upon current intelligence and that threat is currently categorised as ‘substantial’, see below link:

<https://www.mi5.gov.uk/threat-levels>

It is well established that police forces use tactics and technology to gain intelligence in order to counteract criminal behaviour, and it has been previously documented in the media that many terrorist incidents have been thwarted due to intelligence gained by these means.

Confirming or denying that business has been conducted with specified companies in Israel, would limit operational capabilities as criminals/terrorists would gain a greater understanding of the police forces’ methods and techniques, enabling them to take steps to counter them. It may also suggest the limitations of police capabilities in this area, which may further encourage criminal/terrorist activity by exposing potential vulnerabilities. This detrimental effect is increased if

the request is made to several different law enforcement bodies. In addition to the local criminal fraternity now being better informed, those intent on organised crime throughout the UK will be able to 'map' where the use of certain tactics are or are not deployed. This can be useful information to those committing crimes. It would have the likelihood of identifying location-specific operations which would ultimately compromise police tactics, operations and future prosecutions as criminals could counteract the measures used against them.

Any information identifying the focus of policing activity could be used to the advantage of terrorists or criminal organisations. Information that undermines the operational integrity of these activities will adversely affect public safety and have a negative impact on both national security and law enforcement.

Public Interest Test

Factors against Neither Confirming Nor Denying for Section 24

The information, if held only relates to national security and confirming or denying whether it is held would not actually harm it. The public are entitled to know what public funds are spent on and what security measures are in place, and by confirming or denying if business is conducted with the any specified companies in Israel would lead to a better informed public.

Factors favouring Neither Confirming Nor Denying for Section 24

By confirming or denying whether any other information is held would render Security measures less effective. This would lead to the compromise of ongoing or future operations to protect the security or infra-structure of the UK and increase the risk of harm to the public.

Factors favouring Neither Confirming Nor Denying for Section 27

There is a clear public interest in making appropriate information available to the public. The release of such information would act to reinforce the commitment of the police service to investigate, as an open and transparent organisation, serving to maintain public confidence police service. Moreover, use of public money as well as the income generated by public bodies is also a matter of strong public interest.

Irrespective of what information may or may not be held, confirming information is held would provide openness and transparency by highlighting that PSNI is proactively engaging with Governmental Departments and other law enforcement agencies both at home and abroad as part of global crime prevention initiatives.

Factors against Neither Confirming Nor Denying for Section 27

To confirm whether or not information is held relating to your request; is very likely to prejudice relations between the United Kingdom and Israel authorities.

Disclosure of the requested information would be very likely to be seen as a breach by the UK of the trust and confidence fundamental to such international relations, which would in turn compromise the ability of the UK to promote and protect its interests abroad whilst also undermining the ability of the UK to effectively engage with foreign states in order to investigate offences that have been committed abroad.

Factors against Neither Confirming or Denying for Section 31

Confirming or denying whether there business is conducted with specified companies in Israel would provide an insight into the Police Service. This would enable the public to have a better understanding of the effectiveness of the police and about how the police gather intelligence. It would greatly assist in the quality and accuracy of public debate, which could otherwise be steeped in rumour and speculation. Where public funds are being spent, there is a public interest in accountability and justifying the use of public money.

It is well know that the police use hi-tech specialist equipment and confirming or denying whether any

other information is held would ensure transparency and accountability and enable the public to see what tactics are deployed by the Police Service to detect crime.

Factors favouring Neither Confirming Nor Denying for Section 31

Confirming or denying that any other information is held regarding business with specified companies in Israel would have the effect of compromising law enforcement tactics and would also hinder any future investigations. In addition, confirming or denying methods used to gather intelligence for an investigation would prejudice that investigation and any possible future proceedings.

It has been recorded that FOIA releases are monitored by criminals and terrorists and so to confirm or deny information is held concerning specialist covert tactics would lead to law enforcement being undermined. The Police Service is reliant upon all manner of techniques during operations and the public release of any modus operandi employed, if held, would prejudice the ability of the Police Service to conduct similar investigations.

By confirming or denying that a business interest exists would hinder the prevention or detection of crime. The Police Service would not wish to reveal what tactics may or may not have been used to gain intelligence as this would clearly undermine the law enforcement and investigative process. This would impact on police resources and more crime and terrorist incidents would be committed, placing individuals at risk. It can be argued that there are significant risks associated with providing information, if held, in relation to any aspect of investigations or of any nation's security arrangements so confirming or denying that information is held, may reveal the relative vulnerability of what we may be trying to protect.

Balance Test

The security of the country is of paramount importance and the Police Service will not divulge whether any information is or is not held regarding business with specified companies in Israel, if to do so would place the safety of an individual at risk, undermine National Security or compromise law enforcement.

Whilst there is a public interest in the transparency of policing operations and providing assurance that the Police Service is appropriately and effectively engaging with the threat posed by various groups or individuals, there is a very strong public interest in safeguarding the integrity of police investigations and all areas of operations carried out by police forces throughout the UK.

As much as there is public interest in knowing that policing activity is appropriate and balanced this will only be overridden in exceptional circumstances. The use of technology can be a sensitive issue that would reveal police tactics and therefore it is our opinion that for these issues the balancing test for confirming or denying whether any information is held regarding the police and companies in Israel is not made out.

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.police.uk.

If, following an Internal Review carried out by an independent decision maker, you remain unhappy about how your request has been handled you have the right to apply in writing to the Information Commissioner, under Section 50 of the Freedom of Information Act, at 'Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. There are a number of other platforms you can use to contact the ICO and these can be found on the ICO's website at the following link: [Make a complaint | ICO \(https://ico.org.uk/make-a-complaint/\)](https://ico.org.uk/make-a-complaint/).

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.psni.police.uk

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