



FREEDOM OF INFORMATION REQUEST



Request Number: F-2022-02505

Keyword: Crime/Incident Statistics Sexual Offences

Subject: Criminal Investigations and Prosecution Details

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 number 2 is exempt by virtue of sections 31, 38 and 40 of FOIA and have detailed our rationale as to why this exemption applies and request number 3 is exempt by virtue of section 40 of FOIA and have detailed our rationale as to why this exemption applies 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

The number of cases taken forward and still under criminal investigation process relating to physical and/or emotional and/or psychological/mental abuses/violations relating to historical/non-recent cases, civil or otherwise, associated with all allegations/accusations/complaints complete or ongoing and emanating from the Historical Institutional Abuse Inquiry which may have been made before, during and following the Inquiry investigation and process.

These cases/complaints would include those initially investigated and also brought forward to the PPS, those also not referred on for prosecution, and/or brought to conclusion either settled in or outside of court/judicial proceedings.

Answer

A total of 279 referrals were received by PSNI in relation to the Historical Institutional Abuse Inquiry. Of these, 97 were referred on to the Public Prosecution Service for prosecutorial decision.

Request 2

Details of prosecutions as being in due process, waiting sentencing or in sentencing complete against any/all alleged perpetrators of offences.

Request 3

Details of organisations, institutions, charities, religious orders, Church members, clerical membership, pastoral care/responsibility, lay/secular status, and any other connection/membership/affiliation whether voluntary, statutory, private or otherwise to which all prosecuted pertain and are relative to.

Answers to 2 & 3

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 40(2)(a)(b) by virtue of Section 40(3)(A)(a) – Personal Information - Information constitutes personal data and disclosure would contravene any of the Data Protection principles

Section 31(1)(a)(b) – Law Enforcement – Information which would be likely to prejudice (a) the prevention or detection of crime.

Section 38(1)(a)(b)– Health & Safety – Information which would or would be likely to, endanger the physical or mental health of any individual or (b) endanger the safety of any individual

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 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 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 this 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 PSNI has made the decision to withhold that information.

The release of information under the Freedom of Information Act is considered 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 information is shared with other individuals, therefore a release under FOI is considered a release to the world in general.

Please see the Harm provided below in relation to Section 38 and the public interest considerations for Sections 31 and 38.

Harm

Section 38 provides an exemption from disclosing information if such a disclosure would endanger any individual and is wide enough to include those members of the general public including those victims and family members of the suspect. Under this exemption PSNI will not put the families and friends of the victims or the families of suspects into any further distress by releasing certain information through a FOI release.

Whilst there is a public interest in the transparency of investigations carried out by PSNI, to ensure they are being conducted appropriately, the Police Service also have a duty of care to all individuals involved in investigations to ensure effective law enforcement, and PSNI must ensure that information is not disclosed that could compromise an investigation.

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.

Public Interest Test

Factors Favouring Release – Section 38

Releasing the requested information would promote transparency and openness; however public safety is of paramount importance to the PSNI and must always be considered so that the PSNI's ability to fulfil its core function of law enforcement is protected. PSNI would not wish to endanger the health and safety of any individual although disclosure would improve the public's knowledge and understanding surrounding each of these murders.

Factors Favouring Retention – Section 38

Releasing the requested information could cause upset and distress to the surviving relatives and close friends of the victim and suspect. Disclosure of this information could result in a loss of confidence in the police service's ability to protect individuals as the risk to individuals would be significant.

Section 31(1) Law Enforcement - Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to prejudice (a) the prevention or detection of crime (b) the apprehension or prosecution of offenders.

Factors Favouring Release - Section 31

The PSNI is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve and there is a public interest in the transparency and effectiveness of the tactics used to achieve this. Release of the information may reassure the public that PSNI are effective in this area.

Factors Favouring Retention - Section 31

Disclosure of this information could compromise the tactics and PSNI's law enforcement abilities that are used to prevent and detect crime and apprehend offenders which could potentially lead to more crime being committed and individuals being placed at risk. There is a strong public interest in the PSNI being able to protect investigations and details of this nature may be used by those involved in criminal activities in combination with other information they have gathered to try and evade detection.

Decision

On balance the requirement to withhold this information relating to any investigations must take precedence over the important issues of public accountability and transparency, as releasing this information may affect the outcome of any court proceeding which must take precedence. Although there is a public interest in the transparency of investigations, PSNI has a greater duty of care to all individuals involved in any investigation and the investigative role is of paramount importance and the Police Service will not divulge information if to do so would adversely affect any ongoing

investigations.

The requirement to withhold this information, the release of which may affect the health and safety of individuals must take precedence over the importance of public accountability and transparency. Any diminution of public assistance would hamper these investigations and detection of crimes and in time lead to a reduction in public confidence in the criminal process. The PSNI consider that by releasing this information into the public domain would not be in the public interest.

On this basis it has been decided that the balance of the public interest favours withholding some of the information you have requested at this time.

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.