



FREEDOM OF INFORMATION REQUEST



Request Number: F-2022-02705

Keyword: Policing Themes, Operations and Investigations Calls for Service

Subject: Conversion Therapy

Request and Answer:

In relation to request under Police Service of Northern Ireland is providing a Neither Confirm Nor Deny (NCND) response and will explain this further in the response below.

Request

For each of the last 3 years, can you please advise how many allegations of abusive conversion therapy have been made to the PSNI by

- (a) any NI Member of Parliament,
- (b) any Member of the NI Assembly or
- (c) any Member of an NI District Council?

I am not requesting names or any other details.

Answer

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 30(3) - Investigations Conducted by Public Authorities – The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be)

exemption information by virtue of subsection (1) or (2).

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).

Section 40(5B)(a)(i) - Personal Information - the duty to confirm or deny does not arise if to do so would contravene any of the data protection principles.

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 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 40 (5B) (a) (i) is an absolute exemption; therefore it is not necessary to carry out a public interest test.

40(5)(B)(a)(i) - Personal Information

(5B) The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies -

(a) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a) (i) would (apart from this Act) contravene any of the data protection principles.

(i) would (apart from this Act) contravene any of the data protection principles

Information disclosed under the FOIA is disclosed into the public domain, effectively to the world and not just to one individual. To confirm or deny whether personal information exists in response to your request could publicly reveal information about individuals, thereby breaching the right to protection of their personal information afforded to them under the Data Protection Act 2018. When confirming or denying that information is held would breach an individual's rights under the Data Protection Act legislation, Section 40 (5) becomes an absolute exemption, and there is no requirement to provide evidence of a prejudice occurring, or to conduct a public interest test. To

confirm or deny that the PSNI hold or do not hold information would in fact confirm information about an individual including the fact it may or may not be held. This would amount to a release into the public domain of personal information about an individual. The individual would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

Individuals may try to use the FOI legislation to circumvent the law and may try to obtain information which they are not entitled to or to try and find out whether the police hold any information about them or others. To ensure this does not occur, police services use a 'neither confirm nor deny approach' and this has to be used consistently to ensure that we can protect this method of response and do not and undermine the rationale for adopting the NCND response in the first place.

Harm for Section 31

To confirm or deny that PSNI hold any information relevant to your request would be detrimental to our ability to provide an efficient policing service and a failure in providing a duty of care to all members of the public and would likely cause operational harm and affect PSNI's ability to fulfil its law enforcement role

Public Interest

Factors Favouring Confirmation or Denial for Section 30

Confirming or denying that information exists relevant to this request would lead to a better informed general public improving their knowledge and understanding as to how PSNI is dealing with investigations. The public are entitled to know how public funds are spent, particularly when money from the 'public purse' is used in pursuit of investigating crime.

Factors Against Confirmation or Denial for Section 30

Whilst there is a public interest in the transparency of policing operations and providing assurance that PSNI is appropriately and effectively dealing with investigations, there is a strong public interest in safeguarding the integrity of police investigations and operations and in maintaining confidence in the Police Service.

Factors Favouring Confirmation or Denial for Section 31

Confirming or denying of information is held relating to reports of abusive conversion therapy would show that PSNI is being open and accountable in respect of its law enforcement activities, thereby demonstrating how public funds are being utilised.

Factors Against Confirmation or Denial for Section 31

Whilst there is a public interest in the transparency of policing and providing assurance that the Police Service is/was 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. As this is a specific area and relates to criminal investigations a confirmation or denial would identify police focus and could better inform any criminals of investigations.

Decision

When balancing the public interest it is necessary to consider the release of the requested information into the public domain. The public interest is not what interests the public, but what would be of tangible benefit to the public as a whole.

The points above highlight the merits of confirming or denying that information pertinent to this request exists. The Police Service of Northern Ireland proactively uses all tactics available to them, particularly when trying to reach a successful conclusion to investigations and solve crime. Any tactics are used in line with current regulators and following set policies and procedures.

The effective delivery of operational law enforcement takes priority and is at the forefront of PSNI to ensure the prevention and detection of crime is carried out and the effective apprehension or prosecution of offenders is maintained, whilst safeguarding victims of crime.

Therefore, PSNI can Neither Confirm or Deny that any information relevant to your requests is held. To confirm or deny information is held would, in itself, reveal sensitive investigative information on intelligence and lines of inquiry pursued (or not) in relation to relevant individuals.

Confirmation or denial of whether the PSNI hold any other information would amount to a release of information either on this occasion or on other occasions where a similar request is made.

PSNI considers the information you have requested is exempt by virtue of Neither Confirm nor Deny exemptions which PSNI is entitled to rely upon.

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 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 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/

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

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