



FREEDOM OF INFORMATION REQUEST



Request Number: F-2022-02720

Keyword: Policing Themes, Operations and Investigations Policing Other

Subject: Review Of Licencing Transport And Use Of Explosives

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 do not however hold information in relation to request number 3 and request numbers 5 – 8. We further consider the information you seek in request number 4 is exempt by virtue of section 24, 31 and 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.

The PSNI commissioned a review into the licencing, transport and use of explosives within Northern Ireland with the aim of examining the role of the Explosives Blasting Unit (EBU) with a view to identifying internal recommendations regarding future operations and resourcing more than one year ago.

Request 1

Can you please state who conducted the review and demonstrate the criteria used to commission said company?

Answer

The PSNI conducted its own internal review regarding the licencing, transport and use of explosives within Northern Ireland. The review was conducted by PSNI Officers from the Police Powers Development Unit (PPDU) within Operational Support Department. No external company was commissioned to carry out this review and no tender process conducted therefore no criteria were required for such a commission.

Request 2

Can you please state the cost to the public purse of said review and other additional costs associated from withholding its release?

Answer

PSNI can advise that this review was carried out by PSNI Officers within our 'Operational Support Department' and in particular the Policing Powers Development Unit (PPDU), who carry out within their function, a review of various areas of the PSNI's responsibilities as and when required. The review of the 'Explosive Blasting Unit' was conducted as part of these ongoing responsibilities of PPDU.

Whilst the majority of the review process was undertaken during normal hours of work, there was an additional cost with overtime hours accrued.

However as there is no 'specific cost code' held in a central database to extract the information, to assist we have **estimated the cost** using a ready reckoner calculation for overtime to be a total of £319.95.

It should be noted that as these are **only estimated costs** they do not include any additional sundries i.e. meals etc. and is based on a generic cost per hour as the officers may have been on different hourly rates.

Request 3

How long will said report be in abeyance?

Answer

Whilst a report has been drafted and is with senior management for consideration, it is not yet finalised and there are no timescales identified for its conclusion. PSNI does not therefore hold information in regard to your request.

Request 4

What are the specific reasons for the report being withheld from those who paid for it, the public?

Answer

The PSNI regard this review as an internal operational matter, which contains information relating to both operational practise and policing methodology. Any publication of the review for 'public release', will be considered following PSNI senior management consideration of the review document.

Under the FOIA a report in a 'draft format' is still deemed to be 'Recorded Information' and therefore PSNI would be applying the following exemptions and we have outlined our rationale below.

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)(i) – Personal Information

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

Section 24 (1) National Security – information required for the purpose of safeguarding national security.

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

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

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 of PSNI officers and staff and this constitutes 'personal data' under the GDPR (Article 4) and DPA (Part 1 s.3).

PSNI considered the material you have requested. Some of the information requested relates to individuals who we believe would not have a reasonable expectation that their personal information would be released into the public domain through FOI. We consider release of this information would be extremely unfair to those individuals and therefore a breach of the data protection legislation. PSNI therefore consider the exemption Section 40 (2) to be engaged.

Sections 24 and 31 are prejudice based, qualified exemptions, which means there is a requirement to articulate the harm that would be caused in releasing the information, as well as considering the public interest.

Harm

PSNI considers that release of material which relates to police use of tactics and equipment and reveals policing methodology would educate criminals in policing methods and would assist in weakening policing mechanisms, compromising the law enforcement role of police. Modern day policing is intelligence led and this is particularly pertinent with regard to both national security and law enforcement.

The threat level from terrorism is currently set at SUBSTANTIAL, therefore any information that would assist criminals or terrorists would have a negative impact on the ability of agencies to safeguard national security or undermine law enforcement activity.

A disclosure under FOI is considered a release to the world in general and not just to the applicant 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. Disclosure would impact the apprehension and detection of offender's and undermine PSNI's law enforcement capabilities.

Public Interest Test

Factors Favouring Disclosure -Section 24

There is a public interest in the public being informed of how public funds are spent and how resources are used within an area of policing, providing reassurance that information is managed appropriately and responsibly and that resources are used effectively to protect national security.

Factors Favouring Retention -Section 24

Security measures are put in place to protect the public. As evidenced within the harm to provide these documents would educate terrorists and individuals intent on carrying out criminal activity in police methodology and capabilities, placing the security of the country at increased risk.

Factors favouring disclosure – Section 31

Release of the requested information would lead to a better informed public and would demonstrate openness and transparency. Disclosure could reassure the public that the PSNI are using resources appropriately to enforce the law and ensure individuals are kept safe.

Factors favouring retention – Section 31

Release of information which could compromise PSNI's law enforcement abilities will not be in the public interest. Information which can educate criminals on police tactics will not assist police with apprehending and prosecuting offenders.

Decision

The PSNI commissioned a review into the licencing, transport and use of explosives within Northern Ireland with the aim of examining the role of the Explosives Blasting Unit (EBU) with a view to identifying internal recommendations regarding future operations and resourcing. PSNI regard this review, which contains information relating to PSNI operational practise and PSNI methodology, as an operational matter and for this reason, we do not feel that the review material is suitable for release to yourself at this time.

Whilst it is acknowledged that where possible policing matters must be transparent and accountable, the security and effective law enforcement including the development of policing tools and methodologies is important in effective law enforcement. Weakening the mechanisms used to monitor and investigate any type of criminal activity would clearly increase risk.

Whilst there is a public interest in releasing the information requested the PSNI must ensure that law enforcement is not adversely affected by the release of material which reveals its operational methodology or use of tactics.

Request 5

What was the name of the company who won the contract for said review?

Request 6

Did the contract for said review go out to public tender?

Request 7

If so, what companies applied for the contract? If not, why not?

Request 8

Was the procurement process open, transparent and in line with PSNI Procurement Contract Management Services?

Answers 5 to 8

As per request 1 this review was carried out internally by PSNI therefore no information is held in respect of these requests.

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.