



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2022-02818

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

**Subject:** Role of the Explosives Blasting Unit (EBU)

### 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 information to which your request relates. The decision has been taken not to supply the information you have requested and the reasons for this are set out in more detail below. 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 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 in September 2021. That review has now been completed although it is still being considered by senior PSNI command who won't make it available to the public, using "operational policing" as a reason for not doing so. Can you please provide me with a copy of said review please?

### Request 2

"This review is an operational PSNI matter and any change in policy in respect of the outcome of the review will be decided by the Chief Constable who has ultimate responsibility for supporting safety and implementing existing legislation."

Above is a reply received from the Northern Ireland Policing Board.

I would like to request from the Chief Constable a copy of the recently commenced review into the role of the Explosives Blasting Unit (EBU) with a view to identifying internal recommendations regarding future operations.

### 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.

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](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).

**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 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.

In this case the public interest favours withholding the information, therefore, we have determined that the release of this information into the public domain would not be in the public interest.

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](mailto: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.psnj.police.uk](http://www.psnj.police.uk)

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