



FREEDOM OF INFORMATION REQUEST



Request Number: F-2023-00412

Keyword: Policing Themes, Operations and Investigations Investigations and Operations

Subject: Unexplained Wealth Orders

Request and Answer:

In relation to request number F-2023-00412, The Police Service of Northern Ireland is providing an NCND response and will explain this further in the response below.

Request

Could I please request the number of Unexplained Wealth Orders that have been used since their introduction in Northern Ireland?

Answer

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 23(5) - Information supplied by or concerning certain Security Bodies

Section 31(3) - Law Enforcement

Section 40(5) - Personal Information

Sections 23 & 40 are absolute class-based exemption and therefore there is no requirement to

conduct a harm or public interest test.

Section 31 is a prejudice based qualified exemptions and there is a requirement to articulate the harm that would be caused in confirming or not that the information is held as well as carrying out a public interest test.

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](https://ico.org.uk/media/for-organisations/documents/1166/when_to_refuse_to_confirm_or_deny_section_1_foia.pdf)

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Public Interest Test

Overall Harm for Section 31

The disclosure of any information relating to these orders could lead to the potential identification of the subjects. Furthermore, a geographical breakdown provided at force level could narrow the field even further and lead to the compromise of an investigation.

The release of information under Freedom of Information (FOI) 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, therefore a release under FOI is considered a disclosure to the world in general.

To confirm or deny that the PSNI hold the requested information would in fact confirm information which is personal to an individual. This would amount to a release into the public domain of personal information and the individual's named would have no expectation that these details would be released into the public domain, therefore their data protection rights would be breached by release.

Section 31 - Factors Favouring Confirmation or Denial

There is a public interest in the transparency of policing and to provide reassurance that the Police Service is/was appropriately and effectively dealing with crime, however there is a strong public interest in safeguarding the integrity of the Police Service to fulfil its core function of law enforcement. Confirming or denying that information exists relevant to this request would lead to a better informed

public demonstrating that PSNI evidence gathering appropriately and in line with current legislation in order to assist in criminal investigations.

Section 31 - Factors Against Confirmation or Denial

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 criminals of investigations. There is a public interest in preserving this evidential material so that the functions of any possible future reviews are not compromised.

Decision

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. Irrespective of what information is or is not held, the public entrust the Police Service to make appropriate decisions with regard to their safety and protection and the only way of reducing risk is to be cautious with what is placed into the public domain.

Whilst there is a public interest of transparency into policing operations and reassurance that the PSNI is effectively and appropriately dealing with crime, there is a strong public interest in safeguarding the integrity of police investigations. As much as there is a public interest in knowing that policing activity is appropriate and effective, this will only be overridden in exceptional circumstances. Release of information linked to any investigation could potentially compromise any possible future reviews and evidence gathering opportunities, therefore evidential material must be preserved.

Any disclosure by PSNI, no matter how generic, would undermine any trust or confidence individuals have in us, therefore, at this moment in time it is our opinion that for this request the decision favours neither confirming nor denying that the requested information is held.

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.psnipolice.uk

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