

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 March 2023

Public Authority: Chief Constable of the Police Service of Northern Ireland

Address: 65 knock Road
Belfast
BT5 6LE

Decision (including any steps ordered)

1. The Commissioner's decision is that the Police Service of Northern Ireland (PSNI) is entitled to refuse the request under section 31(1)(a) of FOIA (law enforcement). No steps are required.

Request and response

2. On 1 October 2021, the complainant wrote to PSNI and requested information in the following terms:

"Can the PSNI please provide me with notes of all meetings as well as all electronic and written communication between [Name Supplied], the Chief Constable, Galantas Goldmining Company and Fermanagh and Omagh Police District representatives dealing with Galantas Goldmining Company?"
3. The complainant clarified their request and confirmed that the information they sought was correspondence between the named individual and all the third parties named above. They also clarified that the period for the request was 1 January 2014 to 1 October 2021.
4. The PSNI's final position was to refuse the request under section 31(1)(a) and section 40(2) of FOIA.

Reasons for decision

5. Section 31-law enforcement
6. Section 31(1)(a) states:

“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
7. The information in question consists of correspondence between the named individual and the Chief Constable and responses from PSNI to that correspondence. The PSNI has argued that the release of the information relevant to operational police matters that includes details of the movement of police resources, would prejudice the prevention or detection of crime. It argues that the release of information would have a prejudicial effect to the delivery of PSNI’s law enforcement activities as well as those of private companies. The PSNI also argues that the release of the information into the public domain would provide detail about its operational activity that would be of use to those who may utilize this to further criminal activity.
8. In determining whether the exemption is engaged, the Commissioner has considered submissions from the PSNI providing further information surrounding the requested information, the content of which is not necessary to reproduce in this decision notice.
9. The Commissioner agrees that the release of the information into the public domain would prejudice PSNI’s law enforcement activities. He considers that the disclosure of such information would provide details that will be useful to those with criminal intent and prejudice the law enforcement activities of the PSNI as well as the security of third-party companies listed in the complainant’s request. Having considered all the circumstances in this case, the Commissioner has decided that section 31(1)(a) is engaged. He has therefore gone on to consider the public interest arguments.

Public interest test

10. The Commissioner has considered the public interest arguments raised in the complainant’s complaint letter of 23 June 2022. They argue that there is a huge public interest in the Fermanagh Omagh policing district to understand what is going on in regard to the cost involved in escorting of explosives to Galantas Goldmining, which could have a far reaching and detrimental effect on policing resources in the policing area, which far outweighs the PSNI’s reliance on section 31(1)(a).

11. The PSNI recognises that there will always be some public interest in disclosure of information to promote transparency and accountability of public authorities. It states that releasing the information would promote openness and transparency in the use of police resources in particular, where the information relates to the use of public funds.
12. However, it argues that to release information which reveals detail about the delivery of law enforcement activity would hinder the ability of PSNI to carry out such activity and utilize resources in furtherance of its law enforcement activities.
13. It argues that the security of any company dealing with the PSNI could be threatened if the requested information were released into the public domain, as it could assist those who may use it to further their criminal interest. It states that where information is disclosed under the FOIA, there is no control or limits as to who or how the information is disseminated. It argues that the release of such information under FOIA would inhibit the PSNI's core functions to keep people safe.
14. The Commissioner has reviewed the complainant's request, the PSNI's responses, together with submissions from both parties. The Commissioner is satisfied that there is greater, wider public interest in the PSNI being able to carry out its law enforcement activity and for private companies to carry out their operations securely to protect the welfare and interests of their employees.
15. The Commissioner notes that the complainant has stated that their request is concerned with public policy and not operational matters, however he considers that, in this particular case, they are intrinsically linked. The Commissioner is in no way dismissive of the public interest in disclosing information, particularly where public funds are involved, for the purposes of transparency and accountability. However, in the circumstances, he considers that there is significant public interest in withholding the information.
16. Therefore, the Commissioner concludes that section 31(1)(a) of FOIA is engaged and the public interest favours maintaining the exemption in this case.
17. The complainant has advised the Commissioner that they do not wish to receive the personal information of those involved in meetings or in correspondence. In light of this, and for the purposes of the Commissioner's findings that section 31(1)(a) is engaged, he has not deemed it necessary to consider section 40(2) of FOIA.

Right of appeal

18. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

19. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Esi Mensah
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF