



Use of the Police National Computer by non-police organisations

An inspection of the Gangmasters Licensing Authority

May 2016

© HMIC 2016

ISBN: 978-1-78655-095-8

www.justiceinspectors.gov.uk/hmic

Contents

Introduction	3
Background and context	3
Terms of reference	4
About the Gangmasters Licensing Authority.....	4
Methodology	5
Findings	6
Scale of PNC use	6
The level of access and authorised purposes for PNC use	6
Does the organisation comply with its Security Operating Procedures?	8
Conclusions.....	10
Level of access	10
Compliance.....	10
Efficiency and effectiveness	10

Introduction

Background and context

The Police National Computer (PNC) is a national database of information available to all police forces throughout the United Kingdom.¹ In addition, certain other organisations, referred to as “non-police organisations”, have access to information held on the PNC in order to help them fulfil their statutory functions.

In such instances, access is granted by a body called the Police Information Access Panel (“the Panel”).² In order to obtain access, each organisation must submit a detailed business case that satisfies the Panel that a valid and lawful requirement for access exists.

If this is the case, two documents are produced that specify the level of access permitted and the manner in which the non-police body may use the PNC: the *Supply Agreement*, which describes the permitted access and how it will be provided, and the *Security Operating Procedures*, which are a requirement of the *Supply Agreement* but which are produced by the non-police organisation for the attention of its staff.

Some non-police organisations access the PNC through discrete computer terminals installed in their premises. This is known as “direct access”. Other non-police organisations obtain PNC information through a third party, usually a police force. This is known as “indirect access”.

In either arrangement, the public needs to have confidence that access is properly regulated and that effective auditing arrangements are in place. This is important because much of the information held on the PNC is sensitive and personal.

Her Majesty's Inspectorate of Constabulary (HMIC) is recognised as having strong expertise in this area and the Government's Independent Advisor on Criminality Information Management recommended that HMIC's audit role is extended to cover all PNC users.³

¹ *Police National Computer (PNC) Guidance: version 5*, Home Office, January 2014, page 5. The PNC holds information concerning people and property, including convictions, wanted and missing people, stolen vehicles and other types of stolen property.

² The Police Information Access Panel is a sub-group of the PNC governing body – the Police PNC Policy and Prioritisation Group (known within policing as “P4G”). The Panel is chaired by a chief officer and comprises a cross-section of senior Home Office and police leaders who are concerned with the management of the PNC. The Panel meets on a quarterly basis to consider applications for access to the PNC. Her Majesty's Inspectorate of Constabulary is represented on the Panel.

³ *A Common Sense Approach: a review of the criminal records regime in England and Wales*, Sunita Mason (Independent Advisor for Criminality Information Management), November 2011, pages 34-35.

Consequently, as part of our regular programme of inspections,⁴ we examine: the circumstances under which non-police organisations are granted access to the PNC; the ways in which they use PNC information; the safeguards that are required in order to protect the information; and whether those safeguards are being properly applied.

Non-police organisations are also subject to a separate Home Office audit, which examines in detail whether PNC data is held and used in an approved and secure way.⁵

While HMIC's inspections can be prioritised on the basis of the findings of these Home Office audits, HMIC's inspections do not examine all of the same issues. However, there can be certain areas of overlap. Where our inspections reveal concerns in areas that are also subject to Home Office audit, we highlight this.

Terms of reference

HMIC's inspections of non-police organisations that have access to the PNC aim to answer three questions:

1. Is the level of access specified in the *Supply Agreement* appropriate for the needs of the non-police organisation?
2. Does the non-police organisation comply with the *Security Operating Procedures*? In particular, are the arrangements for training, physical security, and internal audit compliant with the *Security Operating Procedures*?
3. Is the non-police organisation making efficient and effective use of the PNC?

About the Gangmasters Licensing Authority

The Gangmasters Licensing Authority, which we sometimes refer to in this report as "the organisation", has direct access to the PNC.

The Gangmasters Licensing Authority is a non-departmental public body, managed by an independent board. It was created following enactment of the Gangmasters

⁴ HMIC's 2015/16 *Inspection Programme: An inspection framework prepared under Schedule 4A to the Police Act 1996*, HMIC, March 2015, page 11. Available from: www.justiceinspectorates.gov.uk/hmic/publications/hmic-inspection-programme-2015-16/

⁵ The Home Office National Police Information Risk Management Team conducts audits to assure the Police Information Access Panel that PNC data is being held and used in an approved and secure manner in accordance with the supply agreement and relevant legislation, including but not limited to the Data Protection Act 1998, the Computer Misuse Act 1990 and the Official Secrets Act 1989.

(Licensing) Act 2004, which created a licensing scheme for gangmasters and four criminal offences in relation to the scheme's operation.⁶

The Gangmasters Licensing Authority describes its aim as "[w]orking in partnership to protect vulnerable and exploited workers [engaged in agricultural work, gathering shellfish, and processing or packaging produce]". The organisation has six strategic objectives, including one to "[t]arget, dismantle and disrupt serious and organised crime/early identification of human trafficking".⁷

The organisation, which is based in Nottingham, carries out intelligence-led enforcement activity across the United Kingdom. It has 68 staff. The Gangmasters Licensing Authority works closely with other enforcement bodies such as the police, Her Majesty's Revenue and Customs and Home Office Immigration Enforcement.

Methodology

This inspection took place in December 2014. Before the fieldwork stage, we reviewed documents (including the *Supply Agreement* and the *Security Operating Procedures*) in order to assist us in preparing questions for the interviews.

We invited the Gangmasters Licensing Authority to provide us with documentary evidence of its adherence to the *Supply Agreement* and *Security Operating Procedures*. This was followed by a visit to the Gangmasters Licensing Authority's head office (where the organisation's single PNC terminal is housed). Over two days, we assessed the physical security arrangements and interviewed a cross-section of staff who used the PNC, including the manager, supervisors and PNC operators. We asked interviewees to show us how they used the PNC.

We examined the Gangmasters Licensing Authority's internal audit process for the PNC. We looked at audit records and, through our interviews, tested interviewees' understanding of the internal audit processes and escalation procedures.⁸

We also reviewed data, provided to us by the Home Office, on the organisation's use of the PNC.

⁶ A person acts as a gangmaster if he supplies a worker to do work to which this Act applies for another person. The four criminal offences are: operating as an unlicensed gangmaster; entering into arrangements with an unlicensed gangmaster; obstructing Gangmasters Licensing Authority officers; and possession of false or improperly obtained documentation. Gangmasters Licensing Act (2004), HM Government, 2004. Available at: www.legislation.gov.uk/ukpga/2004/11/contents

⁷ Downloaded on 4 March 2016 from: www.gla.gov.uk/who-we-are/our-aims-and-objectives

⁸ In this context, escalation procedures are the procedures that personnel are expected to adopt when an internal audit reveals that a PNC check has been conducted for an inappropriate purpose. Generally, the procedure involves referring the matter to a manager.

Findings

Scale of PNC use

The Home Office provided us with statistics on the number of PNC checks carried out by the Gangmasters Licensing Authority for the period 1 April 2014 to 31 December 2014. We found that 131 PNC checks in relation to people were carried out by the Gangmasters Licensing Authority over that period. There were additionally 114 vehicle checks as well as 12 transactions that enabled the manager to check that use of the PNC had been legitimate.

The level of access and authorised purposes for PNC use

We found that the Gangmasters Licensing Authority had access to and was making use of the PNC even though the *Supply Agreement* had expired. We also found that the level of access specified in the expired *Supply Agreement* was insufficient for the Gangmasters Licensing Authority's needs.

Level of access

We were provided with a copy of the *Supply Agreement*, which was agreed between the Gangmasters Licensing Authority and the National Policing Improvement Agency on 16 January 2009 and was to continue in force for three years. It therefore ceased to be valid on 16 January 2012. We found that the Gangmasters Licensing Authority continued to have access to and make use of the PNC after that date and at the time of our inspection in 2014.

The 2009 *Supply Agreement* specified that the Gangmasters Licensing Authority was authorised to conduct three different kinds of PNC check:⁹

4. Name (full): this type of check allowed an operator to type in the name of a person in order to determine whether the PNC holds a record of someone with that name. If such a record existed, the Gangmasters Licensing Authority level of access allowed it to view the full record.
5. Vehicle registration mark (basic): this type of check allowed an operator to type in a complete vehicle registration mark in order to determine if the vehicle was stolen or of interest to the police for some other reason. This type of check also revealed the name and address of the vehicle's registered keeper.

⁹ *Supply Agreement Version 1.0*, National Policing Improvement Agency and the Gangmasters Licensing Authority 16 January 2009, Part 2 Schedule 1, section 1.

6. Transaction log: this type of check allowed an operator to type in a code in order to generate a list of previous checks carried out on the PNC. Generally this list was used for audit purposes.

Authorised purposes

The 2009 *Supply Agreement* stated that the Gangmasters Licensing Authority was authorised to conduct checks in order to:¹⁰

- "Support the enforcement of criminal offences detailed in the Gangmasters Licensing Act 2004. This may be undertaken by Gangmasters Licensing Authority enforcement officers who have the power of arrest, or in partnership with the police and other government departments (Defra [the Department for Environment, Food and Rural Affairs], through its own legal department, will be the primary prosecuting authority). PNC information would address officer safety issues and confirm the identity of suspects.
- Support the intelligence development activities of the Gangmasters Licensing Authority e.g. identify and broaden our knowledge of alleged criminal Gangmasters to better target operational activity.
- Provide intelligence feedback to police forces e.g. report licensing applications by gangmasters with extensive/ serious criminal records or outstanding arrest warrants.¹¹
- Ensure Gangmasters Licensing Authority is informed of persons of interest."

The level of access made available to the Gangmasters Licensing Authority was sufficient to enable basic checks against people and vehicles. It did not include some of the PNC's more powerful search functions, which tend to be used by the police and law enforcement agencies for detailed intelligence development purposes and in certain criminal investigations (usually where serious crime is involved).

Our interviews revealed that intelligence staff at the Gangmasters Licensing Authority believed that access to additional types of PNC check would bring operational benefits. In particular, they considered it would be beneficial if they could conduct postcode checks, which allow PNC operators to type in a postcode (or a combination of postcodes up to a maximum of six) in order to identify vehicles

¹⁰ *Ibid.*, Part 2 Schedule 1, section 2.

¹¹ The Police Information Access Panel had originally agreed that the Gangmasters Licensing Authority could have access to 'Names' data for the purpose of carrying out enquiries in respect of persons who may have committed a criminal offence. In 2013 (notwithstanding the expired *Supply Agreement*) the Panel confirmed that the Gangmasters Licensing Authority could also use PNC information to check information provided in applications for Gangmaster licences.

registered to an address within the area covered by the postcode that was used to make the search. They also considered it would be beneficial if they could conduct enhanced PNC searches for vehicles based on characteristics such as the manufacturer and model.

Does the organisation comply with its Security Operating Procedures?

We found that the Gangmasters Licensing Authority was compliant with the requirements set out in its *Security Operating Procedures*.

Training

One of the requirements in the *Security Operating Procedures* is that all PNC users must receive accredited training.¹² During the inspection we examined the relevant training records. These were extensive and satisfied us that all the Gangmasters Licensing Authority's seven PNC users had received accredited training from trainers employed by Nottinghamshire Police.¹³

Physical security

A further requirement of the *Security Operating Procedures* is that the PNC terminal must be located in a secure building.¹⁴

We found that the Gangmasters Licensing Authority's PNC terminal was kept in a secure building. The PNC terminal was located in an office within the intelligence department. All staff within the office were qualified to access the PNC. Access to the building was by a locked door and access through internal doors was by swipe card. Visitors to the building were required to be accompanied at all times.

Internal audit

The *Security Operating Procedures* and other related documents set out various requirements that are subject of internal audit. These include:

- PNC personnel are required to sign a document to confirm they have read the *Security Operating Procedures* and undertake to comply with them;¹⁵

¹² *PNC Operating Procedures Version 0.5*, Gangmasters Licensing Authority, November 2013, paragraph 4.1.

¹³ The College of Policing is responsible for the accreditation of PNC training providers.

¹⁴ *PNC Operating Procedures Version 0.5*, Gangmasters Licensing Authority, November 2013, paragraphs 3.8 to 3.10 inclusive.

¹⁵ *Ibid.*, Appendix A.

- PNC checks may only be conducted once authorised by an 'approver' (in urgent cases, orally, otherwise in writing);¹⁶ and
- the frequency of audits will depend on the amount of transactions, but will ordinarily be monthly.¹⁷

In relation to the first requirement, we examined the documentation and were satisfied that all PNC personnel had signed the appropriate document.

In relation to the second requirement, we found that requests for PNC checks were made by completion of a form that was emailed¹⁸ to a supervisor for approval. Whether approved or not, the request was subsequently emailed to the intelligence unit for recording. If approved, the PNC check was completed and the result sent to the originator in the form of an intelligence report. Urgent requests by field operatives were approved orally, with a request document being completed retrospectively to provide a comprehensive audit trail.

We found that, for both urgent and non-urgent cases, the requirement for approval of each PNC check was being met.

In relation to the third requirement, we found that the Gangmasters Licensing Authority was auditing all of its PNC checks at least monthly. Because of the low number of checks, the 100 percent audit was not an onerous task for the organisation.

Auditing was the responsibility of the intelligence manager, who was also one of the supervisors who could authorise that a PNC check be completed. This created a limitation, because the intelligence manager clearly cannot review their own activity. In another of our inspections of non-police organisations that use the PNC, we found that arrangements were being made to appoint an auditor who was independent of the authorisation process,¹⁹ and we would encourage the Gangmasters Licensing Authority to consider a similar approach.

We also found clearly defined procedures for the escalation of issues of concern to managers. Although we did not find any instances where concerns had been escalated, those we interviewed were aware of and understood the procedures.

¹⁶ *Ibid.*, paragraph 10.4.

¹⁷ *Ibid.*, paragraph 11.2.

¹⁸ The organisation uses the Government Secure Intranet, which is certified to an appropriate security standard.

¹⁹ *Use of the Police National Computer by non-police organisations, An inspection of Natural Resources Wales*, HMIC, 2016. Available from: www.justiceinspectorates.gov.uk/hmic/publications/use-of-the-police-national-computer-by-non-police-organisations-an-inspection-of-natural-resources-wales/

Conclusions

Level of access

We conclude that the Gangmasters Licensing Authority needs direct access to the PNC and the absence of a valid *Supply Agreement* is a serious matter that should be remedied at the earliest opportunity.²⁰

Taking into account the purposes for which the Gangmasters Licensing Authority needs PNC access, we conclude that the level of access specified in the expired *Supply Agreement* may not be sufficient for the business needs of the organisation. The Gangmasters Licensing Authority should provide the Police Information Access Panel with a detailed business case explaining the need for access to the PNC's postcode search and enhanced vehicle search capabilities.

Compliance

The comprehensive training records, the satisfactory physical security arrangements, the signed undertakings by all PNC staff and the high level of internal audit coverage lead us to conclude that the Gangmasters Licensing Authority has been complying with the requirements of its *Security Operating Procedures*. We would nevertheless encourage the Gangmasters Licensing Authority to improve the independence of the auditing of its PNC use.

Efficiency and effectiveness

We conclude that, but for the areas for improvement described above, the Gangmasters Licensing Authority is making efficient and effective use of the PNC.

²⁰ Following this and other PNC inspections, we understand that the Home Office replaced *Supply Agreements* with documents entitled *Agreement for the Supply of PNC data via Direct Access* and *Memorandum of Understanding Regarding the Supply of PNC data via Direct Access*. We were informed that one of the latter documents was issued to the Gangmasters Licensing Authority on 9 February 2016.