



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2012-00590

**Keyword:** Crime

**Subject:** Fees paid to mobile phone operators

### Request and Answer:

#### Question 1

Firstly, I would like to receive information regarding the fees paid by your force to mobile phone operators for data (such as subscriber call records and locations) during police investigations for the years 2005 to 2011?

- (a) I would like to know the amount paid per year?
- (b) the amount paid per mobile phone operator and
- (c) the number of requests handled by each mobile phone operator per year?

#### Question 2

Secondly, I would like to know whether you are participating in the Home Office's pilot Central Cost Recovery Scheme in relation to requesting information from mobile phone operators (yes or no).

If there is any reason, in accordance with the 2000 Freedom of Information Act that this information cannot be provided, I would require a written explanation.

#### Answer

I am writing to confirm that the Police Service of Northern Ireland (PSNI) has now completed its search for the information.

I have today decided to:

- disclose information in response to questions 1(a) and 2 in full.
- and to fully exempt information in response to questions 1(b) and 1(c) pursuant to the provisions of Sections 31 (a)(b) and Section 43(2) of the Act.

#### Answer 1(a)

The following information is in relation to the totals for each year spent on gaining communications data under Chapter II of Part I of RIPA:-

- Year 05/06 spent £346,687.80 including VAT on all communications data received.
- Year 06/07 spent £312,304.18 including VAT on all communications data received.

- Year 07/08 spent £176,694.86 including VAT on all communications data received.
- Year 08/09 spent £167,670.75 including VAT on all communications data received.
- Year 09/10 spent £236,246.96 including VAT on all communications data received.
- Year 10/11 spent £182,600.31 including VAT on all communications data received.

## Answer 2

Yes.

## Answer 1(b) and 1(c)

Section 17(1) of the Freedom of Information Act 2000 requires the PSNI, 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:

### Qualified Exemptions

Section 31 (1)(a)(b) Law Enforcement

Section 43 (2) Commercial Interests

Section 31(1) (a) (b) Law Enforcement and Section 43(2) Commercial Interests are prejudice based qualified exemptions which requires the prejudice (harm) to be evidenced and a public interest test to be carried out.

### Harm

Some companies have bespoke systems to accommodate the disclosure of data via a secure system to enable virtual 'real-time' collection by the police and those systems need to be funded through cost recovery.

To disclose the actual breakdown of prices charged by these companies **and the number of requests handled by each mobile phone operator** would reveal an inaccurate 'skewing' of the cost recovery **and numerical** statistics as Service Providers who have built bespoke systems provide more services than Service Providers who do not. Any misinterpretation by individuals may result in certain Service Providers being branded as 'the criminal's choice' which would damage the working relationship between the PSNI, Service Providers and the Government.

With this relationship impeded, a Service Provider may pull their services without prior notice which would compromise the prevention and detection of crime.

Disclosure would also reveal which Service Providers are limited in their abilities and those which have the better capabilities, potentially giving a tactical advantage to criminals who would choose networks based on risk.

A breakdown of charges would reveal the services by Service Providers, which would include covert services. Any such disclosure would provide the full inabilities and capabilities of each Service Provider which in turn would benefit a terrorist or criminal by revealing what services and systems are used by the Police Service. This awareness would enable members of the criminal fraternity to take evasive steps to avoid detection.

The charge private companies make for their services is an individual agreement between the Service Providers and the PSNI. To provide costing details would undermine the companies in its

ability to be competitive when providing services to the public sector. Any such disclosure would compromise that company's pricing structures which would leave them vulnerable to unfair negotiations when a customer requires their services.

### **Public Interest Test for Section 31(1)(a)(b) Law Enforcement**

#### Factors favouring disclosure

One of the underlying principles of the Freedom of Information Act is the need for authorities to be more open and transparent. In this case, to provide the full detail of costings **and the number of requests by each mobile phone operator** for telephony data would provide the community with awareness that public funds are being used to resource and finance the use of expert technology to assist in the prevention or detective of crime and the apprehension or prosecution of offenders.

#### Factors favouring non disclosure

Where a current or future Law enforcement role of PSNI may be compromised by the release of information. In this case, disclosure of the information may enable individuals or terrorist organisations to identify expert technology and methods used by the police service as part of an intelligence gathering operation. The effectiveness of current and future strategies to combat terrorist activity may be compromised and may also inhibit the ability to prevent crime.

### **Public Interest Test for Section 43(2) Commercial Interests**

#### Factors favouring disclosure

One of the underlying principles of the Freedom of Information Act is the need for authorities to be more open and transparent. In this case, to provide the full detail of costings for telephony data **and the number of requests by each mobile phone operator** would provide the community with an awareness that public funds are being used to resource and finance the use of expert technology to assist in the prevention or detective of crime and the apprehension or prosecution of offenders.

#### Factors favouring non disclosure

Although the request does not ask for personal information, the interests of third parties, i.e. the Communication Service Providers, is compromised. The Police Service has a moral duty to protect the sensitive commercial information it holds about any private company they have dealings with. In this case, to provide the fine detail of how much the companies charge **and the number of requests handled by each mobile phone operator** would prejudice the commercial interests of those companies, as detailed within the harm above.

The charge a private company makes for their services is an individual agreement between the Service Providers and the Force/Service. To provide costing details would undermine the company in its ability to be competitive when providing services to the public sector. Any such disclosure would compromise that company's pricing structures which would leave them vulnerable to unfair negotiations when a customer requires their services.

### **Balancing Test**

When balancing the public interest test we have to consider whether the information should be released into the public domain. Arguments need to be weighed against each other. The most persuasive reason for disclosure is Use of Public Funds which needs to be compared to the strongest negative reason, which in this case is Public Safety. The police service cannot and will not disclose information which will place the public at risk by undermining national security or law enforcement thereby assisting those intent on committing crime.

Information released under FOIA, where exemptions apply, will only be done where there is a tangible community benefit which is more powerful than the harm that could be done. This does not apply in this case.

On balance, and from the harm evidenced above, the information requested should be protected and exemptions applied.

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 Freedom of Information Team, 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 Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing [foi@psni.pnn.police.uk](mailto:foi@psni.pnn.police.uk).

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. 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 his 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](http://www.psni.police.uk)

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