



FREEDOM OF INFORMATION REQUEST



Request Number: F-2012-01793

Keyword: Organisational Information/Governance

Subject: Witnesses Interviewed by HET

Request and Answer:

Question

We refer to the above matter and to the contents of the Freedom of Information request F-2012-00194 accessed on 26th April 2012.

It is noted that Historical Enquiries Team have consistently refused to make public appeals for witnesses.

Concerns have been raised by a number of persons that have sought support from Relatives for Justice having provided statements to HET as witnesses.

In relation to witnesses have spoken to the Het (whether they provided a formal statement or not) we would be grateful to receive the following information:

- a. A copy of any protocol for the questioning/interviewing of witnesses.
- b. How many civilian witnesses have been spoken to by HET?
- c. Confirmation as to whether contemporaneous notes were kept of these meetings
- d. Confirmation as to whether or not these meetings were recorded.
- e. Confirmation as to whether or not these statements were prepared by the individual witness
- f. Confirmation as to whether or not witnesses were advised to seek independent legal advice.
- g. To date, have witnesses been referred to Trauma support prior to or after providing statements to HET.

Answer

Section 17(5) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the cost of compliance exceeds the appropriate limit) to provide you the applicant with a notice which states that fact.

It is estimated that the cost of complying with your request for information would exceed the

“appropriate costs limit” under Section 12(1) of the Freedom of Information Act 2000, which is currently set by the Secretary of State at £450 (18hrs).

When considering a request for information under the FOI Act, PSNI must consider the following:

A public authority must still confirm or deny whether it holds the information requested unless the cost of this alone would exceed the appropriate limit. There are two distinct areas in relation to fees contained within the legislation.

The first area is relevant to the initial processing of a request when an authority, when estimating the time taken, can take into account the following four items:

Determining if the information is held;
Locating the information;
Retrieving the information; and
Extracting the information to be disclosed from the other information.

The information requested if available is not stored centrally in a readily retrievable fashion. To establish what is in fact held, then to retrieve it and extract the information requested would require a manual and electronic search of 1000s of documents retained and recorded in each of the 2058 cases the HET has completed to date. It is estimated it would take at least 60 minutes per case giving a minimum of 2058 hours, which is well in excess of that permitted by legislation which is set at 18 hours.

In accordance with the Freedom of Information Act 2000, this letter should be considered as a Refusal Notice, and the request has therefore been closed.

You may wish to submit a refined request in order that the cost of complying with your request may be facilitated within the ‘appropriate limit’. In compliance with Section 16 of the Act, I have considered how your request may be refined to bring it under the appropriate limit; however the nature and structure of the information unfortunately makes this impossible. Unfortunately, due to the reasons already outlined above thousands of records would need to be located and researched. It would be extremely difficult for the PSNI to advise you how to refine your request to a point below the £450 cost limit. In addition, the fact that records are hard copy paper documents and electronic, only makes the search even more time consuming.

Submission of a refined request would be treated as a new request, and considered in accordance with the Freedom of Information Act 2000, including consideration of relevant Part II exemptions.

Section 16 Advice and Assistance

Although excess cost removes the PSNI’s obligations under the Freedom of Information Act, I have provided below the information which was retrieved before it was realised that the fees limit would be exceeded. I trust this is helpful but it does not affect our legal right to rely on the fees regulations for the remainder of your request.

With regard to question (a) above;-

The Historical Enquiry Team does not have a protocol relating to the interview/questioning of witnesses.

If you have any queries regarding your request or this 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.

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.psnj.police.uk

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