

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2021-00035

**Keyword:** Organisational Information/Governance

**Subject:** Legacy Investigation Branch

### Request and Answer:

Your request for information below has now been considered. This response relates to your three separate FOI requests, F-2021-00035, F-2021-00047 & F-2021-00059. Under the FOI Act, as these requests relate to the same topic they have been aggregated together as one request and responded to under reference F-2021-00035.

In respect of Section 1(1)(a) of the Freedom of Information Act 2000 (FOIA) we can confirm that the Police Service of Northern Ireland does hold the information you have requested however 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. We have explained to you below that when PSNI estimates whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if certain conditions are met. In this case those conditions are met and complying with all of your requests would in our estimation exceed that appropriate limit set out in Regulation. We have explained this further below but also we followed the Information Commissioner’s Office guidance *‘Requests where the cost of compliance exceeds the appropriate limit’* in relation to this request, which also provides further detail on the application of section 12 (1) of the FOIA. This guidance is available on the ICO website at the following link:

[https://ico.org.uk/media/for-organisations/documents/1199/costs\\_of\\_compliance\\_exceeds\\_appropriate\\_limit.pdf](https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

### F-2021-00035

#### Request 1

Under the Freedom of Information Act 2000, can you please inform me how many of the cases that the Historical Enquiries Team had initiated reviews into but had not completed, were continued by the Legacy Investigation Branch following the disbandment of the Historical Enquiries Team. Please interpret case to refer to the incident in incidents of multiple fatalities.

#### Request 2

Under the Freedom of Information Act 2000, can you please inform me how many of the cases that the Historical Enquiries Team had initiated reviews into were not completed at the disbandment of HET in 2014, for reasons other than lack of family engagement, listed according to the year of the

incident. Please interpret case to refer to the incident in incidents of multiple fatalities.

### **Request 3**

Under the Freedom of Information Act 2000, can you please inform me how many cases the Historical Enquiries Team completed reviews into, for which the date of the incident was after 27 August 1979, listed according to the year of the incident. Please interpret case to refer to the incident in incidents of multiple fatalities.

**F-2021-00047**

### **Request 4**

Under the Freedom of Information Act 2000, can you please inform me how many of the cases that the Historical Enquiries Team had initiated reviews into were not completed at the disbandment of HET in 2014, for reasons other than lack of family engagement, listed according to the year of the incident. Please interpret case to refer to the incident in incidents of multiple fatalities.

**F-2021-00059**

### **Request 5**

Under the Freedom of Information Act 2000, can you please inform me how many cases the Historical Enquiries Team completed reviews into, for which the date of the incident was after 27 August 1979, listed according to the year of the incident. Please interpret case to refer to the incident in incidents of multiple fatalities.

### **Answer**

This response relates to three separate FOI requests, F-2021-00035, F-2021-00047 and F-2021-00059. As the subject of this current request F-2021-00035, is the same or similar to F-2021-00047 and F-2021-00059 and were received by PSNI within 60 working days of each other, these requests have been aggregated for the purposes of calculating fees under the Regulations.

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. Section 12 of FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to either comply with the request in its entirety or confirm or deny whether the requested information is held. The estimate must be reasonable in the circumstances of the case. The 'appropriate limit' is currently £600 for central government and £450 for all other public authorities including PSNI. The relevant Regulations which define the appropriate limit for section 12 purposes are The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004 SI 2004 No 3244. These are known as the 'Fees Regulations' for brevity.

Regulation 4(3) of the Fees Regulations states that a public authority can take into account the costs it reasonably expects to incur in carrying out the following permitted activities in complying with the request:

- (i) determining whether the information is held;
- (ii) locating the information, or a document containing it;
- (iii) retrieving the information, or a document containing it; and
- (iv) extracting the information from a document containing it.

Under those regulations PSNI can calculate the time spent on each of these permitted activities at £25 per hour (thus if the activity(s) takes more than 18 hours PSNI will be in excess of the 'appropriate limit').

When a public authority is estimating whether the appropriate limit is likely to be exceeded, it can include the costs of complying with two or more requests if the conditions laid out in Regulation 5 of the Fees Regulations can be satisfied. Those conditions require the requests to be:

- made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign;
- made for the same or similar information; and
- received by the public authority within any period of 60 consecutive working days.

Regulation 5(2) of the Fees Regulations requires that the requests which are to be aggregated relate “to any extent” to the same or similar information. This is quite a wide test but public authorities should still ensure that the requests meet this requirement.

In relation to Request 2, which is also the same as Request 4, there is no searchable facility which could identify the exact reason why HET had not completed their review in a particular case. Retrieval of any relevant information would require a manual trawl of 942 cases. It is estimated to take a conservative 30 minutes to examine 1 record and the retrieval process would equate to 471 hours, greatly exceeding the 18 hour cost limit set under the FOI Act. This estimate would be further increased to retrieve information for the remaining requests.

**Under Section 12 of the Freedom of Information Act 2000, if any part of the request exceeds the cost threshold then the whole request will be excess costs and there is no obligation to answer any part of the request.**

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.

### **Advice and Assistance**

Under section 16 of the FOIA, PSNI will always try to assist you to refine your request and provide advice where we can. PSNI has considered how your request may be refined to bring it under the appropriate limit. Subject to any relevant exemptions, it may be possible to retrieve information in respect of Request 1 and Request 3 (which is the same as Request 5) within the appropriate cost limit.

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 exemptions at Part 2 of the FOIA.

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 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 Head of Corporate Information Branch, 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.psnipolice.uk](http://www.psnipolice.uk)

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