



FREEDOM OF INFORMATION REQUEST



Request Number: F-2022-01493

Keyword: Complaints/Discipline

Subject: Misuse or Incorrect use of Body Worn Video

Request and Answer:

Your request for information below has now been considered. 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 (PSNI) 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

You requested the following information from PSNI:

Request 1

All records of misuse or incorrect use of body worn video over the last four years (from January 1st 2018 to the date this response is answered), providing the year of the incident and a description of the misuse (e.g. the camera was turned off by an officer). If the force does not collect these records, please state why it does not scrutinise use of this policing tool.

Request 2

All records of any known complaints made about misuse or incorrect use of body worn video over the last four years (from January 1st 2018 to the date this response is answered), providing the year of the incident, description and complaint (e.g. video turned off or video not turned on).

Request 3

All records of all misconduct cases against officers for misuse or incorrect use of body worn video over the last four years (from January 1st 2018 to the date this response is answered), providing the

year of the incident, description of the misuse and reason for misconduct, and misconduct outcome and investigatory body (e.g. management advice by PSD).

Clarification Sent To Requester:

Can you confirm that your request includes both internal matters, and public complaints made to the Police Ombudsman?

Clarification Received From Requester:

That's right, Thank You.

Answers

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').

PSNI can advise enquiries made in relation to your requests have identified that retrieval of this information would exceed the 18 hour cost limit set under the FOI Act by the Secretary of State. This information is not held in a retrievable format that provides the information without manual intervention, and a comprehensive search would need to be conducted to retrieve this information.

The relevant business area has determined that Requests 1 and 2 are overcost due to the requests including public complaints made to the Police Ombudsman. Due to how complaints are recorded on the PSNI database and the absence of a complaint category relating to 'Body Worn Video', it would be necessary to examine each individual complaint to establish if there was any reference to the use of 'Body Worn Video.' PSNI have identified for 2021 – 2022 a total of 2890 complaints have been received. Allowing 1 minute to review each individual occurrence to determine if it relates to 'Body Worn Video' amounts to over 48 hours of work, grossly exceeding the legislative timescale of 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.

Advice and Assistance

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, we have considered how your request may be refined to bring it under the appropriate limit and can advise as follows:

- **Request 3** – PSNI can provide the number of PSNI Officers who have been subject to formal discipline for the misuse of 'Body Worn Video' from 1 January 2018 to 19 June 2022. (I.e. *Written Warning and above.*)

Please note; Within your initial request you have stated the timeframe you wish your request to cover as '1 January 2018 to the date this response is answered'. We can advise this is not a valid timeframe; PSNI is able to provide information until the date the request was received, our records show this to be 19 June 2022.

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.

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.police.uk.

If, following an Internal Review carried out by an independent decision maker, you remain dissatisfied with the handling of your request, you may make a complaint to the Information Commissioner's Office, under Section 50 of the Freedom of Information Act, 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', or use the ICO self-service portal available at www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/

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 their 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

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