



FREEDOM OF INFORMATION REQUEST



Request Number: F-2022-01705

Keyword: Operational Policing

Subject: PSNI Investigations - 11th Night Bonfires

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:

I want to know how the PSNI conduct their investigations into reported hate crimes regarding the burning of flags, sectarian messages and effigies etc. on 11th night bonfires. The evidence is overwhelming each year through pictures and videos of sectarian and often racist/misogynistic slogans, effigies, singing etc.

Request 1

I want to know how these are actually investigated each year, using the last 5 years for example (I assume no details of this year's investigations can be given as they are reportedly being investigated now) and whether or not any charges have been made or any fines issued as a result of PSNI investigations.

Request 2a

Where does the accountability and liability for these things actually lie?

Request 2b

Are specific individuals free from repercussion due to lack of accountability in large numbers?

Request 3

What is the criteria you use for deciding if these things constitute a hate crime?

Request 4

What are the possible repercussions for individuals or groups who build these bonfires and erect sectarian messages?

Request 5

Do PSNI officers go into these communities and question people or community leaders to try and find out who exactly oversees the bonfire and gives these sectarian messages approval? Or are these investigations through social media content?

Request 6

Please detail how the investigations are conducted.

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 that enquiries made in relation to your request 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. In relation to Request 1, PSNI have identified for District A (Belfast), District H (Derry and Strabane) and District L (Antrim and Newtownabbey), there were more than 924 incidents between 1st July 2017 and 14th July 2022 where the call for service contained the text 'Bonfire'. At an estimate of 5 minutes to examine each of the incidents to see if they related to bonfires in the context of the request and whether they then related sectarian, racist, misogynistic slogans, effigies, or singing and then to determine if any charges or fines had been issued would take approximately 77 hours, greatly exceeding the 18 time limit set by the Secretary of State.

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 can advise that we would be able to provide information in response to requests 1, 3 and 5 within cost if a new request was received.

In relation to Request 1, each of the districts below have advised they can provide information within the legislative timeframe: Please note; Districts can provide an answer to this request based on the following search on the PSNI computer database; A count of occurrences with a “Bonfire Code” and a “Hate Motivation”.

- District B – Lisburn and Castlereagh
- District C – Ards and North Down
- District D – Newry, Mourne & Down
- District E – Armagh, Banbridge and Craigavon
- District F – Mid Ulster
- District G – Fermanagh and Omagh
- District J – Causeway Coast and Glens
- District K – Mid and East Antrim

In relation to Requests 2a, 2b and 4, the Freedom of Information Act requires PSNI to provide a response to a request for ‘recorded’ information which is held (s.1 FOIA). A question will not necessarily constitute a ‘valid request’. Further information on what constitutes a valid request can be found on the Information Commissioner’s Office website:

<https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

However to assist you PSNI can advise accountability lies with the individuals who erect flags, create and place effigies or create and place messages onto bonfires. Specific individuals are not free from repercussion. Repercussions will be dependent on the nature of the offence and could include Adult Caution (If the individual is an Adult), Fine, or Imprisonment.

In relation to Request 6, If the relevant information is held PSNI would apply a Section 30(1) – Investigations and Proceedings Conducted by Public Authorities exemption, so this information would be withheld.

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.psnj.police.uk

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