

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** FOI-2021-00341

**Keyword:** Crime

**Subject:** Appropriate Adult in Custody

### 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 does hold the information you have requested however it is estimated that the cost of complying with all of 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)

You requested the following information from PSNI:

For each of the following years: (2015- 2016) (2016 -2017) (2017 -2018) (2018 -2019) (2019- 2020)  
Please provide me with:

### Request 1

The number of interviews under caution conducted by your officers at which an Appropriate Adult was requested by the Custody Officer?

### Request 2

The number of interviews under caution at which an Appropriate Adult was requested by the detained person?

### Request 3

The number of interviews under caution at which an Appropriate Adult was in attendance?

### Request 4

Of the interviews at which an Appropriate Adult was in attendance, how many were provided by a

commissioned Appropriate Adult service?

## 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').

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.

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.

An Appropriate Adult (AA) may be required in custody for a number of reasons, aside from an interview being carried out, i.e. an AA's presence is necessary for rights to be given, biometrics to be taken, a charge/ bail/ other disposal to be undertaken/ signed for and a search to be carried out. PSNI Custody records do now show the reason an AA was present nor do they outline whether the AA was requested by the Custody Officer or detainee. If an appropriate adult is necessary in Custody, they will be called whether or not the detainee has requested one.

To obtain the information requested would require each custody record to be manually examined to ascertain whether or not the AA was from the NIAAS (Northern Ireland Appropriate Adult Scheme). To display the vastness of the request, from 2019 to 2020 there are approximately 4,500 custody records where an AA was required. It is estimated it would take at least one minute to open a single custody record and assess whether or not the AA was from the NIAAS. To assess all 4,500 custody records from 2019-2020 alone, would take approximately 75 hours. This grossly exceeds the FOI legislative cost of 18 hours as 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. 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 due to the PSNI recording system there is no refinement we can offer. However it may be of assistance to contact the 'Northern Ireland Appropriate Adult Scheme' who may be able to assist with your request.

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.psni.police.uk](http://www.psni.police.uk)

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