

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2020-00750

Keyword: Organisational Information/Governance

Subject: Asbestos at Gough Barracks, Armagh 1998

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 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

Request 1

Following a recent FOI response (F-2019-03009) I wish to make a refined FOI request based on the PSNI's assistance and guidance as to what information might be available. I wish to seek the following information in relation to the removal and disposal of asbestos and asbestos contaminated materials at Gough Barracks, Armagh in 1998. A copy of a survey by RUC Construction Services of B Block in June 1998.

Request 2

Documentation detailing scientific / laboratory tests confirming the presence and type of asbestos discovered at Block B in 1998.

Request 3

Documentation detailing health and safety concerns in connection to asbestos material and contaminated material at Gough Barracks in 1998, including documentation from the RUC Health and Safety Department.

Request 4

Copy of a direction from RUC Police Authority Buildings Department to RUC Construction Services in July 1998 to remove asbestos material and decontaminate the area.

Request 5

Documentation from the Police Authority of Northern Ireland in relation to asbestos contamination and the destruction of documents at Gough Barracks in 1998.

Request 6

Details of the contract to remove asbestos and contaminated material from Gough Barracks in 1998 – please provide the name of the contract company and the cost of contract.

Request 7

An annual breakdown of how many people were arrested at Gough Barracks between 1985 and 1995?

Request 8

Please also provide the following documents if they are not already included in the above requests for information:

- a) 29th June 1998 - A fax from the Police Authority Buildings Division to Inspector Buildings Branch in relation to the discovery of asbestos at Gough Barracks.
- b) 20th July 1998 – An RUC report from Detective Inspector to ACC Crime Knocknagoney
- c) 27th July 1998 – An RUC report from ACC Crime to Inspector Buildings Branch
- d) 10th August 1998 - An RUC report from Inspector Buildings Branch to Detective Superintendent Knocknagoney
- e) 20th August 1998 – An RUC report from Detective Chief Inspector Headquarters to Detective Inspector Force Intelligence Bureau
- f) 21st August 1998 – An RUC report from Detective Inspector Force Intelligence Bureau to Detective Inspector Regional Intelligence Unit South
- g) Two further undated RUC reports detailing the completion of the asbestos removal and destruction of documents in 1998.

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. 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 your request we have considered that as you have asked for information on the subject matter of asbestos removal and the management of Gough barracks, this is seeking information on the 'same or similar information.' In this case Request 8 is additional to Request 1 – 7 offered as refinement in the previous FOI request F-2019-03009 and enquiries have identified that retrieval of any relevant information would incur an additional 7.5 hours. Given this, complying with all of the requests therefore would exceed the 'appropriate limit' set out under the Fees Regulations.

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 within the appropriate cost limit in relation to:

Request 1 – 7 which would take just beyond the appropriate cost limit. However, as previously advised, any retrieved information will likely attract the application of exemptions under FOI. Additionally, retrieval of information in relation to Request 8, would take approximately 7.5 hours.

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.

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

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