

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2021-0765

Keyword: Complaints/Discipline

Subject: Sexual Misconduct Complaints

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

You requested the following information from PSNI:

Request 1

I am seeking the total number of complaints of rape, sexual assault or other forms of sexual misconduct against police officers* and police staff*. I seek this in two categories which I would like to be separated in the response:

- a) where the complainant is also a member of the police service, and
- b) where the complainant is a member of the public.

Please provide figures for the past five years if possible, whether calendar or financial years [whichever way they are collated]. Please include the most recent figures available for the past 12 months, even if it is not complete.

[*For the avoidance of doubt, I request complaints made against officers, PCSOs, special constables, police staff and contractors to the force - either as direct employees or through employment agencies]

Request 2

For each case please state if possible:

- The gender and rank or grade of the officer or staff member
- The nature of the alleged offence and any context if possible [whether it be harassing emails, sending inappropriate text messages, rape, indecent assault, indecent images etc.].
- The location where the alleged offence took place – i.e. custody suite, police station etc.
- Whether the alleged misconduct took place on or off duty
- The outcome of each investigation i.e. charges [please state where convicted and provide name of the officer if possible], suspension, whether referred to the IPCC, dismissed, suspended, resigned, transferred etc.

Request 3

In the case of a) where the complainant is a member of the police service, please state their gender and rank or grade [insofar as this is possible given identification issues]

Request 4

In the case of b) where the complainant is a member of the public, please state whether the complainant was a victim of crime, witness to crime, or other category

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.

Enquires made have identified that your request is over the FOI legislative cost of 18 hours as set by the Secretary of State. The information requested in relation to public complaints, as although held electronically they require the manual examination of all complaints made to the Police Ombudsman Northern Ireland (PONI) during the requested period, to extract the requested information. Whilst on the database there is a categorisation for complaints made against the PSNI, it is not specific enough to easily identify complaints which are relevant to your request. With an average of 2,500 complaints made per year, and at an estimate of 1 minute research per complaint, which would result in approximately 42 hours research for one year of complaints, therefore in excess of the cost limits.

Please note that PSNI do not have officers at the ranks of ‘Special Constable’ or Police Community Support Officer (PCSO).

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 and we can provide the following information:

- To provide a response in relation to internal allegations of sexual misconduct for the requested period, however submission of a refined request would be treated as a new request, and considered in accordance with the Freedom of Information Act 2000.

This includes consideration of any relevant Part II exemptions as the information requested will attract 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.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.psnj.police.uk

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