



FREEDOM OF INFORMATION REQUEST



Request Number: F-2021-01016

Keyword: Crime

Subject: McGurks Bar Bombing 1971

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). It is estimated that the cost of complying with your request for information would exceed the “appropriate costs limit” under Section 12(2) of the Freedom of Information Act 2000 to determine if PSNI holds or does not hold the information you seek. 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 (2) 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

This request for information relates to a covert British Army operation in the vicinity of the McGurk’s Bar bombing of 4th December 1971 and a negligent discharge at it a few hours before.

May I request information in police repositories relating to this previously undisclosed covert operation and negligent discharge, please? This includes a search of any databases given to the PSNI by the British Army relating to its Operation Banner.

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(2) 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').

Enquiries made in relation to your request has identified that even to ascertain if the requested information is held would exceed the 18 hour cost limit set by the Secretary Of State under the Fees Regulations. PSNI has estimated to search for information would require a manual trawl through electronic paper files, microfiche records and a number of databases which is estimated to take in excess of 100 hours. In addition we can also advise that there are a total of 11 boxes of material contained within storage which to also review to ascertain if this information is held would further exceed the statutory 18 hours.

The business area when estimating the time taken, has taken into account the following four items:

- Determining if the information is held;
- Locating the information;
- Retrieving the information and
- Extracting the information to be disclosed from the other information.

Consequently to determine what relevant information is or is not held would be over the cost limits.

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 however unfortunately on this occasion we are unable to offer any refinement given how expansive such a search would be for PSNI to determine if it does hold this information.

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.