



FREEDOM OF INFORMATION REQUEST



Request Number: F-2020-01398

Keyword: Road Policing

Subject: Close Passing

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:

The question below relates to ‘close pass operations’, by which we mean:

- any operation to target drivers who overtake a cyclist in a potentially careless / inconsiderate or dangerous manner. This may involve, for example, a police officer riding a bicycle and reporting (and filming) ‘close passes’, with drivers stopped by a separate officer for an appropriate intervention (e.g. roadside education or penalty). A number of police forces have been carrying out such operations since 2017.
- any operation of this nature, whether carried out exclusively by the police force, or by the force alongside other services, and whether they were called ‘close pass operations’ or given a different name (e.g. ‘safe’ pass).

For each of the past four years (2016, 2017, 2018 and 2019, please provide answers for each year separately):

Request 1 A

How many ‘close pass operations’ were carried out by the force?

Request 1 B – (IV)

As a result of these operations:

- i. How many individuals were stopped by police and received an educational intervention and/or verbal warning, regardless of whether further action was taken?
- ii. How many individuals were offered an NDORS course as an alternative to prosecution?
- iii. How many individuals were prosecuted for careless / inconsiderate or dangerous driving, including any issued with an FPN?
- iv. How many individuals were prosecuted, including any issued with an FPN, for offences other than careless / inconsiderate driving or dangerous driving?

Request 2 A

As part of its enforcement of driving offences, does the force accept the submission of video evidence by members of the public to report driving offences, whether the recording device is handheld or attached to a vehicle or rider (e.g. dash/handlebar/helmet cameras)?

Request 2 B – F

For each of the past four years (2016, 2017, 2018 and 2019, please provide answers for each year separately):

(b) How many submissions of video evidence were received by the force relating to reports of driving offences?

(c) How many of these reports:

- i. Resulted in prosecution?
- ii. Resulted in a driver being offered an NDORS course as an alternative to prosecution?
- iii. Resulted in no further action being taken?

(d) How many submissions of video evidence were received by the force relating to driving offences where the driver was reported to have overtaken a cyclist in a potentially careless / inconsiderate or dangerous manner (so called 'close passes')?

(e) How many of these reports:

- i. Resulted in prosecution?
- ii. Resulted in a driver being offered an NDORS course as an alternative to prosecution?
- iii. Resulted in no further action being taken?

(f) How many full-time equivalent staff (whether officer or civilian) does the force employ to review the submission of video evidence relating to driving offences?

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.

In respect of Request 1 PSNI can advise that there was a local initiative carried out by Neighbourhood Policing Team in Belfast Policing District in 2017/18, however this was done as part of their daily duty and there are no specific records held to capture this initiative. The information requested would be held electronically on the NICHE database, and also manually in the officers individual notebooks. However it is not held in an easily retrievable format and whilst all incidents reported are entered onto NICHE there is no specific recording category, to capture this information. Therefore it would require a search of various categories i.e. traffic offences, suspicious circumstances, suspicious vehicle, etc. In Belfast City District alone there are over 1000 incidents recorded for per month, which fall within these categories and allowing 2 minutes per incident would be approximately a total of 32 hours for 1 month alone.

For Requests 2 A – F, we can advise that PSNI has no specific unit to carry out this task and therefore this role can be carried out individual officers at both station level and in the Roads Policing Unit. Therefore video evidence is received at any of the 11 PSNI stations and is held on individual files on the NICHE database for the investigating officer to review and assess the evidence as once reviewed, a case will be prepared and submitted to Public Prosecution Service (PPS). The PPS review the file and are responsible for making a decision to prosecute. However there are no specific categories on the NICHE database to capture the information requested and it would require each file to be reviewed to ascertain if this referred to a 'cyclist and due to the recording system this would grossly exceed the FOI legislative cost of 18 hours..

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

You may wish to submit a refined request in order that the cost of complying with your request may be facilitated within the 'appropriate limit'. In compliance with Section 16 of the Act, PSNI have considered how your request may be refined to bring it under the appropriate limit, and at it may be possible to answer the following request numbers:

- Request 1 A
- Request 1 B (1) – (iv)

Please note that this information would be limited to 2020 and to PSNI Roads Policing Unit.

We can advise that PSNI has plans in the future to launch an online platform where members of the public will be able to submit footage for driving offences, however there is no date for this launch.

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.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.psnipolice.uk

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