



## FREEDOM OF INFORMATION REQUEST



**Request Number:** FOI-2021-01548

**Keyword:** Crime

**Subject:** Digital Devices

### 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) I 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](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

Please provide the number and a breakdown of digital devices eg mobile phones/laptops/desktop computers/games consoles/cameras belonging to complainants and victims waiting to be forensically examined by your force as of today’s date? Please state for how many days each device has been waiting to be forensically examined.

### Request 2

Please provide the number and a breakdown of digital devices eg mobile phones/laptops/desktop computers/games consoles/cameras belonging to defendants and suspects waiting to be forensically examined by your force as of today’s date? (30th June 2021) Please state for how many days each device has been waiting to be forensically examined.

### Request 3

Please provide the number of cases to which the aforementioned digital devices relate, which are waiting to be forensically examined as of today’s date?

**Request 4**

Please provide the number of instances and a breakdown of digital devices eg mobile phones/laptops/desktop computers/games consoles/cameras belonging to complainants and victims where personal data or the device itself has been lost by the force in the past five financial years (including the year to date). Please state whether those personal data or digital devices were lost before or after having been forensically examined by your force in the past five financial years (including the year to date).

**Request 5**

Please provide the number of instances and a breakdown of digital devices eg mobile phones/laptops/desktop computers/games consoles/cameras belonging to defendants and suspects where personal data or the device itself has been lost by the force in the past five financial years (including the year to date). Please state whether those personal data or digital devices were lost before or after having been forensically examined by your force in the past five financial years (including the year to date).

**Request 6**

Please provide the number of Forensic Digital Examiners currently employed by your force's High Tech Crime Unit or in Kiosk facilities to examine digital devices eg mobile phones/laptops/desktop computers/games consoles/cameras belonging to victims and witnesses. Please include any other police officers or staff with titles other than Forensic Digital Examiners who are assigned to this task, and please include other departments other than the High Tech Crime Unit/Kiosk facilities if applicable.

**Request 7**

Please provide the number of Forensic Digital Examiners currently employed by your force's High Tech Crime Unit or in Kiosk facilities to examine digital devices eg mobile phones/laptops/desktop computers/games consoles/cameras belonging to defendants and suspects. Please include any other police officers or staff with titles other than Forensic Digital Examiners who are assigned to this task, and please include other departments other than the High Tech Crime Unit/Kiosk facilities if applicable.

**Request 8**

Please state the force's target timeframe (in days) for digital devices to be examined.

**Request 9**

Please confirm whether the force has met that aforementioned target timeframe in each of the past five financial years (including the year to date)?

**Request 10**

Please confirm the process by which the length of time that an electronic device is kept by the force is recorded.

**Request 11**

Please provide the number of occasions where the amount of time a digital device has been kept by your force exceeded the estimate given to a victim or witness.

**Request 12**

Please provide the number of occasions where the amount of time a digital device has been kept by your force exceeded the estimate given to a defendant or suspect.

**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 has identified that retrieval of information to respond to your request would exceed the FOI legislative cost of 18 hours as set by the Secretary of State. In particular it is the retrieval of information to respond to Requests 1 and 2 which places your request at an over cost. With regards to Request numbers 1 and 2 PSNI do not capture data in any statistical format concerning a breakdown of digital devices into the categories you have provided or the amount of days each device has been waiting to be forensically examined. Any approximation of this information would necessitate each exhibit being reviewed individually and would exceed the time parameters of 18 hours. In addition Request numbers 11 -12 of your request is not held a central format and would require a manual intervention of both electronic and manual records as this information may be recorded on both the database and or an officers records i.e. PSNI notebook as an entry, and this is estimated to exceed the costs.

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 advise that we can provide the following:

- Request Numbers 4, 5, 8, 9 and 10
- Request Numbers 6 and 7 – This would be an overall total for the number of staff who examine digital devices and would not be a breakdown as per your requests

In addition it should be noted that PSNI consider that Request Number 3 would attract a S31 – ‘Law Enforcement’ exemption.

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](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.