

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2021-01613

Keyword: Operational Policing

Subject: Schedule 7 Stops

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 neither confirm or deny 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(2) 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 (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

Please could you provide me with the percentage breakdown of people stopped under Schedule 7 by religion? To be clear, I am not asking for numbers of stops, nor for this to be broken down by individual ports.

The periods of time I am interested in are: 1 July 2015 to 31 August 2015, 1 July 2016 to 31 August 2016, 1 July 2017 to 31 August 2017, 1 July 2018 to 31 August 2018, 1 July 2019 to 31 August 2019, and 1 July 2020 to 31 August 2020.

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 the examinee page there is no policy or guidance requiring officers to ask about religion at any port (i.e. it is not mandatory). Officers have a power to ask any question which they consider could assist in making a determination of whether a person appears to be someone who is concerned in the commission, preparation or instigation of acts of terrorism and or for facilitating religious observance. Enquiries made in relation to your request has identified that even to identify if the requested information is or is not held would exceed the FOI legislative cost of 18 hours as set by the Secretary of State. The information is not held centrally, it may be the case that a person's religion may possibly have been recorded somewhere, be it in a notebook or computer system during a stop, therefore to ascertain what information is held would require a manual trawl of electronic/hard copy records. Due to the recording system the manual trawl alone through a substantial amount of records is estimated by PSNI to be grossly over cost to determine if information is or is not held.

Under Section 12 of the Freedom of Information Act 2000, if a public authority estimates that it would exceed the appropriate limit to confirm whether or not the requested information is held, under Section 12 (2) of the Act, it does not have to deal with the substance 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.

The release of information under Freedom of Information (FOI) is a release into the public

domain and not just to the individual requesting the information. Once information is disclosed by FOI there is no control or limits as to who or how the information is shared with other individuals, therefore a release under FOI is considered a disclosure to the world in general.

However, this should not be taken as conclusive evidence that the information you requested exists or does not exist.

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. Whilst we have articulated that we cannot identify what information we hold or do not hold relevant to your request within cost, unfortunately on this occasion PSNI are unable to provide any refinement.

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 remain dissatisfied with the handling of your request, you may make a complaint to the Information Commissioner's Office, under Section 50 of the Freedom of Information Act, 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', or use the ICO self-service portal available at www.ico.org.uk/make-a-complaint/officialinformation-concerns-report/official-information-concern/

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 their 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.