



FREEDOM OF INFORMATION REQUEST



Request Number: FOI-2020-01681

Keyword: Complaints/Discipline

Subject: Use of Force 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

What proportion of all complaints concerning police officer use of force which were passed to the IPCC/IOPC to be investigated, were upheld for each of the last five financial years (including 2019/20)?

Request 2

Please provide full net figures of total use of force complaints and those upheld for each of the last five individual years.

Request 3

What proportion of all complaints concerning police officer use of force which were passed to the IPCC/IOPC to be investigated, had body-worn camera footage from a police officer available to view as part of the IOPC investigation, for each of the last five financial years (including 2019/20)?

Request 4

Please provide full net figures of use of force complaints and numbers where footage was available

for each of the last five individual years.

Request 5

What proportion of all complaints concerning police officer use of force which were passed to the IPCC/IOPC to be investigated, which had body worn video from a police officer available to view as part of the IOPC investigation, led to the complaint being upheld?

Request 6

Please provide full net figures for these occasions and total use of force complaints for each of the last five individual years.

Request 7

In what proportion of cases concerning use of force dealt with by the IOPC was there a body-worn camera on any officer(s) the complaint concerned, but the footage and audio could not be viewed or listened to (either because the camera was not switched on, it was switched off during the incident, the footage could not be viewed for a technical reason such as corruption of the card involved, the footage could be viewed but the audio could not be heard, or any other reason)? Please make clear the reason the footage could not be viewed e.g. it was not switched on per use of force complaint.

Request 8

Please provide full net figures for cases of this nature and total complaints of use of force, for each of the last five years.

Request 9

What proportion of all complaints concerning police officer use of force which were passed to the IPCC/IOPC to be investigated, involved an officer who previously had a complaint about use of force substantiated against them, for each of the last five financial years (including 2019/20)?

Request 10

Please provide full net figures of this type of occasion and total use of force complaints per year for each of the last five individual years.

Request 11

For questions 2 to 4, please also make clear occasions where body worn video was not available to officers in the force (i.e. it had not been rolled out for use by the force's officers). To clarify, this does not relate to occasions where it was not turned on or used.

Request 12

Please send me the data requested in the form of an Excel spreadsheet or as a csv file, using the template provided.

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.

The vast majority of use of force complaints will fall under the allegation category of 'Oppressive Behaviour'. During 2019 and 2020 the PSNI received approximately 800 'Oppressive Behaviour' allegations. To check each of these allegations for the requested information in relation to request 1, would take approximately two minutes per file. This is due to the manner and various locations, in which the outcome may be stored. It is possible that other allegation categories would need to be checked to ensure all data is captured. This equates to approximately 133 hours work for the period requested, which is in excess of the Freedom of Information cost limit.

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.

It is possible for PSNI to provide the number of 'Oppressive Behaviour' allegations, broken down into sub category for the period requested.

For your information, please note that the relevant authority in Northern Ireland is the Police Ombudsman rather than IPCC/IOPC as stated within your request. The Police Ombudsman's Office provides independent, impartial investigation of complaints about the PSNI.

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.psni.police.uk

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