



## FREEDOM OF INFORMATION REQUEST



**Request Number:** FOI-2020-01776

**Keyword:** Crime

**Subject:** Breaches of Covid Regulations

### 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](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

We request that you confirm how many individuals have been either:

- Served a Fixed Penalty Notice;
- Interviewed under caution;
- Charged;
- Convicted

By the PSNI pursuant to Health Protection (Coronavirus Restrictions) (NI) Regulations 2020 since its introduction in March 2020?

### Request 2

Please confirm, from the figures above, how many of those are due to contravention of: Regulation 5 (Restriction of Movement) 5(g) 5(ga) & Regulation 6 (Restrictions on Movements and Gatherings) 6A, 6B?

## 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 have identified that the retrieval of information would exceed the 18 hour cost limit set under the FOI Act by the Secretary of State. Within your request you request data specifically to ‘interviews under caution’; this information is not held in a retrievable format as the information cannot be captured centrally without manual intervention.

A person can be cautioned both inside and outside a custody setting, and for PSNI to provide the data for persons in particular ‘interviewed under caution outside of a custody setting’, by the PSNI pursuant to Health Protection (Coronavirus Restrictions) (NI) Regulations 2020 since its introduction in March 2020, would require manual checking of over 2500 occurrences. The NICHE database provides information of when Covid Penalty Notices or Community Resolution Notices have been issued, however it also requires a manual review of the data to provide if a person was ‘interviewed under caution outside of a custody setting’ as this information cannot be captured centrally. The information may be stored in the occurrence entry log (OEL), however in addition to these searches

when manually reviewing the data and where/ if it is unclear of the location / if the recipient was cautioned, it would require contacting the Investigating Officer to assist and advise if they have the information recorded i.e. police notebook. It is estimated it would take ten minutes to assess each occurrence including the time taken to contact individual Officers, this would add up to over 400 hours to do the same for over 2500 occurrences. This aspect of your request alone grossly exceeds the FOI legislative cost of 18 hours as set by the Secretary of State.

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 have considered how your request may be refined to bring it under the appropriate limit.

For the following offences as listed below:

SB4714068 - Contravention of a requirement under regulation 3, 4, 6 or 7

SB4714069 - Contravention of requirement in Regulation 5

SB4714070 - Obstruction of any person carrying out a function under the Regulations

SB4714071 - Contravention of a direction or failure to comply with a reasonable instruction or a prohibition notice given under Regulation 7

SB4714079 - Contravention of a requirement under Regulation 3 of the Health Protection (Coronavirus International Travel) Regulations (Northern Ireland) 2020

SB4714080 - Contravention of a requirement under Regulation 4 of the Health Protection (Coronavirus International Travel) Regulations (Northern Ireland) 2020

SB4714081 - Contravention of a requirement imposed under Regulation 5 of the Health Protection (Coronavirus International Travel) Regulations (Northern Ireland) 2020

SB4714081 - Contravention of a requirement imposed under Regulation 5 of the Health Protection (Coronavirus International Travel) Regulations (Northern Ireland) 2020

We can provide the following information:

- The number of Fixed Penalty Notices issued broken down by offence code
- The number of charges broken down by offence code
- The total number of convictions broken down by offence code
- The total number 'interviewed under caution within a custody setting'

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.psnj.police.uk](http://www.psnj.police.uk)

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