

Keeping People Safe



## FREEDOM OF INFORMATION REQUEST



**Request Number:** FOI-2021-02086

**Keyword:** Complaints/Discipline

**Subject:** Police Officers Charged And Convicted Of A Criminal Offence

### 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 (PSNI) 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 Police Service of Northern Ireland (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

This is a request for data regarding the number of police officers charged and convicted of a criminal offence.

Can you please provide the number of officers charged with a criminal offence allegedly committed while they were a serving member of a police force over the last ten years, from January 1 2011, to April 1 2021.

The data should be broken down by month, and should include the offence said to have been committed, the officer’s rank, the force for which they worked, and whether the officer was convicted.

If possible, could the name of the convicted officer be included, as well as the date and court at which they were sentenced.

To avoid the request exceeding the permitted costs under the FOIA, please collect the data backwards starting from April 1, 2021. For example the FOI officer might take 19 hours to collect data from April 1, 2021, backwards to January 1, 2015. I would accept this dataset as a response.

## 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.

PSNI can advise that to provide information in relation to the request would require extensive review of the databases. Due to the fact that there is no central database of officers who have been charged with criminal offences, each case would need to be individually assessed. Although some cases can simply be discounted on account of lack of criminal element, those containing a criminal element would require additional examination to retrieve the requested information. This is estimated to take a total of 36 hours, thus exceeding the FOI legislative cost of 18 hours as set by the Secretary of State.

Please note for your information, the ICO Guidelines state, “A Public Authority is not obliged to search for, or compile **some** of the requested information before refusing a request that it estimates

will exceed the appropriate limit ...” Therefore, PSNI is not obliged to search up to the appropriate 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, and we can provide a response to the number of officers charged over a period of 5 years. This includes information in relation to the: month, year, offence for which they were charged and whether they were convicted.

However, in relation to providing information regarding a name, section 40(2) of the FOIA would be relevant, thus making this information exempt. This is due to the fact that regardless as to what is already in the public domain from any unofficial source, consideration on applying this exemption is subject to whether the disclosure of the information requested would lead to identifying an individual and place information pertaining to them into the public domain. This constitutes personal data which would, if released, be in breach of the rights provided by the Data Protection Act 2018 and General Data Protection Regulations; namely the first data protection principle, which states that personal data will be processed *lawfully, fairly and transparently*.

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.psnipolice.uk](http://www.psnipolice.uk)

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