

Keeping People Safe



FREEDOM OF INFORMATION REQUEST



Request Number: F-2020-02368

Keyword: Crime

Subject: Investigation Of Paramilitaries Derry And Strabane Policing Area

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). PSNI can neither confirm nor deny that the Police Service of Northern Ireland does or does not hold the information you have requested as 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 1

Would it be possible to get information showing the number of alleged crimes or investigations into those linked to republican or loyalist paramilitaries in the Derry City and Strabane policing area in the past year?

- a. Broken down to show those against both republican and loyalist affiliated groups?
- b. Broken down into the type of crime alleged to have been committed?
- c. Can you list the number of arrests for alleged members of each group?
- d. And number of prosecutions?

If it can go back further please include other years.

Request 2

Can you also provide the number of search operations carried out in relation to republican and loyalist paramilitaries in Derry City and Strabane, stating the area or general area that was searched?

If it can't be more specific, then stating whether they were in the Cityside or Waterside?

Request 3

How many operations were conducted by the terrorism support unit in the policing area over the past year?

- a. Can tallies of the paramilitary groups they were investigating be provided?
- b. Where did they take place, listing the street or area?
- c. How many operations were carried out by the tactical support group?
- d. Can tallies of the paramilitary groups they were investigating be provided?
- e. Where did they take place, listing the street or area?

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(2) 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 to ascertain if the PSNI hold the relevant information would exceed the 18 hour cost limit set by the Secretary Of State under the FOI Act. To establish if the PSNI hold the information you request would require consultation with a variety of departments within the PSNI – Derry and Strabane Policing District, CID, Paramilitary Crime Task Force, Terrorism Investigation Unit and other operational departments within PSNI, to identify what relevant information is held within the 18 hour limit.

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.

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, however no refinement can be offered.

Please note that PSNI can confirm that if your request could have been provided within cost the PSNI would respond to you with a Neither Confirm Nor Deny stance by virtue of Section 23(5) Information supplied by or concerning certain Security Bodies; Section 24(2) National Security; Section 30(3) Investigations; Section 31(3) Law Enforcement and Section 40(5) Personal Information.

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.psnipolice.uk

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