



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2022-02203

**Keyword:** Organisational Information Police/Staff Misconduct and Complaints

**Subject:** Settlements And Payouts For Police Misconduct

### 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 1a

How much did your force spend on settlements or pay outs and the associated legal costs (your own and/or contributions to the claimant's costs) for civil claims filed by or on behalf of members of the public and arising partly or wholly from alleged officer misconduct from 1 Jan 2012 to 31 Dec 2021?

#### Request 1b

How much of this total was legal costs?

#### Request 2

Are settlements or pay outs for such civil claims handled by your legal department, rather than by your professional standards department?

#### Request 3a

Does your force monitor and keep a record on each officer's file of every time the force settles or pays out in a civil case wholly or partly arising from that officer's alleged misconduct? If so, which department monitors this?

### **Request 3b**

If the answer to 2 is no, why not?

### **Request 3c**

If the answer to 2 is yes, please can you tell me how many officers working for your force have more than one settlement or pay out on their record?

### **Request 4**

For each of the officers in Question 3c, can you provide:

- a) how many separate claims that led to a settlement or pay out are on their record
- b) the total cost of the settlements/pay outs (including legal costs) of the claims on their record
- c) if that officer is still working for your force

### **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.

Enquiries made in relation to your request has identified that retrieval of information to respond to your request would exceed the FOI legislative cost of 18 hours as set by the Secretary of State. PSNI can advise that with regard to Request 1 to review the necessary files to see if there is a mention of 'misconduct' would take in excess of the 18hr threshold. It is estimated that at approximately 100 files per year for the ten years requested would take approximately 15 minutes per file of 250 hours, thus grossly exceeding the 18 hour cost limit.

In relation to Request 3a, 3c and Request 4 files held in Legal Services; Human Resources and Professional Standards would need to be checked to ascertain the requested information. Again this would require the checking of all records for a ten year period as per the response to Request 1 above.

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 but we are unable to provide a refinement.

PSNI can advise:

- Re Request 2 – PSNI Legal Services Branch are responsible for all civil claims.
- Re Request 3b - This does not specify the recorded information being asked for, rather it is asking for the force to provide an explanation/rationale for policies held by PSNI

In accordance with section 84 of FOIA, responses relate to recorded information held by a public authority and do not extend to providing explanations unless the answers are already held in a recorded form. Section 84 of the Act states: "Information is defined in section 84 of the Act as 'information recorded in any form'. The Act therefore only extends to requests for recorded information. It does not require public authorities to answer questions generally; only if they already hold the answers in recorded form. The Act does not extend to requests for information about policies or their implementation, or the merits or demerits of any proposal or action - unless, of course, the answer to any such request is already held in recorded form." This is explained within ICO Decision Notice [FS50191203](#), which states at paragraph 18: 'Set out at Section 84, the right of access under the Act is defined as the right to access recorded information held by a public authority. A public authority is under no obligation to create new information, provide general explanations or opinions

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 Corporate Information Manager, Corporate Information Branch, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing [foi@psni.police.uk](mailto:foi@psni.police.uk).

If, following an Internal Review carried out by an independent decision maker, you remain unhappy

about how your request has been handled you have the right to apply in writing to the Information Commissioner at 'Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. There are a number of other platforms you can use to contact the ICO and these can be found on the ICO's website at the following link: [Make a complaint | ICO](https://ico.org.uk/make-a-complaint/) (<https://ico.org.uk/make-a-complaint/>).

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

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