



## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2022-02955

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

**Subject:** Officers Investigated for Misconduct over use of WhatsApp & Social Media

### 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)

### Request 1

The number of police officers that have been investigated for their conduct in text messages, on WhatsApp and/or other social media sites in the calendar years of 2017, 2018, 2019, 2020, 2021 and available information for 2022.

### Clarification requested:

Are you requesting both internal and external (PONI) investigations?

### Clarification received:

Could I get the data for both please?

### Request 2

For each recorded case can you provide details of the incidents that led to formal and informal sanctions, and the outcome of that action please?

## 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 would exceed the 18 hour cost limit set under the FOI Act by the Secretary of State. In relation to your requests, the information in relation to external investigations is carried out by the Police Ombudsman for Northern Ireland (PONI). There are approximately 2900 complaints made to PONI per year, consisting of circa 5000 allegations (some complaints consist of more than one allegations). As this information is not held in a readily searchable database it would be necessary to review the detail for each allegation individually to see if it related to the use of social media or text messages etc. Even at a conservative estimate of checking 10 allegations per minute for the initial details alone, this would require at least 50 hours of work for the period requested. Further time would then be required to gather the requested information for those allegations in relation to the specified misconduct.

**Under Section 12 of the Freedom of Information Act 2000, if any part of the request exceeds**

**the cost threshold then the whole request will be excess costs and there is no obligation to answer any part 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**

You may wish to submit a refined request in order that the cost of complying with your request may be facilitated within the 'appropriate limit'. In compliance with Section 16 of the Act, we have considered how your request may be refined to bring it under the appropriate limit and can advise the following can be answered:

- **Requests 1 & 2 – for internal investigations only**

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, under Section 50 of the Freedom of Information Act, 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.