



FREEDOM OF INFORMATION REQUEST



Request Number: F-2023-01366

Keyword: Organisational Information Health of Officers and Staff

Subject: Industrial Tribunals (ET1)

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

You requested the following information from PSNI:

In furtherance of transparency within PSNI and in context with the Baroness Casey review of the MET Police Industrial Tribunals and Grievances, please disclose the following data:-

Request 1

How many Industrial Tribunals (ET1) applications were submitted to the PSNI from the Courts and Tribunals Services in the past 5 years? Please provide the data by protected characteristic groups e.g. Disability, Race, Gender etc. and what was the public monies cost both internally and external on defending, case management and settling these IT cases which will also incorporate Judicial Reviews and Court appeals.

Request 2

How many grievance procedures were lodged internally within the last 5 years and what are the protected characteristics’ breakdown? Of those, how many went out to the Labour Relations Agency (LRA) for arbitration?

Request 3

In relation to Attendance, Performance and Management procedures (AMP) how many 90/1 forms were submitted within the last 5 years and how many of them were Disability related 'if' that data can be identified? How many written improvement notices (WIN) were issued against disability related absences? Additionally how many 98/1 and 98/2 disability forms were submitted in the AMP processes?

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 have identified that retrieval of this information would exceed the 18 hour cost limit set under the FOI Act by the Secretary of State.

In relation to Request 3, the information requested is not held in a retrievable format that provides the information without manual intervention. The relevant business area has advised; the facility exists to electronically record that a 90/1 has been submitted and to upload the 90/1 to the relevant record. A 90/1 may have been submitted but this may not have been electronically recorded. Therefore, a

manual trawl would need to be completed to ascertain if a 90/1 had been submitted. To check one record would take 30 minutes. Due to the significant number of records involved (over 10,000 records to review) this would greatly exceed 18 hour cost limit. This would be further increased for the remainder of your requests.

Information provided in conjunction with request 3:

There will be a record of an individual's reason for absence. There will be a record if an individual, after review by Occupational Health & Welfare (OHW), has a condition to which the Disability Discrimination Act (DDA) is likely to apply. There is no record, unless specifically requested, that the reason for absence and the condition to which the DDA is likely to apply, are linked. We therefore cannot confirm how many written improvement notices were issued against disability related absences.

Forms 98/1 and 98/2 are submitted when someone requires an adjustment to their role, this information is recorded by line managers and not recorded on SAP computer system. Assessment in relation to whether a written improvement notice should be issued is carried out by line managers. All the information that they use as part of their assessment is not recorded on Human Resources (HR) records.

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

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. Unfortunately on this occasion due to the PSNI recording system we are unable to offer any refinement for Request 3. However, we can advise it may be possible for PSNI to assist with your questions in Request 1 and 2.

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.pnn.police.uk.

If following an internal review, carried out by an independent decision maker, if 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 his 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

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