

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 July 2019

Public Authority: Police Service of Northern Ireland

Address: 65 Knock Road
Belfast BT5 6LD

Decision (including any steps ordered)

1. The complainant has requested information from the Police Service of Northern Ireland ('PSNI') relating to voluntary attenders at police stations regarding abortion-related offences. The PSNI refused the request, citing the cost limit as set out in section 12(1) of the FOIA as a basis for non-disclosure.
2. The Commissioner's decision is that the PSNI has correctly applied section 12(1) of the FOIA to the complainant's request and therefore requires no steps to be taken.

Request and response

3. The complainant on 19 November 2018 made a request for information to the PSNI in the following terms:-

"Can I please access, under freedom of information law, the total number of people dealt with as voluntary attenders and reported for prosecution for abortion related offences without being arrested for each year since 2013?"

4. The PSNI responded to the complainant on 15 January 2019. It refused to disclose the requested information as it estimated that the cost of complying with the complainant's request would exceed the appropriate cost limit under section 12(1) of the FOIA.
5. The complainant requested an internal review of the PSNI's decision on 21 January 2019, to which the PSNI provided a response on 21 February 2019. The reviewer upheld the original decision.

Scope of the case

6. The complainant contacted the Commissioner on 26 February 2019 to complain about the way her request for information had been handled.
7. The Commissioner has considered the PSNI's handling of the complainant's request, in particular its application of section 12(1) of the FOIA.

Reasons for decision

Section 12 – cost exceeds appropriate limit

8. Section 12 of the FOIA states that a public authority does not have to comply with a request for information if it estimates that the cost of complying with the request would exceed the appropriate limit.
9. The Freedom of Information and Data Protection (Appropriate Limit and Fees) regulations 2004 ("the Fees Regulations") sets the appropriate limit at £450 for the PSNI.
10. A public authority can estimate the cost of complying with a request using a figure of £25 per hour of staff time for work undertaken to comply with a request in accordance with the appropriate limit set out above. This equates to 18 hours of staff time. If a public authority estimates that complying with a request may cost more than the cost limit, it can consider time taken in:
 - (a) determining whether it holds the information;
 - (b) locating a document containing the information;
 - (c) retrieving a document containing the information, and
 - (d) extracting the information from a document containing it.

11. Information Tribunal decisions have made it clear that an estimate for the purposes of section 12 has to be 'reasonable' which means that it is not sufficient for a public authority to simply assert that the appropriate cost limit has been met; rather, the estimate should be realistic, sensible and supported by cogent evidence.
12. In evidence as to whether it has correctly applied section 12 of the FOIA in this case, the PSNI provided a detailed estimate of the time/cost it would take for it to provide the information to the complainant.
13. The PSNI advised that the decision maker processing the complainant's request initially approached the PSNI's Information and Communication Services (ICS) first to see if the information could be retrieved by electronic searches on the appropriate system. ICS advised that this was not possible as this information was not recorded by all officers via electronic methods and that records were also held within custody suites. Upon internal review, the reviewer again liaised with the business area within the PSNI which covers voluntary attendance. They confirmed that, in order to retrieve any recorded information which falls within the scope of the complainant's request, the PSNI would have to manually search hard copy records as 'voluntary attendance' is still recorded in registers at individual police stations.
14. The PSNI stated that all the registers covering the five year period set out in the complainant's request (which are located in multiple locations within PSNI) would have to be reviewed and every record in each register would have to be read to establish if the voluntary attendance was due to an abortion-related offence. The PSNI stated that, due to the vast number of voluntary attenders each year, even allowing only 5 minutes to review a record would take it well over the cost threshold as set out in section 12 of the FOIA.
15. The PSNI provided the Commissioner with a description of the work it has estimated would be required in order to respond to the complainant's request. It estimates that, on average, there are 5.5 entries per day recorded in the voluntary attendance register, which equates to 202.5 entries per year. Over a five year period this is 1012.5 entries. If the PSNI took on average 20 seconds to review each entry, this would equate to 55.7 hours, plus additional time would be required in cases where the offence for which the person voluntarily attended at the police station was not marked in the register.

16. The PSNI confirmed to the Commissioner that it had carried out a sampling exercise in order to determine the above estimate. A hard copy record of an active voluntary attendance record was reviewed to establish whether it held any of the requested information and how long it would take to retrieve it. The entries where the offence was clearly marked in the register took only a minute each to review, however those where the offence was not marked took approximately five minutes, as this necessitated taking a note of the attender's name and carrying out a cross-check on NICHE (the PSNI's main computer system) to establish the offence.
17. The PSNI confirmed that its estimate was based upon the quickest method of gathering the requested information, which involved first approaching ICS as described in paragraph 13 above. It was established that the information was held in both manual and electronic records and so the sampling exercise was carried out using a hard copy record but the estimate was based upon searches of both types of record.

Section 16 of the FOIA – Advice and Assistance

18. Section 16 of the FOIA imposes an obligation on public authorities to provide advice and assistance to a person making a request, so far as it is reasonable to do so. Section 16(2) states that a public authority is to be taken to have complied with its section 16 duty in any particular case if it has conformed to the provisions in the Code of Practice in relation to the provision of advice and assistance to bring the cost of a request under the appropriate limit. This can be found in paragraph 2.10 of the Code.
19. The PSNI confirmed to the Commissioner that it did consider whether it was possible to assist the complainant by asking her to refine her request, however it was not possible to offer advice and assistance in relation to this due to the way in which information within the scope of her request is recorded and held by the PSNI. Therefore, the Commissioner accepts that it was not reasonable for the PSNI to provide the complainant with advice and assistance in refining her request.
20. The Commissioner is satisfied that the PSNI has provided a realistic and sensible estimate of the time it would take to determine whether it holds the information and locate, retrieve, and extract the relevant information in order to respond to the complainant's request. She is

therefore satisfied that the PSNI has correctly applied section 12(1) to the complainant's request.

Right of appeal

21. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504
Fax: 0870 739 5836
Email: GRC@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
23. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Deirdre Collins

Senior Case Officer

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF