

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 29 May 2025

**Public Authority:** Police Service of Northern Ireland

**Address:** 65 Knock Road  
Belfast  
BT5 6LE

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the Police Service of Northern Ireland ("PSNI") relating to when PSNI had contacted An Garda Siochana (AGS) about a named individual being sought for interview about alleged offences. The PSNI refused to comply with the request citing section 12 (cost limit) of FOIA.
2. The Commissioner's decision is that the PSNI was entitled to refuse to comply with the request in accordance with section 12(2) of FOIA. The Commissioner also finds that the PSNI complied with its obligations under section 16 to offer advice and assistance.
3. The Commissioner does not require any steps as a result of this decision.

## **Request and response**

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4. On 15 October 2024, the complainant made the following request for information to the PSNI:  
  
"please provide the date(s) PSNI contacted/alerted An Garda Siochana that Jonathan James Creswell was sought for interview in terms of suspected offences allegedly committed in Northern Ireland around October 2015, but was understood to be residing in the Republic of Ireland from January 2016."
5. The PSNI responded on 12 December 2024. It stated that the cost of complying with the request would exceed the cost threshold of £450. In accordance with this finding, the PSNI issued a section 12 refusal notice in reply to the complainant's request for information. The PSNI suggested that the complainant may wish to submit a refined request.
6. The PSNI upheld its initial application of section 12 of FOIA via internal review on 20 December 2024. It clarified that the time it would take to manually extract information in order to confirm whether information in scope of the request was held, would exceed the cost limit as set out in section 12 of FOIA.

## **Scope of the case**

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7. The complainant contacted the Commissioner on 26 December 2024 to complain about the way their request for information had been handled. The complainant disagrees with the PSNI's application of section 12 of FOIA.
8. The Commissioner considers the scope of this case to be to determine if the PSNI has correctly cited section 12(2) of FOIA in response to the request. The Commissioner has also considered whether the PSNI met its obligation to offer advice and assistance, under section 16 of FOIA.

## **Reasons for decision**

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### **Section 12 – cost of compliance**

9. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the "appropriate limit" as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations").

10. The appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. The appropriate limit for the PSNI is £450.
11. The Fees Regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(2) effectively imposes a time limit of 18 hours for the PSNI.
12. Where a public authority is relying on section 12(1) to refuse a request it must still confirm whether or not it holds the requested information. However, a public authority may rely on section 12(2) to neither confirm nor deny whether it holds the requested information if the cost of determining whether the information is held would, on its own, exceed the appropriate limit.
13. Regulation 4(3) of the Fees Regulations states that a public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
  - determining whether the information is held;
  - locating the information, or a document containing it;
  - retrieving the information, or a document containing it; and
  - extracting the information from a document containing it.
14. A public authority does not have to make a precise calculation of the costs of complying with a request; instead, only an estimate is required. However, it must be a reasonable estimate. In accordance with the First-Tier Tribunal in the case of *Randall v Information Commissioner & Medicines and Healthcare Products Regulatory Agency* EA/2007/0004, the Commissioner considers that any estimate must be "sensible, realistic and supported by cogent evidence". The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.
15. Section 12 is not subject to a public interest test; if complying with the request would exceed the cost limit then there is no requirement under FOIA to consider whether there is a public interest in the disclosure of the information.
16. Where a public authority claims that section 12 of FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of FOIA.

**Would the cost of confirmation or denial exceed the appropriate limit**

17. As is the practice in a case in which the public authority has cited the cost limit under section 12(2) of FOIA, the Commissioner asked PSNI to provide a detailed estimate of the time and cost of determining whether information in scope of the request was held.
18. In its submission to the Commissioner the PSNI explained that although some information relating to Police investigations is held electronically, information in scope is not in a format that can be automatically extracted and therefore requires manual review.
19. As the information in this case is not retrievable via automated means, PSNI says it relies on keyword searches in an attempt to locate and retrieve overarching documents which would need to be reviewed to understand if they contain information falling within scope of the request.
20. PSNI confirmed that the relevant Business Area undertook a manual 'dip sampling' exercise using the keyword based on the complainant's request. PSNI explained that using keywords would provide the greatest opportunity to locate information falling within the scope of the request. It stated that: "An attempt to locate the information if held would require reviewing the individual documents. This cost estimate is further extended by the reviewing of e.g. officers' notebooks which again are not indexed and therefore would require a manual review of each entry."
21. In its initial response PSNI gave an overall estimate of over 192 hours, this was further clarified to the Commissioner during his investigation. It stated that one sample search returned 22 documents, five documents were picked at random with a total page count of 116. At an average reading speed of 1.7 minutes for each page, it would take 3.03 hours to read those five documents. Therefore, using this median for all 22 documents it would take 14 hours 27 minutes on just the one search term.
22. Continuing the same method for two further search terms would result in 6 hours 18 minutes and 3 hours 52 minutes, respectively. This does not take into account further work require on other entry logs, which again would far exceed the cost limit afforded by the legislation.

### **The Commissioner's view**

23. Section 12(2) requires a public authority to estimate the cost of confirmation or denial, rather than to formulate an exact calculation. The question for the Commissioner here is whether the cost estimate by PSNI was realistic.
24. The Commissioner has considered the arguments presented to him. He is satisfied that PSNI has demonstrated reasonably how confirming or denying whether it holds the information requested would exceed the 18 hours threshold.
25. The Commissioner is therefore satisfied that PSNI was entitled to rely on section 12(2) of FOIA to refuse to comply with the complainant's request.

### **Section 16(1) – The duty to provide advice and assistance**

26. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice<sup>1</sup> in providing advice and assistance, it will have complied with section 16(1).
27. The Commissioner notes that the PSNI stated to the complainant that they could consider submitting a refined request, which the Commissioner understands this advice provided by PSNI may not be helpful to the complainant to locate information that satisfies their interest. However, the Commissioner accepts that due to the format in which the information is stored, it is difficult for PSNI to advise how to refine the request. As such the Commissioner is satisfied that PSNI complied with section 16(1) of FOIA.

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<sup>1</sup> <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

## Right of appeal

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28. 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)  
General Regulatory Chamber  
PO Box 11230  
Leicester  
LE1 8FQ

Tel: 0300 1234504  
Fax: 0870 739 5836  
Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

29. 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.
30. 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**