

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 26 July 2012

Public Authority: Police Service of Northern Ireland
Address: 65 Knock Road
Belfast
BT5 6LE

Decision (including any steps ordered)

1. The complainant requested information relating to automatic number plate recognition (ANPR) cameras operated by the Police Service of Northern Ireland (the PSNI). The PSNI refused the request under section 12 of the FOIA. The Commissioner's decision is that the PSNI was entitled to refuse the request, and does not require any steps to be taken.

Request and response

2. On 7 September 2011 the complainant requested the following information from the PSNI (numbers added to the request by the Commissioner for clarity):
 - "1. In what year were the first ANPR cameras erected/installed by the PSNI?
 2. How many ANPR cameras have been erected/installed by the PSNI in each year since that time? Include figures up to August 31 this year.
 3. State how many of these cameras are located at police stations, at road sides and on police vehicles or any other installation or motor vehicle.
 4. State the cost of erecting/installing these cameras in each year since they were first introduced. Include figures up to August 31 this year.
 5. How many convictions have been secured as a result of the use of these cameras in each year since they were first installed/erected.

6. How many ANPR cameras does the PSNI intend to erect/install over the next five years? What is the estimated cost of the work.

7. Identify each and every security/government agency that can access the information gathered by these cameras."

3. The PSNI responded on 5 October 2011. The PSNI refused the request because it estimated that compliance with part 5 alone would exceed the "cost limit" set out at section 12 of the FOIA.
4. Following an internal review the PSNI wrote to the complainant on 1 December 2011. The PSNI upheld the refusal of the request, although it provided the complainant with a more detailed explanation as to why compliance would exceed the cost limit. The PSNI also provided the complainant with general information about ANPR cameras.

Scope of the case

5. The complainant contacted the Commissioner to complain about the way his request for information had been handled. Specifically the complainant wished to challenge the PSNI's reliance on section 12 of the FOIA.

Reasons for decision

6. Section 12(1) of the FOIA provides that a public authority is not obliged to comply with a request if the authority estimates that the cost of compliance would exceed the appropriate limit. This is known as the "cost limit" and is set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. When estimating whether complying with a request may exceed the cost limit, the authority may take account of the time taken in:
 - (a) determining whether it holds the information,
 - (b) locating the information, or a document which may contain the information,
 - (c) retrieving the information, or a document which may contain the information, and
 - (d) extracting the information from a document containing it.
7. The cost limit is set at £600 for central government and £450 for all other authorities. If the authority considers that complying with the

request would therefore cost more than the appropriate limit, it is not obliged to comply with the request. In the case of the PSNI, the £450 limit applies, which equates to 18 hours. Regulation 4(4) states that the authority should calculate the cost of complying with a request by multiplying the time estimated by £25 per hour.

8. The PSNI maintained that compliance with the complainant's request would exceed the cost limit, and explained that compliance with part 5 of the request alone would take longer than 18 hours. Therefore the Commissioner's analysis below has focused on part 5 of the request.
9. The PSNI provided the Commissioner with a detailed description of the steps it had undertaken to search for information relevant to part 5 of the request. The PSNI confirmed that it holds details of all convictions in Magistrates' and Crown Courts. However this information does not record when a conviction is secured as a result of ANPR cameras. Therefore the PSNI explained that it would need to consider the information it holds in relation to each conviction separately in order to ascertain whether or not ANPR cameras were used to obtain evidence in the case. If the case does not include a written decision (as not all cases do) then the PSNI would need to check with the investigating officer as to whether or not ANPR evidence was used in the case.
10. The Commissioner asked the PSNI whether it would be possible to reduce the parameters of the search, for example by scoping out convictions which would not be expected to involve the use of ANPR evidence. The PSNI advised that this would not be feasible because of the nature of ANPR information. The Commissioner must be careful to avoid disclosing sensitive operational information in this notice but he accepts that there is no easy way to distinguish between which types of cases would and would not involve ANPR evidence.
11. The PSNI advised that it did not hold any other information which could be collated, searched or formatted to provide the requested information. The PSNI explained that this was because it had no business need to collect information linking convictions to the use of ANPR cameras. The PSNI also advised that it held information relating to ANPR cameras, but this information did not cross-reference details of convictions. Therefore the only way to obtain the requested information would be to go through each conviction file and collate the requested information from the information held.
12. To illustrate the time involved in such a search, the PSNI explained that there were over 40,000 convictions in 2011, and over 42,000 convictions in 2010. The PSNI estimated that it would take approximately 4 minutes to go through each conviction file and identify

any relevant information. Assuming this estimate was reasonable it would take well over 2500 hours to obtain the requested information for 2011, which greatly exceeds the cost limit even before information relating to other years is considered.

13. The Commissioner notes that the PSNI is not required to collect information linking convictions to ANPR cameras, and accepts that the only way to obtain the requested information would be via the conviction files. Given the time period covered by the request and the number of convictions involved the Commissioner considers the PSNI's estimate of the time required to be reasonable. The Commissioner is satisfied that the PSNI has no other way of obtaining the requested information, therefore he finds that compliance with part 5 of the request would exceed the cost limit set out at section 12 of the FOIA.
14. The Commissioner is mindful that multiple requests within a single item of correspondence are technically separate requests for the purposes of section 12. Therefore, if one part of the request is refused because an exemption applies, this does not necessarily mean that the remainder of the request should be refused. However, section 12(4) of the FOIA and regulation 5 of the Fees Regulations provide that requests may be aggregated where two or more requests are made within sixty working days, and where they relate *to any extent*, to the same or similar information. This means that in certain circumstances an authority can legitimately refuse multiple requests under the cost limit, even if compliance with one (or some) of the individual questions would not themselves exceed the cost limit. The Commissioner has produced guidance which explains this in more detail.¹
15. Having considered the wording of the complainant's request the Commissioner is satisfied that each part is sufficiently related for the entire request to be aggregated under section 12. Therefore, as the Commissioner finds that compliance with part 5 of the request would exceed the cost limit, the Commissioner finds that the PSNI was entitled to refuse the entire request under section 12.

¹http://www.ico.gov.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/costs_of_compliance_exceeds_appropriate_limit.ashx

Section 16 – advice and assistance

16. Where section 12(1) is applied by a public authority, section 16 imposes a duty to provide advice and assistance to an applicant in order to help them access at least some of the information they seek. In these circumstances the Commissioner would expect a public authority to consider ways in which an applicant could refine their request to enable it to be brought under the costs threshold.

17. The PSNI originally cited section 12 in its refusal notice dated 5 October 2011. In this letter the NIO addressed its duty to provide advice and assistance as follows:

"In compliance with Section 16 of the Act, I have considered how your request may be refined to bring it under the appropriate limit. However, the nature and structure of the information unfortunately makes this impossible."

18. The Commissioner does not consider this to be particularly helpful, but notes that the PSNI's internal review letter provided more explanatory information to the complainant. At this stage the PSNI provided general information about the use of ANPR cameras, as well as a link to a UK-wide strategy document which included information about ANPR cameras. However, the PSNI also advised the complainant that a number of exemptions would be likely to apply to any request for information relating to APNR cameras.

19. On receipt of this complaint, the Commissioner asked the PSNI to engage more fully with the complainant, with a view to discussing what, if any, information could be provided which was not exempt. The PSNI said that it would be happy to discuss this with the complainant. However the complainant was of the view that the PSNI should take the lead by stating what information it could provide.

20. The Commissioner notes that there are real sensitivities around the use of ANPR cameras. Nevertheless he is of the view that public authorities must consider each request on its own merits, and must avoid giving the impression that a particular class of information is exempt. The Commissioner would be concerned that this may lead to potential requesters being discouraged from submitting legitimate requests for information which may be disclosed.

21. However the Commissioner also notes that the complainant declined an opportunity to talk directly to the PSNI about the information he sought. The Commissioner considers that requesters should be prepared to engage with public authorities, particularly where a request is refused under section 12. On balance the Commissioner finds that the PSNI did

eventually comply with its duty under section 16 of the FOIA, and requires no further action to be taken.

Right of appeal

22. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

23. 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.
24. 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

Alexander Ganotis
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