

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 August 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 the issue of body armour to police officers. 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. The PSNI also cited the cost limit as a basis for non-disclosure in response to a refined request submitted by the complainant.
2. The Commissioner's decision is that the PSNI has correctly applied section 12(1) of the FOIA to the complainant's requests and therefore requires no steps to be taken.

Request and response

3. The complainant on 17 December 2018 made a request for information to the PSNI in the following terms:-

I would like to ask for the following information:

Request 1

Manufacturer of every type of Body Armour (known as each from here on), issued to the RUC and PSNI (known as Police from here on), since 1980.

Request 2

Copies of the Risk Assessment used for each.

Request 3

Copies of the Safety Data Sheets referring to each.

Request 4

Manufacturer's guidelines issued to Police for the wearing of each.

Request 5

Police guidelines for the wearing of each.

Request 6

Training every member received for the wearing of each.

Request 7

Instructions issued to supervisors referring to the wearing of each.

Request 8

Copies of any studies or reports compiled by any other person or company for the Police?

4. This request was already a refined request, as the complainant had previously submitted a request for the same information, however from the period since 1970 onwards, rather than 1980.
5. The PSNI responded to the complainant on 10 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.
6. On 11 January 2019, the PSNI wrote to the complainant stating the following in relation to the first request submitted by the complainant for information from 1970 onwards and also the refined request submitted on 17 December 2018:-

"PSNI may be able to provide responses regarding Requests 1, 2, 3, 4, 5, 6, 7, 8 and 10 with regard to PSNI body armour (that is since 2001). In addition Procurement and Logistics have advised that if the request could be refined to cover, for example, a five-year period, policy and service instruction information, dating as far as 1970 or in this request 1980, may be retrievable within the 18 hour time-frame."

7. The complainant then on 2 May 2019 submitted a refined request for relevant information for the years 1985-2001 (RUC) and 2001-present (PSNI). The PSNI responded to that refined request on 17 June 2019, again refusing to disclose the requested information and citing section 12 of the FOIA as a basis for non-disclosure. The complainant then sought an internal review of the PSNI's decision. That internal review, the result of which was sent to the complainant on 10 July 2019 encompassed the complainant's original and subsequent refined requests, and the reviewer upheld the original decision that section 12 of the FOIA was applicable in relation to all three requests.

Scope of the case

8. The complainant contacted the Commissioner on 17 June 2019 to complain about the way his requests for information had been handled.
9. The Commissioner has considered the PSNI's handling of the complainant's requests, in particular its application of section 12(1) of the FOIA.

Reasons for decision

Section 12 – cost exceeds appropriate limit

10. 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.
11. 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.
12. 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.

13. 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.
14. 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.
15. The PSNI informed the Commissioner that the information in relation to the Royal Ulster Constabulary (RUC) is held in its archive library. The files date from the 1970s and are only available in hard copy format, referenced by hard copy indexes. At the time of the request the record owner referred to the indexes to assist in narrowing down their search, however they did not provide any information on the subject of body armour.
16. The PSNI stated that the Force Orders I, II and IIIs are kept in year files and in numerical order – the average number per year is around 195. They are not arranged by subject, e.g. 'body armour' therefore finding information within the scope of the complainant's request would necessitate going through all the files. The RUC Code and RUC manual are also held in hard copy format. Force Orders contained guidance and instructions to officers on a wide range of police information. Therefore, to locate, retrieve and extract the relevant requested information in relation to the RUC would require going through each year file.
17. The PSNI confirmed that, in relation to requests 5 and 7 as listed in paragraph 3 above, a sampling exercise was undertaken on the records (relating to policy, force orders and service instructions) held for one year, which are contained in one hard copy file. The record owner advised that it would take, at a conservative estimate, one hour to review each file containing records (for one year). Since the complainant in his request of 17 December 2018 requested records from 1980-2001, this would necessitate going through 21 years of RUC records, which would take 21 hours of staff time, in addition to the time required to locate, retrieve and extract information within the scope of the other 6 requests.

18. In the complainant's further refined request of 2 May 2019 he requested information pertaining to the RUC for the years 1985-2001. By the PSNI's calculations as outlined in paragraph 17 above, it would take 17 hours of staff time to go through the records for the relevant years in order to locate, retrieve and extract the relevant requested information. Although this is under the limit of 18 hours, the Commissioner is satisfied that locating, retrieving and extracting the information pertaining to the PSNI from 2001 onwards would take more than one hour of staff time, therefore bringing the time taken above the 18 hour limit.

Section 16 of the FOIA – Advice and Assistance

19. 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.
20. The Commissioner is satisfied that the PSNI offered the complainant more than one opportunity to refine his request, and tried to assist him by providing a realistic timeline, i.e. five years, for which it might be able to provide him with the requested information under the cost limit.
21. 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 requests. She is therefore satisfied that the PSNI has correctly applied section 12(1) to the complainant's requests.

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

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

Deirdre Collins

Senior Case Officer

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF