

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 3 August 2016

**Public Authority:** The Charity Commission for Northern Ireland

**Address:** 257 Lough Road

Lurgan

Craigavon

BT66 6NQ

### Decision (including any steps ordered)

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1. The complainant has requested information in the form of correspondence between the Charity Commission for Northern Ireland ("the CCNI") and certain other organisations between specified dates. The CCNI applied section 12(1) of FOIA to the requested information.
2. The Commissioner's decision is that the CCNI has correctly applied section 12(1) to the requested information. As the CCNI has also offered the complainant several opportunities to narrow and/or refine her request, the Commissioner is also satisfied that the CCNI has fulfilled its obligations under section 16 of FOIA to provide advice and assistance to the complainant.
3. The Commissioner therefore requires no steps to be taken.

### Request and response

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4. On 30 July 2015, the complainant wrote to the CCNI and requested information in the following terms:

"Please supply me with all correspondence, written or email between the NIPF, VSSNI, Disabled Police Officers Association Northern Ireland (DPOANI) and the Charity Commission for Northern Ireland between the dates 1/1/12 and 22/7/15."

5. The CCNI responded to the complainant on 12 August 2015. It confirmed that it held the requested information, however it did not

disclose that information, citing section 12(1) of FOIA (costs limit) as a basis for non-disclosure. It asked the complainant to refine her request by way of providing advice and assistance to her.

6. After several attempts by the complainant to refine the request, the Charity Commission still applied section 12(1) of FOIA.
7. The complainant requested an internal review of the Charity Commission's decision. This internal review response was provided to the complainant on 4 November 2015. The reviewer upheld the original decision.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 10 November 2015 to complain about the way her request for information had been handled.
9. The Commissioner has considered the CCNI's application of section 12(1) of FOIA to the complainant's request.

### **Reasons for decision**

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#### **Section 12 – cost of complying exceeds the appropriate cost/time limit**

10. Section 12(1) allows a public authority to refuse to comply with a request for information if the authority estimates that the cost of compliance would exceed the 'appropriate limit', as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Regulations). That limit is £600 for central government departments and £450 for all other organisations.
11. The Regulations allow a public authority to charge the following activities at a flat rate of £25 per hour of staff time:
  - o Determining whether the information is held;
  - o Locating a document containing the information;
  - o Retrieving a document containing the information;
  - o Extracting the information from a document containing it.
12. In the case of the CCNI, the cost limit would amount to £450 which would be equal to 18 hours of staff time.

13. Where a public authority claims that section 12 of the 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 the FOIA.
14. The CCNI has explained to the Commissioner that, following receipt of the complainant's request, the CCNI enquiries team undertook an initial trawl for material held in relation to the request. This trawl found approximately 3,000 electronic files (held on the CCNI's TRIM database) and over twenty lever arch files, equating to more than 13,000 pages, of hard copy information held in regarding the DPOANI investigation.
15. In relation to the electronic files, the CCNI's TRIM database is not searchable by document content but is based on a title word search. Some of the documents held may be brief while other may run to over 80 pages. Additionally, some electronic files may be in the form of emails with further documents attached, adding to the overall number of documents to be searched.
16. Although many of the electronic documents would have title names which would indicate if the information requested was included, in order to ensure a thorough search was undertaken, each file would have to be opened and reviewed to check if relevant information was held. As a result, the CCNI would be required to check the contents of all documents it considers may hold the requested information, as well as to then extract the requested information. The CCNI has informed the Commissioner that this would be the quickest method of completing an exercise of this kind.
17. Based on a sampling exercise the CCNI identified what it states is a very conservative estimate of 90 seconds per document, including 60 seconds to conduct a quick review of each TRIM file, and a further 30 seconds to extract relevant information. The CCNI therefore estimated it would take approximately 75 hours to conduct a reasonable search for the requested information within 3,000 electronic enquiry files held. In relation to the hard copy files, the CCNI told the Commissioner that it endeavours to transfer any hard copy material received to its electronic database in a timely manner, which would support the efficient processing of an information search. However, this work is dependent on staff resource and priorities at a given time.
18. Based on a sample exercise an estimate of 10 seconds to conduct a cursory review of each hard copy document, and a further 30 seconds to extract was identified. Therefore the CCNI estimated that it would take approximately 140 hours to conduct a reasonable search for the

requested information within the over 13,000 hard copy pages held at the time of the request.

19. The CCNI therefore estimates that, in total, compliance with the complainant's request on this occasion would take more than 215 hours of staff time.

### **Section 16(1)**

20. Section 16(1) of the FOIA provides that all public authorities are under a duty to provide advice and assistance to any person who has made or who intends to make an information request to it.
21. In responding to the complainant, the CCNI endeavoured to explain why compliance with the request would exceed the timescale and provide realistic advice and assistance to enable the complainant to make a refined request.
22. As a result the CCNI advised the complainant that she may "wish to submit a request for communications between the CCNI and a particular organisation which took place within a much smaller time period."
23. The CCNI made several attempts to advise and assist the complainant and she narrowed her request several times accordingly. However, the CCNI has informed the Commissioner that, although the refined requests greatly reduced the time required to locate the requested information, due to the large number of documents held and the nature of the database and filing systems, that time was still in excess of the 18 hours of staff time which is the appropriate limit.

### **Information not held**

24. The Commissioner is aware that, in her correspondence with the CCNI dated 19 October 2015, the complainant stated:

*"It appears by correspondence received from the NIAO, that the Commission shared their final report into DPOANI with VSSNI on or about the 2nd June 2015.*

*I will accept that disclosure of this report will in part fulfil my request."*

25. The CCNI viewed that request as a request for specific information, namely a Commission final report in respect of its investigation into the DPOANI, as part of the complainant's overall request. The CCNI therefore responded stating that it did not hold the requested information. It was pointed out to the complainant that no report had

been produced by the CCNI and none was anticipated until the inquiry was concluded.

26. The CCNI has clarified to the Commissioner that, as at 19 October 2015 (the date of the complainant's correspondence), the CCNI had not prepared a report, either in draft or finalised version, in respect of its investigation into the DPOANI.
27. The Commissioner has viewed the correspondence referred to by the complainant, which does appear to indicate that the CCNI had produced a final report into the DPAONI by 2 June 2015. However, the CCNI has informed the Commissioner that an interim report on the closure of its statutory inquiry into DPOANI was published on the CCNI's website on 7 March 2016. Work on drafting this report commenced on 8 February 2016. The CCNI has subsequently established that the reference to a CCNI final report in June 2015 was erroneous. The report being referred to in June 2015 by the NIAO official was in fact a forensic report of the charity itself, which it had commissioned from Harbinson Mulholland. The CCNI has e-mail confirmation that the report VSSNI were reviewing was the forensic report produced by Harbinson Mulholland. The Commissioner has viewed that e-mail confirmation and is satisfied that this was the case. She is therefore satisfied that the report sought by the complainant was not held by the CCNI at the date of the complainant's correspondence.

### **The Commissioner's conclusion**

28. The Commissioner has considered the above estimates. The Commissioner notes that the request involves a significant amount of files which would require a significant degree of interrogation of the CCNI's database in order to identify and separate the relevant files from other files for the purposes of responding to the request.
29. The Commissioner is satisfied that the CCNI has provided a cogent explanation for why compliance with the request, even in its refined formats, would exceed the appropriate cost limit. He is satisfied by its explanation that it would only be able to gather the requested information using the methods it has said it would need to undertake. Given the number of files this would entail the Commissioner considers that it is evident that to do so would be a time consuming process.
30. For these reasons, the conclusion of the Commissioner is that the cost estimate made by the CCNI was reasonable. The council was therefore correct to apply Section 12(1) was not obliged to disclose the requested information in response to the request. The Commissioner

is also satisfied that the CCNI has fulfilled its obligation of advice and assistance as set out in section 16(1) of FOIA by offering the complainant several opportunities to narrow or refine her request.

## Right of appeal

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31. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

32. 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.
33. 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**