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16/10/2018

**FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER: 170/18**

Thank you for your request for information regarding Brexit which has now been considered.

**Applicant Question:**

1. Your contingency planning related to potential loss of access to European Union data sharing tools like Europol, the European Arrest Warrant System and the European Criminal Records system after Brexit in March 2019.
2. Your contingency planning related to the potential changes and restrictions regarding the transfer of personal data between the EU and the UK following Brexit in March 2019.

**NPCC Response:**

Following the dissolution of the Association of Police Chief Officers (ACPO), designation under the Freedom of Information Act did not automatically transfer across to the National Police Chiefs' Council (NPCC). The NPCC, as the new coordinating body, should clearly be open to the same level of scrutiny and transparency as its predecessor and it is anticipated that an Order to bring the NPCC under the auspices of FOIA will be forthcoming. This is currently the responsibility of the Cabinet Office and the NPCC is supporting the Cabinet Office in bringing forward the Order.

In the meantime, the NPCC will comply with the spirit of the Freedom of Information Act and will respond to all requests received as if it were still subject to FOIA. Applicants should note, however, that until the formal designation is in place and the legislation is amended to include the NPCC, the Internal Review process will remain in place but there is no legal basis to pursue complaints to the Information Commissioner's Office.

The NPCC would have responded in the following way:

Section 17 of the Freedom of information Act 2000 requires the NPCC, when refusing to provide information by way of exemption, to provide you with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states why the exemption applies. In accordance with the Freedom of Information Act 2000 this letter acts as a refusal notice to those aspects of your request.



Unfortunately, your request exceeds the fees limit as outlined by the Secretary of State in that to ascertain whether the NPCC, held information within various coordinating committees and portfolios would be exhaustive and disproportionate.

### **Section 12 – the legislation:**

The provisions of section 12(2) of the Act is engaged in response to your request as the NPCC are unable to confirm what information it might hold in relation to your request because to do so would exceed the 'appropriate limit' – i.e. the cost limit. Section 12 of the Act provides:

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

**(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.**

These sections of the Act provide that the NPCC is not obliged to comply with its duties under section 1(1) of the Act – i.e. our duty to confirm or deny what information is or is not held, and to supply any information held in response to a request – if to do so would exceed the 'appropriate limit'.

The 'appropriate limit' is defined in the Freedom of Information (Appropriate Limit and Fees) Regulations 2004. Section 3 and 4 of those regulations provide that an authority can take into account the costs it reasonable expects to incur in relation to a Freedom of Information request to the following four activities associated with handling that request:

- (a) Determining whether or not it holds the information
- (b) Locating that information, or document(s) which might contain the information
- (c) Retrieving the information, and
- (d) Extracting the information from a document containing it

The regulations then confirm that the appropriate limit (in the case of a body such as the NPCC) is £450 and that any work estimated or carried out in respect of the above four activities is to be estimated at a rate of £25 per hour.

The NPCC have openly detailed the Home Office funded dedicated Brexit team, in partnership with the NCA, consisting of police officers and staff from the Brexit contingency planning team who are preparing plans for all possible outcomes.

Key instruments for UK policing, are Schengen information System (SIS II), ACRO Criminal Records (ECRIS), Europol and Extraditions (EAW).

Information relating to 'contingency planning' spans over many areas for future mitigation, for example bilateral relationships in other countries, formation of regional UK response to international criminality, innovation through the use of technology and borders

Information held on 'contingency planning' will be vast for an organisation such as the NPCC, and requesting 'potential changes and restrictions regarding the transfer of personal data' has the potential to be held by any individual within the organisation, to include members of Chief Constables' Council, all NPCC coordinating committees and portfolios, national units such as ACRO and NPCC Central Office.

Performing the search for this query, across all areas of the NPCC would support the application of Section 12.

The exclusion of any specific area of search for information regarding 'contingency planning' means the scope of the request would include all data in any way related to the search term, which in addition, would also support the application of Section 12.

In wishing to assist you, it may be helpful to seek information relating to definite context, for example a particular policy or region or a notable event or initiative. Additionally, limiting the search to a narrow timeframe can be useful in helping your request fall within the limitations of Section 12.

I must also inform you that if the NPCC does hold any information, it may be subject to one or more of the exemptions contained in the Freedom of Information Act.

Yours sincerely

Sherry Traquair  
Freedom of Information Officer & Decision Maker

[www.npcc.police.uk](http://www.npcc.police.uk)

## **COMPLAINT RIGHTS**

### **Internal Review**

If you are dissatisfied with the response you have been provided with, in compliance with the Freedom of Information legislation, you can lodge a complaint with NPCC to have the decision reviewed within 20 working days of the date of this response. The handling of your request will be looked at by someone independent of the original decision, and a fresh response provided.

It would be helpful, if requesting a review, for you to articulate in detail the reasons you are not satisfied with this reply.

If you would like to request a review, please write or send an email to NPCC Freedom of Information, c/o PO Box 481, Fareham, Hampshire, PO14 9FS.