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31/10/2018

**FREEDOM OF INFORMATION REQUEST REFERENCE NUMBER: 187/18**

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

**Applicant Question:**

Could I please narrow my request to:

Memos, submissions or reports produced or drafted in the past year on the subject of a possible loss of access after we leave the European Union to the key policing instruments you cite in your letter.

**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:

The NPCC does hold information captured by your request.

I have conducted research on various websites that similarly conclude that a 'memo' is a written message which can be associated with an e-mail, or other form or record writing. The word is short for memorandum, 'thing to be recorded' in Latin.

Seeking all records relating to the key policing instruments for the last year cited in my last response to you, reference 170/18 still exceeds the cost threshold. Your request is very broad and is requesting all e-mails, submissions and reports produced or drafted in the past year relating specifically to Schengen Information System SIS II), ACRO Criminal Records (ECRIS), Europol and Extraditions (EAW). This captures nearly all of the work presently being progressed by the NPCC

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International criminality Portfolio. It would take longer than 18 hours to try and count how many records were held, prior to reading any. Even if all information could be retrieved, it would by far be over-burdensome for the NPCC to be able to comply with the legislation in relation to time compliance.

## **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.

Performing the search for this query, across all areas of the NPCC would support the application 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 as the NPCC are unlikely to release any information that will undermine any negotiations. It is important that information released or published by Government is done so only after careful assessment, and at the appropriate time.

On this occasion, I am unable to assist you.

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.