

Our Ref: FOI 691-18/19

9 July 2018

Dear [REDACTED]

I refer to your email dated 11 June 2018 in which you asked for information in respect of a ruling made in Dungannon Magistrates' Court.

Your request has been dealt with under the terms of the Freedom of Information Act 2000.

Freedom of Information Act 2000

The Freedom of Information Act creates rights of access for any person making a request for information to a public authority. The rights of access are twofold. First, to be informed by the public authority if it holds information of the description specified in the request, and if that is the case, secondly, to be provided with that information. These rights are subject to important limitations, which are designed to achieve a proper balance between the right to know and considerations of law and policy in the broader public interest.

You had asked for the following:

1. In 2012, Judge Meehan was reported as describing the PPS practice of posting summonses to motorists in the Irish Republic in this way: In cases of service (of summonses) outside the UK, proof of service can only be by way of a certificate given by or on behalf of the Secretary of State. And he went on to say within his judgement, referring to Article 157 of the Magistrates Court (NI) Order to quote the following: Any summons, notice or other process lawfully issued in connection with any proceedings before a magistrates court, may be served in any part of Northern Ireland upon the person to whom it is addressed. But he pointed out this does NOT apply to the Republic of Ireland or any non-UK country. Was the PPS aware of this before Judge Meehan's ruling?
2. If so, why did it act in such a manner?
3. Why ignore what Judge Meehan referred to in court as an international treaty?
4. Did the PPS follow this course of action in order to make financial savings?
5. What is the financial saving on each summons sent by post rather than through the proper channels as referred to by Judge Meehan?
6. How many summonses have been issued by the PPS through the postal service to Republic of Ireland residents each calendar year since 2012?
7. How many of these have resulted in convictions?
8. How many were struck out?
9. Of the convictions, how many do the PPS now accept are vulnerable to successful appeals given Judge Meehan's 'Gallagher' ruling?
10. Of the total number of convictions can you show how many occurred in each of the Magistrates Courts that sit in Northern Ireland?

11. And similarly how many cases were struck out in those same courts?
12. In 2012, the PPS was reported to have said they would be appealing and therefore could not comment publicly. What happened to that planned appeal?
13. In a more recent case just a few weeks ago, Judge Meehan told a Donegal resident [REDACTED] that a passage in the letter he received from the PPS was a misrepresentation when it advised him he must attend court or plead guilty by post. The Judge also told Mr [REDACTED] there was a further misrepresentation by the PPS when they warned that if he failed to address the issue his licence could be suspended when there was no power to do so. Do you accept the Judge Meehan's comments about how you misrepresented your powers to deal with Mr [REDACTED] case by postal delivery of the summons?
14. The PPS have issued a statement in the past few weeks referring to this issue of serving summonses outside the UK as a complex matter and stating it is essential to find a consistent means of disposal of these cases and is currently considering all avenues open to us to ensure this. Is it present legal position as referred to by Judge Meehan not clear to the PPS?
15. If not, what issue do you have with his ruling?
16. You do not mention Judge Meheen's ruling in your statement. Does that mean you do not accept it? Or at least that you question it?
17. Do you not accept that there is at present a legally acceptable and agreed treaty allowing you, the PPS, to properly issue summonses to the Irish Republic?
18. Why do you not use the existing legislation that would be acceptable legal due process?

In response to questions 1 - 4, 9 and 12 -18 I can advise that under the Freedom of Information Act (FOI), a person is entitled to request information which is defined in the Act as 'recorded information' and therefore means a document or extract from a document, it does not include requests for answers to questions or opinions.

In respect of question 5, I can advise that the PPS does not hold any information on the financial savings associated with serving summons through the respective methods outlined. Therefore in terms of Section 17 of the Freedom of Information Act 2000 the information requested is not held.

In response to questions 6 - 8 and 10 - 11, please see the attached spreadsheet setting out a range of summons data as follows:

1. Postal Summons Issued by PPS to Defendants with a current address in the ROI (Question 6)
2. Postal Summons Issued by PPS to Defendants with a Current Address in the ROI by Year of Issue (Question 6)
3. Postal Summons Issued by PPS to Defendants with a Current Address in the ROI by Summons Result Type (Question 8)

4. Postal Summons Issued by PPS to Defendants with a Current Address in the ROI (where Summons has been 'Struck Out') by Court Location (Question 11)
5. Postal Summons Issued by PPS to Defendants with a Current Address in the ROI (where Summons Result is 'Proceeded') by Outcome at Court (Question 7)
6. Postal Summons Issued by PPS to Defendants with a Current Address in the ROI (where Summons Result is 'Proceeded') by Outcome at Court and Court Location (Question 10)

All statistics cover the period 1 January 2012 to 31 December 2017 and should be read in conjunction with the explanatory notes, which are set out in the various worksheets.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review in accordance with our review procedure. You should do this as soon as possible or in any case within two months of the date of this response and you can do so by writing to the Head of Policy and Information, Public Prosecution Service, Belfast Chambers, 93 Chichester Street, BELFAST, BT1 3JR or alternatively by sending an e-mail to info@ppsni.gov.uk. You should state clearly the grounds on which you are requesting the review.

Alternatively, you may wish to apply directly to the Information Commissioner for a decision.

The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

PPS FOI Team