

21 May 2019

**Freedom of Information Request - Reference No: 20190999**

**REQUEST**

Please disclose, for the calendar years 2015, 2016, 2017 and 2018:

1. Regarding offences under Section 127 of the Communications Act 2003:
  - a) The number of people arrested.
  - b) The number of people charged as a result.
  - c) The number of people arrested for offences where the internet is used in commission of the offence.
  - d) The number of people charged as a result of offences where the internet is used in commission of the offence.
  
2. Regarding offences under the Malicious Communications Act 1988:
  - a. The number of people arrested.
  - b. The number of people charged as a result.
  - c. The number of people arrested for offences where the internet is used in commission of the offence.
  - d. The number of people charged as a result of offences where the internet is used in commission of the offence.

**RESPONSE**

Section 17 of the Freedom of Information Act 2000 requires South Yorkshire Police, when refusing to provide such information (because the information is exempt), to provide you the applicant with a notice which:

- a. states that fact,
- b. specifies the exemption in question and
- c. states (if that would not otherwise be apparent) why the exemption applies.

The following exemption applies to the disclosure of the information:

**Section 12(2) – Exemption where cost of compliance exceeds appropriate limit**

We have received a number of similar requests in the past. Our Custody Handling System Analyst has previously advised that there are no individual offences that related specifically for example to the Internet. If a person is charged under Section 127 of the Communications Act, the officer can manually make reference to the internet within the wording of the charge but this is not mandatory.

For any arrests which did not result in a charge, it would not be possible to identify the circumstances surrounding the arrest, ie involving the internet, facebook, twitter etc unless a manual trawl is conducted on each paper record (Pace 9) to try and identify the circumstances surrounding the arrest and whether this 'happened' to mention the type of

communication ie via the internet or social media. This would exceed the cost threshold of 18 hours to locate, retrieve and extract.

Ordinarily, under these circumstances, we might offer recorded crime statistics as an alternative to arrest data. However, I also regret to advise that the Offence 'Sending or causing sending of grossly offensive / indecent / obscene / menacing or false message / matter by electronic communications network' recorded under the Communications Act 2003 section 127 is not crime recordable and therefore not recorded on crime management systems.

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 provide that the cost limit for non-central government public authorities is £450. This must be calculated at the rate of £25 per hour, providing an effective time limit of 18 hours. . If you feel your endeavours can be achieved within the appropriate limit by refining your request, South Yorkshire Police would be more than happy to consider any further request.

Guidance from the Information Commissioner to public authorities is that where one part of a request is reasonably estimated to exceed the appropriate limit then the authority is not obliged to consider or comply with the remainder of the request up to the point at which the appropriate limit has been reached. Please note point 30 of the below link:-

[https://ico.org.uk/media/for-organisations/documents/1199/costs\\_of\\_compliance\\_exceeds\\_appropriate\\_limit.pdf](https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

**Although excess cost removes the force's obligations under the Freedom of Information Act, I have supplied information attached relating to custody records that are available for top level arrests under Section 127 of the Communications Act 2003. Please note we are only able to supply and further detail regarding the source of communication as detailed above. Additionally, this data is only available and provided up to December 2017 due to capability issues following transfer to a new system.**

**I hope this is helpful, but it does not affect our legal right to rely on the fees regulations for the remainder of your request neither does it bind South Yorkshire Police to any commitment that it will release information in such a manner in the future.**