

# **FREEDOM OF INFORMATION PROCEDURES – DEALING WITH REQUESTS**

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The Freedom of Information Act 2000 (FOI Act) provides public access to information held by public authorities. The right to know under the FOI Act came fully into force on the 1 January 2005. The Act was designed to promote a new level of openness and transparency by making available, on request, official information held by Public Authorities.

The Probation Board for Northern Ireland is deemed to be a “public authority” for the purposes of this Act<sup>1</sup>. The Act is regulated by the Information Commissioner– a post which combines responsibility for regulating the Freedom of Information Act and the Data Protection Act 2018. See [www.ico.gov.uk](http://www.ico.gov.uk)

The Act provides public access to information held by public authorities either by

- a) publishing information through a publication scheme or
- b) responding to a written request and, if the information exists, making it available to the person within 20 working days.

This increased transparency and accountability helps to raise the quality of public administration and increases the individuals’ knowledge of and confidence in public authorities.

### 1.1 Right of Access - Publication Scheme

The Act requires public authorities to adopt and maintain a publication scheme. The publication scheme commits a public authority to make information available to the public as part of its normal business activities; to proactively publish or otherwise make available as a matter of routine information, including environmental information, which is held by authority, to review and update the information it makes available under the scheme and to produce a schedule of any fees charged for access to information under the scheme.

The Information Commissioner’s Office (ICO) has approved a model publication scheme which PBNi has adopted. The model scheme sets out the Board’s commitment to proactively publish information as a matter of routine under seven agreed classifications of information, for example **‘who we are and what we do’**;

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<sup>1</sup> See FOIA 2000 Schedule 1 (pg. 62)

**‘what we spend and how we spend it.’** The ICO has also produced a definition document for public authorities including non-departmental public bodies which gives examples of the type of information which PBNi would be expected to publish under each class, how it is being made available and if there are any charges.

PBNi has also produced, in accordance with its obligations under the Scheme, a Guide to Information which is a guide to the information it publishes through its website [www.pbni.org.uk](http://www.pbni.org.uk). The Scheme is therefore not a static tool. Information must be routinely published and it must be accurate and up to date.

The information in the publication scheme is the minimum the public authority must disclose. If a member of the public wants access to information not listed in the scheme, they can do so through a request for information (1.2)

All Managers should ensure they are familiar with what is included in PBNi’s publication scheme so that they can make information available if asked for it. In addition, Managers need to be able provide, where applicable, timely and accurate information, relating to their areas of responsibility, to the Administrative Officer (AO) in the Communications Department, to ensure that the publication scheme is maintained. This includes providing the AO with updated and/or new information within the appropriate class of information.

The more information PBNi publishes via its Publication Scheme, the less likely you will be asked to provide the information direct. (Section 5, 5.1.1).

### **1.1.1 Datasets**

The model scheme approved by the ICO reflects an obligation on the part of public authorities to publish any dataset held by that authority that has been requested, including any updates, and to publish the dataset in an electronic form (where reasonably practicable) that is capable of re-use. The provisions regarding datasets were added to the Freedom of Information Act by the Protection of Freedoms Act 2012. These created duties in relation to providing datasets in responses to requests and to make them available in a publication scheme.

The term ‘dataset’ is defined in (the new) Section 11(5) of the Freedom of Information Act and in the Protection of Freedoms Act 2012 (section 102 (5) and refers to information comprising a collection of information held in electronic form

where all or most of the information in the collection has been obtained or recorded for the purpose of providing a public authority with information in connection with a provision of a service by the authority or the carrying out of any other function of the authority<sup>2</sup>.

The FOIA is amended to reflect that where an requester makes a request in respect of information that is, or forms part of a dataset held by a public authority, and the requester expresses a preference for the information to be communicated electronically, then it must (so far as reasonably practicable) be in a format capable of re-use<sup>3</sup>. If any information in the dataset is considered to be copyrighted, where the public authority is the only owner, the authority must make the information available for re-use under a specified licence. The terms 'relevant copyright work' and 'specified licence' are defined in Section 19 (8) of the Act.<sup>4</sup>

Note: The Act does not require the creation of datasets for publication, nor does it require datasets to be updated if they would not otherwise have been updated as part of the public authority's function.

## **1.2 The Right of Access – written requests.**

Section 1 of the Act provides that any person making a request for information to a public authority is entitled:

1. to be informed in writing by the public authority whether it holds the information as described in the request – i.e. the duty to confirm or deny (Section 1 (1) (a)) and
2. if that is the case, to have that information communicated to him (Section 1 (1) (b))<sup>5</sup>

The Freedom of Information Act is based on a presumption in favour of disclosure.

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<sup>2</sup> This is an excerpt only of the definition as contained in the Protection of Freedoms Act 2012 Part 6 section 102 (5)

<sup>3</sup> Protection of Freedoms Act 2012 Part 6 Section 102(2)

<sup>4</sup> ICO specialist guides Datasets (Sections 11, 19 and 45)

<sup>5</sup> (S.1 (1) FOIA 2000)

**Note:** If an individual wants access to their personal data or want to confirm if personal information is held by PBNI, they should make a subject access request under the Data Protection Act 2018.

If someone makes a request for information which includes someone else's personal data, PBNI needs to balance carefully the case for openness and transparency under the Freedom of Information Act against the data subject's right to privacy under the Data Protection Act. This means deciding whether the information requested can be released without breaching any of the data protection principles. (See PBNI's Data Protection [guidance and procedures manual](#))

### **1.3 What information does the Act cover?**

Remember the Act is about access to information not documents.

The FOI Act covers any recorded information held by PBNI.<sup>6</sup> This includes all information generated electronically, such as word documents, e-mails, images, sound and video recordings and manually held information such as paper files, documents, letters, hand written notes, information in diaries and even "post-its". It also includes draft documents. It also included metadata - information for example, about the author or date document created.

Public authorities are not required to create new information in order to comply with a request for information under the Act. They only need to consider information already in existence at the time a request is received<sup>7</sup>.

It is not limited to information PBNI creates. Information PBNI holds which is received from other organisations, authorities or individuals must also be considered for release.

For purposes of the Act Information is held by a public authority if

- a) it is held by the authority, otherwise than on behalf of another person
- b) it is held by another person on behalf of the authority – for example, information held by a contractor on behalf of a public authority.<sup>8</sup>

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<sup>6</sup> S.84 FOIA 2000

<sup>7</sup> Cabinet Office, Freedom of Information Code of Practice 2018, para 1.3

<sup>8</sup> Part 1, s3, (2) (a) (b) FOIA 2000



(There will be circumstances when contractors hold information about contractual arrangements on behalf of a public authority which will be subject to the FOIA. If this is the case, it is important that PBNi is clear what this information is so that it can be made readily available should we receive a request under FOIA for the information.)<sup>9</sup>

Information is 'held' by the public authority if it is retained for the purposes of the public authority's business. Information solely held by the public authority, but on behalf of another person, is not held for the purposes of the FOIA. The exception is if the information is held by PBNi for another person but also holding it for any extent for its own business purposes.

Information created after a request is received is not within the scope of the application and is therefore not "held" for the purposes of the Act. A search for information which has been deleted from a public authority's records before a request is received, and is only held in electronic back up files, should generally be regarded as not being held.<sup>10</sup> Public authorities however must ensure compliance with the [Code of Practice](#) on the Management of Records issued under section 46 of the FOIA 2000)

**The FOI Act is also fully retrospective and covers all information, regardless of age.**

**A request for information does not include knowledge or un-recorded information.**

Please note that not every enquiry has to be treated as formal request for information under the Act. Routine queries should continue to be dealt with as standard day to day enquires. The provisions of the Act only need to be applied if you cannot provide the requested information straight away or the requester makes it clear that they expect a response under the Act.

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<sup>9</sup> Please refer to the ICO website and Cabinet Office Freedom of Information Code of Practice July 2018. s9

<sup>10</sup> Cabinet Office, Freedom of Information Code of Practice July 2018, para 1.11



## 2. Making a Request for Information under FOI

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Any person, anywhere can make a request for information under the Freedom of Information Act.

A request for information under the Act must be made in writing (this includes a request submitted by e-mail).<sup>11</sup> It must state the name of the requester and an address for correspondence. This must be their real name – not a pseudonym. An email or postal address is acceptable.

Section 8(1)(c) FOIA requires that a request for information must also adequately describe the information sought. Public authorities do not have to comply with requests that do not meet the requirements set out in section 8.

Requests can also be made via the web, or even on social networking sites such as Facebook or Twitter if a public authority uses these. See ICO guidance recognising a request under FOIA Section 8 – specifically [social media websites](#) (s109). A request made via social media still has to meet the requirements of section 8.

Addresses for correspondence can take the form of an email address or a unique name or identifier on a social media platform (for example a Twitter handle), as well as postal addresses. Requests must be addressed directly to the public authority the requester is seeking information from. In order to be addressed directly, a public authority must have a formal, monitorable presence on the particular platform being used by an requester.<sup>12</sup>

Requesters do not need to refer to the Act or state why they are making the request. The Act is sometimes described as purpose and requester blind.<sup>13</sup> The requester does not need to give you a reason for wanting the information but we must justify why we would not give them information. If in the course of a telephone conversation it is apparent that a person would like access to information, you should advise them that they can do so under the FOI Act and should submit their request in writing.

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<sup>11</sup> FOIA 2000 s. 8 (1) (a)

<sup>12</sup> Cabinet Office, Freedom of Information Code of Practice 2018, para 1.16

<sup>13</sup> See ICO [Guide to Freedom of Information](#) v1.0 20150305

PBNI's advice leaflet '[Your Right to Know](#)', which should be in all probation offices, sets out how individuals can make a request to PBNI and includes a form which may be used for this purpose. Requests can also be emailed to your office direct or to [FOI@probation-ni.gov.uk](mailto:FOI@probation-ni.gov.uk) (see Para 2.2).

All requests must be treated equally (unless relating to vexatious requests or requests for personal data. (See Section 6 – refusal of a request).

## **2.1 Duty to confirm or deny (Part 1)**

Under the FOI Act, PBNI has a duty to confirm to the requester in writing if it holds the information as described in the request and if so we have a duty to communicate that information to the requester. Depending on the nature of the request this may require a search for relevant documents/information or the need to consult with appropriate PBNI colleagues for example, in the Finance or Human Resources Departments in order to locate the information. If, after searching, you can confirm that the particular information requested is not held by PBNI, you should advise the requester accordingly. (Appendix 1 **FOI SRL01/19**)

In this instance it is straightforward to declare that we do not hold the information, however if you are aware that another public authority holds this information you should advise the requester of this.

Alternatively, following your search you determine that we do have the information and that there are no exemptions to disclosure, then you can release it, which is in effect confirming that we have the information.

There are provisions within the legislation, which allow public authorities to deny that they hold information when an exemption to disclosure applies. The need for PBNI to apply these provisions will be rare and should such an occasion arise you consult with the Compliance Section of the Communications Unit.

Note: You are not obliged to confirm or deny whether the requested information is held, if this would disclose personal data relating to the requester.

## 2.2 The duty to provide advice and assistance

When an individual enquires about making a request, where possible you should initially refer people to PBNI's advice leaflet '[Your right to know](#)', which outlines their rights under the FOI Act 2000 (as well as the Data Protection Act 2018 and Environmental Information Regulations 2004). It also incorporates a form, which can be used when making a request.

Where a requester is unable to make a request in writing for whatever reason, but may be due to a disability, PBNI has a duty under Section 16 of the FOI legislation to provide advice and assistance. This duty to advise and assist is enforceable by the Information Commissioner. If a public authority does not meet this duty, the Commissioner may issue a decision notice under section 50, or an enforcement notice under section 52.

If the requester is unable to make the request in writing, you can advise the person that they can request the assistance of another person or agency like the Citizens Advice Bureau who may be able to assist them to make the request or make it on their behalf or in exceptional circumstances staff can advise an requester who is unable to make a request in writing that they will take a note of the request over the telephone and then send the note to the requester for confirmation that it accurately conveys their request. Once verified this would constitute a written request for information (and the statutory time limit for a reply would be when the written confirmation received).<sup>14</sup>

## 2.3 Clarification

Where the requester has not provided sufficient information to enable PBNI to identify the requested information, PBNI must provide assistance to the requester to enable them to describe more clearly the information required. The aim of providing assistance is to clarify the nature of the information sought, not to determine the aims or motivation of the requester. (Appendix 1 **FOI SRL 02/19**)

If more information is required as the request is ambiguous and needs clarification, you should contact the requester as soon as possible by phone, e-mail or in writing and seek clarification or further detail from the requester to help process the request.

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<sup>14</sup> Cabinet Office, Freedom of Information Code of Practice 2018, para 2.5

As FOI does not cover requests for personal information, it is often appropriate to communicate information by email, and indeed this is often the medium requesters prefer.

You may need to communicate further with the requester in relation to the nature of the request, to get more specific details with regard to dates, times or events. You may be able to provide an outline of the different kinds of information, which might meet the needs of the requester, or provide access to a summary of the information you hold which might help the requester to identify the nature and extent of the information required. Each request has to be considered individually to identify the most appropriate advice or assistance required in that particular case.

If, following further appropriate assistance, the requester still fails to describe the information requested in a way, which would enable you to identify and locate the information, you are not obliged to seek further clarification. In this case you must inform the requester that you cannot provide any information to them or alternatively that you can only provide limited information given the uncertainty of their request.

At this stage you would also advise the requester that they have a right to make a complaint against PBNi in the event that you could not comply with the request. (The Complaints process is set out at section 7). You can use the complaints wording used in FOI SRL 05/19.

PBNi as a public authority is obliged, under section 17(7) of the FOIA, when responding to a request for information, to notify the requester about its internal review process (or complaints process) including details of how they can request an internal review. We also need to inform the requester of their right to complain to the Information Commissioner under section 50 of the FOIA, if they if they are still dissatisfied following the outcome of our internal review.

Note: You may also have to seek clarification if the requester has not provided their real name or where they perhaps have used a pseudonym. If that is the case, you must make the requester aware that you cannot respond to their request until further information is received. (See FOI SRL 05/19)



## 3 Processing a request for information

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### 3.1 Acknowledging

When you get the written request for information you should acknowledge it and confirm if possible at this stage whether we hold the information. (Appendix 1 **FOI SRL 03/19**). It is good practice to acknowledge the request within 3 working days. However, if you are able to provide the information within that period or a reasonable period beyond that i.e. between 3-5 working days (but not exceeding 10 days), there is no need to send an acknowledgement letter, you may simply send the information requested with the relevant cover letter. (Appendix 1 **FOI SRL 04/19**). The FOI logo shown at front of this guidance (and at start of subsequent sections) should be copied and pasted on to headed paper or your email, when responding to FOI requests.

### 3.2 Logging and monitoring

It is important at this initial stage to keep a detailed record of any letters, e-mails and telephone conversations you may have with the requester in the course of providing advice and assistance. It is also vital, that subsequent to receiving the request in writing, you log the request and keep a record of the process until the request has been complied with and the requester is satisfied with the outcome. A sample log is included in Appendix 2 however please read the PBNi [guidance](#) on monitoring and logging requests on the intranet.

The logging spreadsheet covers all the areas required for monitoring purposes. If there is anything else pertinent to the request which you feel is relevant, please note this in your own records. Each team or department should have a central log which must be used and maintained for each request.

### 3.3 Filing

It is important to note that each individual enquiry forms a single 'case record' of a transaction between PBNI and the requester. An electronic record should be retained and should contain the following information:

- Record of correspondence between the Authority and the requester
- Who handled the request?
- How the request was researched?
- How the request was resolved?
- Was the information released or withheld?

You will also need to keep records of FOI requests you did not fulfil because they were over the cost limit or were vexatious, as well as records where you referred the requester to someone else because you did not hold the information or requested more information from the requester, but the requester did not apply.

As a whole, a 'case record' shows the life cycle of a request and the decision-making process but it is likely to be made up of several physical pieces of information:

- The original request for information
- Records created during the administrative handling of the request
- Records created during the process of deciding if any exemptions apply N.B. these records may themselves contain information that might be subject to an FOI exemption
- Records of any financial transactions

This information forms the complete record of the interaction between PBNI and the requester and must be retained. It is important that the log and case file (if appropriate) are referred to when you get a subsequent request to check (i) if the person has made a previous request – similar or otherwise and (ii) to check the response at that time. Information however must not be kept beyond the agreed retention period for FOI records – see PBNI's retention and disposal [schedule](#)

### 3.4 Response time

PBNI is legally obliged to deal with a request for information within 20 working days following the date on which it was received.<sup>15</sup> “Working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day, which is a bank holiday, under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom<sup>16</sup>. However, privilege days i.e. July 13, and the additional day at Christmas, which is designated each year will be considered as a working day for calculations purposes.

The date on which a request is received is the day on which it arrives or, if this is not a working day, the first working day following its arrival<sup>17</sup>.

In certain circumstances the 20 working day period can be extended:

- If we are waiting on additional requirements e.g. further information, payment of fee, from the requester the 20-day response period does not run until these have been received.<sup>18</sup>
- Where PBNI is applying the “public interest test”<sup>19</sup> i.e. when considering whether a qualified exemption applies to a request for information, you must consider whether the public interest in withholding information outweighs the public interest in disclosing the information. For detail on Public Interest see 5.3.

It is good practice to acknowledge a request within 3-5 working days. If you are able to respond to the request in full within 3-5 days (and not exceeding 10 days) you have no need to send an acknowledgment, simply provide the information. The acknowledgement letter should state the date the requester can expect the information. This must be no more than 20 working days for standard FOI requests. If the request is likely to take more than 20 working days to answer you should write to the requester and give them an estimated date by which a decision will be made.

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<sup>15</sup> FOIA 2000 S. 10 (1)

<sup>16</sup> FOIA 2000 s10 (6)

<sup>17</sup> Cabinet Office, Freedom of Information Code of Practice 2018, para 4.2

<sup>18</sup> FOIA 2000 S. 10 (6)

<sup>19</sup> FOIA 2000 s. 10 (3)



If PBNI has written to a requester asking for clarification or a fee and no reply has been received within 3 months, you can consider the request to be closed. When the three months' period has lapsed you should write to the requester to inform them that the request has been closed and that if they wish to continue, a new request for information will need to be made. (Appendix 1 **FOI SRL 05/19**)

### **3.5 Fees**

As a public authority PBNI may, as a result of Regulations made under sections 9 and 13 of the FOIA, charge for the cost of providing information requested.

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ([the Fees Regulations](#)) provide the framework for setting the maximum fee that can be charged when complying with a request for information under FOIA.

The cost limit for PBNI (as a public authority) is £450. When estimating the cost, PBNI can take into account:

- ❑ determining whether it holds the information
- ❑ locating the information or records containing the information
- ❑ retrieving the information
- ❑ extracting the requested information from records.

The biggest cost is likely to be staff time. The £450 fee limit is calculated at £25 per person hour which means a limit of 18 hours work. Please note that it is only the hours exceeding the first 18 that will be charged.

PBNI cannot take into account the time it is likely to need to decide whether exemptions apply unless it is a qualified exemption where the public interest test must be considered (5.3)

If after considering all of the above, you determine that it will take longer than 18 hours of work to be able to comply with the request you need to determine the actual time it will take and the fee applicable. PBNI does not need to have done the work covered by the estimate before deciding to refuse a request however the estimate must be reasonable and in line with Freedom of Information (Appropriate Limit and Fees) Regulations 2004.

Regulation 7 of the Fees Regulations allows a public authority that chooses to answer a request which exceeds the appropriate limit to charge for the total sum of the following:

- the costs which may be taken into account in calculating whether the appropriate limit is exceeded;
- the communication costs (including the costs of communicating whether or not the information is held even if it is not to be provided); and
- staff time spent on communicating the information.<sup>20</sup>

Where a request does not exceed £450, a charge may also be applicable for costs we could reasonably expect to incur in a) informing the requester whether it holds the requested information (even if the information will not be provided) and b) communicating that information to the requester.

This includes but is not limited to the cost of reproducing any document containing the information (e.g. printing, photocopying); postage and other forms of transmitting the information and complying with Section 11 of the FOIA where the requester has expressed a preference for the means of communicating and where this is reasonably practicable.<sup>21</sup> It does not include staff time spent in carrying out these activities – we cannot charge for staff time where the cost of dealing with the request does not exceed £450.

**There is no obligation to comply with any request exceeding the cost limit. Our records however should illustrate how the request exceeds the cost limit and requester notified (see section 6 of this guidance).**

Where the cost exceeds £5, the reproduction of information either by printing, photocopying or producing into a format to fax should be charged at **10p** per page, whether in black and white or colour. (Where information is provided in an electronic format you will need to ensure that it complies with PBNI's current Internet and e-mail usage policy and procedures and a fee is not applicable.)

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<sup>20</sup> ICO [specialist guide](#) – fees that may be charged when the cost of compliance exceeds the appropriate limit

<sup>21</sup> ICO [specialist guide](#) – fees that may be charged when the cost of compliance does not exceed the appropriate limit.

**Note:** If the administration costs of collecting a fee would be more than the charge itself, the ICO advises, as a matter of good practice, that public authorities should waive the charge.

**Note:** A requester can request information in a specific format and where 'reasonable' PBNI should attempt to comply with this. However, where translations or the provision of information into a specific format is requested because of a disability or racial origin, we should attempt to have the information provided as we have obligations under our equality legislation. A fee should not be charged in such circumstances.

Under Section 9 of the FOIA, PBNI must advise the requester that a fee is applicable by issuing a Fee Notice (Appendix 1 **FOI SRL 06/19**). The requester has 3 months to pay the fee. If the requester chooses not to pay, the information cannot be provided and the request will be closed at the end of the 3-month period. Communication with the requester must be in writing.

The date the fees notification is issued the clock stops running and it will not start again until a fee is received. The logging requests monitoring sheet should be updated to reflect any stoppages. The 20 working day period will not re-commence until the date of receipt of payment. Once the fee is received, you should write to the requester to confirm this (Appendix 1 **FOI SRL 07/19**). It is important that you identify the information quickly and respond to the request within the 20 day period having readjusted the date for responses (due to the request for a fee) on your request log.

If we discover that we have overcharged (e.g. if we have overestimated the time it will take to retrieve the information), we will have to recalculate the figure and refunded the difference to the requester. (Appendix 1 **FOI SRL 08/19**). It is important therefore that you provide as accurate an estimate as possible as additional funding cannot be sought from the requester. If this does occur you should seek advice from the Finance Manager.

Where we have undercharged on a request, a note should be sent to the Compliance Section of the Communications Unit detailing the extent of the undercharge.

If the actual cost of answering a request is greater than the estimated cost charged by way of a maximum fee, PBNI must bear the additional cost and cannot issue a further fees notice. Where the fee is less PBNI should refund the difference to the requester. If we have overestimated and the actual cost is less than the £450, then we would have to refund the full amount paid.

Where the requester is not prepared to pay a fee and advises you of this, we are obliged to consider what information might be helpful to the requester and, if so, whether this can be provided free of charge. This might mean amending the request or reducing the extent of what is requested to bring it into the lower price bracket. However, the requester cannot place a number of requests for the same information as such requests are treated as one request.

**You should seek advice from the Compliance Section of the Communications Unit before proceeding with this type of request. Advice also needs to be sought from PBNI's Finance Department to confirm current process for paying a fee before communicating this to the requester (ref sample response letter SRL 06/19).**

Note: When calculating the cost limit public authorities can aggregate requests which ask for the same or similar information and are received within a 60 working day period. These requests can either be from the same person or a group of people acting together.

**Any decision to charge a fee must only be taken after consultation with the relevant Assistant Director/Head and the Compliance Section of the Communications Unit.**

### **3.6 Releasing / Withholding information**

When responding to a request, you will need to confirm if all or part of the information can be released. Information should be released unless disclosure would or would be likely to, cause harm of a type specified under the exemptions set out in the Freedom of Information Act 2000 (See Section 5 for information on exemptions).

The following three groups has authority to **release** information

- Area Managers
- Assistant Director (AD/HEADs of Department)
- Compliance Section (Communications Unit)

When gathering the information requested by the requester, if there is anything that you are concerned about releasing, you should always check with your Line Manager. The Compliance Section can also be consulted for advice.

The decision to **withhold** information can only be taken by a AD/HEAD in conjunction with the Compliance Section of the Communications Unit or by Compliance. They will decide whether or not the information can be withheld using the exemptions. When this is the case, you must ensure that the Compliance Section of the Communications Unit receive all the appropriate information within five working days of you receiving the request. This will allow the Unit to vet the information and get back to you to enable you to comply with the request within the 20 day time limit.

In the event that the AD/HEAD and the Compliance Section of the Communications Unit are unable to reach a decision as to whether the information can be released, the case will be referred to the Director of Operations or the Director of Rehabilitation. the Directors have the authority to convene a panel to consider the matter. This panel, which will have Compliance representation, will be able to take the decision to release information.

Where a decision is taken to withhold all or some information, having applied the exemptions, you will be advised of this. A letter must then be sent to the requester advising them of the information is to be released or withheld. Where information is withheld the requester will be informed of the reasons for this decision using the FOI SRLs (Appendix 1 **FOI SRLs 09/19 and 10/19**).

**Appendix 3 provides a summary in diagrammatic form of the steps to be taken when handling a Freedom of Information request.**

### **3.7 Amendments and Deletions to a record**

Under section 77 of the Freedom of Information Act it is a criminal offence to deliberately amend or destroy information once a record has been requested with the intention of preventing the disclosure of all or part of the information to which the requester would have been entitled. Routine changes to the information may be made while you are dealing with the request, but only if they would have been made

regardless of the request. You cannot make changes or deletions as a result of the request just because it would be embarrassing to the organisation if it was released.

PBNI should always ensure that the information it holds is accurate and up to date however you cannot decide not to release information just because you know the information is out of date, incomplete or inaccurate. Destruction of files **must** only be carried out in strict adherence to PBNI's Retention and Disposal Schedule.

### **3.8 Means of Communicating Information**

Under the Act a requester is entitled to express a preference for communication of the information by one or more of the following means:

- a. a copy of the information in permanent form or in another form acceptable to the requester
- b. the provision to the requester of a reasonable opportunity to inspect a record containing the information and
- c. the provision to the requester of a digest or summary of the information in permanent form or in another form acceptable to the requester.<sup>22</sup>

PBNI will endeavour to produce the information in the requester's preferred format where it is reasonable to do so. If an requester does not specify how they would like the information communicated we will provide the information in the most appropriate format.<sup>23</sup>

When assessing the reasonableness of a particular method of communication, PBNI will have regard to all the circumstances, including the cost of doing so",<sup>24</sup> together with our obligation under s75 of the Northern Ireland Act 1998 to provide information in accessible formats. Having considered all implications, where PBNI determines that it is not reasonably practicable to provide the information in the requester's requested format, we will provide reasons for that determination in writing to the requester. <sup>25</sup>

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<sup>22</sup> FOIA 2000 s.11 (1)

<sup>23</sup> FOIA 2000 s.11(4)

<sup>24</sup> FOIA 2000 s.11(2)

<sup>25</sup> FOIA 2000 s.11 (3)

### 3.9 Redaction

Prior to releasing information the person dealing with the request should consider whether there are parts of the information that should not be released. If there are, they should seek advice from the Compliance Section of the Communications Unit. The Compliance Section will be advised whether an appropriate exemption is applicable. Information, which is exempt, should be blacked out or redacted. When providing a response to the requester, it needs to be clear that redactions have taken place and the relevant exemptions should be cited as to why the information has been redacted.

It is worth reiterating that the Freedom of Information Act applies to information and not documents. Whilst the information requested is often likely to be contained in a document, this does not mean that a copy of the document should always be released with exempt material redacted from it. Rather, it may be more appropriate to release solely the information that can be released by creating a new document with only that information contained. This is particularly relevant where the majority of the information contained in the document does not fall within the scope of the requester's request.

It is important to note that because of technological advances, when information is redacted from an electronic document, those redactions may be reversed. If redactions are made to a document which will be released in electronic format, the relevant information should be copied and pasted to a new document and where appropriate indicate where a redaction has taken place. (See ICO [guidance on FOI](#) as well as the National Archives [Redaction Toolkit](#) for further information.

### 3.10 Transferring a Request for Information

Where PBNI receives a request for information, which it does not hold but believes that another public authority holds, you should direct the requester to the relevant public authority. (Appendix 1 **FOI SRL 11/19**).

If we determine that we only hold part of the information requested and we know and have confirmed that another public authority holds the remainder of the information, we should provide the requester with the information we hold (providing an exemption does not apply) and advise them where they should go to seek the rest of the information. In such cases, **FOI SRL 04/19** can be amended to reflect this.

### **3.11 Consultation with third parties.**

There may be circumstances if PBNI is asked for information which it holds but has originated from a third party, or when its release may have implications for or affect the interests of a third party when it will be necessary to consult with that third party. It is recommended that public authorities take appropriate steps to ensure that such third parties, and those who supply public authorities with information, are aware of the public authority's duty to comply with the Freedom of Information Act, and that therefore information will have to be disclosed upon request unless an exemption applies<sup>26</sup>. (para 5.2.5).

It may also be necessary to consult directly with that third party to determine whether an exemption applies to the information requested and it is good practice to do so if PBNI, for example, would propose to release information which may affect the interests (commercial or otherwise) of that third party. (Appendix 1 **FOI SRL 12/19**) Ultimately, it is up to PBNI as the public authority to take the final decision on release, following any relevant consultation.

Certainly in circumstances where the information concerned has been supplied by one government department to another, a decision should not be reached to release, without first notifying and where appropriate consulting with the department from where the information originated.

### **3.12 Requests for information from the media**

All requests for information from the media should be directed to the Public Relations Officer at PBNI Headquarters.

### **3.13 Hybrid Requests** (Information falling under both FOI and DPA)

The Freedom of Information Act has raised awareness generally about the rights of people to have access to information. Requesters seeking access to their personal information may cite the Freedom of Information Act but in reality these are Subject Access Requests and should be treated as such in accordance with the Data

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<sup>26</sup> Lord Chancellors Code of Practice issued under Section 45 of the FOIA



Protection Act. In this case you should respond citing the correct legislation and deal with it in the way outlined in the PBNI guidance. This is not a hybrid request.

A hybrid request is where a requester seeks access to information, which falls under both Freedom of Information and Data Protection i.e. containing both personal and non-personal information.

In such cases you should respond to the requester in writing, where possible providing the information you can make available under FOI and advise on the information covered by the DPA (bearing in mind that in most circumstances personal information can only be given to the data subject).

As always, if unsure how to deal with the request, please contact the Compliance Section of the Communications Unit for advice.

### **3.14 Parliamentary Questions<sup>27</sup> (PQs), Assembly Questions (AQs) & Ministerial part-inputs.**

Parliamentary Questions (PQs) and Assembly Questions (AQs) are tools that can be used by Members of Parliament and Members of the Legislative Assembly to seek information or press for action. They oblige Ministers to explain and defend the work, policy decisions and actions of their Departments. Assembly Questions are directed to the relevant Minister and the relevant Minister's Department is therefore responsible for co-ordinating the response. PBNI may be asked to contribute in part to a response coordinated by the Department of Justice. These are referred to as Ministerial part-inputs.

Such requests are not considered requests for information under the Freedom of Information Act, to do so would infringe parliamentary privilege. See ICO [guidance](#) on parliamentary privilege (Section 34 of the FOIA)

PBNI may also receive a written request under FOI, which mirrors the Parliamentary Question, Assembly Question or part-input request. These requests must be responded to by the date given by the requester.

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<sup>27</sup> <https://www.gov.uk/government/publications/drafting-answers-to-parliamentary-questions-guidance>

**If you receive a Parliamentary Question, Assembly Question or request for part-input, you must direct this to the Communications Department. The response must be approved by the relevant AD/Head (depends on context of question). A record of the PBNl responses is maintained in the Communications department.**



## 4 Confidentiality

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The confidentiality and security of information is dealt with in detail in PBNI's Records Management [Guidance and Procedures](#) and IT policies..

Section 41 of the FOI Act sets out an exemption on right of access if the information has been given to us in confidence and this is dealt with under exemptions (Section 5) The issue of commercial in confidence (Section 43 – commercial interests) is also dealt with in the exemptions section.

### 4.1 Accepting information in confidence from a third party.

We should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the function of the Board and it would not otherwise be provided. In addition, public authorities should not agree to hold information received from third parties 'in confidence' which is not confidential in nature. Acceptance of any confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.<sup>28</sup>

### 4.2 Protective markings

Protective markings are used to protect sensitive information. The principle is that information is marked according to the harm that would result from its unauthorised disclosure and it is then protected by the appropriate marking to avoid this harm. You need to ensure correct use of such markings. Under current Government security classifications [guidance](#) all public sector information unless otherwise stated can be marked 'official'. That marking is not obligatory, as it is implied unless the particular document carries a higher classification. Markings can also carry a descriptor if the content merits it – e.g. Official – sensitive. This would be required on some PBNI case management information e.g. Pre-Sentence reports. Please note that the marking RESTRICTED is no longer valid from 1 April 2014, when the Government classifications change. For detail on the classifications of protective markings and

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<sup>28</sup> Lord Chancellor's Code of Practice on the discharge of public authorities functions under Part1 of the Freedom of Information Act 2000. Para 47

their application please see PBNI's current Protective marking guidance on the [intranet](#).

Under Freedom of Information use of protective markings does not automatically make information exempt. A protective marking may indicate that an exemption is likely to apply and should at least be considered, but it does not mean that the information is necessarily exempt from disclosure under the FOI Act.

When dealing with a request for information from a document that has a protective marking, it is always important to consider that the protective marking may no longer be current. The protective marking also reflects the highest classification of the information contained in a document; only a small amount of the content may warrant that classification. Where necessary, reference should be made to the originator of the document in order to determine fully and accurately the present sensitivity of the information requested. This should not be confused with the Section 41 exemption relating to information given 'in confidence' (see 5.1.3).

#### **4.3 Copyright and Database rights**

Information held by PBNI which may be said to be copyrighted to PBNI does not automatically prevent its disclosure under FOIA. Copyright however remains after disclosure so the person who receives the information is still obliged by law to respect the rights of the copyright holder. If they do not, the copyright holder can seek damages or an injunction in the same way as they could for infringement of copyright.<sup>29</sup>

PBNI has indicated on its website that any information held there is the copyright of PBNI but it may be re-used free of charge (with a number of conditions). If, any information not published, is copyrighted to PBNI or to a third party, and is released following an FOI request, PBNI should advise the requester that the information is subject to copyright.

It should be noted that databases also attract copyright protection. Disclosing information under FOIA will also not infringe database rights. The ICO [guidance](#) on intellectual property rights and FOI (including copyright) provides further detail.

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<sup>29</sup> Intellectual property rights and disclosures under the Freedom of Information Act (ICO Guidance 2012)

## **4.4 E-mails**

Both Freedom of Information and Data Protection impact on how PBNI manages all records both manual and electronic, including e-mails. The Freedom of Information Act provides a right of access to all information (except personal) both manual and electronic including e-mails. We need to be able to locate, monitor and retrieve information quickly so you should organise your mail-boxes to make information more easily identified and retrievable.

An email that constitutes a record should be saved in the relevant folder created relating to the information contained.

It is important to note that information (including emails) which you delete may still be subject to FOIA. Information that continues to be held in 'recycle' bins or 'back-up' systems may have to be released following a request unless the electronic record is completely erased from the computer system.

## **4.5 FOI link to Records management**

The Freedom of Information Act, in addition to creating a right of access by the public to official information, also amended the Public Records (Northern Ireland) Act 1923. It places a duty on public authorities to maintain their records in line with the provisions the Lord Chancellors [Code of Practice](#) under Section 46 of the Freedom of Information Act. Its purpose is to provide good practice guidance to enable public authorities to comply more easily with their FOI obligations. It is important that PBNI is aware of what records it holds and how records are held in order that it can confirm, following a request, that a) it holds the information requested and b) it can be retrieved quickly in order to meet the statutory deadline for dealing with requests. Poor records management itself is not a breach of the FOIA however failure to comply with a request because of poor record keeping e.g. if PBNI cannot locate the information, or cannot retrieve it in a timely manner may lead to a breach of the Act.

## 5. Exemptions

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The information in this section is a brief overview of exemptions and how some may apply to PBNI. If necessary further clarification and/or advice should always be sought from the Compliance Section of the Communications Unit.

Exemptions exist to protect information that should not be disclosed, for example, disclosing it would be harmful to another person or it would be against the public interest<sup>30</sup>. Exemptions apply to information so it is possible that some parts of a document for example, may be exempt from disclosure but other parts may be disclosed. It is also possible that different exemptions may apply to different parts of a document. PBNI does not have to apply an exemption, however PBNI must ensure if releasing information, that it is not contrary to any other laws, for example, the General Data Protection Regulations (GDPR) and the Data Protection Act in respect of personal information or the Human Rights Act.

There are 23 exemptions contained in the Act (Sections 21-44). Please refer to the Act itself or to the Information Commissioner's website for a more definitive guide to the exemptions [www.ico.gov.uk](http://www.ico.gov.uk).

There are two categories of exemptions under the FOI Act, absolute and qualified. A **qualified** exemption means that in considering whether to release information you have a duty to apply a public interest test (PIT). For a list of qualified exemptions and clarification on applying the public interest test refer to 5.3. An **absolute** exemption means that there is no duty on the public authority to consider the public interest test. If an absolute exemption applies the information requested need not be disclosed and, in many cases, the public authority is not obliged to comply with the duty to confirm or deny whether it holds the requested information.

**You should note that the presumption is on the release of information. A decision to withhold information can only be taken once the correct exemption is applied. The decision not to release can only be made in conjunction with the relevant AD/HEAD and the Compliance Section of the Communications Unit.**

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<sup>30</sup> The Guide to the Freedom of Information Act 2000 (ICO 2012)

## **5.1 Absolute Exemptions**

**There are 8 absolute exemptions:**

Section 21 information accessible to the requester by other means (except in relation to historical records held in the Public Records Office)

Section 23 information supplied by or relating to bodies dealing with the security services (except in relation to historical records held in the Public Records Office)

Section 32 information relating to court records

Section 34 Parliamentary Privilege

Section 36 prejudice to the effective conduct of public affairs, in so far as it relates to information held by the House of Commons or the House of Lords

Section 40 personal information (this is covered by DPA)

Section 41 information provided in confidence

Section 44 information prohibited from disclosure

There are several exemptions that PBNI could rely on for example Sections 21, 40 and 41.

### **5.1.1 Section 21: Information reasonably accessible by other means**

If information is readily available by other means, for example, through PBNI's Publication Scheme, then we can simply refer the requester to it. The FOI Act requires all public authorities to adopt and maintain a publication scheme setting out the classes of information, which the public authority publishes or intends to publish. The more we include in our Publication Scheme the less likely we are to be asked to provide the information direct. (Para 1.1)

### **5.1.2 Section 40: Personal Data**

If a request is made for information, which is deemed to be "personal data" Data Protection Principles will apply.

Personal data means,

"Personal data" means any information relating to an identified or identifiable living individual. (DPA 2018, s3 (2))

“Identifiable living individual” means a living individual who can be identified, directly or indirectly, in particular by reference to— (a) an identifier such as a name, an identification number, location data or an online identifier, or (b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual. (DPA 2018, s3 (3))

Section 40 FOIA sets out the exemption relating to personal data.

The first question to ask is who is seeking the disclosure of the data?

Is the information:

1. personal data of the requester, or
2. personal data of another person?

Section 40 (1) applies

- if the information is the personal data of the requester, it is exempt from the FOI Act and has to be dealt with under the Data Protection Act as a subject access request. (See PBNl Data Protection [Guidance and procedures](#)).

Section 40 (2) applies

- if the information is the personal data of someone else (a third party), it may be exempt from the FOI Act in the following circumstances:
  - (i) If disclosing it would breach any of the data protection principles;
  - (ii) In particular if the disclosure would not be lawful, fair and transparent (first data protection principle),
  - (iii) If the person who is the subject of the data would not be entitled to access to it under the DPA right of access regime because one of the DPA subject access exemptions would apply. (Section 40 (3) (b) FOIA 2000)

### **5.1.3 Section 41: Information provided in confidence**

Although this looks like a legitimate exemption for PBNl to use, it is not one that it can rely on totally as it relates to the action of a breach of confidence which is



governed by separate case law. It does not refer to protective markings e.g. confidential or restricted.

For the exemption to apply the information

- (i) must have been obtained by the public authority from another person – it does not cover information which PBNl has generated and
- (ii) disclosure of the information would give rise to an actionable breach of confidence, in other words, if the public authority disclosed the information the provider or a third party could take the authority to court.

A duty of confidence arises when one person is provided with information by another in the expectation that the information will only be used or disclosed in accordance with the wishes of the person who has disclosed it to you. For the purposes of FOI, the key issue is likely to be the disclosure rather than the use of the information. In trying to determine whether an obligation of confidence has arisen in a particular case, it is likely to be necessary to think first about the circumstances under which information was provided to the authority and second about the nature of that information. However, if the person to whom the obligation of confidentiality is owed consents, disclosure will not lead to an actionable breach of confidence.

## **5.2 Qualified Exemptions**

There are 16 qualified exemptions:

Section 22	information intended for future publication
Section 24	national security
Section 26	defence
Section 27	international relations
Section 28	relations within the United Kingdom
Section 29	the economy
Section 30	investigations and proceedings conducted by a public authority
Section 31	law enforcement
Section 33	audit functions
Section 35	formulation of government policy
Section 36	prejudice to the effective conduit of public affairs, except for information relating to the House of Commons

	or the House of Lords
Section 37	communications with her Majesty/Honours
Section 38	health and safety
Section 39	environmental information
Section 42	legal professional privilege and
Section 43	commercial interests

Of the 16 qualified exemptions, the 5 that are most relevant to Probation are:

### **5.2.1 Section 22: Information intended to be made available in the future**

If PBNi intends to publish the information, it is not obliged to provide the information at the time of the request. It does not need to have identified a publication date, however in the event of a request, however, PBNi would be expected to demonstrate why future publication would be more reasonable than releasing immediately. This is where you would apply a public interest test. For example: to delay providing the information because it would cause embarrassment or show up administrative inefficiency would not be a proper application of the exemption.

### **5.2.2 Section 31: Law Enforcement**

Section 31 would only apply to information held that does not fall into the categories in Section 30. Section 30 creates an exemption for information which is or has been held for the purposes of a criminal investigation, or for criminal proceedings conducted by a public authority or which was obtained or recorded for various investigative functions and relates to the obtaining of information from confidential sources.<sup>31</sup>

Under Section 31 Information is exempt from disclosure if it would prejudice various considerations relating to law and order. For example:

- The prevention and detection of crime
- The apprehension or prosecution of offenders
- The administration of justice or
- The maintenance of security and good order in prisons or other institutions where persons are lawfully detained.

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<sup>31</sup> ICO guidance on the exemption for criminal investigations, criminal proceedings and confidential sources (August 2009)

### **5.2.3 Section 36: Prejudice to the effective conduct of public affairs.**

(Note: this is also an absolute exemption but only if it relates to information held by the House of Commons or House of Lords).

Section 36 (5) (1) relates to the conduct of public affairs. Information is exempt under Section 36 if its disclosure, in the reasonable opinion of a “qualified person”,

a) would or would likely to prejudice

- (i) the ‘ maintenance of the convention of the collective responsibility of Ministers of the Crown or
- (ii) the work of the executive committee of the Northern Ireland Assembly or
- (iii) the work of the executive committee of the National Assembly of Wales or

b) would or would be likely to inhibit

- (i) the free and frank provision of advice or
- (ii) the free and frank exchange of views for the purposes of deliberation or

c) would otherwise prejudice or would be likely otherwise to prejudice the effective conduct of public affairs

For purposes of Section 36 the Director of PBNI is the “qualified person” in respect of relevant information held by PBNI to which this exemption might apply<sup>32</sup>.

### **5.2.4 Section 38: Health and Safety**

Information is exempt from disclosure where it would endanger the physical / mental health or safety of any person.

For example, if a media organisation were to seek information concerning the identity or whereabouts of a convicted offender, that information would be exempt under health and safety and under the absolute exemption of personal information s.40. as, if disclosed, this would clearly be a breach of Data Protection legislation.

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<sup>32</sup> Freedom of Information Act 2000 Section 36 (5) (L)

### **5.2.5 Section 43: Commercial Interests**

This is information which constitutes a trade secret, or information which if disclosed would harm or prejudice the commercial interest of any person (including the Public Authority).

Please note that real and significant “harm” has to be demonstrated in order to claim this exemption and the public interest test will apply (para 5.3). The fact that a document is marked “Commercial in Confidence” is not sufficient.

PBNI staff must inform our contractors and our suppliers that under the Freedom of Information Act we may be obliged to disclose information to the public forming part of their tender or contract to anyone who makes a request. It is also possible that PBNI may publish some of the information which contractors give us on its website (in accordance with its model publication scheme). Before releasing information PBNI should consult with the relevant contractor/supplier and take into account their comments/objectives. Information should only be released having recourse to any exemptions which might still apply.

PBNI, as a public authority should be careful of accepting confidentiality clauses as may be proposed by contractors. Where in exceptional cases it is necessary to include non-disclosure provisions in a contract, an option could be to agree with the contractor a schedule to the contract, which clearly identifies information, which should not be disclosed.

It is important that both the public authority and the contractor are aware of the legal limits placed on the enforceability of such confidentiality clauses and the importance of making sure that the public can gain access to a wide range of information about contracts and their delivery<sup>33</sup>.

Authorities would have to take care when drawing up any schedule as its contents could still be overridden by the Act.

### **5.3 The Public Interest Test (PIT)**

Before PBNI can apply the public interest test it must establish that the information falls within the scope of a qualified exemption. The relevant AD/HEAD in consultation

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<sup>33</sup> Under common law a breach of a duty of confidentiality is not enforceable in the courts where an overriding public interest justifies the breach. Cabinet office FOI Code of Practice 2018

with the Compliance Section of the Communications Unit should consider the information requested and whether a qualified exemption applies. Once you have confirmed that a qualified exemption applies, PBNI must apply the public interest test as outlined below. The emphasis is on balance – does the public interest in maintaining the exemption outweigh the public interest in disclosing the information. It must be remembered that the emphasis for public authorities is on openness and transparency so the presumption that PBNI will grant access to information must be considered before any exemption is applied. If you need to apply the public interest test it is permissible to extend the 20 working days time limit for responding, and you should inform the requester about this and indicate how much longer time is required (Appendix 1 **FOI SRL 13/19**).

If you are claiming extra time to consider the public interest test, you will not be able to give a final refusal notice at this stage, but you should explain which exemptions you are relying on. If your final decision is to withhold all or part of the information, you will need to send a second refusal notice to explain your conclusion on the public interest test.<sup>34</sup> (See Section 7 of this document)

#### Applying the public interest test

1. The test must be applied on a case by case basis.
2. Consider the duty to confirm or deny; is it in the public interest to confirm or deny that PBNI holds the information?
3. Determine whether if the interests of the public are best served by withholding or disclosing the information.
4. On the basis of the public interest test make an informed decision whether or not to release the information. In many cases, this is likely to prove a complex exercise and accordingly additional time is allowed under the Act to deal with this type of situation. In place of the usual 20 working days, PBNI will be allowed “such time as is reasonable under the circumstances”.<sup>35</sup>

The FOIA 2000 does not define “in the public interest”. **However, it is well established that public interest is not the same as what might interest the**

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<sup>34</sup> The guide to the Freedom of Information Act (ICO Guidance 2012)

<sup>35</sup> FOIA 2000 S10.3

**public, i.e. information** ‘which gratifies curiosity or merely provides entertainment or amusement’.<sup>36</sup>

Information cannot be withheld on the grounds that it might:

- be potentially embarrassing for staff / PBNI
- be a public relations disaster
- be open to misinterpretation
- reveal incompetence or corruption within the organisation.

Note: Certain exemptions do not apply to historical records i.e. records (from the end of 2013) that are over 29 years old. When deciding if an exemption applies we will need to consider whether the information is already in the public domain.

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<sup>36</sup> Quote from Pg 19 Balancing the Public Interest: Applying the public interest test to the exemptions in the UK FOIA 2000, Meredith Cook August 2003 published by The Constitution Unit



## 6. Refusal of a Request for Information

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Part 2 of the FOI legislation sets out the circumstances under which a “public authority” may refuse a request for information.

PBNI may refuse to comply with a request,

- ❑ if it has sought further information from the requester in order to locate the information and the requester has failed to supply it<sup>37</sup> or
- ❑ where the request is repeated or vexatious<sup>38</sup>

Repeated is defined by the Act as repeated identical requests for information made by the same requester within an unreasonably short period of time. We do not need to comply with a repeated request from the same person (i.e. an identical or substantially similar request) unless a reasonable period of time has elapsed between compliance with the first request and receipt of the second.

- ❑ A “vexatious” request is determined by the information requested, **not** the person making the request. Each request must be considered on merit but a request would fall under this category if its aim was solely to disrupt the work of the organisation and/or harass individuals in it – not a genuine attempt to access information. The term does not cover requests, which are simply difficult or time consuming. A request may be deemed vexatious where it is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. We should consider for example; the burden it places on PBNI as a public authority and its staff; the likely motives for the request; the potential value or purpose of the request; any harassment or distress to staff.
- ❑ where we have previously complied with an identical or substantially similar request from the same requester and a reasonable time has not elapsed between compliance with the previous request and the making of the current request<sup>39</sup> The Act does not define ‘reasonable’. PBNI responses will indicate that any future request made for the same information will be considered in

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<sup>37</sup> (Section 1 (3) FOI Act 2000)

<sup>38</sup> (Section 14 (1) FOI Act 2000)

<sup>39</sup> (Section 14 (2) FOI Act 2000)

light of what the individual has already received and in accordance with data protection law.

- ❑ if an appropriate exemption applies<sup>40</sup>. (See section 5)
- ❑ Of if deciding whether we hold the information would mean we exceed the cost limit for e.g. if it would require an extension search in a number of locations including off site storage. In this case we can still confirm we hold the information even if we cannot provide it because of the cost. (see 3.5)

**A decision to withhold information from a requester in these circumstances can only be made in consultation with your relevant AD/HEAD and Compliance Section of the Communications Unit.**

A decision will be taken considering the individual merits of the case. The terms of the exemptions will be adhered to when considering whether to withhold information.

Where the relevant AD/HEAD and Compliance Section of the Communications Unit are unable to reach a decision the case will be referred to the Director of Operations or the Director of Rehabilitation who has the authority to convene a panel to assist in the decision-making process.

If PBNI is relying on an exemption to withhold the information (all or in part), we must issue a refusal notice which should be done promptly or at least within the 20 working days of receiving the request. In the refusal notice, the requester should be informed, and the reason given, when a decision to withhold information is made on the basis of an exemption. If we have considered the Public Interest Test we need to provide information to the requester which explains why PBNI has decided that the public interest supports withholding the information. (Appendix 1 **FOI SRLs 09/19** and **10/19** in the event that we decide to refuse access to some of the information or all of the information using a qualified exemption). It should give details of PBNI's internal complaints procedure and explain that the requester has a right to complaint to the Information Commissioner's Office (ICO) and provide relevant contact details. We need to be careful about giving lengthy explanations as to why we are refusing the request, as we might be in danger of actually inadvertently disclosing the exempt information<sup>41</sup>

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<sup>40</sup> (Sections 17 (1) and 17 (3) of the FOI Act 2000)

<sup>41</sup> FOIA 2000 S17



## 6.1 Duty to Confirm or Deny (Part 2)

Where an exemption applies and we have decided to refuse a request, we should then consider whether it is appropriate to confirm or deny that we have the information.

### (a) Confirm

It may often be the case that we will withhold information because it is exempt but we can still confirm to the requester that we hold it e.g. Where we are awaiting final draft of a report – we could rely on exemption 22 (information intended for future publication). In this case we are not going to disclose the information but there would be no harm in confirming that it exists.

### (b) Neither confirm or deny

In other cases, even if we hold the information but we have applied an appropriate exemption, we have the right neither to confirm nor deny that we hold it. Such cases would be exceptional and would only relate to information of a highly sensitive nature. Such a situation is more likely to be applicable to other Criminal Justice Agencies e.g. the police. It would not be in the public interest to confirm or deny for example that a property was under surveillance because releasing that fact alone could detrimentally affect the purpose of the operation and therefore the duty to confirm or deny is outweighed by other considerations.

If we do refuse either to disclose the requested information or confirm or deny that that information is held, we must issue a refusal notice stating the fact of the refusal, the exemption used and why the exemption applies. **The decision to apply an exemption can only be taken by the Compliance Section of the Communications Unit, or a RELEVANT AD/HEAD in conjunction with the Compliance Section of the Communications Unit.**



## 7. Disclosure Log

PBNI in accordance with ICO guidance, will publish responses to Freedom of Information requests (and Environmental Information regulations) which it deems to be of wider public interest on its website.

A decision to publish will only be taken:

- ❑ if the information does not contain any personal data or identifying details of the original requester or if personal information can be redacted;
- ❑ if the records to be published do not fall within an FOI exemption;
- ❑ if there is no part of the material subject to an appeal to the Information Commissioner or to the Information Tribunal (or courts);
- ❑ or if the information originally released was disclosed under legislation other than FOI (e.g. DPA)

PBNI will inform the requester when responding to their request that it may decide to publish responses under its Disclosure Log on its website. (Appendix 1 **FOI SRL04/19**)



## 8. Complaints<sup>42</sup>

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There is no statutory obligation under the FOIA for a public authority to provide a complaints process, however in accordance with Section 45 of the FOIA (The Lord Chancellor's code of practice on the discharge of public authorities functions under Part 1 of the FOIA) it is considered good practice to have a procedure in place for dealing with disputes about its handling of requests for information.

If the requester is dissatisfied with the handling of the request e.g. if they believe we did *not* answer their request properly, or that the response has taken too long, (longer than the 20 working days allowed) or that they have been charged too much (if a fee is applied) they are entitled to make a complaint. If the matter cannot be dealt with satisfactorily on an informal basis, you should refer them to the Board's Complaints Policy and Procedure.

The Complaints Procedure, together with the requester's rights under FOIA, is explained in our information leaflet, 'Your right to know' which should always be visible in the public/reception areas of all PBNI's offices. Any written reply from the requester expressing dissatisfaction about our handling of a request, should be treated as a complaint. The procedures laid down in PBNI's Complaints Policy and outlined in PBNI's complaints leaflet should be followed. The Board's Complaints policy and [procedures](http://www.pbni.org.uk) are available on our website [www.pbni.org.uk](http://www.pbni.org.uk)

If the requester remains dissatisfied with the internal investigation, they have recourse to the Information Commissioner.

Once the internal complaints procedure has been exhausted the requester can make a complaint to the Information Commissioner at the following address:-

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

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<sup>42</sup> Para 31-40 Sec.45 Draft Code of Practice

If the Information Commissioner's Office makes a ruling against PBNI the organisation will be obliged to release the information. PBNI can also potentially be held in contempt of court.

PBNI in accordance with ICO advice, informs the requester of the procedure if they are not satisfied with how the request has been handled and this is reflected in the relevant FOI sample response letters (**FOI SRLs**) in **Appendix 1**.



FREEDOM OF INFORMATION  
SAMPLE RESPONSE LETTERS  
(FOI SRL)

FOR NON PERSONAL INFORMATION REQUESTS UNDER FOIA

**(not to be used for data protection requests or requests from third parties  
seeking personal information  
see separate DPA guidance on intranet)**



- ✓ **These sample response letters should be read in conjunction with the above FOI guidance and procedures.**
- ✓ Always use PBNi headed paper (make sure headed paper is current).
- ✓ **Always include the FOI logo (as used throughout this guidance) in any FOI response. (see 3.1)**
- ✓ Remove the **title** when using the sample letters e.g. **FOI SRL 01/19 We do not hold the information.** This is just to assist staff.
- ✓ **These are sample letters - adapt and amend wording to reflect your own style and the context, however retain formal wording where it relates specifically to the legislation.**
- ✓ Delete the parts of the sample letters which do not apply to the specific request –alternative narrative depending on context is included so don't just use **verbatim** with every request. Consider the context.
- ✓ **Ensure that all brackets, additional text, notes, asides and page numbers are removed before sending.**
- ✓ Ensure that a signed copy of each letter you send to the requester is kept as a record (these should be scanned and saved in the appropriate folder you have opened to deal with the request).
- ✓ **Adjust the margins and font as necessary when responding – PCs are currently defaulted to:**
  - a) **font Calibri 11**
  - b) **margins 2.54 cms – top and bottom/left and right.**
  - c) **spacing as 8 points after (and sometimes 10).**

Calibri is not recommended from a disability view point.

Fonts such as Ariel, Tahoma, Verdana, are better. When using these fonts, 11 font size is acceptable but if you must use Calibri you should increase the font size to **12**.

The margin default settings are also very generous. If you wish to fit responses on to one page, it is better to reduce at least the top and bottom margins to 2cms or even 1.5 cms.

Similarly, spacing between lines should ideally be adjusted to 0.

## CONTENTS

FOI SRL 01/19	We do not hold the information
FOI SRL 02/19	Clarification
FOI SRL 03/19	Acknowledgement
FOI SRL 04/19	Provides requester with information requested
FOI SRL 05/19	Letter to requester if three months have passed since further contact made re FOI request
FOI SRL 06/19	Fees Notice
FOI SRL 07/19	Fees Received
FOI SRL 08/19	Fees Refunded
FOI SRL 09/19	Informs requester some information sought is being withheld, some provided
FOI SRL 10/19	Informs requester all information sought is being withheld  Annex to SLs FOI 09/19 and 10/19
FOI SRL 11/19	Informs requester information held by a different public authority
FOI SRL 12/19	Consultation with third parties (FOI)
FOI SRL 13/19	Extension of time – public interest test

Name of Requester  
Address of Requester

Our Reference:  
*[From your team's request log]*

Your Reference: *(if applicable) If none provided delete.*

Date:

Dear *[Name of Requester]*

Thank you for your letter of *[date]*. We have searched our records and taken all reasonable steps to locate the information requested, but unfortunately, we have been unable to locate the information concerned. So as far as we are able to determine, the PBNi does not hold the information requested.

I am sorry that I cannot be of more assistance in this matter.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours *[Sincerely / Faithfully]*

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully.*

*[Name, address, email address and telephone no of issuing officer]*

*Letters should always be on PBNi Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*



Name of Requester  
Address of Requester  
*request log]*

Our Reference:  
*[From your team's*

Your Reference (*if applicable*)  
*If none provided delete*

Date:

Dear *[Name of Requester]*

I am writing regarding your request for information, which I received on *[date]*. In that request, you asked us for *[outline of request]*

*[As discussed by email/telephone]* I am unable to proceed with your request without clarification about *xxx [see section 2.3 of the FOI guidance]*. In order to deal with your request, I would like to know *xx [specific question (s)]*.

Please note that if I do not receive a reply from you by *(date)* which is three months from the date of this letter, then I will consider your request to be closed.

If you wish to discuss any of the above, please contact me. Please remember to quote the reference number above in any future communications.

Yours *[Sincerely / Faithfully]*

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully.*

*[Name, address, email address and telephone no of issuing officer]*

*Letters should always be on PBNi Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*

Name of Requester  
Address of Requester  
*request log]*

Our Reference:  
*[From your team's*

Your Reference (*if applicable*)  
*If none provided delete*

Date:

Dear *[Name of Requester]*

Thank you for your request for information about xx *[subject]*. Your request was received on *[date]* and I am dealing with it under the terms of the Freedom of Information Act 2000.

***Options- delete as appropriate***

*[I can confirm that PBNi does hold this information.]*

***or***

*[We are at present trying to ascertain whether we hold the information you have requested.]*

In some circumstances a fee may be payable and if that is the case, I will let you know. A fees notice will be issued to you, and you will be required to pay before we proceed with your request.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours [Sincerely / Faithfully]

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

[Name, address/email address and telephone no of issuing officer]

*Letters should always be on PBNi Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*

Name of Requester  
Address of Requester

Our Reference:  
*[From your team's request log]*

Your Reference: (*if applicable*)  
*If none provided delete*

Date:

Dear *[Name of Requester]*

I am writing to confirm that PBNI has now completed its search for the information, which you requested on *[date]*.

***[Options - delete as appropriate]***

*[A copy of the information is enclosed.]*

**or**

*[A copy of the information is enclosed in the format you requested].*

**or**

*[As you have asked to view the records in which the information is contained, please telephone me to make the necessary arrangements.]*

Please note PBNI publishes responses to requests for information on its website where we believe there may be a wider public interest. If requests are published, they are anonymised i.e. details of the requester are not published.

If you are unhappy with the way PBNI has handled your request, you may ask for an internal review using our complaints procedure. A copy of our complaints procedure is available on our website [www.pbni.org.uk](http://www.pbni.org.uk). I have attached a copy of our complaints leaflet for your information. (*remember to enclose*)

If you are not content with the outcome of the internal review, you have the right 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

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours [Sincerely / Faithfully]

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

[Name, address, email address and telephone no of issuing officer]

*Letters should always be on PBNl Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*

Enc [Encs] – *if more than one item enclosed*

**FOI SRL 05/19  
passed**

**Letter to requester if three months have  
since further contact made re FOI request**

Name of Requester  
Address of Requester

Our Reference  
*[From your team's request log]*

Your Reference *[if applicable]*  
*If none provided delete*

Date:

Dear *[Name of Requester]*

I am writing regarding your request for information, which I received on *[date]*.

Further to my acknowledgment of *[insert date]*  
**Or**

Further to my letter of *[insert date]* seeking clarification, I have not heard anything from you.

Given that we have not been able to contact you in the last three months we are now taking steps to close your request. If you do not make contact with us by (*insert appropriate date – e.g. one week from date of this letter*) we will consider your request to be closed.

If you wish to discuss any of the above, or if you wish to make a new request, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the way PBNi has handled your request, you may ask for an internal review using our complaints procedure. A copy of our complaints procedure is available on our website [www.pbni.org.uk](http://www.pbni.org.uk). I have attached a copy of our complaints leaflet for your information. *[remember to enclose]*

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:  
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Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire  
SK9 5AF

Yours [Sincerely / Faithfully]

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

[Name, address, email address and telephone no of issuing officer]

*Letters should always be on PBNl Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*

Name of Requester  
Address of Requester  
*request log*

Our Reference:  
*[From your team's*

Your Reference *[If applicable]*  
*If none provided delete*

Date:

Dear *[Name of Requester]*

I am writing regarding your request for information which I received on *[date]*.

Further to my acknowledgement of *[insert date]*, I am writing in accordance with Section 9 of the Freedom of Information Act, to confirm that in this case, a fee is payable to us before I can provide you with the information. The estimated cost of processing your request is £*[xx]*. A schedule of charges is attached to this letter. An explanation of how this estimate was calculated is enclosed. *[Attach a costing list for individual case.]*

Payment should be made by xxx (*confirm current process with PBNI's finance department and include here*). If the actual cost of complying with the request is less than the estimate the balance will be returned to you. Please note that the time limit for responding to your request is suspended until we receive payment.

If we do not receive your payment by *[date]*, which is three months from the date of this letter, we will consider your request closed.

It may be possible to provide you with some of the information you requested for a lesser fee than the one quoted above, if you are prepared to limit the scope of your request. If you would like to do this or have any queries regarding this letter, please contact me using the contact information provided in this notice.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the way PBNI has handled your request, you may ask for an internal review using our complaints procedure. A copy of our complaints procedure is available on our website [www.pbni.org.uk](http://www.pbni.org.uk). I have attached a copy of our complaints leaflet for your information.

If you are not content with the outcome of the internal review, you have the right 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 / Faithfully]

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

[Name, address, email address and telephone no of issuing officer]

*Letters should always be on PBNl Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*



Name of Requester  
Address of Requester

Our Reference:  
*[From your team's request log]*

Your Reference: *[if applicable]*  
*If none provided delete*

Date:

Dear *[Name of Requester]*

I am writing to confirm that I received £xx in respect of your fee payment on *[date]*. The search and retrieval work to be carried out will now begin and you can expect to receive my response by *[date]*. If you do not receive my response by then, please contact me and I will investigate the matter.

*[see section 3.5 of this guidance ref FEES specifically page 18 re calculation]*

If the actual cost of complying with the request is less than the estimate the balance will be returned to you.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours [Sincerely / Faithfully]

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

[Name, address, email address and telephone no of issuing officer]

*Letters should always be on PBNi Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*

Name of Requester  
Address of Requester

Our Reference:  
*[From your team's request log]*

Your Reference: *[if applicable]*  
*If none provided delete '*

Date:

Dear *[Name of Requester]*

The actual cost of complying with the request is less than we had estimated.  
Please find attached the balance, which we have returned to you.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours [Sincerely / Faithfully]

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

[Name, address, email address and telephone no of issuing officer]

*Letters should always be on PBNi Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*

Enc. *[Encs. If more than one thing enclosed]*

Name of Requester  
Address of Requester

Our Reference:  
*[From your team's request log]*

Your Reference:*[if applicable]*  
*If none provided delete*

Date:

Dear *[Name of Requester]*

I am writing to confirm that PBNI has now completed its search for the information you requested on x *[date]*. I wish to advise you, in accordance with Section 17 of the Freedom of Information Act, that some of the information cannot be disclosed for the reasons given in the annex attached to this letter. *[see annex for FOI SRL 10/19]*

**Options- delete as appropriate**

*[A copy of the information which can be disclosed is enclosed.]*

**or**

*[A copy of the information which can be disclosed is enclosed in the format you requested].*

**or**

*[As you have asked to view the records in which the information is contained, please telephone me to make the necessary arrangements. Access to records will, of course, be limited to those containing the information which can be disclosed.]*

If you are unhappy with the way PBNI has handled your request, you may ask for an internal review using our complaints procedure. A copy of our complaints procedure is available on our website [www.pbni.org.uk](http://www.pbni.org.uk). I have attached a copy of our complaints leaflet for your information.

If you are not content with the outcome of the internal review, you have the right 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

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours [Sincerely / Faithfully]

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

[Name, address, email address and telephone no of issuing officer]

*Letters should always be on PBNI Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*

**FOI SRL 10/19 Informs requester all information sought is being withheld**

*[You must liaise with Compliance before issuing]*

Name of Requester  
Address of Requester  
*request log]*

Our Reference:  
*[From your team's*

Your Reference: *[if applicable]*  
*If none provided delete*

Date:

Dear *[Name of Requester]*

Thank you for your letter of *[date]*. I am writing to advise you in accordance with Section 17 of the Freedom of Information Act that the PBNI has decided not to disclose the information.

The information you requested is being withheld as it falls under the exemption in section xx *[insert exemption]* of the Freedom of Information Act 2000.

***[Only use the following sentence for FOI requests which are not absolute exemptions see section 5.1 in this guidance document]:-***

In applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosing the information. The attached annex to this letter (*or it can be included in the body of the letter – depends on context*) sets out the exemption in full, as well as the factors the PBNI considered when deciding where the public interest lay. It also includes a schedule of the types of documents analysed by PBNI when considering your request. (*this is applicable if the information sought is contained in a number of documents held*).

If you are unhappy with the way PBNI has handled your request, you may ask for an internal review using our complaints procedure. A copy of our complaints procedure is available on our website [www.pbni.org.uk](http://www.pbni.org.uk). I have attached a copy of our complaints leaflet for your information. *[remember to enclose]*

If you are not content with the outcome of the internal review, you have the right 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

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours [Sincerely / Faithfully]

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

[Name, address, email address and telephone no of issuing officer]

*Letters should always be on PBNi Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*

## Annex to FOI SRLs 09/19 and 10/19

Exemption in full	
Factors for disclosure  *  *  *  *	Factors for withholding  *  *  *  *
Reasons why public interest favours withholding information	
Type of Document	Applicable Exemption

Name of Requester  
Address of Requester

Our Reference:  
*[From your team's request log]*

Your Reference: *[if applicable]*  
*If none provided delete '*

Date:

Dear *[Name of Requester]*

I refer to your request under the FOIA legislation for information about *[subject]*.

I am writing to advise you that PBNi does not hold this information. *[Name of Public Authority]* may hold the information you are seeking. If you have not already done so, you may wish to write to:

*[Name of Public Authority]*  
*[Address, Email, Telephone Number]*

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours *[Sincerely / Faithfully]*

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

*[Name, address, email address and telephone no of issuing officer]*

*Letters should always be on PBNi Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*

## FOI SRL 12/19 Consultation with third parties (Freedom of Information)

*(this may be done by phone depending on the context and nature and volume of information requested however a record of your conversation and outcome must be documented for filing).*

Name of Requester  
Address of Requester

Our Reference:  
*(from your team's request log)*

Date:

Dear *[Name of Requester]*

I am writing to you in connection with a request for information received by the Probation Board for Northern Ireland (PBNI). This request was made under the *Freedom of Information Act 2000*. Part of the information requested *[was supplied by/relates to you]* and a *[copy of this/description of the information]* is enclosed. *(Depending on the nature of the information and context of the original request, you may not have to enclose a copy but can assume that the recipient has an original- just ensure you provide relevant detail in your letter/conversation – e.g title, of document, author, date).*

It is PBNI's policy to disclose the information unless a relevant exemption can be applied under the FOI Act.

If you consider that the information supplied by you should not be disclosed, please let me have written details of how, in your view, disclosure of the information would be harmful. The final decision on whether the information should be withheld rests with PBNI. However, we will take into account your views when making this decision. We will write to you letting you know if the information will be released.

Your response must reach me by *[date]* to enable the PBNI to take your views into account in deciding whether to disclose the information. If you do not make any representation by that date, the PBNI will assume you have no objections to the information being disclosed.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours *[Sincerely / Faithfully]*

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

*[Name, address, email address and telephone no of issuing officer]*

*Letters should always be on PBNl Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*



Name of Requester  
Address of Requester

Our Reference:  
*[From your team's request log]*

Your Reference: *[if applicable]*  
*If none provided delete*

Date:

Dear *[Name of Requester]*

I am writing to advise you that the time limit for responding to your request for information which PBNi received on *[date]* needs to be extended.

It is occasionally necessary to extend the 20 working day time limit for issuing a response. In the case of your request, I must extend the time limit by approximately *[xx]* days because the information requested must be considered under one of the exemptions to which the public interest test applies. This extra time is needed in order to make a determination as to the public interest.

I hope to let you have a response by *xx[date]*. If you do not receive my response or further information by then, please contact me and I will investigate the matter.

*(check notes in guidance ref timescale for extension- no more than 20 more days?)*

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the way PBNi has handled your request, you may ask for an internal review using our complaints procedure. A copy of our complaints procedure is available on our website [www.pbni.org.uk](http://www.pbni.org.uk). I have attached a copy of our complaints leaflet for your information. *[remember to enclose]*

If you are not content with the outcome of the internal review, you have the right 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 / Faithfully]*

*If you address letters to a named individual Dear Joe, Dear Mr Bloggs, you should use Yours Sincerely, if you say Dear Sir, you should use Yours Faithfully*

*[Name, address, email address and telephone no of issuing officer]*

*Letters should always be on PBNi Headed paper so contact details will already be listed, but if you need requester to know your direct email and telephone number please include here. Otherwise just ensure your name and title is always included*



### BASIC REQUEST LOG SAMPLE

Location: Compliance

1. Request Number	2. Name of Requester	3. Address	4. Type of Request (FOI/DPA/EIR)	5. Date Received	6. Date of Acknowledgement	7. Date Clarification Requested	8. Date Clarification Received
023.01.18	Joe Bloggs	<a href="mailto:joebloggs@hotmail.com">joebloggs@hotmail.com</a>	FOI	08/01/2018	10/1/2018	10/01/2018	10/01/18
023.02.18	Jane Bloggs	111 Happy Street, Anytown, PBN land	FOI	15/01/18	n/a	n/a	n/a
023.03.18	J Bloggs	2 Main Street Belfast	FOI	18/01/18	18/1/19	18/01/19	24/01/19

9. Latest Date for Responding	10. Name of person dealing with request	11. Description of Info Requested	12. Does PBNI hold information requested?	13. Location request transferred to	14. Is a fee applicable ? (y/n)	15. Is an Exemption applicable ? (y/n)	16. Outcome (Information released/ withheld/ part released)
05/02/18	Jane Smith	Number of PSRs completed in 2012	yes	n/a	n/a	n/a	released
12/02/18	Jane Smith	Information about CAB	No	n/a	n/a	n/a	n/a
19/2/18	Jane Smith	Travel rates for staff	Yes	n/a	n/a	n/a	released

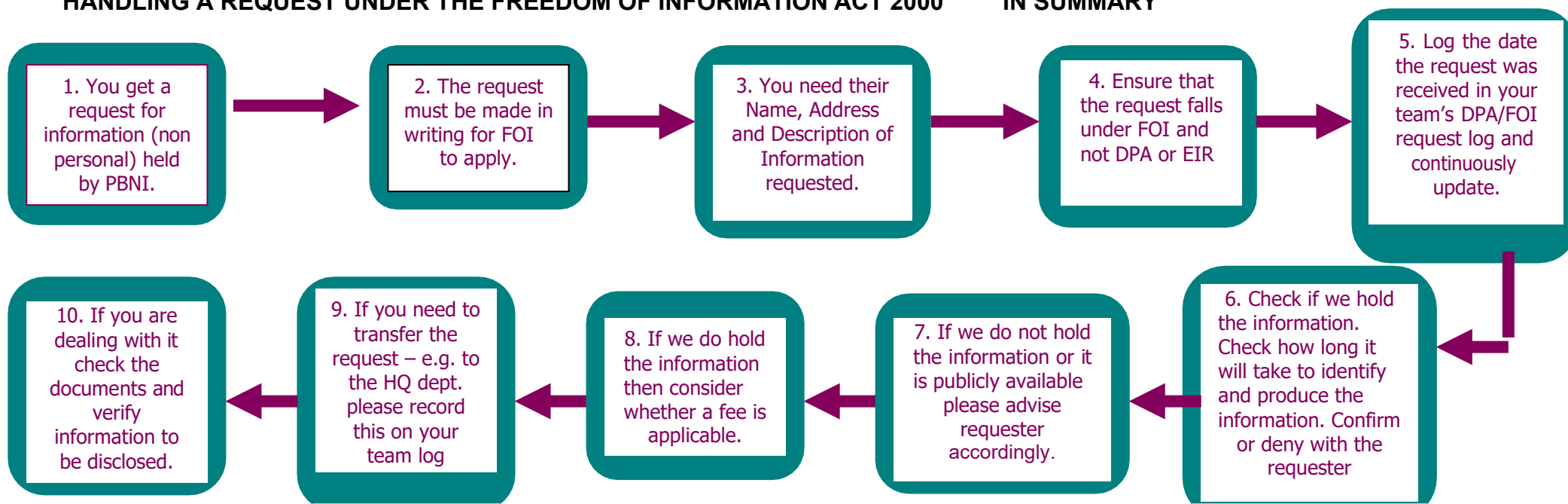
17. Date Response Sent	18. Deadline met? (y/n)	19. No. of days taken to deal with request	20. Additional Comments
23/01/18	y	11	
18/01/18	y	3	Provided requester with contact details for CAB
14/2/18	y	17	

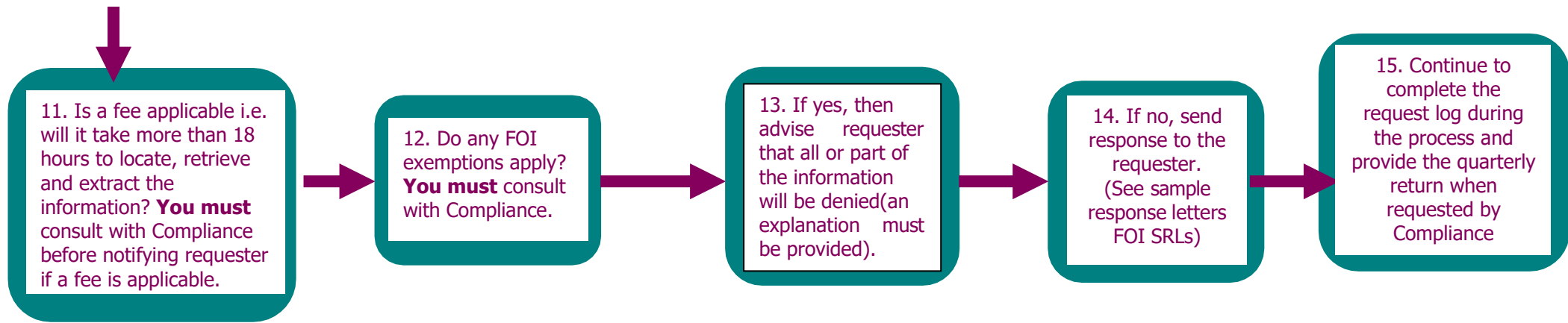


## Appendix 3

### HANDLING A REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000

### IN SUMMARY





## Useful contacts:

Name	Title/Department	Contact details
Gail McGreevy	Head of Communications	028 90522649 ext. 22649 <a href="mailto:Gail.mcGreevy@probation-ni.gov.uk">Gail.mcGreevy@probation-ni.gov.uk</a>
Joanne Meadows	Communications Unit Compliance Section  Data Protection Officer Records Officer	028 90522661 ext. 22661 <a href="mailto:Joanne.meadows@probation-ni.gov.uk">Joanne.meadows@probation-ni.gov.uk</a>
Mairead Burns	Communications Unit Compliance Section  Executive Officer Freedom of Information Data Protection	028 90522659 ext. 22659 <a href="mailto:Mairead.Burns@probation-ni.gov.uk">Mairead.Burns@probation-ni.gov.uk</a>
Website	Information Commissioner's Office	<a href="http://www.ico.org.uk">www.ico.org.uk</a> <a href="https://ico.org.uk/for-organisations/guide-to-freedom-of-information/">https://ico.org.uk/for-organisations/guide-to-freedom-of-information/</a>
PBNI Intranet	Freedom of Information	<a href="http://intranet/resources/freedom-of-informationaccess-to-information-handling-requests/">http://intranet/resources/freedom-of-informationaccess-to-information-handling-requests/</a>
	Records Management	<a href="http://intranet/resources/records-management-guidance-procedures/">http://intranet/resources/records-management-guidance-procedures/</a>