

FREEDOM OF INFORMATION POLICY & PROCEDURES

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Alternative Formats

- 1 This documentation can be made available in alternative formats such as large print, Braille, disk, audio tape or in an ethnic-minority language upon request. Requests for alternative formats can be made to the Probation Board using the following contact information:

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1. Rationale

- 1.1 The Freedom of Information Act 2000 (the Act) applies to all public authorities in Northern Ireland (and England and Wales). It is intended to promote a culture of openness and accountability amongst public authorities by providing the public with rights to access information. The Act provides public access to ***non-personal information*** held by public authorities in two ways:
 - a) by publishing information through a publication scheme and
 - b) responding to a written request and, if the information exists, making it available to the person within 20 working days.
- 1.2 The Lord Chancellor, after consulting with the Information Commissioner issued a 'Code of Practice' pursuant to section 45 of the Act. The Code of Practice last issued in 2018 sets out the duties placed on public authorities and is seen as the standard to be followed in achieving best practice [CoP FOI Code of Practice - Minor Amendments 20180926 .pdf](#) This policy and procedures adheres to this Code of Practice.
- 1.3 It is important to note that not every enquiry has to be treated as a formal request for information under the Act. PBNI will deal with routine queries and service requests as part of normal business. The provisions of the Act only need to be applied if PBNI cannot provide the requested information straight away or the requester makes it clear that they expect a response under the Act. Staff will be supported to deal with enquiries effectively and can seek guidance where requests may involve complex information.

2. Overarching Aim

The aim of the policy is to ensure that PBNI:

- a) Fosters a culture of openness and transparency.
- b) Complies with its statutory obligations under the Freedom of Information Act 2000.
- c) Adheres to good practice as provided for under Section 45 Code of Practice on the discharge of public authority functions under Part 1 FOIA, (handling requests) and Section 46 Code of Practice (management of records).
- d) Acts in accordance with good practice guidance as set out primarily in the ICO's Guide to Freedom of Information Act.
- e) This policy and procedures support staff to manage FOI requests.

3. Objectives

- To set out the roles and responsibilities of all staff in PBNI in respect of their obligations under the Act in an accessible and inclusive way.
- To provide the procedures to address Freedom of Information requirements within the organisation.

4. Roles and Responsibilities

4.1 The Senior Information Risk Owner has ultimate responsibility for Freedom of Information although day to day management lies with the Head of Communication & Compliance and the Compliance Unit ensuring a transparent and supportive process for all staff in PBNI.

4.2 The Records Manager shall:

- Have responsibility for overseeing the implementation and maintenance of this policy.
- Create and maintain PBNI's freedom of information procedures and practices and ensure these comply with its obligations, and responsibilities as a public authority.
- Promote PBNI's freedom of information policy and procedures.
- Oversee actions including training to make all staff aware of PBNI's requirements in this area.
- Provide support and advice to staff.

4.3 The Compliance Officer shall:

- Maintain procedures documenting the related requirements, roles and practices that all staff are obliged to follow.
- Have responsibility for logging and monitoring the progress of freedom of information requests to ensure timescales are adhered to.
- Monitor compliance with the policy and procedures.
- Provide support and advice on all freedom of information issues.
- Upload information on to the disclosure log and maintain disclosure log.

4.4 All Information Asset Owners (as set out in the IAO Register on the intranet) shall:

- Approve all FOI responses that relate to their business area, ensuring appropriate searches for information have been conducted and responses are redacted appropriately, exemptions are applied appropriately and that PBNI complies with legislation.
- Ensure that they provide all relevant information to the compliance unit from their business area for PBNI's publication scheme.

4.5 All managers shall:

- Ensure that their staff understand and comply with PBNI's freedom of information

- policy and procedures.
- Support and foster a culture within their business area that promotes good freedom of information practices.

4.6 All staff shall:

- Adhere to the Freedom of Information policy and procedures.
- Complete the necessary awareness training.
- Provide advice and assistance to those who have made or would like to make a request for information, and every effort will be made to assist them in doing so.
- Be supported to seek guidance and understand when to escalate matters to the relevant compliance staff.

5. FOI Procedures

5.1 Right of Access – Publication Scheme

5.2 The Freedom of Information Act requires every public authority to have a publication scheme, approved by the Information Commissioner's Office (ICO), and to publish information covered by the scheme. The scheme sets out our commitment to make certain classes of information routinely available, such as policies and procedures, minutes of meetings, annual reports and financial information. The Publication Scheme sets out how the public authority intends to publish the different classes of information it holds and whether there is a charge for the information. PBNI's Publication Scheme can be found on its website at [Publication Scheme | Probation Board for Northern Ireland](#)

5.3 The Information Commissioner's Office (ICO) 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 which are:

- Who we are and what we do.
- Organisational information, locations and contacts, constitutional and legal governance.
- What we spend and how we spend it. This includes financial information relating to projected and actual income and expenditure, tendering, procurement and contracts.
- What our priorities are and how we are doing. This includes strategy and performance information, plans, assessments, inspections and reviews.
- How we make decisions. This includes our policies and procedures, consultations and responses to consultation.
- Lists and registers. This includes information held in registers required by law and other lists and registers relating to the functions of PBNI.

- The services we offer. This includes advice and guidance, booklets and leaflets, transactions and media releases. A description of the services offered.

5.4 PBNI has, in accordance with its obligations under the Scheme, a Guide to the Information it publishes through its website www.pbni.org.uk. The Scheme is not a static tool. Information will be routinely published, accurate and kept up to date. PBNI will adhere to the ICO guidance on charging for information in a publication scheme.

5.5 **The Right of Access – written requests.**

5.6 Information held by a public authority that is not published under the publication scheme can be requested in writing. Anyone has a right to request information from a public authority. A public body has two separate duties when responding to these requests:

- To inform the requester in writing whether you hold any information falling within the scope of their request; and
- To provide that information.

5.7 Under the Act PBNI must respond to requests promptly, with a time limit acting as the longest time you can take. Under the Act, most public authorities may take up to 20 working days to respond, counting the first working day after the request is received as the first day. A working day means any day other than a Saturday, Sunday, or public holidays and bank holidays. This may or may not be the same as the days you are open for business or staff are in work. Section 10 of the Act allows you to apply variations to the normal 20-working-day timescale in some limited circumstances (for example if you need to apply a public interest test). However, in all cases you must give the requester a written response within the standard time limit for compliance.

5.8 For a request for information to be valid under the Freedom of Information Act it must:

- Be in writing. This could be a letter or email. Requests can also be made via the web, or on social networking sites such as Facebook or X. where a requester may experience additional needs or barriers staff will provide reasonable support to enable engagement and understanding.
- Include the requester's real name. The Act treats all requesters alike, so you should not normally seek to verify the requester's identity. However, you may decide to check their identity if it is clear they are using a pseudonym or if there are legitimate grounds for refusing their request and you suspect they are trying to avoid this happening, for example because their request is vexatious or repeated. Remember that a request can be made in the name of an organisation, or by one person on behalf of another, such as a solicitor on behalf of a service user.
- Include an address for correspondence. This need not be the person's residential or work address – it can be any address at which you can write to them, including a postal address or email address.
- Describe the information requested. Any genuine attempt to describe the information will be enough to trigger the Act, even if the description is unclear, or is too broad or

unreasonable in some way. The Act covers information (not documents), so a requester does not have to ask for a specific document (although they may do so). They can, for example, ask about a specific topic and expect you to gather the relevant information to answer their enquiry. Or they might describe other features of the information (for example author, date or type of document).

- 5.9 When dealing with a request for information under the Act it is vital that clear ownership is identified at the beginning of the process. Therefore, the Compliance Officer will allocate each FOI to the relevant Information Asset Owner (IAO) when an FOI request is received and logged. The IAO will then manage the response. It is essential that all FOI requests or potential FOI requests are logged centrally with Compliance. Where there is confusion or dispute about the allocation of a request to an IAO, the task of arbitration will be referred to the Senior Information Risk Owner (SIRO).
- 5.10 The IAO is responsible for ensuring full checks and searches for information have been carried out, that the appropriate information is released and third-party information is redacted as appropriate. It is important that the format of responses is approved by the IAO including ensuring responses are in PDF format and that ICO guidance is adhered to including that original source excel spreadsheets should not be used when responding to requests. Assistance is available in determining what should be redacted and whether any exemptions may apply from the compliance unit. Under FOI legislation the information is released to the wider public domain and not just to the requester. It is therefore important that prior to release, the IAO approves the final response letter and all associated documentation to be disclosed; this includes the quality of any redacted information.
- 5.11 It is essential that thorough searches of information are conducted, and this must be verified by the IAO. The ICO provides a checklist on conducting searches available at annex 1. Information cannot be altered or deleted. Altering or deleting information to avoid release in response to a request is a criminal offence. Staff including the IAO are encouraged to seek guidance promptly if uncertainty arises.
- 5.12 All FOI final responses may be published on PBNIs website as part of our obligations under the legislation to maintain a Disclosure Log.
- 5.13 When releasing information to a requester, where PBNi believes that other parties will be directly affected by that release, the IAO should identify them to the Compliance Unit and request that a notification be issued to those other parties. For example, where the release includes information which is likely to be sensitive politically or could generate substantial press interest etc., the IAO may wish to notify those other parties in advance of release, so they have some prior warning. The preparation and issue of prior notification letters to other parties affected by the release of information under an FOI request should not affect statutory deadlines.

6. Exemptions

- 6.1 The Act includes several exemptions that allow public authorities to withhold information from requests. [List of exemptions | ICO](#) Here are some key exemptions:

- **Absolute Exemptions:** These exemptions apply without the need to consider the public interest test, such as information from security services or certain court records.
- **Qualified Exemptions:** These exemptions require a public interest test, meaning the public interest must be considered before disclosing the information. Examples include information related to national security...

- 6.2 You can automatically withhold information because an exemption applies only if the exemption is 'absolute'. However, most exemptions are not absolute but require you to apply a public interest test. This means you must consider the public interest arguments before deciding whether to disclose the information. So, you may have to disclose information in spite of an exemption, where it is in the public interest to do so. For more detailed information, you can refer to the official ICO website [When and how do we apply the public interest test? | ICO](#) or get assistance from the Compliance unit on FOI exemptions.
- 6.3 Where an exemption is applicable PBNI will clearly explain the rationale in an accessible way.

7. Internal Reviews & Complaints

- 7.1 Under the FOI Act, if a requester is unhappy with the response to their original request, they have the right to request an Internal Review (IR) of the decision within two months of the issuing of the final response letter. All formal FOI complaints or requests for a review will be made in writing to the Head of Communications & Compliance via the FOI mailbox. The Head of Communications & Compliance on receipt of a complaint or request for a review will organise for an Internal Review panel to be held.
- 7.2 Where the complaint relates to non-compliance with the Publication Scheme or to the outcome of the consideration of a request for information, a review will be completed, by the Records Manager. In the event that the Records Manager has been party to the original decision, another person will be nominated to act as the reviewer (for example the Deputy Head of Communications). A report compiled by the Reviewer will be presented to a Review Panel. The Review process will be conducted in a respectful and transparent manner.
- 7.3 The Panel will consist of two members of the Senior Management Team and in most cases will be chaired by the Head of Communications & Compliance. The Review Panel will consider all the information and make a determination. If a response is changed as a result of an internal review, the FOI Disclosure Log on our website will be updated accordingly if the response has been published.
- 7.4 Where the complaint relates to the improper handling of a request for information, a review of the procedure will be carried out by the Reviewer. When the review is completed, a report will be presented to the Review Panel.
- 7.5 In all cases complainants will be informed by the Head of Communications and Compliance of PBNI's target date for determining the complaint, which is 20 working days. Where it is apparent that the determination of the complaint will take longer than

the target time (for example because of the complexity of the particular case) we will inform the complainant and explain the reason for the delay. The complainant will be informed of the outcome of the complaint.

7.6 The Reviewer will acknowledge the complaint within 3 working days of receipt. The acknowledgement letter will include:

- Confirmation of the issue(s) raised.
- An explanation of the complaint/review procedure that will be followed.
- An explanation of the role of Reviewer, the Decision Maker and of the Review Panel within the complaint process.
- The target date for determining the complaint and response to the complainant.
- Contact details, should the complainant require further information.
- The Records Manager is the Complaints Reviewer.

7.7 The original Decision Maker will, within 5 working days of the receipt of the complaint, provide the Reviewer with the necessary information to assist in the processing of the complaint.

7.8 In processing the complaint, the Reviewer will as soon as possible, but within 10 working days of the receipt of the complaint, submit a paper to the Review Panel detailing the following:

- The procedure followed.
- The information identified for response.
- The original decision.
- Any information the Reviewer believes the panel might wish to consider.

7.9 Members of the Review Panel will meet within 5 working days of the receipt of the Reviewer's paper to consider the facts of the case and the Reviewer's findings and make a determination. The Reviewer will advise the Complainant of the Review Panel's decision within 5 working days of the Panel meeting:

- Clearly setting out decisions and rationale.
- Where additional information is to be disclosed, providing that information.
- Where procedures were not followed correctly, apologising and explaining the changes that will be put in place to ensure that procedures will be followed in future.
- Provide details of the Information Commissioner's contact details should the requestor wish to instigate an appeal process.
- If appropriate arrange for the FOI Disclosure log on the website to be updated.
- The Reviewer will also advise the Decision Maker of the Review Panel's decision within 5 working days:
- Highlighting where procedures were not followed correctly and advising of the proposed changes (if applicable).
- Advising of any amendments to the initial decision (if applicable).
- Communicating any amendments to the initial decision to information owners who may be affected by any additional disclosure.

The Reviewer will, where appropriate, amend procedures within 20 working days of the Review Panel's decision. Where the review has highlighted issues and possible weaknesses in the procedural process, amending accordingly and disseminating to appropriate staff.

8. Refusal of a request

- 8.1 PBNI will only refuse to answer a request if it would cost too much to respond, if the request is vexatious or is a repeat of a previous request from the same person, or if exemptions apply.
- 8.2 In respect of refusal due to costs, the FOI Act does not allow you to charge a flat fee but you can recover your communication costs, such as for photocopying, printing and postage. You cannot normally charge for any other costs, such as for staff time spent searching for information, unless other relevant legislation authorises this. However, if the cost of complying with the request would exceed the cost limit referred to in the legislation, you can offer to supply the information and recover your full costs (including staff time), rather than refusing the request. If PBNI wish to charge a fee, we will send the requester fees notice. The amount that you may charge depends on if the cost of complying with the request has exceeded the appropriate limit. The appropriate limit is established under section 12 of FOIA and is calculated in accordance with [The Freedom of Information and Data Protection \(Appropriate Limit and Fees\) Regulations 2004 SI No. 3244](#) (known as the Fees Regulations). The appropriate limit for PBNI (as a public authority) is £450. When estimating the limit, PBNI, in accordance with legislation, will 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.

Where a request does not exceed £450, a charge may also be applicable for costs PBNI 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. It does not include staff time spent in carrying out these activities.

Where the cost exceeds £5, the reproduction of information either by printing, or photocopying will be charged at **10p** per page, whether in black and white or colour. (Where information is provided in an electronic format, we will ensure that it complies

with PBNI's Internet and e-mail usage policy and a fee is not applicable.)

If the administration costs of collecting a fee would be more than the charge itself, PBNI in accordance with ICO advice, as a matter of good practice, will waive the charge. If a fee is applicable, PBNI will inform the requester. A fees notice will be issued in accordance with S9 of the Act.

- 8.3 The Act allows you refuse a request if it is vexatious which means where the request is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation. You can also refuse a request which seeks the same, or substantially the same information, as the requester has previously requested, unless a reasonable time has passed between the requests. Usually, you will still need to send the requester a refusal notice telling them their request is vexatious or a repeat. However, where you have sent the requester such a notice in response to an earlier request, you may not need to send another. Any future request from the same requester still needs to be considered on its own merits, it cannot simply be ignored
- 8.4 When a request is refused the requester will be informed of the reasons for this decision within twenty working days. At the same time, they will be provided information on making a complaint about the refusal. The refusal notice must:
- Explain what provision of the Act you are relying on to refuse the request and why.
 - Give details of any internal review (complaints) procedure you offer or state that you do not have one.
 - Explain the requester's right to complain to the ICO, including contact details for this.

9. Disclosure Log

- 9.1 PBNI will publish responses to Freedom of Information requests 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).
- 9.2 PBNI will inform the requester that it may decide to publish responses under its Disclosure Log on its website. Responses will be anonymised i.e. details of the requester will be removed.

10. Resources

Costs associated with the effective application of this policy include:

- Staff time and resources across several departments and responsibilities for monitoring adherence and compliance.

11. Training

All staff will be adequately trained and supported through,

- the availability of hands-on support by relevant staff within the Compliance
- use of annual eLearning resource
- circulation of relevant guidance, desk aids, posters, leaflets
- external training providers (resources permitting) as appropriate

12. Linkages

There are linkages to:

- PBNI Records Policy
- PBNI Retention and Disposal Schedule
- PBNI Data Protection Policy
- ICO Code of Practice

13. Monitoring and Evaluation

This Policy will be monitored by the Head of Communications & Compliance and relevant staff within that department with responsibility for Records Management, and Freedom of Information.

PBNI may also be subject to review and/or audit by the Information Commissioner's Office in respect of compliance with Freedom of Information.

14. Review

This policy will be reviewed four years from date of approval.

Any supporting guidance, procedures and documents will be subject to ongoing monitoring and may be amended in light of changes in legislation, updated guidance from the Information Commissioner's Office, Department of Justice, feedback, or identified best practice.

15. Implication of Non-Compliance

Failure to manage information in accordance with relevant PBNI policies (procedures or guidance) and appropriate legislation may result in disciplinary and/or criminal action.

Annex 1 Conducting Searches for Information – ICO Checklist

Follow the provided checklist to conduct your searches.

Checklist

- Check your retention schedules. If the requested information includes correspondence or older documentation, these may not be available due to your organisation's retention policy. Confirm that you've adhered to retention schedules. [Probation Retention and Disposal Schedule | Probation Board for Northern Ireland](#)
- When searching digital content, use a number of search terms including any words or phrases relevant to the request.
- Search your archives. If your retention policy includes storing information in archives, search relevant shared or personal archives.
- Search your public-facing website. Even if information is publicly available, it may be difficult for the requester to find.
- Search your disclosure log, if you have one. This should include all FOI and EIR request responses you've published.
- Search your intranet. If your organisation has an internal website, search all relevant pages.
- Search any relevant computer programmes. You may store information on specific software, for example for accounting purposes.
- Search these, if relevant to the request. Search relevant shared files.
- Search files that have shared access. Search relevant locally stored files. All information your organisation holds, including information held locally, on an individual device, is subject to FOI or EIR. This could mean colleagues searching personal devices or online accounts, where appropriate.
- Search any physical storage. Include searches of any information stored in a hard-copy format.
- Search correspondence. Letters, emails, online messages and text messages are subject to FOI and EIR. A request may refer to information that is held in non-corporate channels.