



# **POLICY AND PROCEDURAL GUIDANCE ON DISCLOSURE OF INFORMATION REGARDING COMMISSION OF AN OFFENCE**

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# DISCLOSURE POLICY AND PROCEDURAL GUIDANCE

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## **POLICY**

### **1 Application of Policy**

#### 1.1 Definitions

The Board has a wide range of policies which may apply to different categories of people.

**Board Members** – The Chairman, Deputy Chairman and Members of the Board appointed by the Secretary of State under the Probation Board (NI) Order 1982.

**Employee** - An employee is any person under a current contract of employment with PBNI, including temporary and fixed term contracts.

**Agency Worker** - An agency worker is any person supplied to work with PBNI through an employment agency.

**Seconded** - A seconded is any person working with PBNI under a formal secondment agreement between the Board and another organisation.

**Student** - A student is any person working with PBNI on the basis of a formal agreement between the Board and his/her university, college or other course provider.

**Volunteer** - A volunteer is any person working with PBNI under the Board's Volunteering Policy.

**Partnership worker** - A partnership worker is any person working with PBNI on the basis of a formal partnership agreement between the Board and another organisation.

#### 1.2 Application of this Policy

This policy applies to all categories as defined at 1.1 above.

## **2 Introduction**

The Probation Board for Northern Ireland (PBNI) recognises that, in the course of work with offenders, staff may be made aware of information regarding the commission of an offence which will require disclosure to police. The policy and accompanying procedures set out clear guidelines to enable staff to deal with this issue appropriately, in circumstances where PBNI is obliged by law to report such information.

## **3 Policy Aim**

The disclosure of information to the Police regarding the commission of an offence will be lawful and proportionate.

## **4 Policy Objective**

To establish an effective and transparent framework for the disclosure of information to the Police regarding the commission of an offence.

## **5 Policy Outcome**

Information regarding the commission of an offence will be reported to the Police.

## **6 Policy Statement**

The policy will be applied to offenders with whom the organisation has contact for the purposes of the preparation of a PSR or other report; those who are subject to statutory supervision; those who are subject to supervision due to being designated as inescapable voluntary clients; prisoners; any other service users.

Information shall be disclosed to the Police when it is known or believed:

- That a criminal offence has been committed and;
- That the information is likely to secure, or to be of material assistance in securing the apprehension, prosecution or conviction of any person for that offence.

## **7 Advice to offenders**

- 7.1** Individual offenders must be made aware that should they provide information about the commission of an offence that is likely to secure the apprehension, prosecution or conviction of any person for that offence then that information shall be reported to the Police.

**7.2** This advice will be part of any initial or induction interview, and should be included in the induction checklist and can be given at any time during any interview. (See Appendix 1 of the Procedural Guidance document)

## **8 Disclosure**

8.1 When information has been given then the individual giving it should be requested to report it to the Police.

8.2 If the individual is unwilling to do so then PBNI will disclose the information preferably with the individual's consent.

8.3 If informed consent has been reasonably sought or has been sought and withheld then PBNI will report the information to the Police.

## **9 Guidance**

This policy is supported by accompanying procedures which should be read in conjunction with this document.

## **10 Complaints**

Complaints about the use or disclosure of personal information will be dealt with in accordance with the Board's Complaints Procedures.

## **11 Review**

The Board will review this policy every three years following approval by the Board.

## PROCEDURAL GUIDANCE

### 12 Advice to offenders

- 12.1 Individuals must know that should they provide information about the commission of an offence where that information is likely to secure the apprehension, prosecution or conviction of any person for that offence, then that information will be reported to the police.
- 12.2 Individuals must therefore be advised to that effect at any initial or induction interview or at any time in any kind of interview where considered to be necessary.
- 12.3 The advice should be available in written form and be prominently displayed in waiting areas and offices (Appendix 1.)

### 13 Legal obligation - Criminal Law Act (Northern Ireland) 1967 (as amended by the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007)

#### 13.1 Section 5 – Penalties for concealing offences

This states:

*5 (1) Subject to the succeeding provisions of this section, where a person has committed a relevant offence, it shall be the duty of every other person who knows or believes:*

- (a) that the offence or some other relevant offence has been committed and,
- (b) that he has information that is likely to secure or to be of material assistance in securing, the apprehension, prosecution or conviction of any person for that offence.

to give that information within a reasonable time to a constable and if, without reasonable excuse, he fails to do so he shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment according to the gravity of the offence about which he does not give that information.

#### 13.2 Relevant Offence

A relevant offence is defined (see Section 4 of the 1967 Act (as amended by virtue of Paragraph 13(1) of Schedule 1 of the PACE (Amendment) (NI) Order 2007)) in broad terms as any offence for which the sentence is fixed by law (ie, murder, treason) or an offence where a first time offender of 21 years or over could be sentenced to a term of five years imprisonment (eg, supply of drugs, violent offending) together with attempts to commit such offences.

It is clear from Section 5 that if any employee has information regarding the commission of a relevant offence and that the information is likely to secure the apprehension, prosecution or conviction of any person for that offence then this

information must be reported to the police within a reasonable time. Failure to do so constitutes a criminal offence.

- 13.3 **Although the Criminal Law Act (NI) 1967 underpins the policy, please note that the policy requires not only a relevant offence but any offence to be reported to the police, subject to point 13.1, page 4 of the Procedural Guidance.**

## **14. Disclosure**

- 14.1 Staff should be mindful that consideration of disclosure of information should be pertinent and appropriate. For example offenders may inform staff that they take illegal drugs, but disclosure in such instances may present a situation where prosecution may be hampered due to lack of evidence and police time wasted accordingly. In this example continued drug use would be considered in risk assessments and the issue may be dealt with by PBNI through enforcement processes where appropriate. Information about other offences, for example against children, (PBNI's Child Protection Policy will apply) or offences causing harm to others must always be disclosed. If in any doubt staff should consult with their Area Manager.
- 14.2 When information has been given then the individual giving it should be requested to report it to police. If the individual is unwilling to do so, then the officer will report the information to the police, preferably with the individual's consent, following consultation with their Area Manager.
- 14.3 It is good practice to seek consent but if consent is withheld and consent has been reasonably sought, PBNI will report the information to the police.
- 14.4 In an emergency or in the interests of public protection there will be immediate disclosure without seeking consent. Staff should be mindful of any possible risk to others in requesting the individual to report the information to police.

## **15. Process for Disclosure – See Flowchart (Appendix 2)**

The flowchart outlines the process for disclosure.

**Advice to offenders**

The Probation Board for Northern Ireland will report to the Police:

Information regarding the commission of an offence where that information is likely to secure the apprehension, prosecution or conviction of any person for that offence.

At the pre-sentence report stage defendants will be informed, as part of the explanation of the purpose and content of a PSR, and the process of completion, about PBNI's Disclosure Policy and Procedural Guidance.

At the induction stage of a community order or licence, offenders will be informed, as part of the explanation of supervision, about PBNI's Disclosure Policy and Procedural Guidance. This is contained in the Induction checklist of matters to be covered in the induction interview.

If you provide such information then either:

1. You will be asked to report it to the police, and this will be verified; or
2. Probation will report it to the Police with your consent; or
3. Probation will report it to the Police in line with the Disclosure Policy and Procedural Guidance.

# DISCLOSURE OF INFORMATION REGARDING COMMISSION OF OFFENCE

