

Data Protection Policy

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Alternative Formats

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Contents

Section	Draft Data Protection Policy paper	Page
1.	Rationale for the Policy	
2.	Policy Development	
3.	Overarching Aim and scope	
4.	Objectives	
5.	Functions and Purposes of Holding Data	
6.	PBNI as controller and processor	
7.	Principles of Data Protection	
8.	PBNI legislative base	
9.	Fair Processing and Undertakings	
10.	Consent	
11.	Special Categories of Personal Data	
12.	Who to contact	
13.	Resources	
14.	Communication	
15.	Monitoring and Evaluation	
16.	Review	

Data Protection Policy

1. Rationale for the policy

- 1.1 The EU General Data Protection Regulations and the EU Law Enforcement Directive will come into effect on 25 and 5 May 2018 respectively. It is anticipated that the Data Protection Bill currently before Parliament, will quickly bring both of these instruments into mainstream UK law on 25 May, updating the existing Data Protection Act 1998.
- 1.2 It is a statutory requirement for PBNI to comply with these legislative provisions. As such, PBNI will be required to ensure that its existing policies and procedures around the collection, storage and use of personal information on service users, staff, contractors or service providers, and anyone else on whom it holds personal information, are compliant with the new legislation.
- 1.3 The policy is in respect of the data that PBNI holds or to which it has access in respect of natural, living and identifiable individuals. As a policy document, it sits within PBNI's overarching policy on access to information (accessible at www.pbni.org.uk/access-information/).
- 1.4 The policy undertakings given in this document relate to PBNI's roles as both a data controller in respect of the data and information it creates and holds, and as a processor of data and information PBNI has access to or receives from other bodies.
- 1.5 The definitions of Data controller and processor are set out below:

Data controller and processor: *A data controller* is a person who or an organisation (in this instance PBNI) which determines the purposes for and the manner in which any personal data are processed. *A data controller* must therefore ensure that any processing of personal information for which they are responsible complies with statutory requirements. *A data processor* means any person or organisation (other than in the employment of the data controller) who processes data on behalf of PBNI. *Data processors* are therefore outside PBNI but process data on its behalf.

2. Policy Development

- 2.1 This policy takes cognisance of recent and upcoming developments in data protection law: the EU Regulations on General Data Protection (Regulation (EU) 2016/679) (“GDPR”); the EU Law Enforcement Directive (Directive (EU) 2016/680) (“LED”); and is also designed to ensure that PBNI policy in this area is fully compliant with the United Kingdom’s Data Protection Bill currently before Parliament.
- 2.2 PBNI is also subject to and fully compliant with a range of other legislation in the area of data protection and management of information. These include the current Computer Misuse Act 1990; the Data Protection Act 1998; and the Freedom of Information Act 2000.
- 2.3 PBNI also has a series of important underpinning procedures and guidance material that support its overarching policy on data protection. These procedures and guidance material make the overarching policy “live” and operational for staff. They are essential in supporting staff in their day-to-day application of the policy and work cover areas such as handling subject access requests, records management, retention and disposal of records.
- 2.4 A series of inter-connecting policies are also important in PBNI’s overall management of information and data handling. Each has been reviewed to ensure consistency in application of data protection policy. These include freedom of information policy, privacy impact assessment guidance, information assurance policy, and data incident management procedures. All are in alignment with this overarching policy statement on Data Protection and, along with those listed in paragraph 2.3, are accessible at PBNI’s website www.pbni.org.uk.

3. Overarching aim and scope

- 3.1 The aim of this policy is to ensure that PBNI complies with new legislative provisions and in so doing, ensure that it continues and enhances its current arrangements.
- 3.2 PBNI will hold and protect its data and information in such a way as to promote and sustain its reputation in changing lives for safer communities
- 3.3. At its core, the policy is designed to ensure PBNI’s compliance with the statutory requirements by protecting service user, service provider and staff rights and responsibilities.

- 3.4 This policy relates to the data and information PBNI holds in respect of natural, living and identifiable individuals. Identifiable includes individuals who may not be directly identifiable by a particular record but who can be identified by means of a secondary identifier either held or accessible by PBNI.
- 3.5 PBNI holds data on four main categories of such individuals:
- i. individuals whom it supervises either on a statutory or voluntary basis and those on whom it prepares court and Parole Commissioner reports;
 - ii. victims of crime who participate in PBNI's Victim information scheme;
 - iii. employees including members of the Probation Board itself; and
 - iv. where an individual is named in specific way, those contractors and service providers who provide schemes or services in behalf of or in conjunction with PBNI.
- 3.6 PBNI data protection policy therefore spans: service user information; staff information; and service provider information where appropriate – for example as part of a business contract or service level agreement where individuals are identifiable.
- 3.7 It covers both automated systems and structured manual filing systems where storage allows for the ready identification and extraction of living individuals' records. Subject to certain exemptions (see paragraph 9.8 below) it does not cover unstructured manual systems where identification of an individual is not readily accessible.
- 3.8 Recorded information covers a range of formats such as handwritten, typed, e-mailed, electronic, audio and video tapes/discs, databases, maps and any other documentary material held by PBNI in the transaction of its business and retained as evidence of its activities.

4 Objectives

The objectives of this policy proposal are both substantive and procedural:

- i. To ensure that PBNI is compliant with the revised statutory requirements by 25 May 2018;
- ii. To agree the programme of work developed to deliver on that policy; and

- iii. To set in place appropriate and proportionate mechanisms to ensure ongoing monitoring and compliance with data protection requirements.

5 Functions and Purposes of Holding Data

5.1 The purposes of PBNI data and information holdings are therefore fivefold at the heart of which lies public interest by way of the administration of justice. PBNI's policy purposes are:

- i. Law enforcement: the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against the prevention of threats to public security (as described in GDPR).

In the context of PBNI, law enforcement takes the more specific form of supporting courts in the consideration of their cases, the execution of criminal penalties, the supervision and resettlement of offenders, the prevention of offending and re-offending, and the safeguarding of public safety.

- ii. Assisting victims of crime by keeping them informed about key aspects of service user requirements, supervision and release as appropriate.
- iii. Protecting individuals and communities including victims and also offenders themselves in terms of their legal rights and entitlements.
- iv. Ensuring PBNI staff are properly and fairly managed, trained and provided for in their work for PBNI.
- v. The commissioning of research and statistical information to assist PBNI and the criminal justice system more generally in providing effective services to the public and to clients.

5.2 In accordance with GDPR (Article 6.1(e) specifically), PBNI undertakes its data processing as being necessary for the performance of a task carried out in the public interest and in the exercise of official authority vested in the controller.

5.3 PBNI manages and processes the data it holds for these purposes and undertakings and does not process information in any further way that is incompatible with those purposes. The data controlled, accessed and used by PBNI is limited to the purposes for which PBNI is authorised in law.

5.4 These purposes are therefore reflected in PBNI's registration with the Information Commissioner's Office (as identified in paragraph 12.5 below) in which a detailed listing of data items is available.

5.5 PBNI's ICO registration also provides the overarching definition of PBNI's purpose and is defined as personal information which enables PBNI:

"... to administer justice by providing a range of probation services which include the supervision of offenders, data matching under national fraud initiatives; undertake research; maintain our own accounts and records and to support and manage our employees. We also process personal information using a CCTV system to monitor and collect visual images for the purposes of security and the prevention and detection of crime."

6 PBNI as controller and processor

"Controller" data

6.1 PBNI is the data controller, that is, the creator and owner of data, in a number of areas. Those data sources cover three main functions:

- i. PBNI's Probation Information Management System;
- ii. PBNI's staff and Board member information systems; and
- iii. PBNI's financial management systems.

"Processor" data

6.2 PBNI is a data processor, that is, it has access to and uses data owned by other organisations, for the purposes of its statutory functions. For example it is required to have access to criminal records in order to fulfil its statutory functions. As part of its work in providing services to victims of crime, PBNI is also a processor of victim information where the victim has agreed to participate in its schemes.

Data sources in these two areas are:

- i. The Criminal Records database - "Causeway" - maintained on behalf of criminal justice agencies by the Department of Justice.
- ii. The court database of case listing – "ICOS" – maintained by the Northern Ireland Court Service.

- iii. Victim information provided to it by the Public Prosecution Service for Northern Ireland, the Northern Ireland Prison Service, and in certain mental health detention cases by the relevant Health and Social Care Trust.

Registration and inter-agency agreements

- 6.3. As part of the various requirements of data protection and freedom of information legislative provisions, PBNI information holdings are registered with the ICO. PBNI's data registration number with the ICO is Z7111299.
- 6.4. Where PBNI is either a controller sharing data with other bodies or a processor accessing or using others' data, PBNI will maintain data sharing protocols with its suppliers and processors. PBNI will ensure that its data protection policy and supporting policies are in alignment with its data suppliers' and processors' equivalent policies.

7 Principles of Data Protection

- 7.1. In accordance with the purposes for which PBNI holds data, the requirements of the GDPR, LED and the Data Protection Bill (as currently drafted), PBNI policy on data protection and information sharing is based on six key principles. Those principles are that our data holdings and processing will be:
 - i. Lawful, fair and transparent
 - ii. Specified, explicit and for legitimate purposes
 - iii. Adequate, relevant and limited
 - iv. Accurate and up to date
 - v. Kept for no longer than is necessary
 - vi. Held and processed in a manner that ensures appropriate security
- 7.2. PBNI will apply these principles with responsibility and in an accountable way as demonstrated in this policy statement.
- 7.3. The remainder of this policy statement demonstrates PBNI's commitment and approach to these principles.

8 PBNI legislative base

- 8.1 Within the meaning of UK legislation, PBNI is a public body under the Freedom of Information Act 2000 and is fully committed to the lawful and legal processing of its data and information. PBNI is therefore lawfully entitled to hold and process data and information required for its legal obligations and statutory purposes.
- 8.2 PBNI's lawful status and legal obligations in its operational work is provided by a range of legislative instruments covering both the status of the organisation itself and the authorities for the clients it provides for. Those key instruments are found at annex 1.

9 Fair processing and undertakings

Access to data

- 9.1 Where PBNI holds and controls data on living and identifiable individuals, it will provide those individuals with a right of access to their data. PBNI will provide such individuals with a right to know what is held and to whom any such data is passed.
- 9.2 Where PBNI processes and uses data on living and identifiable individuals controlled by others, PBNI will provide those individuals with a right of access to their data, subject to the protocols or service level agreements that PBNI has with the data controller.
- 9.3 Subject to those arrangements, PBNI will provide individuals with a right to know what is held and to whom any such data is passed. Otherwise PBNI will refer requests to the data controller whereby any data access will be a matter for the data controller.
- 9.4 If any data under the control of PBNI is proven to be inaccurate, PBNI will either correct or erase the data as appropriate from its holdings. PBNI will also advise any recipients of the data of its inaccuracies, correction and erasure where appropriate.
- 9.5 Possible inaccuracies in data brought to the attention of PBNI which it processes but does not control will be referred to the data controller for consideration and action.

Requests for personal data

- 9.6 Any request for access to data held by PBNI will be responded to promptly and in accordance with statutory requirements. Under these

requirements, as provided by GDPR, LED and the current Data Protection Bill, requests will be responded to within one month of receipt of the request.

- 9.7 If a full response is not possible within the required time, an initial response will be provided, to be followed by a substantive reply. Requests will be responded to in a clear and intelligible way and, subject to the scale and nature of the request, will be provided free of charge.
- 9.8 A charge may however be applied if a request were to be particularly onerous, for example, if it required access to an unstructured, manually held set of information. In such circumstances PBNI will require the requestor to provide sufficient information to ensure the information is traceable and accessible.

Third party requests

- 9.9 Any request for personal information from a third party – that is, someone other than the individual themselves but acting on their behalf – is only possible in certain limited circumstances and in accordance with the Data Protection Act 1998. Examples might be a solicitor acting on behalf of a client or a request from a statutory body such as police or social services.
- 9.10 Those circumstances are:
- i. Where the third party requesting information is acting on behalf of the individual whose explicit consent has been obtained and provided to PBNI;
 - ii. Where it is necessary for PBNI to carry out its statutory functions, where the recipient of the information is acting within the requirements of the Data Protection Act 1998 [and where a data sharing protocol is in place with PBNI]; or
 - iii. Where PBNI is required by law to disclose the personal information.

Storage and security of data

- 9.11 Information and data held by PBNI on natural and living individuals are held confidentially and securely in terms of both computer and manual systems. Computerised information is password protected with access and usage restricted to those so authorised under PBNI's ICO registration.

- 9.12 All staff accessing data must also be approved and are subject to appropriate security clearances. Staff are required to sign a confidentiality agreement to ensure that all data and information with a confidential marking are treated and handled in confidence. All staff are also responsible for applying correct principles and requirements when dealing with all PBNI information that they process and hold.
- 9.13 Retention of records varies according to the type of record required and is dependent, for example, on the nature of the statutory order. Probation and Community Service Orders, for example, are held for 5 years after completion of the order. In the case of life licence supervision records are held for 99 years after the death of the licensee. Business records unrelated to offenders or victim services, for example, have their own and separate retention periods.

Checks and validation

- 9.14 For data access requests, anyone who is not satisfied with PBNI actions or has reason to complain about such access should do so in the first instance to the PBNI Compliance Unit. The Compliance Unit will advise on options for resolution including how to invoke formal procedures if required.
- 9.15 Any breach of data protections will be reported by PBNI promptly and as required in law to the Information Commissioner's Office (ICO).
- 9.16 Data subjects can also report any suspected breach directly to the ICO. Subject to the outcome of any subsequent review, PBNI will comply with ICO requirements both generally and with regard to any individual case that may arise.
- 9.17 PBNI has a Data Protection Officer who ensures that its policies and procedures are fully compliant with this policy and with any legal requirements.
- 9.18 The Data Protection Officer acts independently from PBNI management and has the ability to report directly to the Chief Executive, the Probation Board, and the ICO.

10 Consent

- 10.1 Consent is a key feature of PBNI's policy on data protection, sharing and access. PBNI's core policy is that where PBNI is sharing an individual's data with a relevant third party, such sharing will be on the

basis of the individual's consent where consent is for a relevant purpose and lawful.

- 10.2 With regard to any child under the age of 13, consent will be a matter for the child's parent or legal guardian.
- 10.3 For PBNI, a relevant purpose will be in accordance with the purposes specified in Section 5 above including PBNI registration with the Information Commissioner's Office.
- 10.4 Working in the administration of justice, there can be certain, limited occasions however where sharing an individual's information must take place without specific consent.
- 10.5. Where legislation requires PBNI to share any such information, any such legislative requirements will be the determining factor in any such decision to share in the absence of specific consent.
- 10.6 PBNI's policy on fair processing and undertakings on personal information (see section 9 above) will be provided to clients and others as appropriate in privacy notices issued to any working contact with PBNI.

11 Special categories of personal data

- 11.1. The legislative requirements provide separate arrangements or policies with regard to what is referred to as "special categories of personal data". Such data is defined as covering a range of personal information on:

Racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic or biometric data, data concerning health or a person's sex life or sexual orientation.
- 11.2 Processing that would reveal any such information on natural and living purposes is prohibited unless provided explicitly in legislation.
- 11.3 PBNI policy is to make use of some of such data in certain circumstances and based on specific legislative permissions and requirements.
- 11.4 Broadly these uses relate to matters of substantial public interest and include: requirements in law, the administration of justice, protecting the public and preventing crime; equality of opportunity in terms of staff and clients; for health and social care purposes; and occasionally for research purposes.

- 11.5 Examples of when PBNI will process such data include, for example, placing offender clients to particular schemes or placements to ensure that appropriate supervision and provision is provided; ensuring fair recruitment and employment practices; and ensuring the health, including mental health, and safety of clients and staff.
- 11.6 Where appropriate, PBNI will ensure that any service user, member of staff, or person accessing its victim services will be aware of the use of their data for these purposes.

12. Who to contact

- 12.1. Data subjects (as defined) who wish to access information held on them or register a complaint will wish to note the following key contact points:

Access to data or information

- 12.2. In the first instance requests by service users, for personal information or data should be made to the individual's current or ongoing contact with PBNI staff. For service users this is most likely to be the supervising probation officer (or local office if that person is not available) or the manager of PBNI's victim information service.
- 12.3 For PBNI staff, requests should be made to the Human Resources or Finance Departments dependent on the subject matter in question. For PBNI contractors, suppliers or service providers, the Finance Department should be contacted in the first instance. Contact details are:

The Head of Human Resources
PBNI Headquarters
80/90 North Street
Belfast BT1 1LD
Tel: 02890262400
E-mail: Gillian.Robinson@pbni.gsi.gov.uk

Or

The Head of Finance
PBNI Headquarters
80/90 North Street
Belfast BT1 1LD
Tel: 02890262400
E-mail: Catherine.Teggart@pbni.gsi.gov.uk

- 12.4 Where an individual is not satisfied with the PBNI response to a request for personal information, further options are open as follows:

Complaints

The Complaints Officer
Probation Board for Northern Ireland,
80/90 North Street,
Belfast BT1 1LD.
Tel.02890262400
Email: complaints@pbni.gsi.gov.uk

Reporting breaches

The IT Security Officer
Probation Board for Northern Ireland,
80/90 North Street,
Belfast BT1 1LD.
Tel.02890262400
Email: infosec@pbni.gsi.gov.uk

Data Control

The Data Controller for the Probation Board for Northern Ireland is:
The Chief Executive, Ms Cheryl Lamont.
The Data Protection Officer Probation Board for Northern Ireland is:
Mr Tom Haire.

Both the Data Controller and the Data Protection Officer can be contacted at:

Probation Board for Northern Ireland
80/90 North Street,
Belfast BT1 1LD.
Tel.02890262400
Email: Cheryl.Lamont@pbni.gsi.gov.uk; or Tom.Haire@pbni.gsi.gov.uk

- 12.5 Should anyone wish to take further action, they can contact the Information Commissioner's Office with regard to PBNI policy, service or provision in this area. The contact details, both locally and nationally, are as follows:

Information Commissioner's Office
Wycliffe House
Water Lane

Wilmslow
Cheshire
SK9 5AF

Tel: 0303 123 1113 (local rate) or 01625 545 745 if you prefer to use a national rate number

The Information Commissioner's Office
3rd Floor
14 Cromac Place
Belfast
BT7 2JB
Tel: 028 9027 8757 or 0303 123 1114
Email: ni@ico.org.uk

13 Resources

13.1 A Data Protection Officer will be required by PBNI. Costs are likely to be incurred in due course for software improvements to fulfil increased data editing and tracking requirements. Additional expense is likely for the printing of updated information leaflets for those on whom PBNI holds and processes information.

14 Communication

14.1 A communication plan is already underway with GDPR awareness alerts having been placed on the PBNI intranet site. Staff with responsibilities for policy statements or the letting of contracts have been asked to review their material. A stock-take of personal information held across PBNI is getting underway to ensure that all data holdings are embraced within the revised policy and project planning.

14.2 Training in the new requirements will be provided, face to face, to those on whom the legislation will most likely impact. Probation teams are likely to be in the forefront along with key staff in corporate HR and Finance functions.

14.3 Guidance materials on access to information, information sharing, record retention and disposal, and complaints procedures for example – all currently based around the Data Protection Act 1998 – will be revised in light of the new legislation. Information flyers on the new requirements will also be provided to all staff.

15 Monitoring and evaluation

15.1 PBNI is fully cognisant of its statutory requirements in the area of personal data protection and security. PBNI particularly notes the potential penalties involved for breach of the legislative requirements -

for public sector bodies, up to 10 million EUR (£9m) for certain offences and 20 million EUR (£18m) for others – as well as the potential for compensation payable to those whose privacy has been breached.

- 15.2 PBNI will monitor and validate the application of this policy to its business processes and operational guidelines. Any member of staff found to be in breach of any statutory requirements will be subject to disciplinary proceedings if appropriate.
- 15.3 PBNI will ensure that appropriate records of its personal data processing activities are kept. When developing new personal data systems, PBNI will do so with data protection and privacy as key principles in its approach to designing such systems. PBNI also undertakes Data Protection Impact Assessments of its personal information systems and will continue to do so for any such systems being newly introduced.
- 15.4 PBNI has a Data Protection Officer (DPO) whose responsibility it will be to ensure that PBNI policies and practices are in accordance with statutory requirements. The DPO will have an independent status within PBNI with authority to report directly to PBNI Chief Executive, the Probation Board, and the Information Commissioner's Office as and when required.

16. Review

- 16.1 With the assistance of PBNI's Compliance Unit, the Data Protection Officer will wish to undertake periodic audits of the implementation of this policy at a working level. Such audits would be limited in number and scope – perhaps four audits per year at a local level, one in each of the four main business areas: service user, that is, both offender and victim systems; HR; and Finance.
- 16.2 Such audits would provide scope to review and monitor both operational practice and the need for policy revision. To ensure that the policy had been appropriately developed, an initial review could be held within six months of the legislation taking effect – by the end of 2018 for example – with a review every three years thereafter.

Annex 1

- i. The Probation Board (Northern Ireland) Order 1982;
- ii. The Criminal Justice (Northern Ireland) Order 1996 (which provides for the core sentences that engage probation and related supervision: the probation order, the community service order, the custody probation order, the combination order and the sex offender licence as sentences of the court);
- iii. The Life Sentences (Northern Ireland) Order 2001 (which provides statutory post-release probation supervision for life sentence prisoners);
- iv. The Criminal Justice (Northern Ireland) Order 2005 (which established a PBNI Victim Information Scheme); and
- v. The Criminal Justice (Northern Ireland) Order 2008 (which provides statutory post-release probation supervision for certain types of non-life prison sentences).