

# FREEDOM OF INFORMATION POLICY



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## Alternative Formats

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

The Freedom of Information Act (FOI) 2000 provides public access to non-personal information held by public authorities. It does this in two ways:

- a) by 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.

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 and as such must comply with the provisions of the Act. The Act is regulated by the [Information Commissioner’s Office](#) .

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

The Act covers any recorded non-personal information that is held by a public authority. PBNI’s FOI Policy therefore covers **all non-personal** recorded information, in any form, (manual or electronic) created, received or maintained by PBNI.

Separately, the [Data Protection Act](#) provides the principles under which the disclosure of **personal** information is governed. Personal information relates to natural, living persons. Requests for personal data re dealt with in accordance with that Act. PBNI has a separate [Data Protection Policy](#) covering the management of personal information it holds and records under which individuals wishing to have access to their personal information can do so by way of a subject access request.

## 2. Overarching Aim

The aim of the policy is to ensure that PBNI

- a) complies with its statutory obligations under the [Freedom of Information Act 2000](#)
- b) 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)
- c) acts in accordance with good practice guidance as set out primarily in the [ICO’s Guide to Freedom of Information Act](#).

## 3. Objectives

- To illustrate how PBNI demonstrates compliance with its obligations in respect of a) having and maintaining a publication scheme and b) responding to written requests for



information within the statutory deadline which is currently 20 working days from receipt of request.

- To ensure that PBNI staff are aware of their responsibilities in relation to the management of information generated and held by PBNI in order to achieve PBNI's business objectives.

## 4. Procedures

### 4.1 Right of Access – 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 **three** elements to the revised policy on proactive dissemination are:

- The **model publication scheme** itself
- The sector specific manual – **definition document**<sup>1</sup>
- The means by which information can be easily identified and accessed i.e. **the guide** (the guide for most public authorities is its website).

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 for example '**who we are and what we do**'; '**what we spend and how we spend it**.'

The [ICO's definition document](#) for public authorities including non-departmental public bodies 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.

This includes the publication of any non-personal dataset held by the relevant 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.

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<sup>1</sup> This document contains 7 classes of information and recommendations, as to the type of information which should be included under each class. It is not exhaustive.



PBNI has, in accordance with its obligations under the Scheme, a [Guide](#) to the Information it publishes through its website [www.pbni.org.uk](http://www.pbni.org.uk). The Scheme is not a static tool. Information will be routinely published, accurate and kept up to date.

All information will be available free of charge unless otherwise stated.

PBNI will adhere to the ICO guidance on [charging for information in a publication scheme](#).

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

Section 1 of the FOI Act provides that any person making a request for relevant 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 (FOIA Section 1 (1) (a) and
2. if that is the case, to have that information communicated to him (FOIA Section 1 (1) (b))

The FOI Act is about [access to information not documents](#) and covers any [recorded](#), non-personal information held by PBNI.<sup>2</sup> The Act includes all information generated electronically, such as word documents, e-mails, images and manually held information such as paper files, documents, letters, hand written notes, information in diaries and even on “post-its”. It also includes draft documents.

It is not limited to information PBNI creates. Information PBNI holds which is received from other organisations, authorities or individuals will 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.

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 [purposes](#).

Requests can cover information about the author or date of a document found in the properties of a document (sometimes called meta-data).<sup>3</sup> As this information is recorded, it is also covered by the Act and must be considered for release on foot of a written request.

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

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

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<sup>2</sup> (S.84 FOIA 2000)

<sup>3</sup> ICO [Guide](#) to Freedom of Information 2013



Not every enquiry has to be treated as formal request for information under the Act. PBNI will deal with routine queries as standard day to day enquires. The provisions of the Act only need to be applied if we cannot provide the requested information straight away or the requester makes it clear that they expect a response under the Act.

### 4.3 Requests for information

A request for information under the Act must be made in writing (this includes a request submitted by e-mail).<sup>4</sup>

Requests can also be made via the web, or on social networking sites such as Facebook or Twitter if a public authority uses these. See ICO [guidance](#) on requests made using Twitter.

The applicant must provide PBNI with:

- A name and address for correspondence
- A description of the information requested.<sup>5</sup>

PBNI's advice leaflet 'Your right to Know' is available in all PBNI offices and on PBNI's [website](#). It explains how you can make an information request to PBNI. The leaflet includes an application form which may be used for making a request under Freedom of Information or under the Data Protection Act for personal information. Requests can be emailed to the nearest PBNI office direct or to PBNI Headquarters. Details are provided on the leaflet.

All requests will be treated equally (unless relating to vexatious requests or requests for personal data).

Requests will be acknowledged within 3 working days of receipt and will be responded to as soon as possible and not later than 20 working days from receipt.

Where an applicant is unable to make a request in writing for whatever reason, PBNI will provide advice and assistance as per Section 16 of the FOIA.

Note: The [Environmental Information Regulations 2004](#) provide public access to environmental information held by public authorities. Requests specifically for environmental information should be handled under these Regulations. See [ICO guidance](#) in respect of EIR. PBNI's advice leaflet 'Your Right to Know', can also be used to make requests for environmental information.

### 4.6 Fees

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.

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<sup>4</sup> FOIA 2000 s. 8 (1) (a)

<sup>5</sup> FOIA 2000 s.8(1)



The cost limit for PBNI (as a public authority) is £450. When estimating the cost, 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.

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. It is only the hours exceeding the first 18 that will be charged.

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 applicant 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, photocopying or producing into a format to fax 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.)

**Note:** 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 FOIA.

#### **4.7 Refusal of a request**

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.

In additions, the Act contains a number of [exemptions](#) which exist to protect information that should not be disclosed, for example, if disclosing it would be harmful to another person or it would be against the public interest.

There are two categories of exemptions under the FOI Act, absolute and qualified. A **qualified** exemption means that in considering whether to release information the public authority has a duty to apply a public interest test (PIT).



An absolute exemption means that there is no duty on the public authority to consider the public interest test. 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.

If a qualified exemption applies in whole or in part to the information requested PBNI will inform the requester in accordance with s17 of the FOIA. Where PBNI is applying the “public interest test” i.e. when considering whether a qualified exemption applies to a request for information, we will consider whether the public interest in withholding information outweighs the public interest in disclosing the information.

## 5. Structures/Mechanisms

### Disclosure Log

PBNI 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. Data Protection Act)

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.

### Information Charter

PBNI's [Information Charter](#) sets out the standards the public can expect from PBNI when making a request for information. This includes requests for personal and non-personal information. It explains how you can get access to information and what you can do if you think standards are not being met.

## 6. Roles/Responsibilities

**All Members of Staff** are responsible for applying the correct principles when dealing with the information that they process and hold.

**The Chief Executive** has a duty to ensure that PBNI complies with the requirements of legislation.



**Senior Information Risk Owner (SIRO)** at Director level, has overall responsibility for risk management within PBNI. The SIRO has delegated the overall responsibility and control for security, policy and implementation to the PBNI Information Technology Security Officer.

**The Information Technology Security Officer (ITSO)** is responsible for creating, maintaining, giving guidance on and overseeing the implementation of Information Security including incident management. This post holder is the central point of contact on information security in PBNI, for both staff and external organisations, and is responsible (for e.g.) for implementing an effective framework for the management of security. Day-to-day responsibility for implementing policy within the context of information systems development and use in PBNI is delegated to the ITSO.

**The Communications Department (Compliance Section)** has a duty to provide guidance and support on issues relating to Freedom of Information, Data Protection and Records Management to ensure that PBNI complies with its legislative responsibilities in these areas and that staff are aware of their obligations under the relevant legislation.

**The Data Protection Officer** has responsibility for informing and advising PBNI of its data protection obligations and monitoring its compliance with legislative requirements. The Data Protection Officer reports directly to the Chief Executive and the Board and acts as a direct contact both for data subjects and the Information Commissioner.

**The Records Officer** is responsible for the development and oversight of the Records Management Guidance and Procedures, and will work with Directors, Assistant Directors, Heads of Departments, Business Support Managers and other department managers to ensure that there is consistency in the management of records. The Records Officer will also ensure that advice and guidance on good records management practice is given, and provides the Chief Executive with assurances on compliance with records management policy.

**Information Asset Owners** – these are senior individuals within PBNI with responsibility for relevant business departments (i.e. Heads of Departments, Directors, Assistant Directors). This is a mandated role and they are responsible for ensuring that they understand what information is held, what is added, what is removed, how information is moved, and who has access and why.

**All Managers** are responsible for ensuring that information systems in their areas conform to This policy and to the requirements of legislation.

## 7. 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, i.e.

- Communications Department (Compliance Section)
- Information Technology (Information Security Officer)



- Staff training and awareness

## **8. Communication**

The Head of Communication and where relevant the Head of IT will ensure that staff understand and are clear and confident about their roles and responsibilities in managing information and providing information assurance to service users. This will be done through e.g. face to face contact, email, intranet and internet guidance, leaflets, posters, desk aids.

All relevant Area, Departmental and Business Support managers will be clear about their specific role in relation to ensuring their staff are aware of their obligations and who to contact for further guidance.

### **8.1 Training**

All staff will be adequately trained through,

- (i) hands on support by relevant staff within the Communications Department and IT Department, (the latter specifically in respect of information security, providing technical and advisory assistance)
- (ii) use of eLearning resource
- (ii) circulation of relevant guidance, desk aids, posters, leaflets
- (iii) external training providers (resources permitting) as appropriate

## **9. Monitoring and Evaluation**

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

This policy and any subordinate policies, guidance, procedures and documents may be evaluated on behalf of the Head of Communication and via internal audit. PBNI may also be subject to review and/or audit by the Information Commissioner's Office in respect of compliance with Freedom of Information.

## **10. Review**

This policy will be reviewed three 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, challenge or identified best practice.

## **11. 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.



## 12. Complaints

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 it is considered good practice to do so.

If the applicant is dissatisfied with the handling of the request e.g. if they believe PBNI 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, we will refer them to the [Board's Complaints Policy and Procedure](#).<sup>6</sup>

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 are as follows:

Information Commissioner's Office,  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire,  
SK9 5AF  
Tel: 0303 123 1113 (local rate), 01625 545 745 (national rate number)

Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

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<sup>6</sup> Internal complaints should be raised through normal management or supervision arrangements or under the Board's Grievance [Policy](#) and [Procedures](#).