

SI0422

# Retention and Deletion of PACE Biometrics – (Interim Service Instruction)

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This Interim Service Instruction defines the responsibilities placed on the Police Service of Northern Ireland (PSNI) to ensure compliance with the Police and Criminal Evidence (Northern Ireland) Order 1989, the Data Protection Act 2018 and the PSNI's obligations under ECHR in respect of the retention and deletion of biometric information pending the introduction of anticipated new Northern Ireland legislation.

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## 1. Introduction

This Interim Service Instruction defines the responsibilities placed on the Police Service of Northern Ireland (PSNI) to ensure compliance with the [Police and Criminal Evidence \(Northern Ireland\) Order 1989](#), the [Data Protection Act 2018](#) and the European Convention on Human Rights (ECHR) in respect of the retention and deletion of PACE biometric material and biometric data. It also details the interim arrangements governing the retention and deletion of PACE biometrics pending the introduction of anticipated new Northern Ireland Biometric Retention Legislation.

For the purposes of this Service Instruction, PACE Biometric Data refers to material taken under the provisions in [The Police and Criminal Evidence \(Northern Ireland\) Order 1989](#). PACE material is samples taken from suspects, specifically DNA samples and any DNA profiles derived from DNA samples, fingerprints and palm prints.

Where a person's fingerprints, palm prints or DNA are being deleted under the policies within this Interim Service Instruction and the PSNI also holds

custody images of the person, those images will also be deleted.

## 2. Aims

The aim of this Service Instruction is to:

- Clarify the principles and guidelines under which the retention and deletion of PACE biometrics are managed and reviewed;
- Provide guidance to individuals who wish to request deletion of their PACE biometric data currently held by the PSNI; and
- Outline the role of the [PSNI Biometric Ratification Committee](#).

## 3. Biometric Legislative Framework in Northern Ireland.

See [Appendix B](#) for further details on:

- The legislation governing Biometric Retention and Disposal in Northern Ireland;

- The proposed biometric retention provisions in [The Criminal Justice Act \(Northern Ireland\) 2013](#) (CJA);
- Provisions of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 when commenced.
- The 2 European Court of Human Rights (ECtHR) Judgments;
  - [S & Marper V UK](#);
  - [Gaughran V UK](#);
- The Department of Justice for Northern Ireland’s 2020 public consultation on proposals to amend the legislation governing the retention of DNA and fingerprints in Northern Ireland;
- The application of the [Data Protection Act 2018](#) to the processing of biometric data for law enforcement purposes; and
- The establishment of the PSNI [Biometric Ratification Committee](#) (BRC).

#### 4. Biometric Sampling and Storage

PACE Biometrics recovered by the PSNI from suspects in the course of an

investigation are stored and speculatively searched on the following databases:

Fingerprints
<ul style="list-style-type: none"> <li>• National IDENT1 Fingerprint system;</li> <li>• Paper sets held locally in the PSNI Fingerprint Bureau.</li> </ul>
DNA
<ul style="list-style-type: none"> <li>• Local Northern Ireland DNA Database (NIDNADB);</li> <li>• National DNA Database (NDNADB).</li> </ul>

#### 5. PACE Biometric Retention Dates recorded on NICHE.

PSNI has developed a software solution that analyses a suspect’s full offending history and can be programmed to calculate the biometric retention periods under different legislative frameworks.

Each offence receives an individual biometric retention calculation based on the final disposal for that offence and a

Biometric Retention Date (BR Date) can be recorded on NICHE (the PSNI's internal Crime Management system). The latest BR Date for any PACE offending acts as the overall PACE BR Date for all biometric material relating to that nominal that has been taken under the provisions in PACE.

The convention for recording an indefinite retention period on NICHE is '09/09/2699' as per UK national policy. Where an individual is the subject of ongoing investigation and calculation of what will be the final BR Date is awaiting a final disposal from Custody, PPS or Courts, the convention for recording an impending BR Date on NICHE is '08/08/2688'.

- Information on PACE custody detentions and impending cases under investigation is obtained from NICHE;

- Non Court Disposals are obtained from [The Public Prosecution Service](#) (PPS) decisions as shared via the Causeway messaging system and displayed in the NI Criminal Record Viewer (CRV);

- Court Disposals are obtained from [Northern Ireland Courts and Tribunals Service](#) (NICTS) decisions as shared via the Causeway messaging systems and displayed in the NI Criminal Record Viewer (CRV); and

- Offending history outside of NI, but within the rest of the UK jurisdiction is obtained from the Police National Computer (PNC).

### **PACE Biometric Retention periods recorded on NICHE**

The PACE Biometric Retention Date for PACE Biometrics currently displayed in NICHE is calculated adopting the methodology provided in the un-commenced biometric retention provisions in the CJA 2013. This capability was commenced to facilitate the development and testing of the software and in expectation of the commencement of CJA 2013. These PACE BR Date calculations will be reworked to reflect the lawful maximum retention periods prescribed in any future Northern Ireland biometric legislation.

**PACE biometrics are not currently deleted on the expiry of the PACE BR Date that is displayed in NICHE.**

## **Date retention period begins**

Where biometric material is taken (or, in the case of a DNA profile derived from a sample taken) in connection with the investigation of an offence, the retention period begins with:

- (A) In the case of fingerprints, the date on which the material was taken; or
- (B) In the case of a DNA profile, the date on which the DNA sample from which the profile was derived was taken.

Where a person's biometrics have been previously sampled and retained by PSNI and that person is arrested for or charged with another offence or informed that they are to be reported for another offence, then the biometric retention period begins with the date on which the offence was reported to police.

Where biometrics are taken from a person who has been convicted of an offence or given a caution in respect of an offence under Article 61(6) or 63(3B) of PACE (post-

conviction sampling) then the retention period begins with:

- (a) The date on which the person was arrested for the offence in question;
- (b) If the person was not arrested for that offence, the date on which the person was charged with that offence; or
- (c) If neither (a) nor (b) applies, the date on which the person was convicted or was given the caution.

## **6. Consideration of Biometric Deletion Requests**

An individual may apply to the PSNI to have their PACE biometrics deleted from local and national biometric databases.

The PSNI Biometrics Ratification Committee (BRC) will consider applications for deletion.

The scope of the Biometrics Ratification Committee is limited to reviewing the retention or deletion of the:

- Applicant's DNA samples,
- DNA profile derived from any sample;

- Fingerprints and Palm Prints; and
- Any custody photographic images.

The Biometrics Ratification Committee cannot consider applications for the deletion of an individual's criminal history and criminal conviction information or any other data held by PSNI or disclosed by PSNI to other bodies who can lawfully seek disclosure of such data, e.g. Access NI.

Where the BRC approves the early deletion of an individual's biometrics, this will not amend that individual's criminal record.

Information on the application process for biometric deletion is available on the external PSNI website under "[Advice and Information / Information about Yourself](#)".

Also on the external website is information on enacting other rights under the [Data Protection legislation](#).

If an individual wishes to request the deletion of their PACE biometrics then the

PSNI request that they do so in writing, preferably by completing the PSNI [Biometric Deletion Request Form](#) (available on the external PSNI website).

Each applicant will receive a reply within 28 days informing them:

- Whether their request has been approved or rejected; or
- Of the date when it will be considered by the Biometric Ratification Committee.

Applications should be directed to the following:

**Via Email:**

[BiometricRequests@psni.police.uk](mailto:BiometricRequests@psni.police.uk)

**Via Post to:**

Biometric Unit, Scientific Support  
Branch, PSNI Seapark,  
151 Belfast Road, Carrickfergus,  
BT38 8PL.

## 7. Processing Biometric Deletion Requests

The BRC will convene routinely should applications be required to be considered.
In the event that there are no requests to be considered then the committee will not sit.
The Terms of Reference for this committee are available on request.

### Biometric Ratification Committee Decision Making - PACE Biometrics

The BRC will adopt a structured approach to considering requests for deletion. This structured approach to decision making is represented in the schematic flow chart at [Appendix F](#) and is further detailed below.

The BRC will not consider requests for deletion from individuals under investigation for any offence at the time of application. Applications will only be considered when a final disposal has been made in respect of any offence under investigation at the time of application.

The BRC will apply the Biometric Retention Periods outlined in [Appendix C](#) when reviewing deletion requests. These retention periods have been devised from the biometric retention rules in the un-commenced provisions in CJA 2013 in respect of non-conviction material and the DoJ proposals in their 2020 public consultation on biometric retention legislation in respect of conviction material. For the purposes of this Interim Service Instruction and for the calculation of biometric retention periods in BRC decision-making, the biometric retention periods applicable to qualifying offences in [Appendix C](#) will also be applied to the other offences listed in [Appendix D](#).

Where an applicant’s PACE Biometric Retention Date, as calculated at [Appendix C](#), has already expired at the date of application for deletion, the BRC will direct deletion unless the BRC considers that there are exceptional circumstances that justify retention.

Where an applicant’s Biometric Retention Date has not expired, but the BRC consider that any of the grounds in [Appendix E](#) have been sufficiently evidenced, the BRC will direct deletion unless the BRC considers



that there are [exceptional circumstances that justify retention](#).

Where none of those grounds in [Appendix E](#) are considered to have been evidenced and the applicant's PACE Biometric Retention Date, calculated as at [Appendix C](#), has not expired at the time of application the BRC will proceed to consider whether retention is necessary and proportionate. The BRC will seek to balance the PSNI's statutory obligations to protect public safety and national security and the PSNI's responsibilities under the [Data Protection Act 2018](#) with the applicant's rights under [Article 8 ECHR](#).

The BRC will have regard to all relevant factors. These will include: the individual's conviction history; the seriousness of the offending; the applicant's age at the time of offending; and any commenced and relevant provisions of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 under which the applicant's biometric data could be designated for preservation.

### **Exceptional circumstances justifying retention**

In circumstance where PACE biometric material relating to a person who has been arrested for a qualifying offence, or other

offence listed at [Appendix D](#), but not charged with that offence, and the biometrics might otherwise be destroyed and the BRC considers that the destruction and deletion would represent an unacceptable risk to the public then the material may be retained.

The BRC may also direct the retention of any PACE biometric material in the exceptional circumstance of a risk to national security.

Where biometrics are retained on the basis of exceptional circumstances, the BRC will review the need for ongoing retention every two years.

### **Manifestly unfounded and excessive requests**

The BRC reserves the right to reject applications deemed manifestly unfounded or excessive. When making any assessment in this regard the BRC will follow the guidance on manifestly unfounded and excessive requests issued by the [Information Commissioner's Office \(ICO\)](#).

**Informing applicants of the BRC decision**

Where the BRC decides to retain an applicant’s biometrics, the applicant will be informed of:

- This decision in writing;
- When their biometrics will be next subject to review;
- The frequency of review (if being reviewed regularly on an ongoing basis);
- That their biometrics will be subject to review on the commencement of any new Northern Ireland Biometric Retention Legislation (should their material not be earlier deleted).

They will also be given the information required to make an appeal against the BRC decision to retain their biometrics and advised that:

- They have a right to complain to the Information Commissioner’s Office and
- Have a right to seek remedy through the courts.

Where the BRC directs the deletion of a person’s biometrics the person will be notified in writing of the decision.

**The PSNI Biometric Unit**

The PSNI Biometric Unit will seek to ensure that a consistent approach is applied to the [Biometric Deletion Request](#) process within the PSNI and will:

- |  |
|--|
| <ul style="list-style-type: none"> <li>• Coordinate all requests in respect of biometric records owned by PSNI;</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Redirect applicant to other PSNI Departments or NI Criminal Justice organisations e.g. PPS where necessary or appropriate;</li> </ul>                                     |
| <ul style="list-style-type: none"> <li>• Redirect applicant to other UK jurisdictions where necessary or appropriate;</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Contact the applicant where the grounds have not been fully evidenced to give the applicant the opportunity to provide additional information if they so wish;</li> </ul> |
| <ul style="list-style-type: none"> <li>• Reject applications where an individual is still subject to ongoing enquiries;</li> </ul>   |

- |   |
|---|
| <ul style="list-style-type: none"> <li>• Provide advice to the Chair of the Committee;</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Manage the deletion of biometric information as directed by the Chair of the Committee; and</li> </ul> |
| <ul style="list-style-type: none"> <li>• Collate information on behalf of PSNI for statistical purposes.</li> </ul>                             |

Although the PSNI Biometric Unit may advise the Chair of the Committee when requested as to whether a decision is consistent with determinations made in similar cases, the final decision will always rest solely with the Committee Chair.

## 8. PACE Biometric Deletions Process

### PACE Biometric Deletions

The PSNI Biometrics Team will process any deletions approved by the BRC and will maintain an audit of all confirmed deletions from all databases.

### Fingerprints

All electronic copies of Fingerprints taken and shared by the PSNI will be deleted, while any original paper sets retained in PSNI's Identification Bureau will be manually destroyed.

### DNA Profiles and DNA samples

All DNA profiles held on the Northern Ireland DNA Database and the UK National DNA Database will be deleted. The PSNI's Forensic Service Provider routinely destroys the original DNA samples and associated scientific artefacts (by-products of the laboratory process) as soon as the DNA profile has been extracted as part of normal processing. In the event that the original DNA samples are still retained at the time of the BRC decision to destroy them then the original DNA samples and associated scientific artefacts will be destroyed at that time.

## 9. Risks

Failure to comply with the legislation and guidance creates risk for the organisation which may lead to:

- Potential litigation and reputational damage;

- Reduced confidence in the service by members of the public and other statutory agencies;
- Infringement of an individual's rights as enshrined in ECHR; and
- Unlawful retention or premature deletion which will impact on investigative opportunities and admissibility of evidence in cases.

**Appendix A Glossary**

Acronym	Description
Access NI	<a href="#">Access NI</a> is a branch of NI Department of Justice. Its role is to process applications from individuals who require a criminal record check for employment purposes.
BRC	<a href="#">Biometric Ratification Committee</a>
BR Date	Biometric Retention Date
CJA(NI)2013	<a href="#">Criminal Justice Act Northern Ireland 2013</a>
CPIA	<a href="#">Criminal Procedure and Investigations Act 1996</a>
CRV	(Causeway) Criminal Record Viewer
DPA	<a href="#">Data Protection Act 2018</a>
DNA	Deoxyribonucleic Acid
DoJ	<a href="#">Department of Justice for Northern Ireland</a>
ECHR	<a href="#">European Convention on Human Rights</a>
ECtHR	<a href="#">European Court of Human Rights</a>
ICO	<a href="#">Information Commissioner's Office</a>

<b>IDENT1</b>	UK National Fingerprint System
<b>NDNADB</b>	National DNA Database
<b>NICHE</b>	Crime Management System used by PSNI
<b>NICTS</b>	<a href="#">Northern Ireland Courts and Tribunal Service</a>
<b>NIDNADB</b>	Northern Ireland DNA Database
<b>NIPB</b>	Northern Ireland Policing Board
<b>NPPA</b>	Non-PSNI Prosecuting Agency
<b>PACE</b>	<a href="#">Police and Criminal Evidence (Northern Ireland) Order 1989</a>
<b>PNC</b>	Police National Computer
<b>PPS</b>	<a href="#">Public Prosecution Service Northern Ireland</a>
<b>PSNI</b>	<a href="#">Police Service of Northern Ireland</a>

## Appendix B Biometric Retention and Disposal – legal framework

### Northern Ireland Biometric Legislation

The majority of biometric data collected by PSNI is done so under powers provided for in [The Police and Criminal Evidence \(Northern Ireland\) Order 1989 \(PACE\)](#), which makes provision for the retention and deletion of that data in certain circumstances. Art 64 of PACE states that material may be retained after the purpose for which it was taken has been served.

There are also provisions for the retention of biometrics in the [Criminal Procedure and Investigations Act 1996](#) (CPIA) which makes provision for the retention of evidential material, including but not limited to biometric material, until any investigation for which the material has been taken is complete.

In 2008 a [European Court of Human Rights](#) (ECtHR) ruling, *S and Marper-v-United Kingdom*, found that the indefinite retention of biometric data collected from persons arrested or charged with an offence but never convicted was disproportionate and therefore in breach of Article 8 ECHR. In England & Wales this was addressed with the introduction of the [Protection of Freedoms Act 2012](#) (PoFA). In Northern Ireland, the Criminal Justice Act (Northern Ireland) 2013 contained provisions to amend PACE to ensure biometric data collected under PACE powers would be retained in compliance with the *S & Marper* judgment. Those provisions were never commenced.

In January 2020 the European Court made a further ruling in the case of *Gaughran-v-United Kingdom* finding that the indefinite retention of the biometric data of those convicted of an offence was also disproportionate and in breach of Article 8 ECHR.

In July 2020 the Northern Ireland DoJ launched a public consultation on proposals to amend the legislation governing the retention of DNA and fingerprints in Northern Ireland to comply with the *Gaughran* judgment [consultation-on-biometrics-provisions.pdf \(justice-ni.gov.uk\)](#).

It is anticipated that any new legislation will also include provisions for the appointment of a Northern Ireland Biometrics Commissioner and a revised list of Qualifying Offences.

Furthermore, the UK Government has enacted The [Northern Ireland Troubles \(Legacy and Reconciliation\) Act 2023](#) which makes provision for the Northern Ireland Secretary of State to designate a collection, or part of a collection, of biometric material and may provide for such designated material not to be destroyed. Any legislative provisions commenced as a result of this Act may extend to NI PACE biometric material.

### **The Data Protection Act 2018.**

Part 3 of the [Data Protection Act 2018](#) (DPA) applies to data processing for law enforcement purposes and includes the processing of biometric data, which is considered under the DPA to be sensitive personal data.

### **Establishing the Biometric Ratification Committee**

The PSNI established a Biometric Ratification Committee (BRC) in 2013 when it became apparent that the provisions of the CJA 2013, which were intended to address the judgment of the ECtHR in *S & Marper*, could not be implemented promptly. The BRC was established as an interim arrangement to provide governance for the requests from individuals seeking deletion of their PACE biometric material.

The BRC meets regularly to discuss applications from individuals requesting deletion of their biometric material.

The BRC chair is the PSNI's Head of Forensic Services. Criminal Justice Branch, Public Protection Branch, Scientific Support Branch, Crime Branch and the PSNI Human Rights Legal Adviser are represented on the committee. The Northern Ireland Policing Board (NIPB) Human Rights Legal Adviser is also invited to attend BRC meetings in their oversight role.



**Appendix C Retention Schedule**

<b>PACE Biometric Retention Periods for PACE material when considering applications for biometric deletion at the Biometric Ratification Committee</b>		
<b>Age at time of offending</b>	<b>Circumstances</b>	<b>Retention period</b>
Adult / Under 18	Biometrics relating to an individual subject to investigation for an offence in which it is suspected that the person to whom the material relates has been involved	Retained until end of the investigation or end of any proceedings against any person for the offence.
Adult / Under 18	Biometrics relating to an individual who is; charged with / reported for a qualifying offence but not convicted of that offence and has not previously been convicted of a recordable offence, other than an excluded offence*.	3 years
Adult / Under 18	Biometrics relating to an individual arrested for a qualifying offence but is not charged with / reported for that offence and has not previously been convicted of a recordable offence, other than an excluded offence.	No retention period
Adult / Under 18	Biometrics relating to an individual arrested for / charged with / reported for a minor offence** but is not convicted of that offence and has not previously been convicted of a recordable offence, other than an excluded offence.	No retention period

Adult / Under 18	Biometrics relating to an individual convicted of a Qualifying Offence (Appendix D).	75 years
Adult	Biometrics relating to an individual convicted of a minor offence that is not an excluded offence.	50 years
Under 18	Biometrics relating to an individual who: <ul style="list-style-type: none"> <li>(i) Is convicted of a minor offence;</li> <li>(ii) Is under aged 18 at the time of the offence;</li> <li>(iii) Receives a custodial sentence of less than 5 years for the offence; and</li> <li>(iv) Has not previously been convicted of a recordable offence.</li> </ul>	Term of sentence plus 5 years
Under 18	Biometrics relating to an individual who: <ul style="list-style-type: none"> <li>(i) Is convicted of a minor offence,</li> <li>(ii) Is under aged 18 at the time of the offence,</li> <li>(iii) Receives a custodial sentence of 5 years or more for the offence, and</li> <li>(iv) Has not previously been convicted of a recordable offence.</li> </ul>	50 years
Under 18	Biometrics relating to an individual who: <ul style="list-style-type: none"> <li>(i) Is convicted of a minor offence,</li> <li>(ii) Is under aged 18 at the time of the offence,</li> </ul>	5 years

	<ul style="list-style-type: none"> <li>(iii) Is given a sentence other than a custodial sentence for the offence, and</li> <li>(iv) Has not previously been convicted of a recordable offence.</li> </ul>	
Under 18	Biometrics relating to an individual under aged 18 who has more than one conviction for a minor offence neither of which resulted in a custodial sentence of more than 5 years.	25 years
Under 18	Biometrics relating to an individual under 18 at the time of offending and who is given a caution in respect of a recordable offence.	5 years
Under 18	Biometrics relating to an individual who has completed the diversionary youth conference process in connection with a recordable offence.	5 years
Adult	Biometrics relating to an individual who is given a penalty notice under section 60 of the Justice Act (Northern Ireland) 2011 and in respect of whom no proceedings are brought for the offence to which the notice relates.	2 years

\* An “**excluded offence**”, in relation to a person, means a recordable offence

(A) Which:

- (i) Is not a qualifying offence,
- (ii) Is the only recordable offence of which the person has been convicted, and
- (iii) Was committed when the person was aged under 18; and

(B) For which the person was not given a custodial sentence of 5 years or more.

\*\* A “**minor offence**” is any recordable offence that is not a qualifying offence.

## Appendix D Qualifying Offences and other serious offences

The Criminal Justice (Northern Ireland) Act 2013 introduced the concept of a biometric retention period being applied where a person was charged, but not convicted, of more serious ‘qualifying offences’.

- Qualifying offences are listed under [Art 53A](#) of the Police and Criminal Evidence (Northern Ireland) Order 1989.

For the purposes of this Interim Service Instruction and for the application of biometric retention periods for BRC decision-making, the following offences, and any ancillary offence related to these offences, will be treated in the same way as ‘qualifying offences’:

- Any offence, where the act constituting the offence, if done in England or Wales, would constitute an offence listed at [Art 65A](#) of the Police and Criminal Evidence Act 1984;

- Rape;

- Affray (Violent Disturbance Causing Terror);

- Riot Or Riotous Assembly;

- Outraging Public Decency;

- Indecent Exposure;

- Unlawful Assembly;

### An Offence Under Section:

- 1, 48, 52, 61 or 62 of the Offences Against The Person Act 1861 ;

- 4 of the Explosive Substances Act 1883;

- 2 to 8, 11 or 13 of the Criminal Law (Amendment) Act 1885;

- 1(1 ) of the Vagrancy Act 1898;

- 1 or 2 of the Punishment of Incest Act 1908;
- 7 of the Criminal Law Amendment Act 1912;
- 1 of the Infanticide Act (Northern Ireland) 1939;
- 25 of the Criminal Justice Act (Northern Ireland) 1945;
- 11, 12, or 14 of the Children and Young Persons Act (Northern Ireland) 1950;
- 2 to 8, 11 or 13 of the Attempted Rape, Etc., Act (Northern Ireland) 1960;
- 21 and 22 of the Children and Young Persons Act (Northern Ireland) 1968;
- 8 of the Theft Act (Northern Ireland) 1969;
- 20 of the Theft Act (Northern Ireland) 1969;
- 1, 3, 4, 14 to 18 or 19A of the Firearms Act (Northern Ireland) 1969;
- 1 to 3 of the Protection of The Person and Property Act (Northern Ireland) 1969;
- 4(2), 4(3), 5(2), 5(3), 6, 8 or 20 of the Misuse of Drugs Act 1971;
- 2 to 8, 11 and 13 of the Criminal Jurisdiction Act 1975;
- 21(1)(b), 21(1)(c) or 22(1)(c) of the Northern Ireland (Emergency Provisions) Act 1978;
- 50, 68 or 170 of the Customs and Excise Management Act 1979;

- 3, 5, 6, 17 to 21(1) or 23 of the Firearms (Northern Ireland) Order 1981 ;
- 1 of the Taking of Hostages Act 1982;
- 5 of the Crossbows (Northern Ireland) Order 1988;
- 139(1), 139A or 141 of the Criminal Justice Act 1988;
- 91(c) or 11 of the Prevention of Terrorism (Temporary Provisions) Act 1989;
- 12(1) or 19(2) of the Criminal Justice (International Co-Operation) Act 1990;
- 27, 30, 31, 32 of the Northern Ireland (Emergency Provisions) Act 1991;
- 29, 30, 32 or 33 of the Northern Ireland(Emergency Provision) Act 1996;
- 66 of the Police (Northern Ireland) Act 1998;
- 19, 103 and Schedule 13(2) and 13(3)of the Terrorism Act 2000;
- 39(1) or 40 of the Criminal Justice and Police Act 2001 ;
- 58 of the International Criminal Court Act 2001 ;
- 114(1)(a) or 114(1)(b) of the Anti-Terrorism, Crime and Security Act 2001 ;
- 327 or 328 of the Proceeds of Crime Act 2002;
- 51 and Para 1(1) of Schedule 2 of the Violent Crime Reduction Act 2006 ;

- 54(1)(a) of the Counter-Terrorism Act 2008;

- 63 of the Criminal Justice and Immigration Act 2008;

- 62(1) of the Coroners and Justice Act 2009;

- 4 or 5 of the Identity Documents Act 2010;

- 93 of the Justice Act (Northern Ireland) 2011;

- 69 of the Serious Crime Act 2015;

- 4, 5, 7 or 8 of the Psychoactive Substances Act 2016;

- 267 of the Mental Health Capacity Act (NI) 2016;

- 51 of the Justice Act (Northern Ireland) 2016;

- 6 of the Offensive Weapons Act 2019;

- 1 of the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021;

- 1 or 2 of the Protection from Stalking Act Northern Ireland) 2022;

**An Offence Under Article**

- 121, 122, 123 of the Mental Health (Northern Ireland) Order 1986;

- 9, 10 , 13 or 22 of the Public Order (Northern Ireland) Order 1987;

- 9 of the Criminal Justice Order (Northern Ireland) 1980;
- 8 of the Homosexual Offences (Northern Ireland) Order 1982;
- 3 of the Child Abduction (Northern Ireland) Order 1985;
- 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988;
- 68(1)(a) of the Children (Northern Ireland) Order 1995;
- 9 or 14 of the Road Traffic (Northern Ireland) Order 1995;
- 47 of the Proceeds of Crime (Northern Ireland) Order 1996;
- 47 of the Criminal Justice (Northern Ireland) Order 1996;
- 6 of the Protection from Harassment (Northern Ireland) Order 1997;
- 18 to 21 of the Criminal Justice (Northern Ireland) Order 2003;
- 30(1) of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;
- 3, 45 or 61 to 63(1) of the Firearms (Northern Ireland) Order 2004;
- 11 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007;
- 64(1) of the Sexual offences (Northern Ireland) Order 2008.

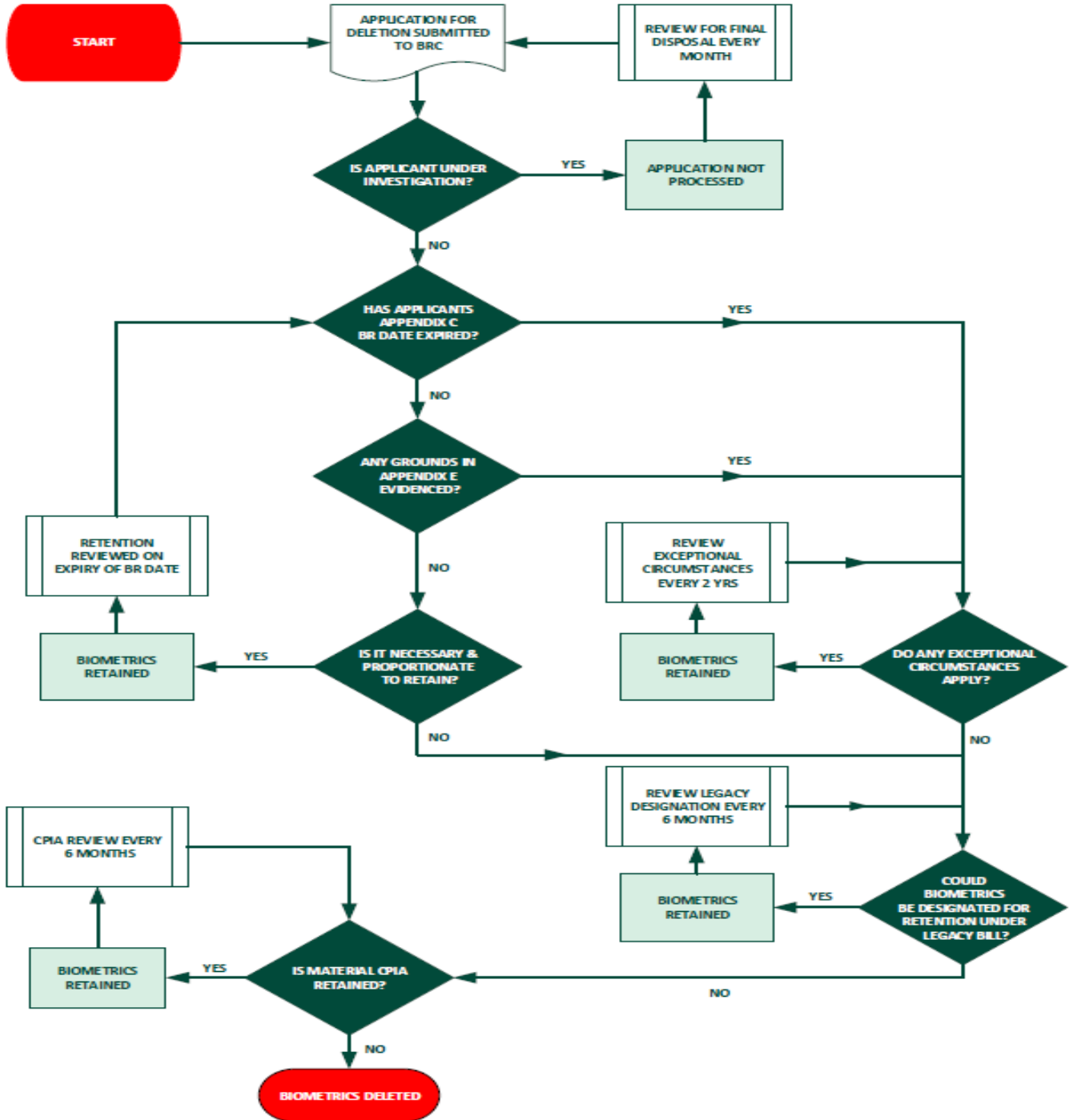


**Appendix E Grounds for Deletion**

<b>Grounds for Deletion</b>	
<b>Need for police retention</b>	Where an individual requests a review of the need for the retention of their biometrics having regard to their Article 8 rights under the ECHR, their rights under the Data Protection Act or any other legal rights.
<b>Unlawfully Taken</b>	Where an individual considers that their fingerprints and DNA were taken unlawfully.
<b>No Crime</b>	Where it is established that no crime has been committed. For example, a sudden death where an individual is arrested at the scene and subsequently charged/reported, but after post mortem it is determined that the deceased person died of natural causes and not as a result of third party involvement. It should be noted that being acquitted or found 'Not Guilty' at Court does not automatically mean that no crime was committed as the PPS would have felt that there was enough evidence in the first instance to bring charges.
<b>Proven Alibi</b>	Where there is corroborative evidence that the individual has a proven alibi and as a result they are eliminated from the enquiry after being arrested. Taking into account other lawful reasons to retain.
<b>Incorrect Disposal</b>	Where the disposal options applied by the police following an arrest are found to have been administered incorrectly.

<p><b>Unlawful Arrest</b></p>	<p>The taking of fingerprints or a DNA profile which was derived from a sample taken from a person in connection with an arrest which was unlawful.</p>
<p><b>Mistaken Identity</b></p>	<p>Where an individual’s fingerprints and DNA were taken as a result of mistaken identity.</p>
<p><b>Judicial Recommendation</b></p>	<p>If, in the course of court proceedings, a Magistrate or Judge makes a recommendation that an individual’s fingerprints and DNA should be deleted.</p>
<p><b>Another person convicted of the offence.</b></p>	<p>If there is the conviction of another person for the offence then the Chief Officer may wish to consider the deletion of the biometric information, providing there is no possibility of there being more than one offender .</p>

Appendix F BRC Decision Making Flowchart



## **Appendix G Contact Us**

### **Service Instruction Author**

Biometrics

### **Branch Email**

[zBiometricRequests@psni.police.uk](mailto:zBiometricRequests@psni.police.uk)