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SI0318**Freedom of Information**

This Service Instruction clearly defines the responsibilities placed on the Police Service of Northern Ireland to ensure compliance with the Freedom of Information Act 2000, and the Environmental Information Regulations 2004. Adherence to this Service Instruction will assist in meeting the objectives of the overall SP0816 Information Management Service Policy.



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1. Aims

This document is aimed at providing an overview of roles, responsibilities and obligations set out in College of Policing's Authorised Professional Practice (APP) for [Freedom of Information 2000](#) (FOIA) which is followed by the Police Service of Northern Ireland (PSNI) to ensure compliance with that Act. It is not intended to replicate the detail of that guidance but will set out for staff and officers their obligations under FOIA and will highlight those processes within the PSNI for handling requests made to it in line with the APP as well as providing advice to all staff on the mechanics of the legislation and guidance issued by the Information Commissioner's Office available at www.ico.org.uk.

2. Introduction

This Service Instruction clearly defines the responsibilities placed on the PSNI to ensure compliance with the Freedom of Information Act 2000 (FOIA), and the Environmental Information Regulations 2004 (EIR). It is the responsibility of all staff to adhere to this service instruction.

It details the PSNI's commitment to, and guidance for conformity with the Codes of

Practice issued under [Sections 45](#) and [46](#) of the FOIA and [Regulation 16](#) of the EIR. The PSNI is committed to transparency and providing access to information about policing in line with legislative obligations.

3. Overview of Acts

FOIA 2000 and EIR 2004

The right of access, under FOIA, and EIR came into effect from 1 January 2005 and is fully retrospective. The underlying principle of the legislation is that all recorded information held by a public authority should be freely available except where an applicable exemption (or exception) or other relevant legislation applies. The Act contains 2 basic rights:

- To be informed in writing by a public authority whether it holds the information requested (unless to do so would itself release exempt information); and
- To have that information communicated to the person making the request (unless an exemption applies).

All requests for information under FOIA, or EIR are coordinated and processed by the Corporate Information Unit (see [Section 5](#) for more information and contact details). This

Unit coordinates the processing of FOI and EIR requests received by the PSNI. It assists business areas with adhering to their legislative obligations under the Act. This includes coordinating information, assessing the impacts of release of information and advising business areas throughout the lifecycle of a request on their obligations, and the applicability of exemptions.

The Unit will also liaise with other public authorities or the National Police Chiefs' Council (NPCC) Central Referral Unit as appropriate as set out in the APP and as required under consultation arrangements set out in the [section 45 Code of Practice](#). Therefore, all FOI/EIR requests should be forwarded to the Unit as soon as possible to assist in complying with legislative time frames. Where business areas do not assist in a timely manner an escalation process will be triggered to ensure the PSNI can meet obligations under the timescales set out in the legislation.

The information which is provided under FOIA/EIR is being released into the public domain; therefore, it is essential that the content is carefully checked. There are 23 exemptions within FOIA and 14 exceptions under EIR which allow for non-disclosure of information (more information on exemptions/exceptions can be found in the

Acts, in the [ICO website](#) and in [Appendix A](#)). FOIA/EIR favour openness and transparency; therefore, any exemptions/exceptions are required to be applied only after careful consideration, and only if a real, evidence based, harm/risk exists that would outweigh the need for disclosure.

There are four categories of exemptions under FOIA, each placing different responsibilities on the PSNI; absolute, qualified, class based and prejudice based. Some exemptions are absolute and by default class based; therefore, if the information falls into a category of information covered by the exemption the information should be withheld. If an exemption is prejudiced based it may be subject to a prejudice or harm test, this will look at how the disclosure of information could prejudice the PSNI's processes and procedures. Others are qualified, this means, a public interest test needs to be considered as well, this involves weighing up factors for and against disclosure.

4. Life-cycle of a request FOI/EIR requests

Identifying a valid FOI request

[Appendix B](#) sets out the lifecycle of a request to the PSNI and [Appendix C](#)

provides further clarity on the roles and responsibilities of the Corporate Information Unit and business areas in the handling of a request detailed in this Service Instruction and at Appendix B.

In order to be a valid FOI Request, it must be:

- made in writing (not necessary for EIR);
- contain contact details for the requester (name and home address/email address);
- be in an legible format; and
- describe the information requested.

A “FOI1” form is available from both the internal intranet and the external website; both the form and the sites provide further information with regards to submitting an FOI/EIR request.

Whilst the FOI1 form will assist requesters in making a valid request it is not necessary that this form is used. A requester does not have to cite the FOIA in making their request. A request in writing from a legal person seeking ‘recorded’ information held by the PSNI will be sufficient to trigger the Act. Requests made in ‘writing’ can be sent via email or other written correspondence.

Whilst any requests which are valid or make reference to FOIA should be forwarded to the Corporate Information Unit, requests for information may be able to be more appropriately dealt with as “business as usual”, providing a more timely and cost effective response to the requester. Each request should be assessed on its individual merits and if information can be easily provided to the requester under normal business processes then this should be sent to them and does not need to be sent to the Corporate Information Unit e.g. responding to a media enquiry or providing an individual with a response to a concern they have raised.

Processing a valid request

FOIA/EIR places a responsibility on the PSNI to respond to a request for information within 20 working days (in specific cases this may be extended to 40 days and is linked to the consideration of the public interest test).

Once a request is received by the Corporate Information Unit it is logged and confirmation of receipt sent to the requester, as soon as possible by a decision maker in the Unit. To enable a request to be answered, the request is

assigned to a FOI decision maker and information is then requested from relevant business areas via a case tracker form (a copy can be obtained from the Unit).

At this stage the decision maker will ask business areas about any harm/risk they believe may be associated with releasing the information into the public domain. The decision maker will ask the business area to respond within 7 working days. It is imperative that business areas respond fully to this request, as this information will be used by the Unit when determining if any exemptions/exceptions apply that would stop disclosure of the information into the public domain.

The PSNI has an established escalation process and roles and responsibilities assigned to it set out in [Appendix B](#). The Corporate Information Unit will contact the business areas after 7 days, 11 days and the relevant Assistant Chief Constable (ACC)/Head of Department after 13 days if a response has not been provided. This ensures the PSNI can meet its statutory obligation to respond to a requester 'promptly' and no later than 20 working days on receipt of a request.

If clarification is required from the requester, the legislative clock will stop. Once clarification has been received the clock will re-set and the Unit will have 20 working days to process the request.

In addition to exemptions, the PSNI can refuse a request if to answer it would be "over cost" ([Section 12](#)). The FOI Act allows the PSNI to calculate the cost of complying with a request. If it would take over 18 hours to retrieve the information sought then the PSNI are not under an obligation to respond to such a request as this would place the Organisation over the 'appropriate limit'. The time taken to apply any exemptions or redact information cannot be taken into account. Further information can be found on the ICO guidance '[Requests where cost of compliance exceeds the appropriate limit](#)'. A request can also be refused if the request is deemed "vexatious" or the request is a repeat request ([Section 14](#)). More information can be found in the ICO guidance on [refusing a request](#).

The PSNI may also decide to "Neither Confirm or Deny" (NCND) if they hold information, if to do so in itself could cause harm. This is why it is necessary that the Corporate Information Unit have the

responsibility for issuing responses to requesters and ensuring that no PSNI operational methodologies, or indeed other Police Services are compromised by the disclosure of information.

If the information sought by a requester is, at the time of the request, available through other means (for example, the publications scheme). The request can be closed by directing the applicant to it.

When the PSNI refuse to provide information the Corporate Information Unit will issue a 'refusal notice' to the requester. The refusal notice will state the exemption being applied and further detail the reasons for the refusal. It will also contain details of how an individual can request an internal review and how to make a complaint to the Information Commissioner's Office. A refusal decision date should also be included within the refusal letter.

Charges for FOI requests

It is not PSNI policy to charge for any disbursements when responding to FOI requests as permitted by the legislation. In limited circumstances a fee can be charged, if the PSNI elect to make information available which would otherwise be over cost to provide (see

guidance above on [section 12](#) and '[Fees that may be charged where the cost of compliance exceeds the appropriate limit](#)')

The requester can pay for the full cost of processing a request which would be over £450. To do this a fees notice would be required to be issued to the requester.

Internal review, complaints to ICO and external consultation

If the requester is unhappy with the issued FOI response they can request that an internal review is conducted. The details of how they request this will be at the bottom of the refusal notice issued to them. This review will be conducted by a reviewer who is a more senior decision maker based in the Corporate Information Unit, these requests are primarily actioned by the Corporate Information team manager (Staff Officer). The reviewer will consider the overall handling of the request to include whether timescales have been adhered to, whether the requester was kept informed, whether the requester was provided with advice and assistance, if exemptions were appropriately applied and anything else relevant to determining if the request was handled in line with the requirements of the FOIA.

Often the internal reviewer will need to contact the relevant business area once again as a part of their review. In line with guidance issued by the Information Commissioner's Office, the PSNI will aim to conduct this review within a further 20 working days.

In exceptional circumstances 40 days may be permitted; however, there must be a clear rationale for this time extension, for example, seeking legal advice or the public interest test under consideration is a particularly complex one. An EIR applicant has 40 working days to appeal any decision made by the authority and the authority must respond to any complaint within 40 working days.

[Appendix B](#) provides an overview of processing a FOI/EIR request within the PSNI and further detail is set out. Business areas will not be told the identity of the requester unless appropriate to do so, as in the main, requests made under FOI are applicant blind; therefore, the identity of the requester is not relevant to consideration of release to the public. On occasions the Corporate Information Unit will be required to consider the applicant's identity, for example, to ensure the correct application of certain exemptions/sections

of the Act, such as in the case of vexatious requests.

The PSNI hold information which may be relevant to or originate with other public authorities. Likewise other public authorities may hold information which is relevant to or originates from the PSNI. When another public authority or a third party is affected by disclosure it is good practice that the PSNI engages in a consultation process with those organisations/individuals where practicable to do so.

The Code of Practice issued under Section 45 of the FOI Act provides further detail on consultation. Such requests ('section 45 requests') are once again progressed by the Corporate Information Unit and further guidance is found in the Guide to Freedom of Information, available on the [ICO website](#).

Information that is held on behalf of the PSNI by another public authority or organisation is subject to the provisions of the FOI Act and the PSNI therefore has a duty to respond, for example when engaging an organisation to carry out research on its behalf.

If the PSNI does not hold the requested information but is aware that it is held by another public authority, they should consider the transfer advice contained in [Part III of the Section 45 code of practice](#).

The transfer of a request is only appropriate once the other public authority has been consulted and it has been confirmed that they hold the information.

Where a request for information appears to be of national significance, reference will be made to the National Police FOI & DP Central Referral Unit (NPCC CRU). The Corporate Information Unit will consider any guidance issued by this team in relation to specific types of requests, to ensure a consistent approach is being applied to FOI/EIR requests throughout the UK and that the PSNI do not release information to the detriment of other UK Police Services or criminal justice agencies. Further detail of this process can be found in the [APP](#) issued by the College of Policing.

5. Corporate Information Unit Contact Details

The Unit, situated in Hut A, Brooklyn. Can be contacted by the following means:

- Tel:
 - 02890700164
 - Ext.21164
- Email
- FOI@psni.pnn.police.uk

The Corporate Information Unit process requests for information in line with the Acts.

All initial requests or queries should be addressed to the generic email box (noted above) rather than to individual staff members, as staff absence could result in a delay of the process and non-compliance with legislative timeframes.

6. Publication Scheme

The PSNI has a Publication Scheme available on its external website which follows the ICOs approved model publication scheme guidance for [police forces](#). This ensures compliance with [Section 19](#) of the legislation which requires all public authorities to adopt a publication scheme. A publication scheme sets out the kind of information that a public authority should make routinely available and proactively published for example financial information, details of policies and procedures, and policing priorities. A

proportion of FOI/EIR requests processed by the Corporate Information Unit will be included for public perusal under the publication scheme. EIR do not stipulate a requirement to adopt and maintain a publication scheme, although there is a requirement to proactively publish this information.

Whilst the responsibility for updating information lies with the relevant business area, the Corporate Information Unit is responsible for ensuring that the PSNI have complied with the ICO guidelines. Checks will be conducted at regular intervals.

7. Information Commissioner's Office

Regulation of the FOIA and EIR is the function of the Information Commissioner's Office. That office has a range of powers which allow it to investigate a public authorities handling of a request.

Requesters have a right to complain to this office if they are not satisfied with the handling of their request.

The ICO have a Belfast Office situated at:

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

It is essential that the processes when dealing with FOI requests are fully documented. The Corporate Information Unit will document each FOI request on a case management system which includes all views and representations given by business areas and any other relevant organisation on a request. This can be provided to the ICO as a part of any investigation under [section 50](#) of the FOIA they may undertake. The Corporate Information Unit will liaise with the Information Commissioner's Office in their investigation of an FOI complaint. The Unit may require further information from relevant business areas in the course of that process.

It is a criminal offence under [Section 77](#) of FOIA to alter, block, destroy or conceal information. An individual and/or authority could be charged with this offence, resulting in a fine.

8. Training

All police officers and police staff are required to carry out mandatory FOI NCALT training when they join the PSNI. This is one of a series of modules which are mandatory to complete for all staff. It is imperative that mandatory training is kept up to date when staff are promoted to refresh it as compliance is audited.

Corporate Information Unit staff are required to undertake training which is specific to their roles. This is delivered by a variety of internal staff, external law enforcement agencies and personnel from the public and private sector.

9. Further processing of information

Retention and Disposal

This is carried out in line with Corporate Policy, Service Procedure SP3/12 – Records Management. Service Instructions and standards can be accessed via the Corporate Policy Homepage on PoliceNet. Queries in relation to this can be directed to the Records Management Unit at: RecordsManagement@psni.pnn.police.uk.

Contractual Agreements

When entering into contractual agreements with external contractors, other public authorities and non-public authorities, the PSNI must ensure compliance with FOIA and EIR.

Under FOIA, the PSNI will be required to disclose information relating to a contract, unless an exemption applies.

Organisations may seek to include confidentiality clauses within contracts; however, the PSNI will accept such clauses in exceptional circumstances only, as any restrictions on disclosure may be overturned in complying with FOIA. When entering into contracts standard contractual clauses issued by [Central Procurement Directorate](#) of the Department of Finance NI should be followed as well as compliance with PSNI procurement policies. If using an alternative format legal advice should be considered.

Appendix A FOI Exemptions and EIR Exceptions

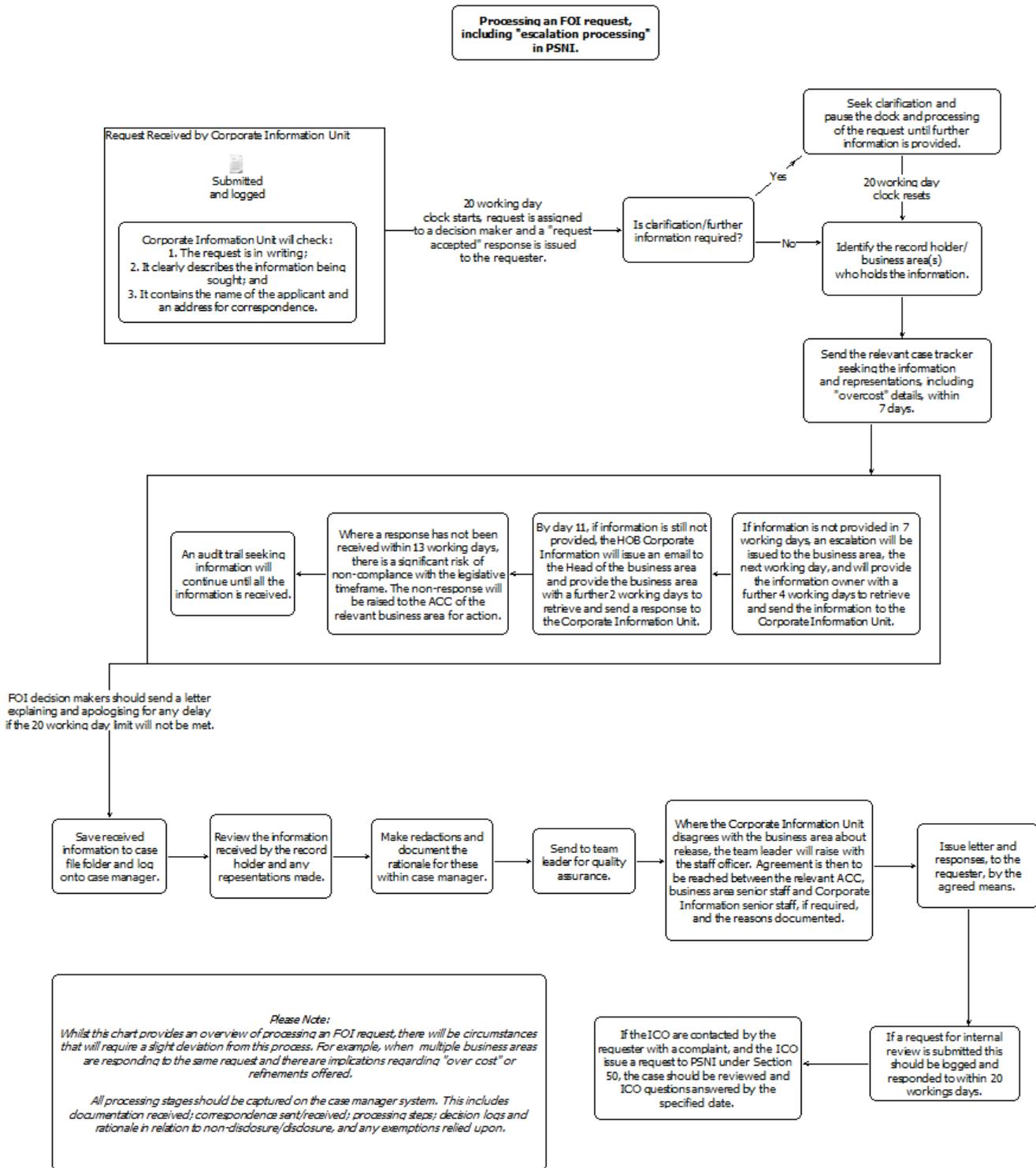
Exemptions – [Freedom of Information Act 2000](#)

- Section 21: Information reasonably accessible to the applicant by other means
- Sections 22 and 22A: Information intended for future publication and research information
- Section 23: Security bodies
- Section 24: Safeguarding national security
- Section 26: Defence
- Section 27: International relations
- Section 28: Relations within the UK
- Section 29: The economy
- Section 30: Investigations and proceedings
- Section 31: Law enforcement
- Section 32: Court, inquiry or arbitration records
- Section 33: Public audit
- Section 34: Parliamentary privilege
- Section 35: Government policy
- Section 36: Effective conduct of public affairs and record of the qualified person's opinion
- Section 37: Communications with Her Majesty and the awarding of honours
- Section 38: Health and safety
- Section 39: Environmental information
- Section 40: Personal information
- Section 41: Information provided in confidence
- Section 42: Legal professional privilege
- Section 43: Commercial interest
- Section 44: Prohibitions on disclosure

Exceptions – [Environmental Information Regulations 2004](#)

- Regulation 12(4)(a): Information not held – please see ‘Holding information’ below
- Regulation 12(4)(b): Manifestly unreasonable requests
- Regulation 12(4)(c): Requests formulated in too general a manner
- Regulation 12(4)(d): Material in the course of completion, unfinished documents and incomplete data
- Regulation 12(4)(e): Internal communications
- Regulation 12(5)(a): International relations, defence, national security or public safety
- Regulation 12(5)(b): The course of justice and inquiries exception
- Regulation 12(5)(c): Intellectual property rights
- Regulation 12(5)(d): Confidentiality of proceedings
- Regulation 12(5)(e): Confidentiality of commercial or industrial information
- Regulation 12(5)(f): Interests of the person who provided the information to the public authority
- Regulation 12(5)(g): Protection of the environment
- Regulation 12(9): Information on emissions
- Regulation 13: Personal information

Appendix B Processing a FOI request including 'escalation process' within the PSNI



Appendix C Role and Responsibilities Description

1: Head of Corporate Information

The Head of Corporate Information has delegated authority from the Chief Constable to supervise and co-ordinate compliance with legislative requirements under the Data Protection Act 2018 and the General Data Protection Regulations (GDPR), Freedom of Information (FOI) Act 2000 and the Environmental Information Regulations. They also have responsibility for the content and review of the FOI Service Instruction.

2. Corporate Information **Decision-Maker**

The Decision-Maker will be the first port of call for FOI enquiries. This involves obtaining all relevant information and compiling responses to requests and appeals, through liaising with business areas.

3. Corporate Information **Team Leader**

The Corporate Information team leader will manage the Corporate Information decision makers and will be responsible for the Quality Assurance of FOI cases.

4. Corporate Information **Team Manager**

The Corporate Information Team Manager will manage the FOI request process and will have responsibility for carrying out or assigning internal reviews.

5. **Record Owner in business area**

A Record Owner is the person responsible for PSNI corporate information within a Headquarters Department (HQ) or a District.

Within HQ Departments it is the Head of Branch (HOB) and within Districts it is the District Commander.

The Record Owner will be responsible for the retrieval of **all** records required to answer a FOI request. They will also be accountable for providing the Corporate Information Team with an appropriate “Harm Test” evidencing the likely harm in releasing the information, and send **all** of the information, with their contextualised response to the relevant Decision-Maker in the Corporate Information Team.

A Record Owner may, where business needs dictate, delegate tasks arising from FOI. However, the onus remains with the Record Owner that comprehensive searches are completed and all relevant information is conveyed to the Corporate Information Team, together with a completed HARM test, within the timescales specified in [Appendix 'B'](#) of this Service Instruction.

6: ACC/Head of Department

Assistant Chief Constable or Head of Department with responsibility for all branches within their Department. Ultimately responsible for ensuring all branches within their Department comply with the Freedom of Information Act.

Appendix D Contact Details

Service Instruction Author

Deputy Principal Corporate Information Unit

Branch Email

DataProtection@psni.pnn.police.uk and FOI@psni.pnn.police.uk