

NORTHERN IRELAND POLICING BOARD

Freedom of Information Policy

1. INTRODUCTION

- 1.1 The Freedom of Information Act 2000 (hereafter referred to as “the Act”) applies to all public authorities in Northern Ireland (and England and Wales). It is intended to promote a culture of openness and accountability amongst public authorities by providing the public with rights of access to many areas of a public authority's operations. A general right of access to information comes into effect on 1 January 2005 and every public authority is required to adopt and maintain a publication scheme. The publication scheme must set out how the public authority intends to publish the different classes of information it holds, and whether there is a charge for the information. The Northern Ireland Policing Board's (hereafter referred to as “the Board”) Publication Scheme can be found on its website at www.nipolicingboard.org.uk.

The Lord Chancellor, after consulting with the Information Commissioner issued a ‘Code of Practice’ pursuant to section 45 of the Act. The ‘Code’ reiterates the duties placed on public authorities and is seen as the standard to be followed in achieving best practice.

- 1.2 Under Part 1 of the Act, there are several functions to be discharged. These are to:
- Facilitate the disclosure of information under the Act by setting out good administrative practice that is desirable for the public authority to follow when handling requests for information, including where appropriate, the transfer of a request to a different authority.
 - Protect the interests of applicants by setting out standards for the provision of advice, which it would be best practice to make available to them, and to encourage the development of effective means of complaining about decisions taken under the Act.
 - Ensure that the interests of third parties who may be effected by any decision to disclose information are considered by the public authority by setting standards for consultation, and
 - Ensure that the public authority considers the implications for Freedom of Information before agreeing to confidentiality provisions in contracts and accepting information in confidence from a third party more generally.

- 1.3 Part 1 of the Act also states that public authorities are expected to abide by any policies put in place unless there are good reasons, capable of being justified to the Information Commissioner why it would be inappropriate to do so.

The statutory requirements for dealing with requests for information are contained in the Act and regulations made under it and the public authority must comply with these statutory provisions at all times.

2. PURPOSE OF THE POLICY STATEMENT

- 2.1 This policy provides guidance on effective procedures relating to freedom of information that will be used throughout the Board.
- 2.2 It sets out the standards for procedures to support its business needs, accountability and statutory requirements in relation to the Act.
- 2.3 This policy also outlines:
- The roles and responsibilities of all staff, including the responsibility of senior management;
 - The procedures put in place to address freedom of information requirements within the organisation, including monitoring; and
 - When information is refused, details of the complaints procedure.

3. SCOPE

- 3.1 This policy applies to all staff of the Board.

4. LEGISLATION AND STANDARDS

- 4.1 The Board recognises its legislative requirements as a public authority and is committed to the principles set out in the following legislation and standards:
- Freedom of Information Act 2000
 - Data Protection Act 1998
 - Environmental Information Regulations 2004
 - Human Rights Act 1998
 - Northern Ireland Act 1998 (Section 75 Duties and Responsibilities)
 - Lord Chancellor's Code of Practice on the Discharge of Public Authorities' Functions to under Part 1 of the Freedom of information Act 2000;

- Lord Chancellor’s Code of Practice on the Management of Records Under Section 46 of the Freedom of information Act 2000; and
- Information Commissioner’s ‘Awareness Guidance’ documents.

5. AIM OF THE FREEDOM OF INFORMATION POLICY

5.1 This policy sets out a framework of procedures and practices, which will:

- Foster a culture of openness in the Board;
- Enable the Board meet its legislative requirements and comply with best practice in doing so.

6. THE BOARD'S COMMITMENT TO FREEDOM OF INFORMATION

6.1 The Board is fully committed to the Act and will seek to comply with the legislation at all times. It will be as open as possible with the information it holds and will adhere to the guidance of the Lord Chancellor and the Information Commissioner.

6.2 The Board is committed to providing the necessary education and training that will allow staff to perform their Freedom of Information responsibilities. Training is ongoing and to date has included workshops, an interactive Freedom of Information e-learning product and regular briefings from the Compliance Manager.

7. RESPONSIBILITY FOR FREEDOM OF INFORMATION

7.1 The Director of Corporate Services has responsibility for freedom of information although operational responsibility lies with the Compliance Manager.

7.2 The Compliance Manager endorses this policy and will work with staff, providing advice and guidance as required, to ensure that the Board complies with freedom of information and related legislation.

7.3 The Compliance Manager shall:

- Have responsibility for overseeing the implementation and maintenance of the policy;
- Create and maintain the Board's freedom of information procedures and practices and ensure these comply with its obligations, and responsibilities as a public authority;

- Promote the Board's freedom of information policy and procedures;
- Oversee the programmes and actions designed to make all staff aware of the Board's requirements in this area;
- Monitor the functionality of the policy; and
- Provide support and advice on all related issues.

7.4 Compliance Branch staff shall:

- Maintain procedures documenting the related requirements, roles and practices that all staff are obliged to follow;
- Have responsibility for monitoring the progress of freedom of information requests at corporate level to ensure timescales are adhered to;
- Promote the Board's freedom of information policy and procedures;
- Monitor compliance with the policy and procedures; and
- Provide support and advice on all freedom of information issues.

7.5 Branch Champions shall:

- Act as a focal point for all freedom of information issues within their individual business areas;
- Have responsibility for monitoring the progress of freedom of information requests at branch level to ensure that timescales are adhered to; and
- Provide support and advice on freedom of information issues within their individual business areas.

7.6 All managers shall:

- Ensure that their staff understand and comply with the Board's freedom of information policy and procedures; and
- Support and foster a culture within their business area that promotes good freedom of information practices.

7.7 All staff shall:

- Understand the freedom of information responsibilities that relate to their position;
- Adhere to the freedom of information policy and procedures, and
- Complete the necessary education and awareness training (see paragraph 6.2 for detail).

8. THE PROVISION OF ADVICE AND ASSISTANCE TO PERSONS MAKING REQUESTS FOR INFORMATION

- 8.1 Board staff will provide advice and assistance to those who have made or would like to make a request for information and every effort will be made to assist them in doing so.
- 8.2 The procedures, for dealing with requests for information, will be published by the Board and revised and updated when appropriate. These procedures include what the Board's usual procedure will be where it does not hold the information requested. It will also alert potential applicants to the fact that the Board may need to consult other public authorities and/or third parties before the requested information can be considered for release. The procedures include publishing addresses (including e-mail) and a telephone number) to which applicants may direct requests for information or for assistance. These procedures are also detailed in the Board's Publication Scheme.
- 8.3 Where a person is unable to frame their request for information in writing, staff will ensure the appropriate assistance is given to enable that person to make a request for information.

9. HANDLING REQUESTS FOR INFORMATION WHICH APPEAR TO BE PART OF AN ORGANISED CAMPAIGN

- 9.1 The Board will not comply with related requests where the cumulative cost of complying with the requests would exceed the "appropriate limit" (i.e. cost threshold) prescribed in Fees Regulations. It has been decided that: "If it would cost more than £600 for a public authority to respond to an FOI request, then an authority need not comply with it. The £600 limit covers the time taken to find, sort, edit or redact material. It does not cover the time taken to consider whether an exemption applies."

10. TIMELINESS IN DEALING WITH REQUESTS FOR INFORMATION

- 10.1 The Board will comply with all requests for information promptly and not delay responding until the end of the 20 working day period if the information could reasonably have been provided earlier.
- 10.2 The Board will aim to make all decisions within 20 working days, including in cases where it needs to consider where the public interest lies in respect of an application for exempt information. However, it is recognised there will be some instances where it will not be possible to deal with such an application within 20 working days.

10.3 The Board will give the requestor an estimate of the date by which it expects to reach such a decision where the public interest must be considered. In these instances, staff will give estimates, which are realistic and reasonable in the circumstances of the particular case, taking account, for example, of the need to consult third parties where this is necessary. The applicant will be informed as early as possible of changes to given estimates. Where these estimates are exceeded, the Board take steps to identify the problem and rectify it.

11. CHARGING FEES

11.1 The Board will charge applicants a fee in accordance with Fees Regulations made under sections 9, 12 and 13 of the Act in respect of requests made under the general right of access.

11.2 The Fees Regulations do not apply:

- To material made available under a publication scheme;
- To information which is reasonably accessible to the applicant by other means; or
- Where another Act makes provision for charges for information.

11.3 The Board will ensure that any charges made in cases falling outside those covered by the Fees Regulations are in accordance with any relevant legislation and are within the terms of any relevant guidance which has been issued or approved by HM Treasury and which is applicable to the Board.

12. TRANSFERRING REQUESTS FOR INFORMATION

12.1 A request can only be transferred where the Board receives a request for information, which it does not hold but is aware that another public authority holds the information requested. If the Board holds some of the information requested, a transfer can only be made in respect of the information it does not hold (but is held by another public authority).

12.2 Staff must advise the applicant that it does not hold part of the requested information, or all of it, whichever applies.

- 12.3 Where a request or part of a request is transferred from another public authority to the Board, staff must comply with its obligations under Part 1 of the Act in the same way as it would for a request that is received direct from an applicant. The time for complying with such a request will be measured from the day that the Board receives the request.
- 12.4 All transfers of requests should take place as soon as is practicable and the applicant should be informed as soon as possible.

13. CONSULTATION WITH THIRD PARTIES

- 13.1 In responding to requests for information it may be at times necessary to consult with third parties. This may arise where information has been obtained from a third party and disclosure of the information, without their consent, would constitute an actionable breach of confidence. Such consultation should be carried out as soon as possible, unless this is not practicable, for example because the third party cannot be located or because the costs of consulting them would be disproportionate.

14. FREEDOM OF INFORMATION AND PUBLIC SECTOR CONTRACTS

- 14.1 When entering into contracts the Board will refuse to include contracted terms, which purport to restrict the disclosure of information held by the Board and relating to the contract beyond the restrictions permitted by the Act. The Board will not “contract out “ of their obligations under the Act. Unless an exemption provided for under the Act is applicable in relation to any particular information, the Board will disclose that information in response to a request, regardless of the terms of any contract.
- 14.2 In relation to contracts with non-public authority contractors, the Board may be asked to accept confidentiality clauses. The Board will reject such clauses wherever possible. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, a schedule of the contract, which clearly identifies information, which should not be disclosed, will be drawn up.

15. CONSULTATION WITH DEVOLVED ADMINISTRATIONS

- 15.1 The Board will consult with the relevant devolved administration before disclosing information provided by or directly concerning that administration, except where:

- The views of the devolved administration can have no effect on the decision of the Board (for example where there is other legislation requiring the disclosure of the information), or there is no applicable exemption so the information must be disclosed under the Act; or
- In the circumstances, consultation would be disproportionate.

16. REFUSAL OF REQUEST

- 16.1 Where a request for information is refused by reliance on an exemption, staff will notify the applicant which exemption has been claimed, and if it would otherwise not be apparent, why that exemption applies. When withholding information (other than under an “absolute” exemption), staff will state the reasons for claiming that the public interest in maintaining the exemption outweighs the public interest in disclosure.

Staff will also specify the public interest factors (for and against disclosure), which they have taken into account before reaching the decision.

- 16.2 For monitoring purposes the Board will keep a record of all applications where either all or part of the requested information is withheld. In addition the Compliance Manager will hold information on all requests to determine whether they are being properly considered and/or processed.

17. COMPLAINTS

The Lord Chancellor’s Code of Practice, issued under section 45 of the Act, instructs that all public bodies must have a complaints procedure in place. The Board has complied with this instruction. All Freedom of Information complaints will therefore, be dealt with using the Complaints Procedure detailed at Annex 1.

18. MAINTENANCE OF THE POLICY

- 18.1 The Compliance Manager will audit the Board’s freedom of information procedures to ensure compliance with this policy statement and any ensuing policies and to incorporate any major changes that need to be made.
- 18.2 The Compliance Manager is responsible for the maintenance of this policy and will review it on 1 January 2006.

19. SECTION 75 DUTIES

- 19.1 This policy will be screened in relation to Section 75 of the Northern Ireland Act 1998.

FREEDOM OF INFORMATION COMPLAINTS PROCEDURE

1. INTRODUCTION

- 1.1 This document outlines the Northern Ireland Policing Board's formal Freedom of Information (FOI) complaints procedure to be used where an issue is such that it cannot be resolved informally in discussion with the official dealing with the request.
- 1.2 Complaints will fall into three categories:
- The Board not complying with its Publication Scheme
 - Dissatisfaction with the outcome of the consideration of a request for information
 - Improper handling of a request for information.

2. PROCEDURE

- 2.1 Where the issue relates to non-compliance with its Publication Scheme, the Board will inform such complainants of the details of its complaints procedure and how to contact the Information Commissioner, if the complainant wishes to write to him about the matter. The Board will also explain that although the complainant cannot apply to the Commissioner for a decision under section 50 of the Act, the Commissioner may investigate the matter at his discretion.
- 2.2 When communicating any decision made in relation to a request under the Act's general right of access (dissatisfaction with the outcome, or improper handling of a request), the Board must, under section 17(7) of the Act notify the applicant of their rights to complain. They should provide details of their own complaints procedure, including how to make a complaint and inform the applicant of the right to complain to the Information Commissioner under section 50 if he or she is still dissatisfied following the Board's review.
- 2.3 All formal FOI complaints will be made in writing to the Chief Executive and forwarded to the Compliance Manager to review. In the event that the Compliance Manager has been party to the original decision, he will nominate another person to conduct the review.

- 2.4 Where the complaint relates to non-compliance with the Publication Scheme or to the outcome of the consideration of a request for information a review will be completed and a report will be presented to a Review Panel. The Panel will consist three members of the Senior Management Team and in most cases will be chaired by the Chief Executive. The Review Panel will consider all the information and make a determination.
- 2.5 Where the complaint relates to the improper handling of a request for information, a review of the procedure will be carried out. When the review is completed a report will be presented to the Chief Executive who will make a determination.
- 2.6 In all cases complainants will be informed of the Board's target date for determining the complaint. Where it is apparent that the determination of the complaint will take longer than the target time (for example because of the complexity of the particular case) the Board will inform the complainant and explain the reason for the delay. The complainant will be informed of the outcome of his or her complaint.

3. PROCESS

- 3.1 The Reviewer will acknowledge the complaint within 5 working days of receipt. The acknowledgement letter will include:
- Confirmation of the issue(s) raised;
 - An explanation of the complaint procedure that will be followed;
 - An explanation of the role of Reviewer, the Decision Maker and of the Review Panel within the complaint process;
 - The Board's target date for determining the complaint and response to the Complainant; and
 - Contact details, should the complainant require further information.
- 3.2 The Decision Maker will, within 10 working days of the receipt of the complaint, provide the Reviewer with the necessary information to assist in the processing of the complaint.
- 3.3 In processing the complaint the Reviewer will as soon as possible, but within 20 working days of the receipt of the complaint, submit a paper to the Review Panel detailing the following:
- The Procedure followed;
 - The Information Identified for Response; and
 - The Original Decision.

The Reviewer will also make a recommendation within the report.

- 3.4 Members of the Review Panel will meet within 20 working days of the receipt of the Reviewer's paper to consider the facts of the case and the Reviewer's recommendation and make a determination.
- 3.5 The Reviewer will advise the Complainant of the Review Panel's decision within 10 working days of the Panel meeting:
- Clearly setting out decisions and rationale;
 - Where additional information is to be disclosed, providing that information;
 - Where procedures were not followed correctly, apologizing and explaining the changes that will be put in place to ensure that procedures will be followed in future; and
 - Provide details of the Information Commissioner appeal process.
- 3.6 The Reviewer will also advise the Decision Maker of the Review Panel's decision within 10 working days:
- Highlighting where procedures were not followed correctly and advising of the proposed changes; (if applicable)
 - Advising of any amendments to the initial decision (if applicable); and
 - Communicating any amendments to the initial decision to information owners who may be affected by any additional disclosure.
- 3.7 The Reviewer will where appropriate amend procedures within 20 working days of the Review Panel's decision:
- Where the review has highlighted issues and possible weaknesses in the procedural process, amending accordingly and disseminating to appropriate personnel;
 - Additionally review any guidance or training that may be impacted upon by amendments; and
 - Provide the Chief Executive with a report on the actions taken to amend procedures.

4. PERSONS INVOLVED IN THE COMPLAINTS PROCEDURE

- 4.1 **The Reviewer** will be expected to receive the initial complaint; liaise with the Complainant, make recommendations to the Review Panel and ensure follow-up action is taken.

The following areas of knowledge are considered essential for the role of Reviewer:

- The Freedom of Information Act, 2000, and associated Codes of Practice;
- Data Protection legislation;
- Environmental Information Regulations;
- Section 75, Northern Ireland Act 1998 (Equality);
- Human Rights legislation;
- Anti-discrimination/diversity legislation and practice;
- Corporate structure and data sources; and
- Government Protective Marking Scheme.

The Compliance Manager in most cases will perform the role of Reviewer.

4.2 **The Decision Maker** is the member of staff who gives the final approval for either the release, part-release, or refusal in response to an access request. This will normally be one of the Board's Directors.

4.3 **The Review Panel** will be made up of three members of the senior management team (SMT) including the Chief Executive (except where he has been the Decision Maker). SMT is made up of the Chief Executive and the Directors – at present this totals six personnel.

The Chief Executive will be the Chair of the Review Panel (unless he was the Decision Maker, then the role will be performed by another member of the Panel).

When constructing a Review Panel (three members of the SMT including the Chief Executive) care must be taken to ensure that a conflict of interest does not occur. This has the potential to happen, as the Decision Maker who signed-off the request for information, will in most cases be a member of the SMT.

In exceptional circumstances a request may involve information being supplied from different branches/directorates and as such there may be several Decision Makers involved (though one Decision Maker will always lead). Thus it follows that should a complaint arise there will be several members of the SMT unable to consider the complaint. Should less than three members remain, The Chair of the Review Panel must make arrangements for other suitable personnel to fulfil the role. These personnel must have complete independence from the original decision and also have a sound knowledge of the Act.

COMPLAINTS PROCESS

