



FREEDOM OF INFORMATION REQUEST

FOI Reference number: 28/2019

Date: 17 December 2019

Request:

1) Please, can you provide a list of all employee roles who are employed by your authority and are subject to the provisions as set out in the Official Secrets Acts 1911-1989?

This can be provided in any format, however, a spreadsheet detailing each role and a mark as to whether the role requires the role holder to sign a declaration as to their recognition of being bound thus required to comply with the Act(s).

2) Please provide a disclosure of the format used by your authority which requires the signature of any role holder who is subject to provisions as set out in the Official Secrets Acts 1911-1989 such as an "Official Secrets Acts & Confidentiality Declaration"

Answer:

1. A list of employee roles and confirmation of their requirement to adhere to the Official Secrets Act 1989 can be found at Appendix 1.
2. All permanent and any agency staff employed on a temporary basis are required to read and sign the document at Appendix 2 in relation to the Official Secrets Act 1989.

If you have queries about this request or the decision please contact the Board quoting the reference number above. If you are unhappy with the service you have received and wish to make a complaint or request a review you should write to the Board's Chief Executive at the following address:

Northern Ireland Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast BT1 3BG

Email: foi@nipolicingboard.org.uk

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner. Generally, the Information Commissioner's Office cannot investigate or make a decision on a case unless you have exhausted the complaints procedure provided by the Board. The Information Commissioner can be contacted at:-

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone: - 0303 1231114
Email: - ni@ico.org.uk

Please be advised that Policing Board replies under Freedom of Information may be released into the public domain via our website @ www.nipolicingboard.org.uk.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Appendix 1

Northern Ireland Policing Board Employee Roles

Employee Role	Subject to Official Secrets Act
Chief Executive	Yes
Director	Yes
Police Administration Manager	Yes
Police Administration Officer	Yes
PSNI Appointments Manager	Yes
Police Performance Monitoring Manager	Yes
Police Performance Monitoring Officer	Yes
Finance and IT Manager	Yes
IT Officer	Yes
Finance Officer	Yes
Corporate Services Manager	Yes
Corporate Services Officer	Yes
Police Human Rights and Professional Standards Manager	Yes
Police Human Rights and Professional Standards Officer	Yes
Communications Manager	Yes
Communications Officer	Yes
Compliance/Data Protection Officer	Yes
Engagement Manager	Yes
Engagement Officer	Yes
Partnership Manager	Yes
Partnership Officer	Yes
Secretary	Yes

Appendix 2



NORTHERN IRELAND CIVIL SERVICE

A BASIC GUIDE TO THE OFFICIAL SECRETS ACT 1989

I have read, and received a copy of "A Basic Guide to the Official Secrets Act".

Signed: _____ Date: _____

NORTHERN IRELAND CIVIL SERVICE

A BASIC GUIDE TO THE OFFICIAL SECRETS ACT 1989

The Official Secrets Act 1989 came into force on 1 March 1990. The 1989 Act replaces Section 2 of the Official Secrets Act 1911, under which it was a criminal offence to disclose any official information without lawful authority. Under the 1989 Act it is an offence to disclose official information only in 6 specified categories and only if the disclosure is damaging to the national interest.

This guide gives answers to basic questions about how the new law might affect you. It does not cover everything in the Act, but you employing Department or organisation should be able to give you more information and advice if you need it.

Who is affected by the Act?

The Act applies to:-

❖ Crown servants, including

- Government Minister
- Civil Servants, including members of the Diplomatic Service
- Members of the Armed Forces
- The Police

- ❖ **Government contractors**, including anyone who is not a Crown servant but who provides or is employed in the provision of goods or services for the purposes of a Minister.

- ❖ A small number of office-holders and the members and staff of a small number of non-Government organisations who are Crown servants for the purposes of the Act, including
 - the UK Atomic Energy Authority

 - British Nuclear Fuels plc

 - Urenco Ltd

 - the National Audit Office and the Northern Ireland Audit Office

 - the Offices of the Parliamentary Commissioner for Administration and the Northern Ireland Parliamentary Commissioner for Administration

- ❖ **Members of the public** and others who are not crown servants or Government contractors but who have, or have had, official information in their possession.

What is “official information”?

This means any **information, document or article** which a Crown servant or a Government contractor has or has had in his or her possession by virtue of his or her position as such.

What are the 6 specified categories of official information protected by the Act?

It is an offence for a Crown servant or Government contractor to disclose official information in any of the following categories if the disclosure is made without lawful authority and is damaging. The categories are:-

- ❖ security and intelligence

- ❖ defence

- ❖ international relations
- ❖ foreign confidences

- ❖ information which might lead to the commission of crime

- ❖ the special investigation powers under the Interception of Communications Act 1985 and the Security Service Act 1989.

When is a disclosure damaging?

The Act sets a different test or tests of damage for each of the 6 categories of information. For an offence to be committed under the Act, the disclosure of information must in general have damaged the national interest in the particular way, or ways, specified in the Act for the category of official information in question. It is ultimately for the jury to decide, when the case comes to trial, whether damage has in fact occurred.

When is a disclosure made without lawful authority?

Crown servants may disclose official information only in accordance with their official duties. Government contractors may do so only in accordance with an official authorisation or for the purposes of their functions as Government contractors and without contravening an official restriction. In any other circumstances a disclosure is made without lawful authority.

What about members of the public?

If a member of the public – or any other person who is not a Crown servant or Government contractor under the Act – has in his or her possession official information in one of the protected categories, and the information has been:-

- ❖ disclosed without lawful authority; or
- ❖ entrusted by a Crown servant or Government contractor on terms requiring it to be held in confidence

It is an offence to disclose the information without lawful authority.

It is also an offence to make a damaging disclosure of information relating to security or intelligence, defence or international relations which has been:-

- ❖ communicated in confidence to another State or an international organisation; and
- ❖ the information has come into a person's possession without the authority of that State or organisation.

Is it an offence for anyone to disclose official information which it would be reasonable to expect might be used to obtain access to information protected by the Act.

What about the security and intelligence services?

For:-

- ❖ present and former members of the security and intelligence services; and
- ❖ people who have been notified in writing that they are subject to section 1(1) of the Act.

It is an offence to disclose without lawful authority any official information about security or intelligence. There is no damage test.

Who will be notified?

A person may be notified only if his or her work is or includes work connected with the security and intelligence services, and the nature of the work is such that the interests of national security require that the person should be subject to section 1(1) of the Act.

What are the penalties for unauthorised disclosure?

Offences of unauthorised disclosure under the Act may be tried either on indictment, by the Crown Court, or summarily, by a magistrates' court. The maximum penalties are 2 years' imprisonment or an unlimited fine, or both if the offence is tried on indictment, and 6 months' imprisonment or a £2000 fine, or both, if the offence is tried summarily.

What about safeguarding information?

It is also an offence under the Act:-

- ❖ for a crown servant, a Government contractor or a notified person to fail to take reasonable care to prevent unauthorised disclosure of a document or article which is protected by the Act
- ❖ for a Crown servant or a notified person to retain such a document or article contrary to official duty
- ❖ for a Government contractor or a member of the public to fail to comply with an official direction for the return or disposal of such a document or article.

These are summary offences for which the maximum penalties are 3 months' imprisonment or a £2000 fine or both.

Section 1 of the Official Secrets Act 1911

The 1989 Act does not affect the operation of Section 1 of the Official Secrets Act 1911, which protects information useful to an enemy. The maximum penalty for offences under Section 1 of the 1911 Act is 14 years' imprisonment.