

**POLICE OMBUDSMAN FOR NORTHERN IRELAND**

**Data Protection Policy**

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# Scope

## This Data Protection Policy applies to the processing of personal data, including special category data necessary for the purposes of the functions of the Office of the Police Ombudsman for Northern Ireland.

## This policy should be read in conjunction with the Office’s Data Protection Appropriate Policy Document for Law Enforcement Processing, its Privacy Notices and with its Retention and Disposal Schedule.

## The Office processes this information primarily for the purpose of meeting its legal requirement to provide an independent and impartial police complaints system. It also does so to meet its other legal requirements in matters including employment, equality, health and safety and human rights.

## The aim of this policy is to explain how the Office’s processing of personal information meets the requirements of both the legislation specific to the Police Ombudsman’s Office and the wider data protection legislation (see Appendix B).

## This policy has been approved by the Police Ombudsman. The Police Ombudsman and her staff must comply with this policy and all related data protection policies and procedures.

# Definitions

## This policy uses a number of terms also defined in the relevant legislation. For the purposes of clarity it sets out an understanding of those terms:

## In using the term “processing”, we mean “an operation or set of operations which is performed on information, or on sets of information such as –

1. collection, recording, organisation, structuring or storage,
2. adaptation or alteration,
3. retrieval, consultation or use,
4. disclosure by transmission, dissemination or otherwise making available,
5. alignment or combination, or
6. restriction, erasure or destruction of that information.

## In using the term “data subject” we mean any identified or identifiable living individual to whom personal data relates.

## In using the term “personal data” we mean any information relating to an identified or identifiable living individual.

## When we refer to “special categories of personal data ” we mean any data which would reveal information about a person’s racial or ethnic origin, their political opinions, their religious or philosophical beliefs, their health; an individual’s sex life or sexual orientation or whether they are a member of a trade union. It may also include the processing of genetic data, or of biometric data, for the purposes of uniquely identifying an individual;

## When we use the term ‘controller’ we mean the authority which determines the purpose and means of processing personal information. The Police Ombudsman is the controller for these purposes.

## By using the term ‘processor’ we are referring to the person who acts on the ‘controllers’ behalf.

# The Police Ombudsman’s Office

## The Office of the Police Ombudsman for Northern Ireland was established under Part VII of the Police (Northern Ireland) Act 1998. The Police Ombudsman must exercise her powers so as to secure an efficient, effective and independent police complaints system, and to do so in the way she thinks best calculated to secure the confidence of the public and of the police in that system (section 51(4) of the 1998 Act).

## The Police Ombudsman deals with complaints about the officers of the following bodies exercising police powers when operating in Northern Ireland:-

* The Police Service of Northern Ireland including designated civilians
* The Belfast Harbour Police
* The Belfast International Airport Police
* The Ministry of Defence Police
* The National Crime Agency

## In addition, she has jurisdiction to investigate serious[[1]](#footnote-1) complaints about:

* Mutual Aid police officers from Great Britain
* Certain Home Office employees (Immigration officers, designated customs officials and custom revenue officials)

## Where the Police Ombudsman and her staff receive, assess, investigate and report on a complaint or referral about the conduct of a police officer she does so for the performance of a task carried out in the public interest or in the exercise of the Police Ombudsman’s authority, including that which is necessary for administration of justice. This includes processing information for the purpose of the detection of crime, apprehension and prosecution of offenders, maintenance of law and order and for the provision of a regulatory system which protects members of the public against dishonesty, malpractice or other improper conduct or unfitness by police officers.

# The Police (Northern Ireland) Act 1998

## Part VII of the 1998 Act provides for the independent investigation of complaints about the police and for the powers needed to perform that task. Some of that legislation addresses issues related to the processing of personal information. It includes:

* Section 61AA allows the Police Ombudsman to provide such statistical information and any other general information as is required to enable the Policing Board to carry out its functions.
* Section 62 allows the Police Ombudsman to publish a statement as to her actions, her decisions and determinations and the reasons for these.
* Section 63 places restrictions on the disclosure of information obtained by the Ombudsman and her staff. (see Appendix A)

## For further information on the functions of the Office, please visit the website at [www.policeombudsman.org](http://www.policeombudsman.org)

# Processing personal information.

## The Police Ombudsman processes personal information for the purposes of providing a police complaints system. This will largely include processing data for law enforcement purposes. For more information of how the Office does this in a way which compiles with the relevant legislation, see our Data Protection Policy Document for Law Enforcement Processing.

## There may be circumstances when it will be necessary to process personal data for both law enforcement and non-law enforcement purposes. For example, there may be an investigation into several allegations of conduct only some of which are potentially criminal. Personal data which the Office obtained for a law enforcement purpose may also be used in disciplinary investigations, proceedings and unsatisfactory performance proceedings. These purposes are authorised by the 1998 Act and associated regulations.

# A Principled Approach to Data Protection

Part 3 of the Data Protection Act 2018sets out the principles by which organisations must process and protect the information they hold. The Police Ombudsman’s Office processes personal information in a way which meets the following principles:

## Accountability:

The Office has put in place measures to meet the requirements of accountability, which are regularly reviewed. These include:

* The appointment of a Data Protection Officer who reports directly to the CEO and Police Ombudsman.
* Integration of the concept of ‘data protection by design and default’ into all processes and activities.
* The maintenance of records of its processing activities.
* The adoption and implementation of data protection policies and data sharing agreements.
* Regular monitoring and maintenance of these policies.
* Security measures for the protection of personal data processed and
* Data protection impact assessments for high risk processing.

## Lawful and fair

Processing of personal information must be lawful and fair.

The Police Ombudsman’s Office acts lawfully and in compliance with the 1998 Act and related legislation and regulations. Our processing of personal information, including special category information, is necessary for the exercise of a function conferred on the Police Ombudsman for the purposes of the legislation listed in Appendix B. We use Privacy Notices to inform data subjects of the purpose for which their personal data is processed. These can be found at www.policeombudsman.org

## Specified, explicit and legitimate and processed for the purpose it was collected.

The Police Ombudsman’s Office collects personal data and undertakes sensitive processing solely for the purpose of its statutory functions of law enforcement and does not use that data for any incompatible purpose. We are explicit about the manner in which personal information is processed and about any intended disclosure(s).

We may disclose personal data obtained for any other purpose provided this is authorised by law and the processing is necessary and proportionate to that other purpose. If the data is shared with another controller, we will document that they are authorized by law to process data for those purposes.

We maintain an Information Asset Register which details the purpose and legal basis for processing this personal data.

## Adequate, relevant and not excessive

The Police Ombudsman’s Office does not systematically collect or harvest personal data. We ensure that such processing is adequate, relevant and not excessive in relation to the purpose in which it was processed. Where special category data is provided to us or obtained by us but is not relevant for the Office stated purposes, it will be erased.

## Accurate and where necessary kept up-to-date

The Police Ombudsman’s Office operates procedures to ensure the quality of the data it holds. Staff are made aware of their obligations to update complainant personal details if notified of any change, Where the Office becomes aware that personal data is inaccurate, having regard to the purpose for which it is being processed, it will take every reasonable step to ensure that this is erased or rectified without delay. The reasons for any decision not to rectify or seek rectification will be documented.

Personal information held in HR, finance and corporate services files is checked for factual accuracy before onward disclosure to a third-party. The recipient will be provided the necessary information to verify and assess the accuracy of the data. If after onward transmission, the Office is aware that personal data was incorrect and should not have been transmitted, the recipient will be informed as soon as possible. Any decisions to disclose personal data available will be documented.

## Retained for no longer than necessary

The Office has a Disposal and Retention schedule which lists the different categories of information it holds and how long each category of data should be retained. The schedule is based on advice from the Public Records Office NI and regularly reviewed by the Office and approved by the NI Assembly.

All material not marked for retention is destroyed in a secure environment. The remaining material is held securely by the Police Ombudsman’s Office until such a stage as it shall be transferred to the Public Records Office.

## Kept securely

The information we hold is only available to those staff who need access to it for the purposes of their role within the Police Ombudsman’s Office.

Electronic information is processed within the Office’s secure networks. Hard copy information is processed within secure premises.

The Office deploys a wide range of technical and procedural controls outlined at Appendix C in order to protect the personal data we hold. These controls are under the oversight of our Information Assurance Security Group. Its principal aim is to oversee all functional data protection and ensure all areas within the Office comply with relevant information security standards. Residual information risk is accepted on behalf of the Office by the Senior Information Risk Owner (the Chief Executive).

# Review

## The Police Ombudsman’s Office reviews and revises all data protection policies and controls as appropriate to ensure the highest standards of data security as part of ongoing information assurance checks. This policy will be reviewed annually or revised more frequently if necessary.

# APPENDIX A: Section 63 of the Police (Northern Ireland) Act 1998

Restriction on disclosure of information.

63. –

(1) No information received by a person to whom this subsection applies in connection with any of the functions of the Ombudsman under this Part shall be disclosed by any person who is or has been a person to whom this subsection applies except-

(a) to a person to whom this subsection applies;

(b) to the Department of Justice or the Secretary of State;

(c) to other persons in or in connection with the exercise of any function of the Ombudsman;

(ca) for the purposes of an inspection of the Ombudsman carried out by the Chief Inspector of Criminal Justice in Northern Ireland under Part 3 of the Justice (Northern Ireland) Act 2002; [added SR (NI) 2002/414 from 20 Dec 2002]

(d) for the purposes of any criminal, civil or disciplinary proceedings; or

(e) in the form of a summary or other general statement made by the Ombudsman which-

(i) does not identify the person from whom the information was received; and

(ii) does not, except to such extent as the Ombudsman thinks necessary in the public interest, identify any person to whom the information relates.

(2) Subsection (1) applies to-

(a) the Ombudsman; and

(b) an officer of the Ombudsman.

(2A) [added from 4 Nov 2001, am. 2003 c.6 from 8 April 2003] Subsection (1) does not prevent the Ombudsman, to such extent as he thinks it necessary to do so in the public interest, from disclosing in a report of an investigation under section 60A-

(a) the identity of an individual, or

(b) information from which the identity of an individual may be established.

(3) Any person who discloses information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Nothing in subsection (1)(b) permits the disclosure to the Department of Justice of information—

(a) which has been supplied to the Ombudsman under section 66(1) of the Police (Northern Ireland) Act 2000(a) for the purposes of or in connection with an investigation under section 60A of this Act, and

(b) in relation to which the Ombudsman has been informed under section 66(3)(b) of the Police (Northern Ireland) Act 2000 that the information is, in the opinion of the Chief Constable or the Board, information which ought not to be disclosed on the ground mentioned in section 76A(1)(a) of that Act.

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| APPENDIX B: Relevant Legislation and Regulations The legislation which governs the work of the Police Ombudsman's Office is Part VII of the Police (Northern Ireland) Act 1998.  The following is a list of some of the legislation and regulations which also regulates the work of the Office:  Legislation   * Anti-terrorism, Crime and Security Act 2001 * Criminal Appeal Act 1995 * Criminal Justice and Police Act 2001 * Criminal Law Act (NI) 1967 * Criminal Procedure and Investigations Act 1996 * Data Protection Act 2018 * Freedom of Information Act 2000 * Human Rights Act 1998 * Investigatory Powers Act 2016 * Justice (Northern Ireland) Act 2000 * Justice (Northern Ireland) Act 2002 * Justice (Northern Ireland) Act 2004 * Northern Ireland Act 1998 * Police (Northern Ireland) Act 1998 * Police (Northern Ireland) Act 2000 * Police (Northern Ireland) Act 2003 * Proceeds of Crime Act 2002 * Regulation of Investigatory Powers Act 2000 * The Police and Criminal Evidence (application to the Police Ombudsman) Order (NI) 2009 * The Serious Organised Crime and Policing Act 2005 |
| Orders in Council   * The Commissioner for Children and Young People (Northern Ireland) Order 2003 * The Police (Northern Ireland) Act 1998 (Modification) Order 2003 * Criminal Justice (Northern Ireland) Order 2004 * Criminal Justice (Northern Ireland) Order 2005 * The Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 |

Statutory Rules

* Statutory Rule 1989 No. 1341: The Police and Criminal Evidence Order (Northern Ireland) 1989
* Statutory Rule 2000 No. 314: The Police and Criminal Evidence (Application to Police Ombudsman) Order (Northern Ireland) 2000
* Statutory Rule 2000 No. 315: The Royal Ulster Constabulary (Conduct) Regulations 2000
* Statutory Rule 2000 No. 316: The Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000
* Statutory Rule 2000 No. 317: The Royal Ulster Constabulary (Appeals) Regulations 2000
* Statutory Rule 2000 No. 318: The Royal Ulster Constabulary (Complaints etc.) Regulations 2000
* Statutory Rule 2000 No. 319: The Royal Ulster Constabulary (Complaints) (Informal Resolution) Regulations 2000
* Statutory Rule 2000 No. 320: The Royal Ulster Constabulary (Conduct) (Senior Officer) Regulations 2000
* Statutory Rule 2000 No. 399: The Police (Northern Ireland) Act 1998 (Commencement) Order (Northern Ireland) 2000
* Statutory Rule 2000 No 412: The Police (Northern Ireland) Act 2000 (Commencement) Order 2000
* Statutory Rule 2001 No.132: The Police (Northern Ireland) Act 2000 (Commencement No. 2) Order 2001
* Statutory Rule 2001 No. 184: Royal Ulster Constabulary (Complaints etc) Regulations 2001
* Statutory Rule 2001 No. 396: The Police (Northern Ireland) Act 2000 (Commencement No.3 and Transitional Provisions) Order 2001
* Statutory Rule 2001 No. 369: Police Trainee Regulations (NI) 2001
* Statutory Rule 2003 No.184: Police Service of Northern Ireland (Amendment) Regulations 2003
* Statutory Rule 2003 No. 68: Police Service of Northern Ireland (Conduct) Regulations 2003
* Statutory Rule 2003 No.142: Police (Northern Ireland) Act 1998 (Commencement No.5) Order (Northern Ireland) 2003
* Statutory Rule 2003 No. 399: Police Service of Northern Ireland (Appeals) (Amendment) Regulations 2003
* Statutory Rule 2004 No.122: The Police Service of Northern Ireland (Secondment) (Garda Síochána) Regulations 2004
* Statutory Rule No. 376: The Police (Northern Ireland) Act (Modification) Order 2003
* Statutory Rule 2004 No. 315: Police Service of Northern Ireland (Conduct etc.) (Amendment) Regulations 2004
* Statutory Rule 2004 No. 379: Police (Appointments) Regulations (Northern Ireland) 2004
* Statutory Rule 2005 No. 341: The Police Service of Northern Ireland (Complaints etc.) (Amendment) Regulations 2005
* Statutory Rule 2006 No. 69: The Police (Recruitment) (Amendment) Regulations (Northern Ireland) 2006
* Statutory Rule 2007 No.177: The Police (Northern Ireland) Act 2003 (Commencement No.2) Order 2007
* Statutory Rule 2007 No.58: Police and Criminal Evidence (Northern Ireland) Order 1989 (Code of Practice) (No.3) Order 2007
* The Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007
* Statutory Rule 2007 No.130: Police Service of Northern Ireland (Unsatisfactory Performance and Attendance) Regulations 2007
* Police Powers for Designated Staff (Complaints and Misconduct) Regulations (NI) 2008

Statutory Instruments

* The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003
* The Regulation of Investigatory Powers (Communications Data) Order 2003
* The Criminal Justice (No 2) (Northern Ireland) Order 2004
* Policing (Miscellaneous) Provisions (Northern Ireland) Order 2007
* Northern Ireland Act 1998 (Devolution of Policing and Justice) Order 2010

# APPENDIX C: Controls

## Controls include but are not limited to:

* Memorandums of Understanding with other law enforcement agencies in compliance with ICO data sharing guidance and Codes of Practice
* Induction and mandatory annual Information Security Training for all staff
* Acceptable use of IT equipment and systems defined in Security Operating Procedures signed by all users of the Office’s systems
* Role Based Access Controls, limiting the Office’s system users to only access those systems necessary for them to perform their duties
* Identity and access management through Human Resources hiring and reference polices, including HMG Security Clearances.
* Appropriate prevention of the Office’s core IT system (e.g. firewalls, malware detection and defence)
* Encryption of data in transit across dedicated Office networks where appropriate
* Monitoring and/or logging of digital and user activity into, within and out of the Office’s systems
* Independent accreditation of the Office systems
* Annual and ad-hoc IT health checks and penetration tests by independent certified test teams; with follow-up treatment of identified vulnerabilities
* Clear desk policy in all departments and at all levels
* Robust procedures for the reporting of any data or potential data breaches.

1. Serious complaints are defined at Schedule 1 of the agreements made pursuant to sections 60, 60ZA, 60ZB AND 60ZC of the 1998 Act. [↑](#footnote-ref-1)