

# Public Protection Arrangements Northern Ireland

- 1. Memorandum of Co-operation**  
Between the “Agencies” listed in Article 49 of the Criminal Justice (NI) Order 2008
- 2. Protocol**  
For the Sharing and Disclosure of Information

# **1. Memorandum of Co-operation**

Between the “Agencies” listed in Article 49  
of the Criminal Justice (NI) Order 2008

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# Statutory Basis

## 1

## 1

### 1.1

Article 50 of the Criminal Justice (NI) Order 2008 (“the Order”) empowers the Secretary of State to issue guidance to agencies, who are signatories to this memorandum of co-operation, on the “discharge of any of their functions which contribute to the more effective assessment and management of the risks posed by persons of a specified description.” The guidance may contain provisions for the purpose of facilitating co-operation between agencies, including:

- (a) provisions requiring agencies to maintain arrangements for that purpose and to draw up a memorandum of co-operation
- (b) provisions regarding the exchange of information among them

### 1.2

The Secretary of State issued Guidance to agencies on 6th October 2008, establishing what is known as the “Public Protection Arrangements Northern Ireland” (PPANI). The public protection arrangements apply targeted risk management strategies to the assessed risks posed by sexual and violent offenders and potentially dangerous persons in the community.

### 1.3

This memorandum of co-operation has been agreed by agencies under Article 50 (4) of the Order, which requires the “agencies” to give effect to the guidance.

### 1.4

The following agencies in Northern Ireland are listed in Article 49 of the Order:

- Police Service of Northern Ireland
- Probation Board for Northern Ireland
- Department of Education
- Department for Employment and Learning
- Department of Health, Social Services and Public Safety
- Department for Social Development
- Health and Social Services Trusts and Boards
- Education and Library Boards
- Northern Ireland Housing Executive
- National Society for the Prevention of Cruelty to Children

These along with Northern Ireland Prison Service and the Youth Justice Agency are signatories to this ‘Memorandum of Cooperation’.

# Purpose

## 2

### 2.1

All agencies involved with the public protection arrangements and party to this memorandum are committed to: -

- sharing relevant information and the development of good practice in relation to the assessment and management of the risk posed by offenders and potentially dangerous persons within the framework of the public protection arrangements
- the effective use of resources to manage the identified risks
- co-operating in order to sustain public confidence in the public protection arrangements.

### 2.2

The purpose of this memorandum is to set out how agencies will co-operate with each other in meeting their obligations within the public protection arrangements. Co-operation will ensure a co-ordinated approach in the assessment and management of risk and enable each agency to meet fully its existing statutory role and complement the work of other agencies.

### 2.3

The principal responsibility for protecting the public from the risks posed by sexual and violent offenders and potentially dangerous persons rests with the criminal justice agencies. However, effective public protection depends on more than just a criminal justice response. Other agencies play an important role in helping offenders to resettle, to avoid re-offending and in the sharing of information which contributes to protecting the public.

# Purpose

## 2.4

The Order does not identify specific activities involved in co-operation among Agencies. Article 50 of the Order, however, provides that:

- The Secretary of State may issue guidance to agencies on the discharge of any of their functions which contribute to the more effective assessment and management of the risks posed by persons of a specified description
- Guidance under Article 50 may contain provisions for the purpose of facilitating co-operation between agencies, including –
  - (a) Provisions requiring agencies to maintain arrangements for that purpose and to draw up a memorandum of co-operation
  - (b) Provisions regarding the exchange of information among them
- Agencies shall give effect to guidance issued under Article 50

This memorandum aims to clarify expectations in relation to the duty imposed on agencies by the guidance to co-operate in the assessment and management of risks through the public protection arrangements.

## 2.5

Whilst the Order does not require agencies to assume different or new functions, Article 50 (4) of the Order does require agencies to give effect to the guidance.

## 2.6

**The agencies identified in Article 49 of the Order can only be amended by the Secretary of State.**

Agencies cannot decide to exclude those stipulated in Article 49 from the arrangements and any agency listed cannot opt out of co-operating with the arrangements.

# Practical outworking of co-operation

## 3

### 3.1

All agencies involved in the public protection arrangements in Northern Ireland shall: -

- co-operate in the identification, risk assessment and risk management of risk posed by sexual and violent offenders and potentially dangerous persons as defined in the "Guidance to Agencies" issued by the Secretary of State, for the effective protection of the public
- develop an understanding of and respect for the differences in each agency's role and function, including the nature of the services provided
- co-operate in accordance with the statutory duties and powers of each respective agency. The public protection arrangements do not aggregate the responsibility and authority of the agencies involved. Rather, their aim is to clarify the role which each agency should fulfil within the arrangements
- carry out appropriate information sharing in accordance with the law and in line with the PPANI Protocol for the Sharing and Disclosure of Information and other initiatives aimed at facilitating information sharing about the risks posed by individuals e.g. the Information Sharing Agreement (DHSSPS, 2009) and DHSSPS Circular 3/96 (Revised) "Sharing to Safeguard" ([http://www.dhsspsni.gov.uk/index/hss/childcare/child protection/childprotection guidance.htm](http://www.dhsspsni.gov.uk/index/hss/childcare/child%20protection/childprotection%20guidance.htm))
- commit to the allocation within their own agencies of appropriate resources to deliver effective risk management strategies within the context of the public protection arrangements
- ensure that diversity and equality and the obligations under the Human Rights Act 1998 in relation to victims, members of the public and offenders are taken into consideration when assessing risk and formulating risk management plans

### 3.2

All agencies will designate points of contact for referrals into the public protection arrangements and other related issues. The point of contact should be able to access and search their own agency records, to establish if their agency holds information relevant to the public protection processes and share such information within the agreed protocols (see 3.1).

### 3.3

Each signatory agency (other than Health and Social Services Trusts who will have a single designated representative) will provide appropriate representation at senior level on the Strategic Management Board (see chapter 5) and will ensure representation at an appropriate level of seniority in Local Area Public Protection Panel meetings as set out in Sections 7.3 and 9.2 of the Secretary of State's guidance.

## 4

# Management of risk posed by sexual/violent offenders and potentially dangerous persons

## 4.1

Identification of relevant offenders/potentially dangerous persons

The Secretary of State's Guidance to Agencies defines three categories of persons for whom assessment and management of risk should be considered within the public protection arrangements. These are:

- relevant sexual offenders
- relevant violent offenders
- potentially dangerous persons

A full description of these categories can be found at Section 2.6 of the Secretary of State's guidance.

## 4.2

### Categories of Risk Management

It is the duty of the agencies to work together and share information to assess and manage the risks posed by relevant sexual offenders, violent offenders and potentially dangerous persons. This will be achieved through appropriate and consistent attendance at the Local Area Public Protection Panel meetings and delivery of risk-specific management actions.

Most risk management (Category 1 risk of serious harm) will not require a multi agency element. This means that such cases, after their assessments by the multi agency LAPPP, will not be subject to multi agency risk management. However, agencies do have existing individual statutory responsibilities for public protection, which will be performed outside of the multi agency public protection arrangements. Agencies with responsibility for Category 1 cases must take steps to liaise with and ensure that information relevant to other agencies with an interest in the cases is communicated appropriately.

The management of the risks posed by offenders and potentially dangerous persons assessed as Category 2 or 3 risk of serious harm will require additional resources from within the range of specified agencies. In these cases it is essential that the agencies named in this Memorandum co-operate in the assessment and delivery of agreed risk management strategies through the public protection arrangements.

It is important that the adequacy of agency resources to deliver agreed risk management strategies should be secured and kept under review. The signatories to this Memorandum undertake to ensure that steps are taken to ensure this happens within their own agency.

# PPANI Strategic Management Board

## 5

### 5.1

The Strategic Management Board (SMB) has oversight of the public protection arrangements and has additional responsibilities for the monitoring and evaluation of these arrangements.

### 5.2

Each of the agencies which are signatories to this memorandum will provide a senior representative to sit on the SMB.

### 5.3

It is critically important that members of the SMB should have the authority delegated by their own agency to ensure that their agency's contribution to the public protection arrangements for the risk assessment and management of violent and/or sexual offenders and potentially dangerous persons are:

- systematically planned
- adequately resourced
- implemented in an effective manner

The representative will also facilitate communication and information sharing between the Strategic Management Board and all relevant constituent parts of their agencies throughout Northern Ireland, on all SMB related issues.

It is therefore crucial that nominated representatives consistently attend the SMB and that they put in place structures that will ensure that any relevant information is communicated to **all** those whom they represent.

## 6

## Annual Report

### 6.1

Article 51 of the Order requires the preparation and publication of an annual report on the discharge of functions related to the assessment and management of risks addressed within the public protection arrangements. The report, which must include information on the arrangements established to promote co-operation, will be prepared by the Strategic Management Board. In addition to ensuring accountability, the annual report should serve to reflect the success and effectiveness of the public protection arrangements and analyse any deficits or unresolved issues that require to be addressed. It will also provide a valuable mechanism for raising public awareness and understanding of PPANI and public protection issues and explain the multi-agency aspects of this work.

Copies of the annual report will be circulated to each agency and it will be made publicly accessible.

# Media Strategy

## 7

### 7.1

The risk management of offenders and potentially dangerous persons through the public protection arrangements requires effective partnerships between all agencies. This will include a co-ordinated approach to the media and the handling of publicity.

### 7.2

Disclosure of information in relation to individuals whose risks are being managed through the public protection arrangements will adhere to the PPANI Protocol for the Sharing and Disclosure of Information. Agencies will also adhere to the agreed guidance on handling media and public concerns as set out in the PPANI Manual of Practice.

### 7.3

Any decision to disclose information to third parties, including the media, must be carefully considered and justified on both legal and moral grounds. Such decisions will only be taken as part of a carefully managed process and following consultation with those agencies which are actively involved in the risk management of that case.

### 7.4

In particular Police, Probation and, where relevant, the Prison Service will be consulted when there is the potential for the disclosure to result in risks to the safety of the individual, the risk of violence to others or the potential for public disorder. In such instances disclosure will only be made following the agreed approval of the SMB.

## 8

## Equality and Diversity

The PPANI Strategic Management Board (SMB) is committed to promoting equality and non discriminatory practice as well as respect for race and diversity within and across the delivery of the public protection arrangements.

Through this memorandum, the PPANI agencies affirm their collective commitment to not discriminate against individuals because of their gender, race, ethnicity, religious beliefs, age, disability, sexual orientation or for any other reason.



# 9

## Status of the 'Memorandum of Co-operation'

This Memorandum of Co-operation is a working document and therefore the contents will be subject to review and may be altered at any time to reflect changing circumstances. Such changes would only be made following consultation with all parties.

# Signatories to the ‘Memorandum of Co-operation’

**Agency - Police Service of Northern Ireland**

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Name:

Signature:

Job Title/Position:

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**Agency - Probation Board for Northern Ireland**

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Name:

Signature:

Job Title/Position:

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**Agency - Northern Ireland Prison Service**

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Name:

Signature:

Job Title/Position:

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# Signatories to the 'Memorandum of Co-operation'

## Agency - Youth Justice Agency

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Name:

Signature:

Job Title/Position:

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## Agency - Department of Education

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Name:

Signature:

Job Title/Position:

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## Agency - Department for Employment and Learning

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Name:

Signature:

Job Title/Position:

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# Signatories to the 'Memorandum of Co-operation'

## Agency - Department of Health, Social Services and Public Safety

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Name:

Signature:

Job Title/Position:

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## Agency - Department for Social Development

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Name:

Signature:

Job Title/Position:

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## Agency - Health and Social Services Boards & Trusts

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Name:

Signature:

Job Title/Position:

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# Signatories to the 'Memorandum of Co-operation'

## Agency - Education and Library Boards

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Name:

Signature:

Job Title/Position:

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## Agency - Northern Ireland Housing Executive

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Name:

Signature:

Job Title/Position:

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## Agency - National Society for the Prevention of Cruelty to Children

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Name:

Signature:

Job Title/Position:

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## **2. Protocol** for the Sharing and Disclosure of Information

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## SIGNATORIES

# Introduction

## 1

### 1.1

The aim of this protocol is to provide a collaborative and legal framework for the exchange and disclosure of personal information within which relevant agencies involved in the public protection arrangements in Northern Ireland can operate.

The protocol does not create a duty to disclose information in any particular case or provide the power to demand disclosure. It does, however seek to ensure the appropriate sharing of relevant information and the parameters and boundaries that agencies have agreed. Public protection is about joint arrangements for the assessment and management of the risks posed by sexual and violent offenders who may cause serious harm to the public.

### 1.2

**Relevant law and legislation includes:**

#### **Criminal Justice (NI) Order 2008**

Article 50 of the Criminal Justice (NI) Order 2008 (“the Order”) empowers the Secretary of State to issue guidance to agencies, who are signatories to this protocol for the sharing and disclosure of information, on the “discharge of any of their functions which contribute to the more effective assessment and management of the risks posed by persons of a specified description.” The guidance may contain provisions for the purpose of facilitating co-operation between agencies, including:

- (a) provisions requiring agencies to maintain arrangements for that purpose and to draw up a memorandum of co-operation
- (b) provisions regarding the exchange of information among them

The Secretary of State issued Guidance to Agencies on 6th October 2008, establishing what is known as the “Public Protection Arrangements Northern Ireland” (PPANI). The public protection arrangements apply targeted risk management strategies to the assessed risks posed by sexual and violent offenders and potentially dangerous persons in the community.

Article 50 (4) of the Order requires the “agencies” to give effect to the guidance and Article 51 requires agencies to review the arrangements and publish an annual report on their operation.

# Introduction

1

## **Common Law Duty of the Police**

The Police have a common law duty to prevent and detect crime and, in exercising this power, they must act fairly, taking into account the circumstances of the case and also the common law principles of how disclosure should be dealt with as per *R v North Wales Police Ex parte AB CB 1998* and other relevant case law.

Matters to be addressed include each case being judged upon its own facts, there being a pressing need for disclosure and the need for a balancing exercise between the public interest and the person's human rights. If at all possible the disclosure should be made to the offender beforehand.

It should be borne in mind that any such information could become the subject of disclosure in criminal proceedings under the Criminal Procedure and Investigations Act 1996. The Act dictates that the Police have a legal requirement to record, retain and reveal to the prosecution, material obtained in a criminal investigation that may be relevant to the investigation or related matters. Some exceptions to this general principle are outlined within the Act.

## **Common Law Duty of Confidence**

Anyone proposing to disclose information not publicly available and obtained in circumstances giving rise to a duty of confidence will need to establish whether there is an over-riding public interest or justification for doing so.

Health professionals are bound by particular professional and legal duties of confidentiality. Any requests for disclosure of health information (e.g. about their current mental health) should be addressed to a designated single point of contact (SPOC) at the relevant Health and Social Services Care Trust. The decision will involve balancing the duty of confidentiality against the public interest and disclosure in each individual case.

## **Data Protection Act 1998**

The use and disclosure of any personal data shall be in accordance with the obligations imposed upon the parties to this protocol by the Data Protection Act 1998 and the 8 Data Protection Principles:

### **Principle One**

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless at least one of the conditions in Schedule 2 is met and, in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

### **Principle Two**

Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or purposes.

### **Principle Three**

Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

# Introduction

## Principle Four

Personal data shall be accurate and, where necessary, kept up to date.

## Principle Five

Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

## Principle Six

Personal data shall be processed in accordance with the rights of data subjects under this Act.

## Principle Seven

Appropriate technical and organisation measures shall be taken against unauthorised or unlawful processing, alteration, disclosure or destruction of, personal data and against accidental loss or destruction of personal data.

## Principle Eight

Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Further, the parties agree and declare that the provision of information is proportional, having regard to the purposes of the Agreement and the steps taken in respect of maintaining a high degree of security and confidentiality.

The parties undertake to comply with the provisions of the Data Protection Act 1998 and to notify, as required, any particulars as may be required to the Information Commissioner (See Appendix 1).

## Human Rights Act, 1998

The Human Rights Act, 1998 that gives effect to the rights and freedoms guaranteed under the European Convention on Human Rights, was activated on 2nd October 2000.

Article 8 – Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, **public safety** or the economic well being of the country, for the prevention of crime and disorder, for the **protection of health and morals**, or for the **protection of the rights and freedoms of others**.



# 2

## Parties/Signatories

### 2.1

The parties to this protocol are the “agencies” listed in Article 49 of the Criminal Justice (NI) Order 2008 and who have been made responsible for the development of the Public Protection Arrangements Northern Ireland.

The “agencies” listed are:

- Police Service of Northern Ireland
- Probation Board for Northern Ireland
- Northern Ireland Prison Service
- Youth Justice Agency
- Department of Education
- Department for Employment and Learning
- Department of Health, Social Services and Public Safety
- Department for Social Development
- Health and Social Services Trusts and Boards
- Education and Library Boards
- Northern Ireland Housing Executive
- National Society for the Prevention of Cruelty to Children

Each signatory agrees to share information to the extent compatible with each agency’s statutory responsibilities and the law on information sharing and disclosure allows.

The signatories to this protocol are listed at the end of this document.

# Decision Making Framework

## 3

### 3.1

#### Information

'Information', for the purpose of this protocol will be defined as:

"Information relevant to a specific individual that can be assessed as to its accuracy and which is relevant to that individual's risk to the public."

### 3.2

#### Information sharing/exchange

Each signatory agrees that information will be shared and/or disclosed according to the following principles, which are based upon The Data Protection Act 1988. In order for information to be shared it must:

- a) Have lawful authority**
- b) Be necessary**
- c) Be proportionate**
- d) Be done in ways which ensures the safety and security of the information shared**
- e) Be accountable**

The process should be documented and auditable. Accurate, clear and timely record keeping is important. Information shared will be recorded in the relevant PPANI Pro forma and in the LAPPP or SMB minutes or, where cases have been identified as Category 1, in individual agency records.

Disclosure to third parties will be recorded in a format as at **Appendix 3**.

### 3.3

#### Disclosure to third parties

Disclosure to third parties has been defined as:

***"The communication to any party outside the Public Protection Arrangements Northern Ireland (PPANI) of any information that relates to an individual, whose risk is being managed through PPANI, for the purpose of assisting the management of risk. The disclosure will be a component of the management plan for that identified individual".***

There may, exceptionally, be some cases where the management of an offender's risk in the community cannot be carried out without the disclosure of some information to a third party outside the PPANI agencies. For example, where an employer, voluntary group organiser or church leader has a position of responsibility/control over the offender/PDP and other persons who may be at serious risk from the offender/PDP and the disclosure to them of certain information about the offender/PDP is the only way to manage that risk. Disclosure of information will not abrogate the LAPPP or any of the partner agencies of any of their responsibilities. Disclosure of information to a third party must be viewed as only one component of a full risk management plan.

# Decision Making Framework

The principles underpinning disclosure to third parties are the same as for information sharing, but inevitably involve greater sensitivities given that disclosure may be to individual members of the public as opposed to central or local government or law enforcement bodies. Because of this, great caution should be exercised before making any such disclosure. The issue of disclosure must always be considered and a record made of the reasons for either making a disclosure or not making a disclosure. Consideration of disclosure of information to a third party will be made in keeping with the principles outlined on Section 4 of the Secretary of State's Guidance to Agencies and Section 20 of the Manual of Practice.

The lawful authority and necessity requirements described previously will be met in cases where a disclosure is being made for the purposes of managing the risk posed by offenders within the public protection arrangements. The critical ground, determining whether such a disclosure will be lawful, is therefore likely to be the proportionality requirement. In this respect, each of the following should be considered before disclosing information about an offender to a third party:

1. Does the offender present a risk of serious harm\* to the proposed recipient of the information, or to those for whom the recipient of the information has responsibility (children, for example)?
2. Is there no other practicable, less intrusive means of protecting the individual(s), and would failure to disclose put them in danger? Only that information which is necessary to prevent the harm may be disclosed, which will rarely be all the information available
3. Has the risk to the offender been considered? It should not outweigh the potential risk to others were disclosure not to be made. The offender retains his rights (most importantly his Article 2 right to life) and consideration must be given to whether those rights are endangered as a consequence of the disclosure. It is partly in respect of such consideration that widespread disclosure of the identity and whereabouts of an offender is very, very rarely if ever justified
4. Will the disclosure be to the right person and will they understand the confidential and sensitive nature of the information they have received? The right person will be the person who needs to know in order to avoid or prevent the risks
5. Will the offender be consulted about the proposed disclosure? This should be done in all cases unless to do so would not be safe or appropriate. Where consultation can be done, it can help strengthen the risk management plan. If it is possible and appropriate to obtain the offender's consent then a number of potential objections to the disclosure are overcome. Equally, the offender may wish to leave the placement rather than have any disclosure made and, if this is appropriate, this would also avoid the need for any disclosure

# Decision Making Framework

6. Will the proposed recipient of this information know what to do with it? Again, where this is a specific person, this may be less problematic but in the case of an employer, for example, you may need to provide advice and support
7. Has the proposed recipient of the information, particularly an employer or someone in a similar position, been asked whether they have any information about the offender? If they have the information then no disclosure is necessary. If they have some but possibly incorrect information your disclosure can helpfully correct it.
  - \* The PPANI Guidance refers to 'serious harm'. This is outlined as - 'a risk which is life threatening and/or traumatic and from which recovery, whether physical or psychological, can be expected to be difficult or incomplete'.

## 3.4

### Decision making levels

#### Information sharing within PPANI

In assessing and managing risk, it is entirely appropriate that practitioners routinely exchange information within the framework of this protocol, on individuals who pose a risk which is being managed through the public protection arrangements.

#### Disclosure to specific third parties of information emanating from a LAPPP

Disclosure to specific third parties (e.g. landlords, school principals or leaders in faith and worship groups) of information from LAPPP meetings, will be authorised only by a Police Nominated Officer, usually at Superintendent rank or above.

The purpose of this authorisation, is to allow the police to examine and manage wider policing issues that may arise, in relation to public order and public safety. The same principle of referral to the Police Nominated Officer should be considered in all cases, regardless of the PPANI category of risk, if similar concerns exist.

#### Public Disclosure

Public disclosure (e.g. to media or local communities) will only be authorised by a Police Officer of ACPO rank (Police Nominated Officer) or by an Officer under his/her delegated authority, following consultation with senior officers from Probation Board for Northern Ireland and Northern Ireland Prison Service (where applicable), and with support of the relevant Local Area Public Protection Panel.



# Designated/Nominated Officer

## 4.1

Each agency retains their statutory role and responsibility when taking part in the public protection arrangements and therefore retains the discretion to decide when information they possess should be shared.

## 4.2

Designated/Nominated staff and their deputies will be identified and will ensure that any information received will be kept in a secure environment befitting the level of confidentiality attached to the information.

## 4.3

Requests for personal information, within the parties to this protocol, will only be made by and to Nominated Officers of the parties to this protocol, and records will be kept where disclosures of personal information have been made showing the reason why a disclosure was made so that in the event of any future legal challenge, decisions taken at the time can be justified.

## 4.4

Nominated Officers will ensure that access to the information is limited to those persons who are authorised to see and use the information, and that it is used solely for the purpose it was provided.

## 4.5

Nominated Officers will ensure that information is weeded when the purpose it was provided for has been completed. After weeding the information should either be returned to the originator or destroyed.

## 4.6

Each agency will advise the other parties to this agreement immediately should changes be made to the Designated/Nominated Officer role, via the PPANI Strategic Management Board (SMB).

## Security

# 5

### 5.1

Any information provided in accordance with this protocol must be securely stored and access limited to only authorised persons, as outlined previously in paragraph 4.2. Data should not be held on portable devices i.e. laptops, USB sticks etc. without proper encryption.

### 5.2

Any person employed by or acting for or on behalf of the parties to this protocol by virtue of their duties will be made aware, by their employer or the body on whose behalf they are acting, that all the information is to be considered 'Restricted' in accordance with Government Protective Marking and must not be disclosed to any person, or used for any purpose other than sanctioned by this agreement.

### 5.3

It is our responsibility, as signatories to this Protocol, to ensure that we have adequate security arrangements in place, in order to protect the integrity and confidentiality of the information we hold.

We agree that information disclosed must:

- a) Only be accessible to authorised personnel
- b) Not be emailed over the internet links, where this is practical. Information provided by the police and classified as "RESTRICTED" may only be transmitted over the internet if Government approved encryption is used to protect the transmission. Information classified above "RESTRICTED" (i.e. CONFIDENTIAL; SECRET AND TOP SECRET) must not be transmitted via the internet.
- c) When stored on computer, be protected by back up rules
- d) When stored on computer, be protected by anti-virus procedures
- e) When stored on computer systems, be password protected with passwords revised regularly
- f) When manual, be stored in a secure filing cabinet when not in use
- g) Be located in a secure environment

All data disclosed to us will be held until it is no longer required for the purpose for which it was obtained. Once it is determined that information is no longer required for the purpose for which it was provided, the parties undertake to ensure that it is securely destroyed by shredding of paper records, using a cross cut shredding device, and by deletion of information from computer hard drives by degaussing the storage media to ensure that the information cannot be retrieved.

We understand that all these measures need to be taken to ensure the security of our partners and to protect the public.



# 6

## Indemnity

### 6.1

In consideration of the provision and receipt of information in accordance with multi-agency public protection arrangements, we (with the exception of Probation Board for Northern Ireland who are statutorily excluded from indemnity requirements by virtue of Article 10 Probation Board (NI) Order 1982 (Protection for Acts done in Execution of Duty) indemnify each other against any liability, which may be incurred as a result of the provision of such information.

### 6.2

Provided that this indemnity shall not apply where the liability arises from information supplied which is shown to have been incomplete or incorrect, unless the agency claiming the benefit of this indemnity establishes that the error did not result from any wilful wrongdoing or negligence on its part.

## 7

## Reviews and Weeding of Data

In relation to the reviews, weeding and retention of data, existing individual agency protocol, policy and procedures will apply. It is agreed in this protocol that each agency will carry out a review of the information they hold in connection with the public protection arrangements on a regular basis.

After weeding, the information should either be returned to the originator or destroyed using the methods set out in 5.3 of this Protocol.



# Complaints and Breaches

## 8.1

A designated officer for each organisation will investigate complaints about the improper disclosure of personal data and any breaches of confidentiality. In such cases, the grounds for disclosure must be explained to the person concerned.

## 8.2

Any complaint which cannot be resolved by any agency should be referred in accordance with their own procedures. It should also be referred to the Strategic Management Board of the Public Protection Arrangements Northern Ireland to consider the issues in line with the workings of this protocol.

## 9

# Requests for Information

## 9.1

### Subject Access Requests

Any agency receiving a subject access request will deal with it according to their procedures, in compliance with the Data Protection Act 1998.

## 9.2

If any agency receives a subject access application and personal data is identified as belonging to another agency, it will be the responsibility of the receiving agency to contact the data owner to determine whether the latter wishes to claim an exemption under the provisions of the Data Protection Act.

## 9.3

Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with that request unless:

- a) The other individual has consented to the disclosure of the information to the person making the request, or
- b) It is reasonable in all the circumstances to comply with the request without the consent of the other individual.

In determination of whether it is reasonable, particular regard shall be made to:

- Any duty of confidentiality owed to the other individual
- Any steps taken by the data controller with a view to seeking the consent of the other individual
- Whether the other individual is capable of giving consent
- Any express refusal of consent by the other individual

## 9.4

### Aggregated/Statistical Information

Aggregate and management information to monitor and plan progress of the work of agencies/services to clients involved in the public protection arrangements.

**This information can be shared without individual consent.**

## 9.5

### De-Personalised/Anonymised Information

Individual level information may be depersonalised/ anonymised by the removal of any individual identifiable information (such as name, address, unique identifiers etc). Such information, then being outside the ambit of the Data Protection Act 1998, may then be shared by organisations within the context of this protocol.

**Provided that there is no risk in practice of the individual being identified from the information provided, this information can be shared without individual consent.**

# 10

## Freedom of Information Act 2000

### 10.1

The Act creates a general right of access to information held by Public Authorities. However, the public interest dictates that certain information should not be made available to the general public and the Act creates 8 absolute exemptions from disclosure. These include any personal information (**section 40**) and information provided in confidence (**section 41**).

### 10.2

If any of the parties receives an information access request pursuant to the Freedom of Information Act 2000 for access to information provided by or obtained from another party, the receiving party will contact the Freedom of Information Co-ordinator for the disclosing party who will ascertain whether that party would wish to claim any exemption under the provisions of the Freedom of Information legislation including the determination of whether or not they would wish to issue a response neither confirming nor denying that information is held.

### 10.3

This protocol is not exempt from disclosure under the Freedom of Information Act 2000.

### 10.4

#### Freedom of Information Requests

Agencies will ensure that when a response to an FOI question, in relation to matters concerning the public protection arrangements, is prepared, a copy of the question and the response will be forwarded for the attention of the Strategy and Policy Co-ordinator prior to its release. The Strategy and Policy Co-ordinator will ensure that the other agencies and the NIO are made aware of the question, the response and any impact this might have on either another agency or on the arrangements.

## 11

# Press and Media Engagement

## 11.1

This Protocol, in addition to issues relating to information sharing as set out in the previous sections, has also been agreed to ensure and facilitate effective co-ordination on all press and media engagement concerning sex/violent offenders and their interagency risk assessment and management.

## 11.2

Contact with the press and media concerning sex/violent offenders will be within the context of the communications strategy which has been developed in relation to the public protection arrangements.

## 11.3

This MOU recognises that agencies, individually and collectively, have a responsibility to both reactively and proactively engage with the media in relation to sex/violent offenders, in order to get across key messages about the operation of the public protection arrangements, agency-specific roles in the arrangements and to correct myths and stereotypes.

## 11.4

When the Strategic Management Board or an individual agency is approached for comment, is issuing a statement, or becomes aware of a sex/violent offender issue that is likely to raise media interest, they will:

- a. Always consider any implications which there might be for other agencies, the criminal justice system as a whole and the Northern Ireland Office
- b. Advise the Strategic Management Board's Head of Communications, and colleagues in other agencies, of issues and positions/lines that they are considering taking and of any intention to issue statements or participate in press and media interviews

# 12

## Status of the Protocol

### 12.1

Each agency will work towards meeting the commitments made in this protocol.

### 12.2

It is a working document and therefore the contents can be reviewed and altered at any time to reflect changing circumstances. Such changes will be subject to the agreement of all parties.

### 12.3

The document will also be reviewed annually by the Public Protection Arrangements Northern Ireland Strategic Management Board (SMB) to ensure its compliance with relevant legislation.

**13.1**

In the event of any dispute or difference arising between the parties, out of this Agreement, the PPANI Strategic Management Board shall meet in an effort to resolve the dispute or difference in good faith.

**13.2**

The parties will seek to resolve disputes between themselves by alternative dispute resolution. If the parties fail to agree within 56 days of the initiation of the alternative dispute resolution procedure, then the parties shall be at liberty to commence litigation.

# 14

## Equality and Diversity

The Public Protection Arrangements Northern Ireland Strategic Management Board (SMB) is committed to respect for race and diversity within and across the delivery of the public protection arrangements.

Through this protocol the “Agencies”, listed at Section 1 of this protocol and Section 49 of the Criminal Justice (NI) Order 2008, affirm their collective commitment to:

- a) Eliminate unlawful racial discrimination
- b) Promote equality of opportunity
- c) Promote good relations between persons of different racial groups



# Appendix 1 - Glossary of Terms (Data Protection Act 1998)

## Data

Information which:

- a) is being processed by means of equipment operating automatically in response to instructions given for this purpose;
- b) is recorded with the intention that it should be processed by such equipment;
- c) is recorded as part of a relevant filing system; or
- d) does not fall within paragraph (a), (b) or (c) but forms part of an accessible record as defined by section 68 of the Data Protection Act 1998
- e) is recorded information held by a public authority and does not fall within any of paragraphs (a) to (d)

## Data Controller

A person who (either alone or jointly in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be processed

## Data Processor

Any person who, in relation to personal data (other than an employee of the Data Controller) who processes the data on behalf of the Data Controller.

## Data Subject

An individual who is the subject of personal data

## Personal Data

Data which relate to a living individual who can be identified-

- a) from those data; or
- b) from those data and other information which is in the possession of, or is likely to come into the possession of, the Data Controller, and includes any expression of opinion about the individual and any indication of the intentions of the Data Controller or any other person in respect of the individual.

# Appendix 1 - Glossary of Terms (Data Protection Act 1998)

## Processing

Means obtaining, recording or holding information or data or carrying out any operation or sets of operations on the information or data, including –

- a) organisation, adaptation or alteration of the information or data;
- b) retrieval, consultation or use of the information or data;
- c) disclosure of the information or data by transmission, dissemination or otherwise making available; or

alignment, combination, blocking, erasure or destruction of the information

## Sensitive Personal Data

Personal data consisting of information as to:-

- a) the racial or ethnic origin of the data subject;
- b) his political opinions;
- c) his religious beliefs or other beliefs of a similar nature;
- d) whether he is a member of a trade union
- e) his physical or mental health or condition;
- f) his sexual life;
- g) the commission or alleged commission by him of any offence; or

any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.

# Appendix 2 - Conditions for Processing Personal Data and Sensitive Personal Data

The Data Protection Act 1998 requires that at least one condition from those listed in Schedules 2 and 3 (in relation to sensitive data) to the Act apply in relation to the processing of personal data and sensitive personal data. The relevant conditions are listed below.

## Conditions in Schedule 2

**Paragraph 1:** The data subject has given consent to the processing.

**Paragraph 2:** The processing is necessary for (a) the performance of any contract to which the data subject is a party; or (b) for the taking of steps at the request of the data subject with a view to entering into a contract.

**Paragraph 3:** The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.

**Paragraph 4:** The processing is necessary in order to protect the vital interests of the data subject.

## Conditions in Schedule 3

**Paragraph 1:** The data subject has given explicit consent to the processing.

**Paragraph 2:** The processing is necessary for the purposes of exercising or performing a legal right or obligation in the context of employment.

**Paragraph 3:** The processing is necessary to protect the vital interests of the data subject or another in cases where consent cannot be obtained.

**Paragraph 4:** The processing is of political, philosophical, religious or trade union data in connection with its legitimate interests by any non-profit bodies.

**Paragraph 5:** The processing is of information made public as a result of steps deliberately taken by the data subject.

**Paragraph 6:** The processing is necessary in connection with legal proceedings or the seeking of legal advice.

**Paragraph 7:** The processing is necessary (a) for the administration of justice; (b) for the exercise of any function conferred on any person by or under any enactment; (c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department.

## Appendix 2 - Conditions for Processing Personal Data and Sensitive Personal Data

### Conditions in Schedule 2

**Paragraph 5:** The processing is necessary: (a) for the administration of justice; (b) for the exercise of any functions conferred on any person by or under any enactment; (c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department; or (d) for the exercise of any other functions of a public nature exercised in the public interest by any person.

**Paragraph 6(1):** The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

**Paragraph 6(2):** The Secretary of State may by order specify particular circumstances in which this condition is, or is not, to be taken to be satisfied.

### Conditions in Schedule 3

**Paragraph 8:** The processing is necessary for medical purposes and is carried out by medical professionals or others owing an obligation of confidence to the data subject.

**Paragraph 9:** The processing is necessary for ethnic monitoring purposes.

**Paragraph 10:** The personal data are processed in circumstances specified in an order made by the Secretary of State for certain purposes. The Data Protection (Processing of Personal Data) Order 2000 (SI 2000 No417) specifies a number of circumstances in which sensitive personal data may be processed such as crime prevention, policing and regulatory functions (subject to a substantial public interest test); counselling (subject to substantial public interest test); insurance, equality monitoring in the area of disability and religious or other beliefs; and research. A further order relates to the processing of sensitive personal data by MPs and other elected representatives (The Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002 (SI 2002 2905)).

## Appendix 3 - Record of Disclosure (Other than Third Party or Public Disclosure)

**Information passed to:**

Name:

Agency:

Details of exchange: (to include time, date, location and method)

**Subject Details**

Name:

DOB:

Address:

The enclosed information is disclosed for the following purpose:

**Information detail:**

The information must only be used for the purpose stated and securely stored with access restricted to authorised persons only. It is also the responsibility of the receiving agency to destroy the information when it is has been used for the agreed purpose or, is no longer required for that purpose.

**Contact for further advice:**

# Signatories to the Protocol for the Sharing and Disclosure of Information

## Agency - Police Service of Northern Ireland

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Name:

Signature:

Job Title/Position:

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## Agency - Probation Board for Northern Ireland

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Name:

Signature:

Job Title/Position:

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## Agency - Northern Ireland Prison Service

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Name:

Signature:

Job Title/Position:

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# Signatories to the Protocol for the Sharing and Disclosure of Information

## Agency - Youth Justice Agency

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Name:

Signature:

Job Title/Position:

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## Agency - Department of Education

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Name:

Signature:

Job Title/Position:

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## Agency - Department for Employment and Learning

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Name:

Signature:

Job Title/Position:

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# Signatories to the Protocol for the Sharing and Disclosure of Information

**Agency - Department of Health, Social Services and Public Safety**

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Name:

Signature:

Job Title/Position:

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**Agency - Department for Social Development**

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Name:

Signature:

Job Title/Position:

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**Agency - Health and Social Services Boards & Trusts**

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Name:

Signature:

Job Title/Position:

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# Signatories to the Protocol for the Sharing and Disclosure of Information

**Agency - Education and Library Boards**

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Name:

Signature:

Job Title/Position:

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**Agency - Northern Ireland Housing Executive**

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Name:

Signature:

Job Title/Position:

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**Agency - National Society for the Prevention of Cruelty to Children**

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Name:

Signature:

Job Title/Position:

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