

**REQUESTS FOR DELETION OF RECORDS FROM NATIONAL POLICE
SYSTEMS POLICY**

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NORFOLK
CONSTABULARY



SUFFOLK
CONSTABULARY

**REQUESTS FOR DELETION OF RECORDS
FROM NATIONAL POLICE SYSTEMS
(PND/NDNAD/IDENT1)**

Owning Department: Information Management

Department SPOC: Compliance and Data Protection Officer

Risk Rating: Low

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Official

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Page 1 of 9

REQUESTS FOR DELETION OF RECORDS FROM NATIONAL POLICE SYSTEMS POLICY

Official

Index

1. Statement of Policy	3
2. Policy Aim	3
3. Introduction	3
4. Applicability	4
5. The Procedure	4
PSD complaints/investigations.....	7
6. Who to Contact about this Policy	8
Appendix A – Process Flowchart.....	9

Legal Basis

Legislation specific to the subject of this policy document:

- UK General Data Protection Regulation and Data Protection Act 2018
- Protection of Freedoms Act 2012

Other relevant legislation which you must check this document against (required by law)

- [Human Rights Act 1998 \(in particular A.14 – Prohibition of discrimination\)](#)
- [Equality Act 2010](#)
- [Crime and Disorder Act 1998](#)
- [Freedom Of Information Act 2000](#)
- Computer Misuse Act 1990

Other documentation which you must check this document against:

- [College of Policing – Code of Ethics](#)
- [Norfolk and Suffolk Constabularies' Standards of Professional Behaviour](#)
- [College of Policing – Authorised Professional Practice](#)
- Common Law Duty of Confidentiality
- Information Management Policy
- Information and Cyber Security Policy and Procedure
- Records Management Policy
- Data Protection Policy
- Freedom of Information Policy
- Information Sharing Policy
- Information Risk Management Policy
- Information Asset Owners Policy
- Local Force Information Risk Appetite Statement
- Disclosure and Barring Service (DBS) Policy
- Common Law Police Disclosure (CLPD) Policy
- Risk Management Policy and Procedure
- Information Commissioner's Office (Guidance)
- College of Policing Authorised Professional Practice

Official

Version Number: 1.3

Page 2 of 9

REQUESTS FOR DELETION OF RECORDS FROM NATIONAL POLICE SYSTEMS POLICY

Official

- ACPO/ACPOS Information Systems Community Security Policy (CSP)
- Statutory Code of Practice on the Management of Police Information (MoPI)
- HMG Security Policy Framework and Communications Electronic Security Group (CESG) information Standards and notices

1. Statement of Policy

- 1.1 This policy has been formally agreed via the approved policy development/review process. It will be maintained by the Information Management Department in conjunction with the Central Policy Unit.
- 1.2 The policy is intended to promote equality, eliminate unlawful discrimination and actively promote good relations regardless of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, economic or family status.
- 1.3 Managers have a responsibility to ensure this policy is applied fairly, and unless otherwise stated, all policies and procedures are non-contractual.

2. Policy Aim

- 2.1 This policy sets out how Norfolk and Suffolk Constabularies will manage requests for the deletion of information from national police systems.
- 2.2 National police systems are defined as the Police National Computer (PNC), National DNA Database (NDNAD) and National Fingerprint Database (IDENT1).

3. Introduction

- 3.1 Record Deletion is the process by which an individual can apply to have their biometric information and/or PNC records deleted from national police systems provided the grounds for doing so have been examined and agreed by a Chief Officer.
- 3.2 This policy has been introduced following the publication, by National Police Chief's Council (NPCC), of the guidelines relating to 'Deletion of Records from National Police Systems (PNC/NDNAD/IDENT1).'
- 3.3 The guidance has statutory effect only in relation to the destruction of DNA profiles, but in the interests of expediency and consistency, the guidance applies equally to the deletion of DNA samples, fingerprints and PNC records as well as DNA profiles. This policy should be read in conjunction with the above guidance issued by the NPCC.
- 3.4 The 'Deletion of Records from National Police Systems (PNC/NDNAD/IDENT1)' replaces:
 - The 'Exceptional Case Procedure', as defined by 'Association of Chief Police Officers (ACPO) Retention Guidelines for Nominal Records held on the Police National Computer', and;

Official

Version Number: 1.3

Page 3 of 9

REQUESTS FOR DELETION OF RECORDS FROM NATIONAL POLICE SYSTEMS POLICY

Official

- The statutory guidance issued by the National DNA Databases (NDNAD) Strategy Board on the destruction of DNA samples and DNA profiles and Fingerprints.

3.5 This policy only extends to records held on the PNC, NDNAD and IDENT1. Locally held records, whether stored on other electronic document management systems or in manuscript, are managed by Chief Officers in accordance with Authorised Professional Practice (APP) – Information Management issued by the College of Policing.

4. Applicability

- 4.1 This policy applies to information held on national police systems (as defined at 1.2) and used by Norfolk and Suffolk Constabularies.
- 4.2 Automated processes to manage the deletion of biometric information in accordance with the retention periods set out in the Protection of Freedoms Act 2012 (PoFA) remain separate to this procedure.
- 4.3 This policy applies to all Norfolk and Suffolk personnel.

5. The Procedure

- 5.1 The relevant Chief Officers¹ of Norfolk and Suffolk Constabularies are Data Controllers respectively as defined by the Data Protection Act 2018. They have the discretion in exceptional circumstances, to delete conviction² records, specifically those relating to non-court disposals, e.g. adult simple cautions and conditional cautions as well as any 'Event History' owned by them on the PNC but only where the grounds for doing so have been examined and agreed.
- 5.2 Where an offence is dealt with by way of a Penalty Notice for Disorder (PND), that event will also be recorded on the PNC and it will form part of a person's 'Event History'. A person issued with a PND is not regarded as having a conviction.
- 5.3 Chief Officers have the discretion in law to authorise the early deletion of records relating to legally retained biometric information, which they own on IDENT1 and NDNAD, but only where the grounds for doing so have been examined and agreed.
- 5.4 Requests for the disposal of information from the PNC, NDNAD and IDENT1 are made in accordance with the 'Deletion of Records from National Police Systems (PNC/NDNAD/IDENT1).' Under that process, applications for the deletion of legally retained biometric information in circumstances as

¹ Relevant Chief Officers are defined in the Protection of Freedoms Act 2012.

² Under section 65(B) PACE 'conviction' includes both court convictions and 'non court disposals' issued by the police specifically cautions, conditional cautions, reprimands and warnings. National Police Systems as defined at 1.2 above also contain information about non-conviction outcomes including 'Not Guilty' adjudications, 'acquittals', 'discontinuances' and 'No further action' disposals. In this procedure, non-conviction outcomes are referred to as a person's 'Event History'.

REQUESTS FOR DELETION OF RECORDS FROM NATIONAL POLICE SYSTEMS POLICY

Official

described below, as well as the deletion of PNC records when the biometric information has already been deleted through automated processes or never obtained in the first instance, is referred to as the 'Record Deletion Process' (RDP).

- 5.5 In certain circumstances, individuals may apply to have their lawfully retained biometric information deleted from national police systems (NDNAD and IDENT1) earlier than the periods specified under PACE³. These circumstances are as follows:
- They have no previous convictions and their biometric information is held as a result of being arrested and charged with a Qualifying Offence⁴ but not subsequently convicted or,
 - They have no previous convictions and their biometric information is held due to a PND.
- 5.6 In most circumstances, PNC records are retained until a person is deemed to have reached 100 years of age. An individual's DNA profile and fingerprints are held on the NDNAD and IDENT1 respectively in accordance with PACE.
- 5.7 Under the RDP, applications for early deletion of records are managed by the national Records Deletion Unit (RDU) through Chief Officers (or a person nominated to act on their behalf) who ultimately determines whether the information should be disposed of.
- 5.8 Individuals applying for the early disposal of information from one or more of the national police systems can do so through the submission of an application form to the national Records Deletion Unit (RDU) at the Association of Criminal Records Office (ACRO). Application forms are available via the ACRO website.
- 5.9 The RDU will centrally coordinate all requests for record deletion, forward applications to police forces and manage responses. The RDU will provide advice to Chief Officers as necessary and manage the deletion of records held on national police systems as directed by Chief Officers.
- 5.10 Although the RDU may advise Chief Officers in relation to whether their decision is consistent with determinations made in similar cases, the final decision will always rest with the Chief Officer who owns the relevant records. In this way, the RDU will seek to ensure that a consistent approach is applied to decision-making across the Police service using the RDP.

³ Police powers to take and retain DNA samples and fingerprints are set out in Part V of the Police and Criminal Evidence Act 1984 (PACE). Changes to PACE were implemented through provisions contained in the Protection of Freedoms Act 2012 (PoFA).

⁴ Currently there are over 400 'Qualifying Offences'. They are the more serious offences such as murder, manslaughter, rape, wounding, grievous bodily harm, assault occasioning actual bodily harm, robbery and burglary. Also included are numerous sex, indecency and firearms offences.

REQUESTS FOR DELETION OF RECORDS FROM NATIONAL POLICE SYSTEMS POLICY

Official

- 5.11 No fees are applicable for the service provided by the RDU or by Chief Officers.
- 5.12 **Early deletion will only be granted in exceptional circumstances** and provided that certain eligibility criteria are met and evidenced. Supporting evidence should be clear and credible. The eligibility criteria is set out in the 'Deletion of Records from National Police Systems (PNC/NDNAD/IDENT1).' The criteria is indicative not prescriptive, allowing Chief Officers to exercise professional judgement in deciding whether the early deletion of biometric information and deletion of the associated PNC record is reasonable, based on all the information available.
- 5.13 An individual must 'evidence' the relevant grounds for deleting their records from national police systems. Providing those grounds are examined and agreed by a Chief Officer, then the expectation will be that any records held on NDNAD and IDENT1 relating to that individual's biometric information (if held), will be deleted along with the associated PNC record. If records held on NDNAD and IDENT1 have already been deleted through the automated processes, then consideration need only be given by a Chief Officer to deleting the relevant PNC record.
- 5.14 Applications for record deletion can also be made when the automated processes introduced to manage PoFA requirements have already caused the deletion of a person's biometric information, i.e. they were arrested and charged with a 'Minor Offence'⁵ or they were arrested but not charged with a 'Qualifying Offence' and no application was made to retain the biometric information.
- 5.15 The RDU will carry out an initial assessment of the application and correspond with the applicant as necessary. If the RDU determines that the application meets the eligibility criteria, the application is forwarded to Chief Officers who use their professional judgement, advice from RDU and the 'Deletion of Records from National Police Systems (PNC/NDNAD/IDENT1)' to determine whether or not the early disposal should occur. If early disposal is authorised, the RDU arranges for the disposal to take place and informs the applicant of the outcome and any rationale behind the decision. Similarly, an applicant will be informed by the RDU of a Chief Officer's decision not to delete relevant records from national police systems including the reasons why the application was not agreed.
- 5.16 Requests for the early disposal of information in line with the RDP are considered in the first instance by the Compliance Team (Norfolk and Suffolk Constabularies) who prepares a report, in conjunction with Records Management, with a recommendation to the Deputy Chief Constable (DCC) of the respective force owning the information. The DCC makes the final decision on whether the information is to be retained or deleted.

⁵ A Minor Offence is any recordable offence that is not a Qualifying Offence (s.63H PACE).

REQUESTS FOR DELETION OF RECORDS FROM NATIONAL POLICE SYSTEMS POLICY

Official

- 5.17 Any requests received for early deletion of records in line with this policy should be forwarded immediately to the Compliance Team (compliance@suffolk.police.uk) for action. The Compliance Team will advise the applicant of the correct process to undertake and forward all such applications to the RDU for assessment.
- 5.18 The Compliance Team reviews the circumstances of each application, liaises as necessary with colleagues within and/or beyond the force, including relevant Information Asset Owners and will adjudicate on the application and forward it together with an accompanying report to the Senior Records and Data Quality Manager, who also provides comment. This is then sent to the Deputy Chief Constable to make a final determination. This decision will be notified to the Compliance Team for onward action.
- 5.19 The Compliance Team (on behalf of the Chief Officers) should aim to respond in writing to the RDU with the decision within 28 days of receiving the application (in accordance with NPCC guidelines on the 'Deletion of Records from National Police Systems'). For those instances where the decision takes longer due to the circumstances of the case, the Compliance Team will respond to the RDU within 28 days to inform them of the status of the application and the reason for the delay.
- 5.20 In all cases, the final decision of the Chief Officer will be reported by the Compliance Team to the RDU who will in turn notify the applicant.
- 5.21 The application, any supporting paperwork and resultant decision will be centrally recorded and retained on the Constabularies' Case Management System held within the Information Compliance Unit. The retention of records will be in accordance with the Constabularies' Review, Retention and Disposal (RRD) of Crime and Non-Crime Related Information schedule.
- 5.22 Individuals dissatisfied by Chief Officers' decisions can make representations to ACRO which are forwarded to the force to consider. This is then reviewed by the alternative forces' DCC to provide an independent review of the request. Individuals are also able to request an assessment from the Information Commissioner as to whether the continued retention of the information is in breach of the Data Protection Act 2018.
- 5.23 Individuals may use their subject access rights under the Data Protection Act 2018 to apply for a copy of their personal information processed by Norfolk and Suffolk Constabularies.

PSD complaints/investigations

- 5.24 The Head of PSD has delegated authority from the Chief Constable to consider appeals to rescind inappropriately issued reprimands/cautions. In such cases, PSD will liaise with the Compliance Team to facilitate the deletion of records as appropriate. The Compliance Team will enable the deletion of the record via the Home Office Reconciliations Team as directed by the Head of PSD.

Official

Version Number: 1.3

Page 7 of 9

REQUESTS FOR DELETION OF RECORDS FROM NATIONAL POLICE SYSTEMS POLICY

Official

6. Who to Contact about this Policy

6.1 Questions regarding this policy and its operation should be referred to the Compliance Team:

- compliance@suffolk.police.uk
- Suffolk Constabulary, Police Headquarters, Martlesham Heath, Ipswich, IP5 3QS. Tel 01473 613682

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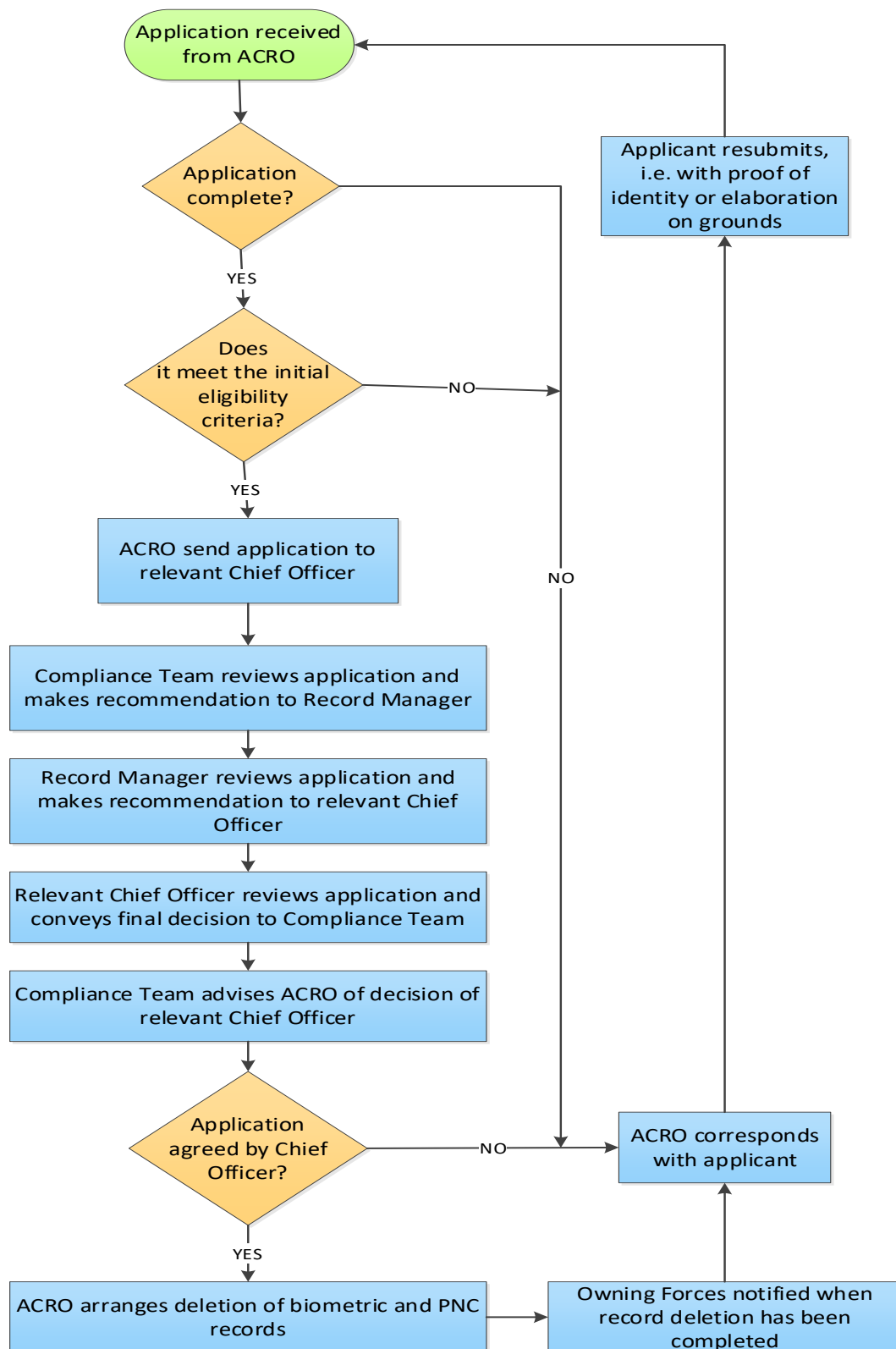
Version Number: 1.3

Page 8 of 9

REQUESTS FOR DELETION OF RECORDS FROM NATIONAL POLICE SYSTEMS POLICY

Official

Appendix A – Process Flowchart



Official

Version Number: 1.3

Page 9 of 9