

**DRAFT STATUTORY GUIDANCE FOR CHIEF OFFICERS OF POLICE
PROVISION OF INFORMATION ON ACCESSNI ENHANCED
CRIMINAL RECORD CHECKS**

This Consultation Document seeks views on the Department of Justice's draft statutory guidance for chief officers of police in relation to the provision of information on AccessNI enhanced criminal record checks.

Comments should be sent by 28 August 2015 to:

Chief Officer Statutory Guidance Consultation
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Subject title: Chief Officer statutory guidance consultation

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Contents

	Page
Purpose of the Consultation Document	3
Background	4
Details of the proposals	6
Human Rights	8
Equality	8
Regulatory Impact Assessment	8
The Freedom of Information Act 2000 – confidentiality of consultations	8
Alternative format	9
Consultation	9
Appendix A - Draft Guidance on the Operation of the Criminal Records Review Mechanism	10
Appendix B – List of key differences between Northern Ireland and England and Wales statutory guidance.	20
Appendix C - The Freedom of Information Act 2000 – confidentiality of consultations	22

PURPOSE OF THE CONSULTATION DOCUMENT

1. The Justice Bill (Northern Ireland) currently before the Assembly¹ (the Justice Bill) makes provision for an amendment to Section 113B(4) of Part V of the Police Act 1997 (the 1997 Act). The amendment introduces a new sub-section 113B(4A) which states that -

“The Department may from time to time publish guidance to chief officers as to the exercise of functions under subsection (4); and in exercising functions under that subsection a relevant chief officer must have regard to any guidance for the time being published under this subsection”.

2. The Department of Justice is seeking comments on the draft guidance. The purpose of the proposed guidance is to assist chief officers to make decisions about whether information held by police in relation to individual applicants is reasonably believed to be relevant to the purpose for which the enhanced criminal record check is being sought and, if it is, whether it should be disclosed. This guidance sits alongside the Quality Assurance Framework document² that sets out the detailed processes and procedures that chief officers should undertake when assessing information. The statutory guidance is a set of principles that chief officers must have regard to in addition to applying the detailed processes and procedures correctly.

3. The draft guidance is attached at **Appendix A**.

¹ . <http://www.niassembly.gov.uk/assembly-business/legislation/primary-legislation-current-bills/justice-bill--as-introduced/>

² <https://www.gov.uk/government/publications/quality-assurance-framework-version-nine-qaf-v9>

BACKGROUND

1. The police have powers in relation to applications for enhanced criminal record checks (under section 113B(4) of Part V of the Police Act 1997, as amended) to disclose information to the Department of Justice in Northern Ireland. This is information which the chief officer reasonably believes to be relevant to the position that the applicant is applying for; and, in the chief officer's opinion, ought to be included in the certificate.³ This is referred to in this document as "the statutory test".

2. This is also known as "police information" or "approved information" and is separately included in enhanced criminal record checks from the list of convictions or other disposals that may be held on an individual's criminal record. In Northern Ireland, during 2014/15 approximately 420 enhanced certificates (from total of approximately 105,000 applications) contained police information. Nearly 250 of these were disclosed by PSNI. The bulk of the remainder were made by Police Scotland, mainly in respect of minor traffic offences committed in Scotland. A very small number of disclosures are made by forces in England and Wales.

3. Typically, PSNI police information will fall into one of several categories:

- unsuccessful prosecutions or where the Public Prosecution Service directed "no prosecution",
- allegations investigated by police where no further action was taken;
- clarification of the background to convictions or non-court disposals disclosed on certificates;
- third party links to an address where children will be looked after, such as fostering, adopting or child-minding; and
- convictions in the Republic of Ireland provided by An Garda Siochana.

4. In her report on the Northern Ireland criminal records regime ("A Managed Approach – Part 1") Mrs Sunita Mason, the independent advisor for criminality information in England and Wales, stated that if police information were not available on enhanced criminal record checks there would be a significant gap in safeguarding

³ This wording reflects a further amendment being made via the Justice Bill to amend the statutory test so that a chief officer must "reasonably believe" that information is relevant, rather than it "might be" relevant. This assumes Assembly approval of the relevant amendment to the Justice Bill, and subsequent Royal Assent to the Bill.

arrangements. However, she considered that more should be done to remove any misunderstanding around how police information is used for employment vetting purposes. She recommended a series of changes to the way in which police consider and disclose information on enhanced criminal record checks.

Recommendation 8(c) of her report suggested that;

“a statutory Code of Practice is developed in Northern Ireland to assist police to decide what information should be released.”

5. Mrs Mason considered that such a code would assist police forces to make consistent and appropriate decisions. She believed this should be a transparent process and commented in paragraph 4.24 of her report that;

“the public should have access to this Code so they can see against what criteria appropriate decisions are being taken”.

6. The Department has now prepared draft guidance (effectively a code) for chief officers. Subject to Assembly approval and Royal assent, the guidance will come into force at the same time as other provisions in clause 40 of the Justice Bill.

7. The Department wishes to consult on this guidance. The Minister of Justice and the Justice Committee have agreed this will be a targeted consultation. Those consulted will include:

- a representative group of organisations that are registered with AccessNI to countersign applications for enhanced criminal record checks;
- organisations that have already expressed a specific interest in this work and the disclosure of police information;
- a number of statutory organisations with responsibilities in the area of the protection of children and vulnerable adults
- the Independent Monitor, as established in section 119B of Part V of the Police Act, (he also must have regard to the guidance);
- the National Police Chiefs’ Council and Police Scotland;

DETAIL OF THE PROPOSALS

9. The draft guidance is a set of principles to which chief officers must have regard when considering the statutory test under Section 113B(4) of Part V of the Police Act 1997. In line with Mrs Mason's report the guidance:

- Takes account of the statutory guidance that was published in England and Wales in July 2012⁴. Mrs Mason made an identical recommendation in her similar report on the criminal records regime in that jurisdiction. The Home Office having consulted with interested parties concluded that statutory guidance was best established in a set of principles that could be easily understood by both applicants and chief officers of police. These principles expand the legislative requirement laid down in Part V of the Police Act 1997, but do not attempt to replicate the level of detailed practice set out in the QAF. The Department considers that it should adopt an identical approach in Northern Ireland and indeed to use much of the wording in the England and Wales document. It is important that there is consistency about the disclosure of information released on criminal record checks, whether the assessment is undertaken in Belfast or Birmingham. In addition, it would be extremely difficult for police forces across the UK to work from two entirely different sets of guidance depending on where the application originated.
- Includes specific local dimensions. **Appendix B** is a record of the key differences between the Northern Ireland guidance and that which currently exists in England and Wales.
- Does not seek to fetter the ability of chief officers to make appropriate decisions. Chief officers must have the ability to disclose where they believe the statutory test is met. They must, however, justify any departure from the statutory guidance on a case by case basis.
- Sits alongside the Quality Assurance Framework (QAF) document.
The guidance must be consistent with QAF to avoid the potential for

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118017/statutory-disclosure-guidance.pdf

chief officers to be left in a dilemma whether to disclose information or not.

10. The Department is interested in the opinions of consultees on any part of the guidance, and is particularly interested in views in relation to the following specific questions:

Question 1	Do you agree with using principles to provide guidance to chief officers?
Question 2	Are the principles set out in the draft guidance the right principles?
Question 3	Are the principles clear and understandable?
Question 4	Has sufficient weight been given to both the “relevancy” and “ought to be disclosed” parts of the guidance?
Question 5	Are there sufficient protections for those who were aged under 18 at the time the information being considered refers to?
Question 6	What further improvements can be made to this guidance?

HUMAN RIGHTS

11. This guidance makes clear reference to human rights issues. Paragraphs 21 to 24 make specific reference to Article 8 of the European Convention on Human Rights (right to privacy). There is clear advice to chief officers that disclosure of information will, in every case, interfere with the applicant's private life and come within the scope of Article 8. Chief officers' must, therefore, consider whether a there is a legitimate aim to be pursued by disclosure and (b) the disclosure is necessary to pursue that aim.

EQUALITY

12. Under the terms of Section 75 of the Northern Ireland Act 1998, the Department carried out a screening exercise for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the Section 75 groups. A copy of the screening form can be viewed on the Department's website

REGULATORY IMPACT ASSESSMENT

13. The Department has not conducted a Regulatory Impact Assessment as the proposed guidance does not give rise to any associated costs or savings to business, charities, social economy enterprises or the voluntary sector.

THE FREEDOM OF INFORMATION ACT 2000 – confidentiality of consultations

14. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances.

15. Before you submit your response, please read **Appendix C** on the confidentiality of consultations. It gives guidance on the legal position about any information given by you in response to this consultation.

ALTERNATIVE FORMAT

16. This document is available in alternative formats. Please contact us to discuss your requirements.

CONSULTATION

17. Comments should be received by 28 August 2015 at the address below:

or by e-mail to:

ani@accessni.gov.uk

If you have any queries in relation to the proposals, you should contact:

Tom Clarke
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APPENDIX A

DEPARTMENT OF JUSTICE (Northern Ireland)

Statutory guidance to chief officers of police on providing information for inclusion in enhanced criminal record certificates

PURPOSE OF THIS GUIDANCE

1. The review of the criminal records regime conducted by Mrs Sunita Mason in Northern Ireland, the Government's Independent Advisor for Criminality Information Management, recommended a statutory code of practice should be introduced for police to use when disclosing police information within the criminal records process.⁵ The Minister for Justice accepted this recommendation and included in the Justice Act (Northern Ireland) 2014 provision for Guidance to be published and also that it must be published.

2. This guidance is issued under section 113B(4A) of the Police Act 1997 ("the Act"), in order to assist chief officers of police in making appropriate, proportionate and consistent decisions in providing information from local police records for inclusion in enhanced criminal record certificates (ECRCs).

3. The guidance flows from Section 113B(4) of the Act. This requires police to disclose information on an ECRC. Section 113B(4) of the Act, as amended, states

"Before issuing an enhanced criminal record certificate the Minister of Justice must request any relevant chief officer to provide any information which –

(a) the chief officer reasonably believes to be relevant for the purpose described in the statement under subsection (2), and

⁵ http://www.dojni.gov.uk/index/public-consultations/current-consultations/a-managed-approach-report_sunita_mason.pdf

(b) in the chief officer's opinion, ought to be included in the certificate."

4. Section 119(2) of the Act states that the chief officer shall comply as soon as practicable with a request under section 113B.

STATUS OF THIS GUIDANCE

5. This guidance is issued under section 113B(4A) of the Act, which states that:

"the Department may from time to time publish guidance to chief officers as to the exercise of functions under subsection (4); and in exercising functions under that subsection a relevant chief officer must have regard to any guidance for the time being published under this subsection"

6. As Mrs Mason noted in her report, having regard to this guidance does not mean fettering chief officers' discretion to make whatever decisions they consider appropriate, within the constraints of the law. Chief Officers will, however, be expected to have due regard to the principles set out in this guidance and be able to justify any departure from the principles on a case by case basis.

7. This guidance sits alongside the Quality Assurance Framework (QAF) which is a set of processes and more detailed guidance covering the disclosure of local police information under the Act, drawn up by the Association of Chief Police Officers (now National Policing Chiefs Council) and the Criminal Records Bureau (now the Disclosure and Barring Service). In considering ECRC applications referred from AccessNI, therefore, chief officers should also have regard to the QAF in carrying out functions under section 113B(4) of the Act. The QAF is available on the Home Office website.⁶

6

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/353036/QAF_v9_OV1_Overview_of_QAF_Process_September_2014.pdf

8. This guidance applies primarily to the Police Service of Northern Ireland who provide the majority of information to the Department of Justice for disclosure by AccessNI. However, it equally applies to any relevant chief officer exercising functions under section 113B(4) of the Act, in respect of AccessNI applications referred to their force, regardless of the geographical location of the body for which they are responsible. This includes those treated as chief officers under section 113B(10) and (11) of the Act.

9. Under section 117A of the Act, both chief officers and the independent monitor must have regard to this guidance in carrying out functions arising from disputes about the inclusion of information in certificates, which has been included on them in accordance with section 113B(4) of the Act.

PRINCIPLES TO BE APPLIED

10. In deciding what, if any, information should be provided for inclusion in an ECRC, and in providing that information, chief officers should apply the following principles:

Principle 1 – There should be no presumption either in favour of or against providing a specific item or category of information

11. Every piece of information should be assessed on its individual merits. Information should not be included (or excluded) because it is of a certain type.

Principle 2 – Information must only be provided if the chief officer reasonably believes it to be relevant.

12. The word “relevant” should be given its natural meaning, expressed as pertinent to, connected with or bearing upon the subject in question. Information must only be provided if the chief officer reasonably believes it to be relevant. It should not be disclosed on the basis that, although there is no apparent reason to believe that it is relevant, it could conceivably turn out to be. Forming a reasonable belief that information is relevant is a higher hurdle than merely considering that it might be or could possibly be relevant.

The most important factors which should be taken into account in considering relevancy are set out below. However, this is not an exhaustive list and other factors may come into play in individual cases.

Information should be reasonably believed to be relevant to purpose for which the certificate is being sought

13. The prescribed purposes are set out in regulation 9 of the Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008, as amended.

14. Chief officers should address the purpose for which the certificate is being sought in considering issues of relevancy. What may be relevant to an application connected with caring for children or vulnerable adults may not be relevant where the applicant is, say, seeking a licence for handling or storage of controlled drugs and vice versa. Linked to this test, chief officers should consider the extent to which information from local records is relevant in the sense that it provides background and context in relation to a conviction or other disposal retained in central records which will automatically be included on the ECRC. For example, it may be relevant to disclose the circumstances in relation to a theft offence where the individual is seeking to work with adults in a care setting or in his/her home. In some circumstances information relating to a third party, or simply the fact that a third party is linked to the address where work with children will be undertaken at that address, may also be considered relevant to the prescribed purpose.

Information should be viewed as sufficiently serious

15. There are no hard or fast rules to apply in this area, but chief officers should consider whether a specific piece of information is of sufficient gravity to justify its inclusion. It will be disproportionate to disclose information if it is trivial, or simply demonstrates poor behaviour, or relates merely to an individual's lifestyle.

16. There is some relationship here to the purpose for which the certificate is being sought. A relatively minor piece of intelligence with a clear relationship to that purpose might reasonably be viewed as relevant, while something more serious with no such relationship might not. In some cases it might be reasonable to view information linked to an isolated

incident or allegation less seriously than information linked to a sequence. For example, a single allegation of violent behaviour might be less relevant than a whole series of allegations. Clearly there will be occasions where the nature of a single incident or allegation is such as to require disclosure.

17. Legislation was introduced in April 2014 in Northern Ireland that changed the definition of a “relevant matter” in Part V of the Police Act 1997 (known as the “filtering scheme”). This enables the Department to ensure that offences that are regarded as serious or where there has been violent or sexual offending or where offences are related to drugs, robbery or drink driving these will always be disclosed on an ECRC. Some old and minor convictions and cautions are however filtered or removed from a certificate where these are no longer regarded as a “relevant matter” within the legislation. Chief officers’ should not normally consider including information in an ECRC that has been filtered in this manner, unless there is a very specific purpose for doing so. Where police do disclose filtered information, the chief officer must ensure there a clear and specific explanation as to why this information has been disclosed.

Information should be sufficiently current

18. The age of the information, coupled with the age of the applicant at the time and their conduct in the intervening period are factors which should be taken into account. The older the information the more difficult it will be to form a reasonable belief that it is relevant. An offender who was under 18 at the time of their offence or where their behaviour first brought them to the attention of police, may have matured now and pose a greatly reduced or no risk at all to vulnerable groups, especially where there is no further evidence of offending or inappropriate behaviour. However, there are other factors, especially seriousness, which may mean that even very old information may reasonably be believed to be relevant. The currency of information should be considered together with the applicant’s specific circumstances.

Information should be sufficiently credible

19. This will always be a matter of judgment, but the starting point will be to consider whether the information is from a credible source. Chief officers' should consider whether there are any specific circumstances that lead them to consider that information is unlikely to be true or whether the information is so without substance that it is unlikely to be true. In particular, allegations should not be included without taking reasonable steps to ascertain whether they are more likely than not to be true.

Information may be explanatory

20. Information may be disclosed that can clarify the circumstances behind a specific conviction or non-court disposal. For example a conviction or a caution for aggravated assault may arise from an automatic charge because the victim was a young female. However, the applicant as the perpetrator may also have been a young female at that time and the assault may be of a less serious nature. Clarification of some cautions and convictions can provide useful information to registered bodies to enable them to fully consider the degree of risk that an applicant may pose working in regulated activity.

Principle 3 – Information should only be provided if, in the chief officer's opinion, it ought to be included in the certificate

21. Having formed what they regard as a reasonable belief that the information is relevant, the chief officer must then consider whether it ought to be included in the certificate. There are two key areas to be considered under this heading, as set out below.

The impact of disclosure on the private life of the applicant or a third party

22. The words "ought to be included" should be read and given effect in a way which is compatible with the applicant's right to respect for their private and family life under Article 8 of the European Convention on Human Rights'. Disclosure of information on ECRCs as a result of decisions made by chief officers will fall within the scope of Article 8. That being the case, it will, in virtually every case, involve an interference with the applicant's private life; this may include the impact on the applicant in terms of their prospects of being selected for the role in question. Therefore chief officers must ensure that the disclosure of such information is justified in every case.

23. Firstly this requires establishing whether there is a legitimate aim pursued by the disclosure; this might be the legitimate aim of crime prevention and/or the protection of the rights and freedoms of others and/or ensuring public safety. Every case should be evaluated on its own facts.

24. If there is a legitimate aim pursued, the next step is to consider whether the disclosure of the information is necessary to pursue that aim including consideration of whether there are any other realistic and practical options to pursue that aim. If disclosure is considered necessary to pursue that aim then the question becomes one of proportionality. In practice this will involve weighing factors underpinning relevancy, such as seriousness, currency and credibility against any potential interference with privacy. All decisions must be proportionate. This means that the decision is no more than necessary to achieve the legitimate aim and that it strikes a fair balance between the rights of the applicant and the rights of those the disclosure is intended to protect. It is therefore essential that the reasoning in reaching a decision is fully and accurately recorded in each case.

Adverse impact of disclosure on the prevention or detection of crime

26. There will be exceptional cases in which the specific circumstances will require the chief officer to consider whether the value of disclosing information in terms of public protection might be outweighed or undermined by an adverse impact on the prevention or detection of crime.

27. For example, the applicant might be the subject of an ongoing police investigation and disclosing certain information might compromise that by alerting them to the police interest.

28. In the exceptional cases where the chief officer concludes that information should not be disclosed to the applicant for such reasons, they should consider alternative ways of dealing with the public protection issues that would otherwise be addressed via disclosure on an ECRC. This may, for example, involve providing information to an employer or

potential employer in confidence, using the police's common law powers to act to protect the public. Alternatively, the police may decide to increase monitoring and observation of the applicant's activities to reduce risks to vulnerable groups or individuals.

Principle 4 – The chief officer should consider whether the applicant should be afforded the opportunity to make representations

29. In any case where a chief officer is minded to provide information for inclusion in a certificate or is uncertain whether to do so, he/she should consider whether the applicant should be offered the opportunity to make representations before the information is submitted. Some of the factors relevant to this consideration are:

- is there doubt as to whether the purpose for which the certificate is being requested, while eligible for an ECRC, actually requires the disclosure of this specific information?
- has the applicant ever had a fair opportunity to answer an allegation?
- is there doubt that an allegation could be substantiated?
- is there any doubt as to whether factual information is correct or remains valid?
- is it questionable whether disclosure of this information would represent a disproportionate interference with the applicant's private life?

30. The chief officer should ask him/herself whether it is obvious that nothing the applicant might say by way of representations could rationally or sensibly influence their decision. Only in cases where there is no room for doubt that the information should be disclosed should a decision to disclose be taken without first giving the applicant an opportunity to make representations.

Principle 5 – There should be a sufficient and clear audit trail to record the decision making process and support quality control

31. There should be a clear audit trail running through the decision making process. The reasons for key decisions within that process should be adequately documented, together with the identity of those responsible for them. This will underpin quality control processes which chief officers should ensure are applied on a regular and systematic basis.

32. It will also be critical to enabling effective review processes where specific decisions are challenged.

Principle 6 – Decisions should be made in a timely manner

33. Decisions about whether to provide information for inclusion in a certificate should be made as quickly as possible. It is the chief officer's responsibility to ensure there are no unnecessary delays. Chief officers' should be aware that delays feed through into important decisions affecting both the applicant and potentially, the protection of the public.

Principle 7 – Information for inclusion should be provided in a meaningful and consistent manner, with the reasons for disclosure clearly set out

34. Neither the applicant nor the employer or other body to whom they may wish to show the certificate should be left to speculate as to the reasons why information has been included. Both the reasons and the information itself should be set out in a clear and meaningful way and in a consistent format. A recommended template is included in the QAF.

35. The wording should be clear, concise and unambiguous. It should be written in plain English and be easy to read and understand. Police jargon should be avoided and the text should stick to the facts, offering no opinion, assumption or supposition. Personal opinions as to an applicant's suitability for a prescribed purpose should not be included.

36. The information should be self-contained and stand on its own merits. It should not, for example, cross-reference to other material which is not available as part of the disclosure or to information contained in a previous disclosure.

Principle 8 – Any delegation of the chief officer’s responsibilities should be appropriate and fully documented

37. The chief officer should consider whether any aspects of the decision making process are to be delegated. Delegation of some elements of decision making is inevitable due to the sheer volume of cases to be considered, but the chief officer must retain overall responsibility for the process and may introduce appropriate levels of delegation depending on the type of information to be disclosed. Any delegation should recognise the importance and complexity of the process and the chief officer should be satisfied that the police officer or member of civilian staff to whom the delegation is made is entirely suitable for the task in terms of skills, training and experience. Where delegation occurs, the chief officer should ensure that the delegate has regard to this statutory guidance. Any decision to delegate should be documented and signed off by the chief officer.

HEALTH INFORMATION

38. On its own, information relating to physical health or mental health is unlikely to be appropriate for disclosure. More detailed guidance on health information is provided in the QAF.

Department of Justice (Northern Ireland)

June 2015

List of differences between Northern Ireland and England and Wales statutory guidance

General

The document contains a number of drafting changes from the guidance in England and Wales to reflect the different legislation and practice in Northern Ireland and to provide further clarification with regard to some of the principles set out within it. The paragraph numbers below refer to the Northern Ireland guidance except where stated.

Para 5

The Northern Ireland legislation that enables publication of the guidance is different to that in England and Wales in that it requires the Department of justice to publish guidance and to keep it updated.

Para 8

This section makes it clear that the guidance is primarily for the use of the Police Service of Northern Ireland, but that it equally applies to chief officers' in other forces that may provide information to PSNI.

Para 14

This paragraph provides an example of where it might be relevant to provide background and context to a conviction or other disposal automatically included on the ECRC. The example is the background to a theft offence where the applicant is seeking to work with adults in a care setting or their own home. This paragraph also slightly expands the section in the England and Wales guidance with regard to third party information.

Para 17

This paragraph is additional to the guidance for England and Wales. It refers to changes made to legislation in Northern Ireland to introduce a system of filtering old and minor convictions and refers to the potential impact on chief officers.

Para 18

This expands the similar paragraph in the England and Wales guidance about the currency of information to make a specific insertion about those who were under 18 at the time when the offending or behaviour that brought them to police attention took place.

Para 20

This inserts a new sub principle that “Information may be explanatory”. The subsequent paragraph sets out this is to enable chief officers to provide information where an explanation is to the applicant’s benefit and the example used is a disposal of aggravated assault.

Para 37

This expands the similar paragraph in the England and Wales guidance to indicate that the Department considers some form of delegation is inevitable, but that a chief officer remains responsible for the overall process. A specific reference is made to the fact that delegation may be made to a civilian officer.

Para 36 (England and Wales guidance)

This has been removed from the Northern Ireland guidance. This was included in the England and Wales guidance to cover a position where an individual might seek to use a check which stated they were barred for another post. We do not consider similar circumstances would apply in Northern Ireland.

Para 37 (England and Wales guidance)

This paragraph does not apply to Northern Ireland as this part of the Protection of Freedoms Act 2012 does not apply in Northern Ireland.

The Freedom of Information Act 2000 – confidentiality of consultations

1. The Department may publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

2. The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential.

3. This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:
 - the Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;

 - the Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and

 - acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

4. For further information about confidentiality of responses please contact the Information Commissioner's Office (or see website at: <http://www.informationcommissioner.gov.uk>).