



**DELETION OF RECORDS FROM
NATIONAL POLICE SYSTEMS
(PNC/NDNAD/IDENT1)**

Disclaimer and Copyright details

This document provides information to assist policing in England, Wales and Northern Ireland. It is not protectively marked under the Government Protective Marking Scheme.

This document should be read in conjunction with the provisions contained in Chapter 1, Part 1 of the Protection of Freedoms Act 2012.

The Police Service and the organisations they work with should not base strategic and operational decisions solely on the basis of the information supplied.

© - National Police Chiefs' Council

All rights reserved. No part of this publication may be reproduced, modified, amended, stored in any retrieval system or transmitted, in any form or by any means, without prior written permission of the National Police Chiefs' Council or its representative.

The above restrictions do not apply to police forces or authorities, which are authorised to use this material for official, non-profit-making purposes only.



Product Control Page

Author:	Shaun Beresford	Criminal Records Policy Lead
Address:	ACRO Criminal Records Office	criminal.records@acro.pnn.police.uk

Contributors:	
Jess Maltby (ACRO Criminal Records Office)	
Mick Carling (Home Office)	
Stacey Dibbs (Metropolitan Police Service)	

Distribution List:	
All Police Forces (England & Wales)	Home Office (PNC Customer Support)
British Transport Police (BTP)	Home Office (Reconciliations Unit)
Ministry of Defence Police (MDP)	National DNA Database (NDNAD)
Service Police (Navy, Army & RAF)	National Fingerprint Office (NFO)
HM Revenue & Customs (HMRC)	Disclosure and Barring Service (DBS)
Home Office (Safety & Public Protection Unit)	Disclosure Scotland
Home Office (Police Live Services)	Access Northern Ireland

Issue Control:		
Version	Date	Details of Changes made to this report
1.0	19 th March 2015	Final version agreed.
1.1	19 th May 2015	Various changes made to format and content.



INTENTIONALLY BLANK



Index

1	INTRODUCTION	1
1.1	PURPOSE	1
1.2	STATUS	1
1.3	SCOPE	1
1.4	TERMINOLOGY	2
1.5	RECORD TYPES AND CATEGORIES	3
1.6	PRINCIPLES	3
2	RECORD DELETION PROCESS.....	4
2.1	OVERVIEW.....	4
2.2	DELETION OF BIOMETRIC INFORMATION AND ASSOCIATED PNC RECORD	5
2.3	DELETION OF PNC RECORD ONLY	5
3	UNLAWFUL ARRESTS/SAMPLING	6
3.1	REQUIREMENT TO DELETE BIOMETRIC INFORMATION	6
3.2	DESTRUCTION OF SAMPLES	6
3.3	DESTRUCTION OF DNA PROFILES AND FINGERPRINTS	6
4	CENTRAL OFFICE	7
4.1	NATIONAL RECORD DELETION UNIT	7
4.2	ROLE AND RESPONSIBILITIES.....	7
4.3	ADVICE AND GUIDANCE.....	8
5	PROCESS	8
5.1	ELIGIBILITY	8
5.2	MAKING AN APPLICATION	9
5.3	GROUND'S	9
6	FACTORS AFFECTING THE DELETION OF RECORDS.....	10
6.1	NO FURTHER ACTION DISPOSALS	10
6.2	NON CONVICTION OUTCOMES	10
6.3	EVENT HISTORIES AND FURTHER CONNECTED CRIMINALITY.....	11
6.4	REQUIREMENT FOR POSITIVE EVIDENCE	11
6.5	RETENTION OF BIOMETRIC INFORMATION DUE TO PREVIOUS CONVICTION.....	11
6.6	RESPONSES MADE BY CHIEF OFFICERS.....	11
6.7	REFERRAL TO THE INFORMATION COMMISSIONER	12
6.8	PROCESS MAP	12
7	ACCOUNTABILITY	12
7.1	PROTECTING PERSONAL INFORMATION.....	12
7.2	MONITORING	13
7.3	AUDIT.....	13
7.4	ANNUAL REPORT	13
8	COMMUNICATIONS	13
8.1	FORMS AND GUIDANCE	13
	ANNEX A – GROUND'S FOR RECORD DELETION	1



ANNEX B – RETENTION OF BIOMETRIC INFORMATION	1
ANNEX C – CIRCUMSTANCES COVERED BY THE RECORD DELETION PROCESS	1
ANNEX D – PROCESS MAP	1



1 Introduction

1.1 Purpose

1.1.1 This Guidance replaces both the 'Exceptional Case Procedure' as defined in the 'ACPO Retention Guidelines for Nominal Records on the Police National Computer' and the statutory guidance issued by the National DNA Database (NDNAD) Strategy Board on the destruction of DNA samples, DNA profiles and fingerprints.

1.1.2 The purpose of this Guidance is to ensure that a consistent approach is taken by relevant Chief Officers¹ and others in relation to dealing with applications for the deletion of records from national police systems namely:

- Police National Computer (PNC)
- National DNA Database (NDNAD)
- National Fingerprint Database (IDENT1)

1.2 Status

1.2.1 This Guidance is issued to Chief Officers in England & Wales by the NDNAD Strategy Board under section 63AB(2) of Police and Criminal Evidence Act 1984 ("PACE") as amended by the Protection of Freedoms Act 2012 ("PoFA"):

(2) The National DNA Database Strategy Board must issue guidance about the destruction of DNA profiles which are, or may be, retained under this Part of the Act [Part V of the Police and Criminal Evidence Act 1984].

(3) A Chief Officer of a police force in England and Wales must act in accordance with any guidance under subsection (2).

1.2.2 This Guidance has statutory effect only in relation to the destruction of DNA profiles, but, in the interests of expediency and consistency, this Guidance and the accompanying process applies equally to the deletion of DNA samples, fingerprints and PNC records as well as DNA profiles.

1.3 Scope

1.3.1 This Guidance 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 [Accredited Professional Practice \(APP\) – Information Management](#) issued by the College of Policing. In this regard, it should be understood that this Guidance does not currently extend to the deletion of custody photographs.

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



1.4 Terminology

1.4.1 The following terminology is used throughout this Guidance:

- **Biometric information** – is the DNA profile and fingerprints, collectively referred to as section 63D material in PoFA.
- **Criminal Justice Arrestee (CJ Arrestee)** – a person detained at a police station having been arrested for a recordable offence whose DNA samples and fingerprints are lawfully taken without consent.
- **Excluded Offence** – is any recordable offence:
 - That is not a ‘Qualifying Offence’.
 - That was committed when the person was under 18 years old.
 - For which the person was not given a custodial sentence of more than 5 years.
 - That is the only recordable offence of which the person has been convicted.
- **IDENT1** – national fingerprint database.
- **LEA** – Law Enforcement Agency.
- **Minor Offence** – is any recordable offence that is not a ‘Qualifying Offence’.
- **NDNAD** – National DNA Database.
- **NFO** – National Fingerprint Office.
- **NPPA** – Non Police Prosecuting Agency
- **PNC** – Police National Computer.
- **PACE** – Police and Criminal Evidence Act 1984.
- **PND** – a Penalty Notice for Disorder (PND) is a one-off fine that can be issued on the spot to anyone over the age of 16. They are issued for low level anti-social and nuisance offending such as drunk and disorderly.
- **PoFA** – Protection of Freedoms Act 2012.
- **Qualifying Offence** – 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.



-
- **Record Deletion Process** – is the process defined in this Guidance 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.
 - **Recordable Offence** – is an offence for which the police are required to keep a record. Generally speaking, these are crimes for which an individual could be sentenced to a term of imprisonment or they have otherwise been made recordable by statute. The term also includes a number of non-imprisonable offences for example begging and illegal taxi touting. The police are not able to take or retain the biometric information of an individual who is arrested for an offence which is not recordable.

1.5 Record types and categories

- 1.5.1 Fingerprint records are held on IDENT1: DNA profiles on the NDNAD. Associated demographic information, which includes a person's name, address, descriptive details and relevant operational information, is held on the PNC.
- 1.5.2 PNC records can be created by any police force operating in any jurisdiction within the United Kingdom (UK) or by any recognised Law Enforcement Agency (LEA) or non-police prosecuting agent (NPPA) with relevant permissions to do so, whether they are exercising their lawful duties within the UK or abroad e.g. the Service Police.
- 1.5.3 Other records held on the PNC show whether a person has ever been convicted of an offence². They also contain information about non-conviction outcomes including 'Not Guilty' adjudications, 'acquittals', 'discontinuances' and 'No further action' disposals. In this Guidance non-conviction outcomes are referred to as a person's 'Event History'.
- 1.5.4 The Criminal Justice Act 2003 amended PACE and provided the police with the additional power to take DNA samples and fingerprints without consent, from persons detained at a police station having been arrested for a recordable offence. Where such an arrest results in no further action being taken, the person is referred to as a Criminal Justice arrestee - 'CJ Arrestee'.

1.6 Principles

- 1.6.1 The Government wants to protect the civil liberties of innocent citizens, whilst giving police the powers they need to identify suspects and solve crime using DNA and fingerprints (hereafter referred to as biometric information). The Government also recognises that there is a requirement for the police to hold certain information about an individual's criminal antecedents for their policing purposes³ and to satisfy the requirements of criminal justice partners e.g. the courts. This information includes convictions, out of court disposals and other 'Event Histories'.

² Under PACE 'conviction' includes both court convictions and 'non court disposals' issued by the police specifically cautions, conditional cautions, reprimands and warnings.

³ As defined by the Code of Practice for the Management of Police Information (MoPI).



-
- 1.6.2 Police powers to take and retain DNA samples and fingerprints are set out in PACE. Changes to PACE were implemented through provisions contained in the Protection of Freedoms Act 2012 (“PoFA”) which include the requirement for the biological DNA sample obtained by the police to be immediately destroyed once the DNA profile has been obtained and no later than 6 months after it was taken, except in rare cases where it is needed as evidence for court. The length of time that an individual’s biometric information can be retained depends on their conviction / ‘Event History’.
- 1.6.3 Provisions contained within PACE (as amended), allow the police to indefinitely retain the biometric information of individuals convicted of a recordable offence⁴. The amendments also provide a number of occasions whereby the police can no longer retain the biometric information i.e. in regards to persons who are charged but not convicted of a ‘Minor Offence’ or arrested but not charged with a ‘Qualifying Offence’. In both instances, the legislation requires the biometric information to be immediately deleted unless, in respect of the latter, an application to retain the biometric information is made to the Biometrics Commissioner under section 63G of PACE.
- 1.6.4 Chief Officers are Data Controllers as defined by the Data Protection Act 1998 (DPA). They 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 so doing have been examined and agreed.
- 1.6.5 Under this Guidance, PNC records are retained until a person is deemed to have reached 100 years of age. However, Chief Officers can exercise their discretion, in exceptional circumstances, to delete conviction 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 so doing have been examined and agreed.
- 1.6.6 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.
- 1.6.7 A person may have an ‘Event History’ recorded on the PNC even though they have only come to the attention of the police, LEA or NPPA on one occasion and regardless of whether that one occasion resulted in the person being convicted of an offence.

2 Record Deletion Process

2.1 Overview

- 2.1.1 This Guidance sets out the process for making an application for the deletion of legally retained biometric information in circumstances described at 2.2.1 below, as well as the deletion of PNC records when the biometric information has already been deleted

⁴ An exception is made in respect of persons of less than 18 years subject to certain provisions being met.



through automated processes or never obtained in the first instance. This process is known as the 'Record Deletion Process' (hereafter referred to as the RDP).

2.2 Deletion of biometric information and associated PNC record

2.2.1 This Guidance provides that individuals, in certain circumstances, may apply to have their lawfully retained biometric information deleted from national police systems (NDNAD and IDENT1) earlier than the periods specified under PACE (as amended). These circumstances are as follows:

- a. They have no previous convictions and their biometric information is held as a result of being arrested and charged with a Qualifying Offence but not subsequently convicted: or,
- b. They have no previous convictions and their biometric information is held due to a PND.

2.2.2 Individuals who are clearly not linked to any crime must 'evidence' their grounds for making an application. Examples of the grounds that Chief Officers are obliged to consider are provided at Annex A. The list is indicative not prescriptive, thus allowing Chief Officers to exercise professional judgment in deciding whether the early deletion of biometric information and deletion of the associated PNC record is reasonable, based on all the information available.

2.2.3 Provided an individual can 'evidence' the relevant grounds for deleting their records from national police systems, and those grounds are examined and agreed by a Chief Officer, the conclusion will be that any records held on NDNAD and IDENT1 relating to that individual's biometric information (if held), will be deleted together 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.

2.2.4 Whilst there is no obligation to delete any legally retained records, a Chief Officer must have regard to the RDP and act in accordance with the Guidance issued by the NDNAD Strategy Board when making their decision.

2.3 Deletion of PNC record only

2.3.1 In addition to the circumstances described at paragraph 2.1.1 above, applications for record deletion can also be made under the processes described in this Guidance even when the automated processes introduced to manage the PoFA requirements have already caused the deletion of a person's biometric information i.e. they were arrested and charged with a 'Minor Offence' or they were arrested but not charged with a 'Qualifying Offence' and no application was made to retain the biometric information.

2.3.2 Applications made under the RDP for the deletion of a person's PNC record must be based on the grounds set out at Annex A.



3 Unlawful arrests/sampling

3.1 Requirement to delete biometric information

3.1.1 If it is apparent that biometric information has been taken as a result of an unlawful arrest or an arrest based on mistaken identity or the original sampling was unlawful i.e. the suspect was not formally arrested in the first instance, Chief Officers must, with very limited exceptions, destroy the biometric information, whether the individual makes an application under the RDP or not. This requirement is set out under section 63D of PACE (as amended).

3.1.2 In this context, 'arrest based on mistaken identity' refers to circumstances whereby there was an error such as arresting the wrong "John Smith", notwithstanding that the arrest procedure itself was lawfully carried out. Situations where the evidence against a suspect is ultimately inconclusive will not be seen as an arrest based on mistaken identity; these cases may instead fit one of the other 'grounds' specified at Annex A.

3.2 Destruction of samples

3.2.1 The destruction of DNA samples is dealt with under section 63R of PACE (as amended):

- (2) Samples to which this section applies must be destroyed if it appears to the responsible chief officer of police that:
 - (a) the taking of the samples was unlawful, or
 - (b) the samples were taken from a person in connection with that person's arrest and the arrest was unlawful or based on mistaken identity.

3.3 Destruction of DNA profiles and fingerprints

3.3.1 The destruction of DNA profiles and fingerprints is dealt with under section 63D of PACE (as amended):

- (2) Fingerprints and DNA profiles to which this section applies ("section 63D material") must be destroyed if it appears to the responsible chief officer of police that:
 - (a) the taking of the fingerprint or, in the case of a DNA profile, the taking of the sample from which the DNA profile was derived, was unlawful, or
 - (b) the fingerprint was taken, or, in the case of a DNA profile, was derived from a sample taken, from a person in connection with that person's arrest and the arrest was unlawful or based on mistaken identity.

3.3.2 The deletion must occur as soon as the information comes to the Chief Officers' attention. An application for record deletion is not necessary in these circumstances.



4 Central Office

4.1 National Record Deletion Unit

4.1.1 The national “Record Deletion Unit” (RDU) of the ACRO Criminal Records Office (ACRO) will manage the RDP and provide advice and guidance to Chief Officers.

National Record Deletion Unit
ACRO
PO Box 481
Fareham
PO14 9JS

Email: deletions@acro.pnn.police.uk

4.2 Role and Responsibilities

4.2.1 The RDU will seek to ensure that a consistent approach is applied to decision making across the Police Service and by anyone else using the RDP. In this regard the RDU will:

- Coordinate and deal centrally with all requests for record deletion made by applicants in respect of records owned by Chief Officers in England & Wales
- Redirect applicants to other UK jurisdictions where necessary or appropriate
- Reject applications where the grounds have not been ‘evidenced’ in respect of applications made for the early deletion of biometric information or the biometric information has already been deleted by automated processes
- Reject applications where the grounds have not been ‘evidenced’ in respect of applications made for the deletion of the PNC record only
- Reject applications made in respect of any court conviction
- Forward applications to police forces, LEA and NPPA as appropriate and manage responses
- Provide advice to relevant Chief Officers as necessary
- Manage the deletion of records held on the PNC as directed by Chief Officers
- Manage the deletion of biometric information from NDNAD and IDENT1 as directed by Chief Officers
- Act as an intermediary between the applicant and Chief Officers
- Collate information on behalf of the Police Service for statistical purposes
- Report to the NDNAD Strategy Board on an annual basis or as directed



4.3 Advice and guidance

4.3.1 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. A record will be maintained of advice given and decisions made by Chief Officers.

5 Process

5.1 Eligibility

5.1.1 Individuals with a court conviction cannot apply to have their records deleted under the RDP as Chief Officers cannot overrule the convictions handed down by the courts. Individuals must [appeal against the conviction](#) to the court if new evidence emerges.

5.1.2 Where the investigation into an individual or court proceedings against them are ongoing, an individual cannot apply to have their records deleted because the full circumstances of their case might not be known at the time the application is made.

5.1.3 Individuals who are arrested but not convicted of a 'Minor Offence' and those arrested but not charged with a 'Qualifying Offence' will have their biometric information automatically deleted, so there is no need to apply simply to have the associated biometric information deleted⁵. However, said individuals can make an application under the RDP to have their PNC record deleted provided they can 'evidence' the grounds for doing so and those grounds are examined and agreed by a Chief Officer.

5.1.4 PoFA allows the police in certain circumstances to make applications to either the Biometrics Commissioner or a District Judge for the extended retention of an individual's biometric information (See Annex B). In such circumstances, applications made under the RDP will not be progressed until such time as the decision of the Biometrics Commissioner or District Judge is known.

5.1.5 Automated processes written into the PNC ensure the deletion of biometric information in accordance with the retention periods set out in PoFA (See Annex B). However, in all cases, unless an application is made under the RDP, the PNC record will be retained until the person to whom it relates is deemed to have reached 100 years of age.

5.1.6 Attached at Annex C is a table showing the circumstances in relation to which an application can be made under the RDP. These circumstances include where an application is being made for the early deletion of biometric information and circumstances when the biometric information has already been deleted by automated processes in accordance with the legislation and the applicant is seeking only the

⁵ Information held on a PNC record can be ascertained through the submission of a subject access request.



deletion of their PNC record. In all circumstances, the grounds for deletion must be clearly stated on the application.

5.2 Making an application

5.2.1 Individuals seeking the deletion of their biometric information i.e. in the circumstances described at paragraph 1.8.1 above and/or the deletion of a non-court disposal or 'Event History' from the PNC, must complete a formal application and state the grounds for having their records deleted. An electronic version of the application is available on the ACRO and gov.uk websites: hard copies will be provided on request.

5.2.2 The applicant must provide proof of identity and proof of their current address. They must also indicate on the application how they wish to be contacted i.e. by post, by email or by phone. Relevant contact information will be provided to the Chief Officer of the force that owns the record(s) on the basis that if an email address is cited in the application as the primary method of contact, further communication with the applicant will be by email: if a postal address is cited, further contact with the applicant will be by post⁶ and if phone contact is indicated, the force will speak direct with the applicant. The RDU will use the same preferred method of contact as applicable.

5.2.3 Applications will only be considered if they originate from the individual concerned, their legal representative, a Member of Parliament or the parent or guardian of the applicant in cases where the individual is a vulnerable person or under 18 years of age.

5.2.4 Applicants who would like Chief Officers to contact some other person / organisation acting on their behalf in respect of their application, will be required to submit a signed letter with their application setting out the contact details of that person and providing explicit consent for their application to be discussed with that person / organisation.

5.2.5 No fees are applicable for the service provided by the RDU or by Chief Officers.

5.3 Grounds

5.3.1 The basis for record deletion will be that an individual is no longer a suspect for the offence for which they were arrested or summonsed i.e. they have been eliminated from enquiries based on the grounds shown at Annex A. If this is so, the applicant should make this clear in their application. The process entered into will thereafter validate any assertion made by the applicant i.e. that they had a proven alibi.

5.3.2 Once an application is received, the RDU, through a check of the PNC, will first establish whether the individual is eligible to apply i.e. it may be that their biometric information has already been deleted by automated processes built into national police systems or the application has been made in respect of the deletion of certain categories of records not covered by the RDP e.g. court convictions.

⁶ Normal considerations apply if the applicant makes direct contact with forces during the process.



5.3.3 If the application meets the eligibility criteria, the RDU will confirm whether the grounds for deletion have been sufficiently articulated by the applicant i.e. they are clear, unambiguous and appear credible. Applications that pass this threshold will be sent to the Chief Officer of the force that 'owns' the record(s) and the applicant advised accordingly. Applications that do not pass the threshold will be rejected.

5.3.4 The Chief Officer of the receiving force (in practice a person designated by the Chief Officer) will review the grounds presented in the application and consider any locally held records including;

- a. Custody record.
- b. Crime report.
- c. PNC record.

And, if available or relevant:

- d. MG3 report (Crown Prosecutor's advice on charging)
- e. Investigating officer's report and/or follow up enquires.
- f. Legal Services report.
- g. IPCC investigation/Directorate of Professional Standards report.
- h. Case file or other documentation may be required in complex cases.

6 Factors affecting the deletion of records

6.1 No further action disposals

6.1.1 The reasons why in certain circumstances the police, LEA or NPPA decide to take no further action in particular cases are many and varied. Sometimes the NFA decision is made by the police or relevant investigating authority and at other times the decision is made by the Crown Prosecution Service (CPS) or relevant prosecuting authority.

6.1.2 This Guidance provides for applications to be made on the grounds shown at Annex A, e.g. 'No Offence' or 'Proven Alibi'. In this regard, it is not intended that the RDP should be used to challenge the retention of a record held on the PNC when an NFA decision has been made absent of the grounds shown at Annex A.

6.2 Non conviction outcomes

6.2.1 Acquittal at court, or a conviction being overturned on appeal or by other judicial process, is not in itself grounds for early deletion as PACE allows biometric information to be lawfully retained for three years if an individual is charged with, but not convicted of, a Qualifying offence. Insufficient evidence to convict does not necessarily mean there is sufficient evidence for an individual to be eliminated as a suspect.

Version 1.1

10



6.3 Event histories and further connected criminality

- 6.3.1 If an individual has been the subject of more than one arrest then the principle will apply that the early deletion of biometric information and deletion of a specific PNC record will be determined by considering that person's complete 'Event History'.
- 6.3.2 Where concern of further connected criminality exists, the early deletion of biometric information and PNC record will not be considered by a Chief Officer. This discretion only applies in relation to the early deletion of biometric information and PNC record: the same discretion cannot be exercised in respect of biometric information which must be deleted in accordance legislation albeit the PNC record may be retained.

6.4 Requirement for positive evidence

- 6.4.1 This Guidance is based on, though not limited to, a Chief Officer having substantial evidence that someone has been eliminated as a suspect before agreeing to delete their records. In this regard, a key consideration of a Chief Officer will be the nature of the incident that led to the arrest coupled with **positive evidence** that an individual has been eliminated as a suspect by the police, or relevant investigating agency, due, for instance, to mistaken identity or proven alibi.
- 6.4.2 Chief Officers must establish positive evidence that supports their decision to delete relevant records. For example, where a victim withdraws an allegation or no longer wishes to proceed, unless the allegation is malicious or false, it does not in itself provide the basis for record deletion. Likewise, insufficient evidence to charge or a case not proceeded with on a technical legal argument e.g. unlawful arrest, will not necessarily mean there is sufficient positive evidence for an individual to be eliminated as a suspect or automatically provide a basis for the deletion of their PNC record.

6.5 Retention of biometric information due to previous conviction

- 6.5.1 Initially, a Chief Officer may agree to the deletion of the biometric information in respect of the one event referenced in the application, but if the individual was arrested for a separate offence in relation to which no DNA was taken⁷, the DNA profile from the first arrest event will be lawfully retained until investigations into that other arrest event have concluded. If the individual is subsequently convicted of an offence in respect of that other arrest event the biometric information that would otherwise have weeded will be retained until the person is deemed to have reached 100 years of age.

6.6 Responses made by Chief Officers

- 6.6.1 Chief Officers should aim to respond in writing to the RDU with their decision within 28 days of receiving the application. There will be instances where, due to the circumstances of the case, it will take a Chief Officer longer to assess the evidence and reach a decision. In these cases the receiving force should respond to the RDU within 28 days to inform them of the status of the application and the reason for delay.

⁷ Possibly because it was originally taken in respect of the offence that the applicant is seeking to have deleted.



-
- 6.6.2 Chief Officers should provide reasons for their decision to the RDU who in turn will share such information with the applicant. If the application is agreed, the RDU will manage the deletion of biometric information from national police systems (NDNAD and IDENT1) and the deletion of any associated records held on the PNC⁸. Template forms will be used by the RDU to advise the NDNAD Service Team, National Fingerprint Office (NFO) Integrity Team and Home Office Reconciliation Unit of the Chief Officer's decision. The RDU will also notify the applicant of the Chief Officer's decision.
- 6.6.3 The RDU should also be notified of a Chief Officer's decision not to delete relevant records from national police systems including the reasons why the application was not agreed. The RDU will notify the applicant accordingly. Similarly, the applicant will be informed if their biometric information is being retained on the basis that they have an impending prosecution.
- 6.6.4 When an application to delete records is not agreed by a Chief Officer the applicant should be made aware that their biometric information is being retained under PACE (as amended) and that the continued processing of their personal data is compliant with both PoFA and the DPA.

6.7 Referral to the Information Commissioner

- 6.7.1 A person affected by the processing of personal data can request an assessment from the Information Commissioner on whether the retention and processing of their personal data complies with DPA requirements.
- 6.7.2 If the Information Commissioner is asked to make an assessment the Chief Officer should provide all the information that the Information Commissioner reasonably requires to make the assessment.
- 6.7.3 If the Information Commissioner determines that the processing is likely to contravene the DPA then the Chief Officer must review the original decision to retain the relevant records having due regard to the Information Commissioner's assessment.

6.8 Process Map

- 6.8.1 A Process Map covering the record deletion process is attached at Annex D.

7 Accountability

7.1 Protecting personal information

- 7.1.1 A Privacy Impact Assessment has been undertaken and all procedures used in the RDP conform to relevant Information Assurance handling requirements.

⁸ Deletions are to be carried out to the standards set by the Information Commissioner.



-
- 7.1.2 All information provided by the applicant will be treated in the strictest confidence and will not be disclosed to any person or organisation not involved in the process without the express consent of the applicant.
 - 7.1.3 The RDU will share personal information with nominated points of contact in police forces, LEA, NPPA and the Home Office and with other parties as necessary for the purpose of processing an individual's application.
 - 7.1.4 The RDU will retain all applications and correspondence with forces etc. for a period of 12 months from the date the applicant is advised of the Chief Officer's decision in order to deal with any subsequent queries or legal challenges that may arise. Applications and personal information will be deleted after this period has elapsed.
 - 7.1.5 Applicants are advised to keep safe all correspondence both sent and received as further copies will not be available once the information has been deleted by the RDU.

7.2 Monitoring

- 7.2.1 The RDU will monitor the deletion of records from the PNC and biometric information from NDNAD and IDENT1 to ensure that relevant processes are completed without delay.

7.3 Audit

- 7.3.1 The RDU will be subject to annual audit by the NDNAD Strategy Board or as directed by the Chair of NDNAD Strategy Board.

7.4 Annual Report

- 7.4.1 The NDNAD Strategy Board, under provisions contained in PoFA, is required to make an annual report to the Secretary of State for the Home Department about the exercise of its functions. RDU records will be used in the production of this report.

8 Communications

8.1 Forms and Guidance

- 8.1.1 The RDP application form and associated guidance is available on the [ACRO website](#).
- 8.1.2 Enquiries regarding this Guidance should be directed in the first instance to: deletions@acro.pnn.police.uk



INTENTIONALLY BLANK



ANNEX A – GROUNDS FOR RECORD DELETION

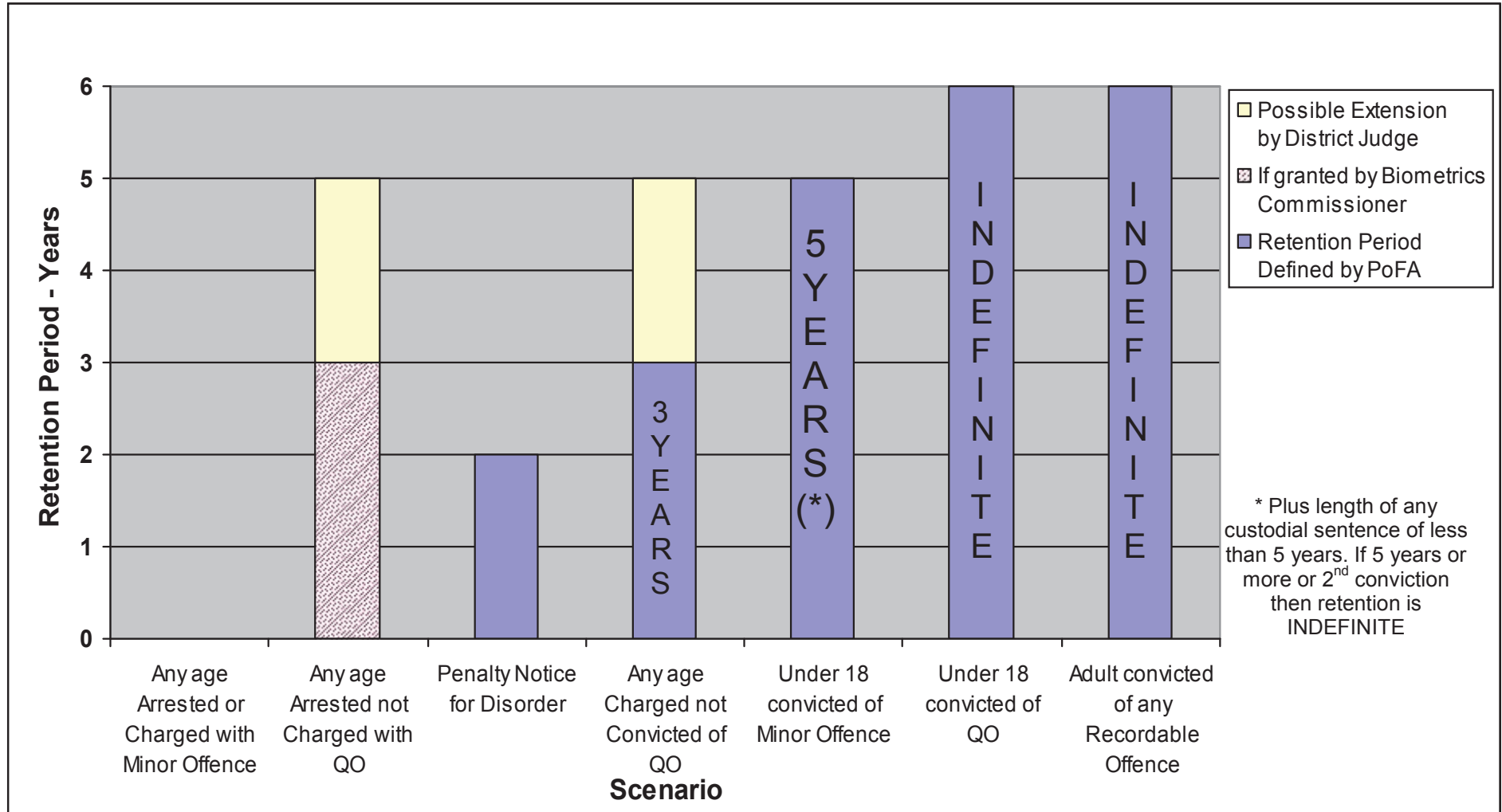
1. There is no set criterion for the deletion of records e.g. “beyond reasonable doubt” or “balance of probabilities”; it is for Chief Officers to exercise professional judgment based on the information available.
2. Chief Officers will consider applications on an individual basis and will not set retention periods for groups of individuals, however defined.
3. The following are examples of circumstances in relation to which the deletion of biometric information and a person’s PNC record should be considered by a Chief Officer;
 - No Crime. Where it is established that a recordable crime has not been committed. For example, a sudden death where an individual is arrested at the scene and subsequently charged, but after post mortem it is determined that the deceased person died of natural causes and not as a result of homicide.
 - Malicious/False Allegation. Where the case against an individual has been withdrawn at any stage, and there is corroborative evidence that the case was based on a malicious or false allegation.
 - Proven Alibi. Where there is corroborative evidence that the individual has a proven alibi and as a result s/he is eliminated from the enquiry after being arrested.
 - Incorrect Disposal. Where disposal options are found to have been administered incorrectly, and under the correct disposal there would be no power to retain the DNA profile. In such circumstances, consideration should be given to deleting the DNA profile, fingerprints and the PNC record. Deletion in these circumstances could also be the product of review within the criminal justice process, for example, the withdrawal of a caution.
 - Suspect status not clear at the time of arrest. Where an individual is arrested at the outset of an enquiry, the distinction between the offender, victim and witness is not clear, and the individual is subsequently eliminated as a suspect (but may be a witness or victim).
 - Judicial Recommendation. If, in the course of court proceedings, a Magistrate or Judge makes a recommendation that an individual’s DNA and fingerprints should be deleted. On such occasions, due consideration should be made in relation to the deletion of the PNC record.



-
- Another person convicted of the offence. If there is the conviction of another person for the offence then the Chief Officer may wish to consider the deletion of the biometric information and PNC record, providing there is no possibility of there being more than one offender.
 - Public Interest. Where there is a wider public interest to do so.



ANNEX B – RETENTION OF BIOMETRIC INFORMATION



NB: The retention periods shown assumes that a person has no previous convictions and their biometric information is being held for no other reason.

Version 1.1

B-1



INTENTIONALLY BLANK



ANNEX C – CIRCUMSTANCES COVERED BY THE RECORD DELETION PROCESS

Ser	Disposal	Circumstance	Retention Period	Applicability of the Record Deletion Process			Comment
				DNA Profile	FP	PNC	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Court Conviction	Adult convicted at court of any recordable offence	Indefinite	No	No	No	Individuals can appeal against the conviction itself if new evidence emerges: https://www.gov.uk/appeal-against-sentence-conviction/magistrates-court-verdict
2	Court Conviction	Under 18 convicted at court of a qualifying offence	Indefinite	No	No	No	Individuals can appeal against the conviction itself if new evidence emerges: https://www.gov.uk/appeal-against-sentence-conviction/magistrates-court-verdict
3	Court Conviction	Under 18 convicted of a minor offence.	<u>1st Conviction</u> : 5 years (plus the length of any custodial sentence of less than 5 years), OR indefinite if the custodial sentence is 5 years or more	No	No	No	Individuals can appeal against the conviction itself if new evidence emerges: https://www.gov.uk/appeal-against-sentence-conviction/magistrates-court-verdict
			<u>2nd Conviction</u> : Indefinite	No	No	No	Individuals can appeal against the conviction itself if new evidence emerges: https://www.gov.uk/appeal-against-sentence-conviction/magistrates-court-verdict

Version 1.1

C-1



Ser	Disposal	Circumstance	Retention Period	Applicability of the Record Deletion Process			Comment
				DNA Profile	FP	PNC	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
4	Out of Court Disposal	Adult awarded an 'Out of Court Disposal' for any recordable offence (Adult simple caution or conditional cautions)	Indefinite	Yes	Yes	Yes	Individuals can use the Record Deletion Process to apply to have their records deleted from national police systems (NDNAD, IDENT1 and PNC) if they can evidence grounds that are agreed by a Chief Officer.
5	Out of Court Disposal	Under 18 awarded an 'Out of Court Disposal' in respect of a qualifying offence (Youth cautions, conditional cautions, reprimands and final warnings)	Indefinite	Yes	Yes	Yes	Individuals can use the Record Deletion Process to apply to have their records deleted from national police systems (NDNAD, IDENT1 and PNC) if they can evidence grounds that are agreed by a Chief Officer.
6	Non Conviction	Any age charged with but not convicted of a qualifying offence	3 years	Yes	Yes	Yes	<p>S.63D material is automatically deleted from NDNAD and IDENT1 3 years from the date the case is resulted on the PNC.</p> <p>Individuals can apply under the Record Deletion Process to have their s.63D material deleted earlier if they can evidence grounds that are agreed by a Chief Officer.</p> <p>A successful outcome will result in the deletion of the associated PNC record.</p>



Ser	Disposal	Circumstance	Retention Period	Applicability of the Record Deletion Process			Comment
				DNA Profile	FP	PNC	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
7	Non Conviction		3 years + 2 year extension if granted by District Judge.	No	No	No	<p>S.63D material automatically deleted from NDNAD and IDENT1 at the expiry of the 3 year period unless an application is made to a District Judge to retain the material for a further 2 years.</p> <p>Individuals cannot use the Record Deletion Process to apply for record deletion once an extension has been granted.</p>
8	Non Conviction		3 years + 2 year extension if granted by District Judge.	No	No	Yes	<p>S.63D material is automatically deleted from NDNAD and IDENT1 at the expiry of the 2 year extension period.</p> <p>Individuals can use the Record Deletion Process to apply to have their PNC record deleted after the expiry of the 2 year period if they can evidence grounds that are agreed by a Chief Officer.</p>



Ser	Disposal	Circumstance	Retention Period	Applicability of the Record Deletion Process			Comment
				DNA Profile	FP	PNC	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
9	Non Conviction	Any age arrested for but not charged with a qualifying offence	Automatic UNLESS 3 year extension is granted by the Biometrics Commissioner	No	No	No	<p>S.63D material will be automatically deleted from NDNAD and IDENT1 as soon as the case is resulted on the PNC unless an application to retain the material is made to the Biometrics Commissioner.</p> <p>Individuals cannot use the Record Deletion Process to apply for record deletion once an extension of retention has been granted.</p>
10	Non Conviction	Any age arrested for but not charged with a qualifying offence	Initial 3 year extension granted by the Biometrics Commissioner + further 2 years if granted by District Judge.	No	No	Yes	<p>S.63D material is automatically deleted from NDNAD and IDENT1 at the expiry of the 2 year extension period.</p> <p>Individuals can subsequently apply to have their PNC record deleted if they can evidence grounds that are agreed by a Chief Officer.</p>
11	Non Conviction	Any age arrested for or charged with a minor offence	None	No	No	Yes	<p>S.63D material deleted from NDNAD and IDENT1 as soon as the case is resulted on the PNC. Individuals can apply to have their PNC record deleted if they can evidence grounds that are agreed by a Chief Officer</p>



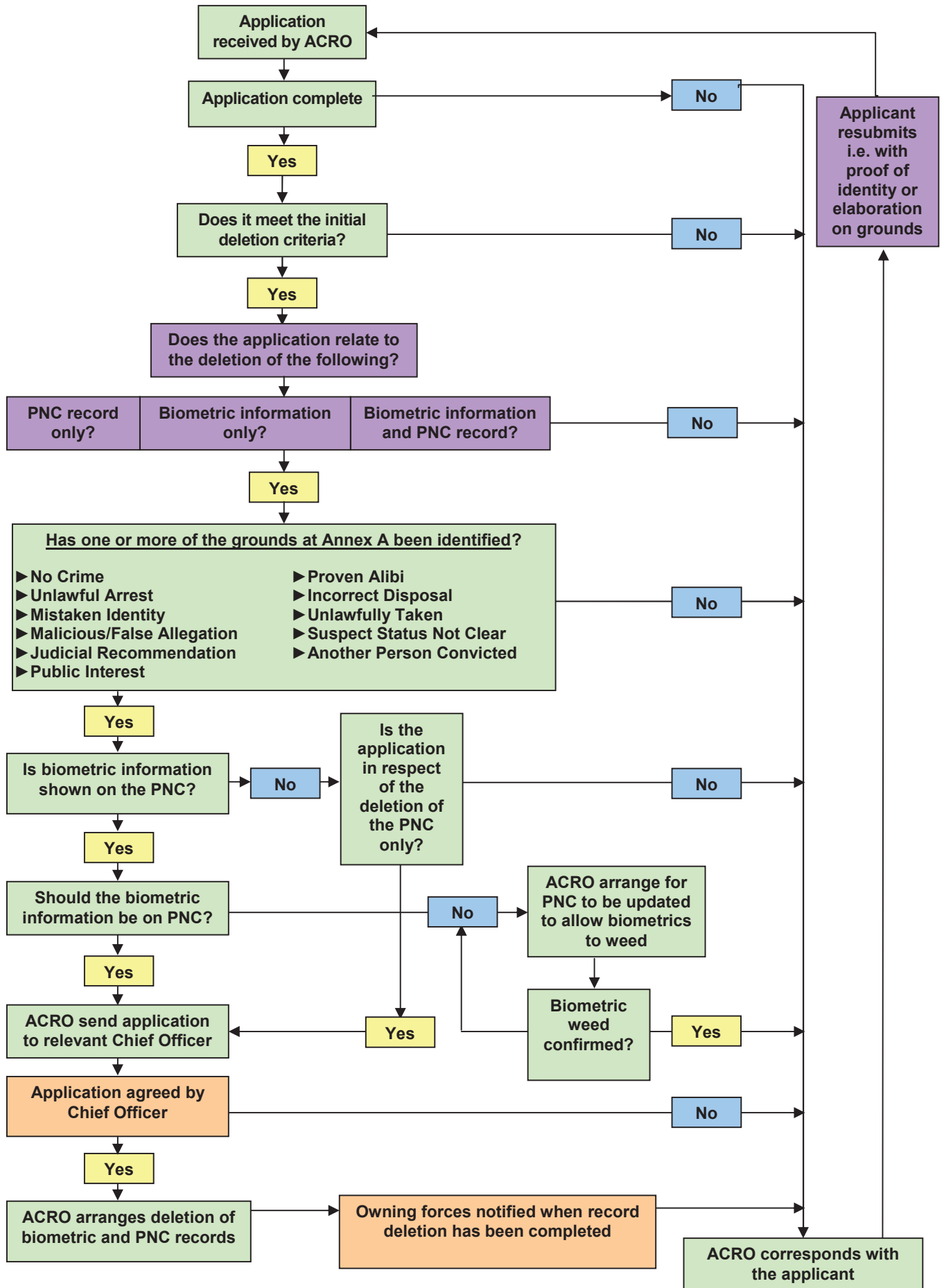
Ser	Disposal	Circumstance	Retention Period	Applicability of the Record Deletion Process			Comment
				DNA Profile	FP	PNC	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
12	Non Conviction	Penalty Notice for Disorder	2 years	Yes	Yes	Yes	<p>S.63D material deleted from NDNAD and IDENT1 2 years from the date their case is resulted on the PNC.</p> <p>Individuals can have their s.63D material deleted early if they can evidence grounds that are agreed by a Chief Officer. A successful application will result in the deletion of the associated PNC record.</p> <p>Alternatively, they can use the Record Deletion Process to apply to have their PND record deleted from the PNC after the expiry of the 2 year period if they can evidence grounds that are agreed by a Chief Officer.</p>



INTENTIONALLY BLANK



ANNEX D – PROCESS MAP



**ACRO
PO BOX 481
Fareham
PO14 9FS**

**Document Status & Version: Version 1.1
Version Date: 19th May 2015
Owned by: National Policing Lead - Forensics**

