

## FREEDOM OF INFORMATION POLICY

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## 1. Introduction

The Freedom of Information Act 2000 (FOIA) has been in full force in the United Kingdom (UK) since 1st January 2005. The Act is an Act of Parliament that sets out a public “right to know” in relation to public bodies, including Non-Departmental Public Bodies (“NDPBs”). The FOIA also sets out certain exemptions to those rights.

The purpose of this Freedom of Information Policy (hereinafter referred to as “Policy”) is to outline the Council for Integrated Education’s (NICIE’s) approach to its FOIA obligations to create a climate of openness and dialogue with its stakeholders and customers.

This Policy is applicable to all NICIE staff (including all permanent, temporary and contract workers employed or engaged by NICIE or any 3rd party organisations while at work or engaged on NICIE business) and any members of the public who request information under the FOIA.

## 2. Managing Requests

As a Non Departmental Public Body (NDPB) since 2012, NICIE is included in the definition of a public authority for the purposes of the FOIA.

NICIE is required to respond to requests for information. The Act covers any recorded information held by a public authority. This is interpreted as including paper records, e-mails, information stored on computer, voicemail messages, handwritten notes or any other form of recorded information. All official information which is recorded is covered by the FOIA, irrespective of classification or format. Information, which is known to staff, however not recorded, is not covered by the FOIA.

NICIE’s Data Protection Officer has overall responsibility for Information Governance. A ‘valid request for information’ is defined at s. 8 of the FOIA. The request must be in writing, the name of the applicant and a correspondence address must be provided (this can be an email address) and the request should describe the information Requested.

NICIE staff who receive written requests for information under the FOIA (including any requests which do not specifically mention the FOIA) must forward these immediately to the Data Protection Officer.

Postal requests should be scanned and referred to the Data Protection Officer via email immediately to avoid delays. Where an oral request is made, the requester should be advised to put their request in writing (valid FOIs requests must be in writing).

The routes for FOI requests are:

- By e-mail to: [admin@nicie.org.uk](mailto:admin@nicie.org.uk)
- By post to:  
Data Protection Officer,  
NICIE, 1<sup>st</sup> Floor, James House,  
2-4 Cromac Avenue,  
Belfast,  
BT7 2JA

Under the FOIA, a public authority has 20 working days to respond to a request (working days do not include weekends, public holidays or bank holidays). The Data Protection Officer will normally issue a response within 20 working days from the date upon which the written request is received by NICIE unless clarification of the request has been sought from the requester or an extension to the statutory timescales is sought by NICIE under section 10(3) of the FOIA (public interest test).

### 3. Other regimes

The FOIA covers rights of access to and requests for non-personal data. Data protection legislation (including the General Data Protection Regulation) covers the rights individuals have in respect of their personal data, including rights of access. Personal information is exempt under section 40 of the FOIA and the processing of personal data will continue to be regulated by applicable data protection legislation.

Any requests received from individuals seeking their own personal data (known as a subject access request or SAR) are not covered by the FOIA but must be addressed as a request under the terms of the Data Protection Act 2018. Therefore, if a data subject requests their own personal data, NICIE will process the request, responding to it as a SAR and within the applicable statutory timeframe for SARs. The requester will be advised to this effect.

The Environmental Information Regulations ("EIRs") deal specifically with information relating to any decisions, activities and policy formulation that may

have an impact on the environment. Environmental information is exempt information under section 39 of the FOIA. Requests for environmental information will be handled in an analogous manner to requests for information made under the FOIA. However, it should be noted that the EIRs do not specify that requests must be in writing. This means that telephone requests on environmental matters will also be valid (although in practice it is advisable to make a written record of any verbal requests received).

## 4. NICIE's Publication Scheme

Under the FOIA, all public authorities are obliged to adopt and maintain a Publication Scheme specifying:

- the classes of information that they publish or intend to publish; and
- how the information is or will be published

NICIE's Publication Scheme can be found on the NICIE's website in the section titled Freedom of Information or alternatively, a copy can be requested by contacting NICIE using either the email or postal address provided at paragraph 2 above, "Managing requests".

The FOI Publication Scheme lists NICIE business-related information that NICIE considers should be publicly available. NICIE will periodically review the Publication Scheme and make amendments and updates where appropriate.

## 5. Fees

Where possible, NICIE will not charge requesters a fee for complying with requests however it reserves the right to do so. If NICIE determines that a fee will be charged for complying with the request, a fee notice will be issued to the applicant in accordance with section 9 of the FOIA.

## 6. Provision of information

NICIE will seek to provide the requested information, subject to the application of any statutory exemption(s) under the FOIA. In responding to requests for information, NICIE will have regard to any preferences expressed by the requester as to the form of communication used. Where it is not reasonably

practicable to comply with any preference expressed, NICIE will notify the requester of the reasons for this determination.

## 7. Advice and Assistance

Under section 16 of the FOIA, NICIE has a duty, so far as it is reasonable to do so, to provide advice and assistance to anyone who has made a request or is considering making one. Where a requester requires further advice and assistance, they can contact the NICIE's Data Protection Officer in writing at:

- By e-mail to: [admin@nicie.org.uk](mailto:admin@nicie.org.uk)
- By post to:  
Data Protection Officer,  
NICIE, 1<sup>st</sup> Floor, James House,  
2-4 Cromac Avenue,  
Belfast,  
BT7 2JA
- Telephone local: 028 9694 4200
- International: +44 (0)28 9694 4200

## 8. Procedure for making a request

In order for a request to be valid, requesters are required to put their request in writing in the form of a letter / email / facsimile, supplying their real name and an address for correspondence, and describing the specific information they are seeking. Requests do not need to specifically refer to / quote FOI legislation (but it may be helpful to do so). Requesters are recommended to address their requests to NICIE's Data Protection Officer (details provided at paragraph 2) but this is not a requirement for a request to be valid under the FOIA.

The Data Protection Officer may contact the requester to clarify the terms /scope of the request and to give advice and assistance as needed.

## 9. Exemptions

Where information is held by the NICIE, the information will not be withheld unless:

- an exemption to disclosure under Part II of the FOIA applies;

- it would cost too much or take too much staff time to comply with the request;
- the request is considered vexatious; and / or
- the request is repeated.

The exemptions to disclosure set out in the FOIA include non-disclosure in matters of a sensitive commercial nature or where disclosure would prejudice the effective conduct of public affairs.

It is important to note that exemptions under Section 36 of the FOIA '*Prejudice to effective conduct of public affairs*' need to be approved by the 'qualified person.' In the case of NICIE DE has advised that whole Board of Directors is the qualified person and must approve exemptions under Section 36.

Some of the FOIA exemptions are absolute exemptions, for example, if the information is personal data. If an absolute exemption applies, then NICIE does not need to release the information. The remaining exemptions are qualified exemptions that require NICIE to apply the public interest test in deciding whether to release the information.

In considering the public interest, NICIE will take into account:

- whether the public interest in maintaining the exclusion of the duty to confirm or deny that information is held outweighs the public interest in disclosing whether NICIE holds the information; and / or
- whether the public interest in withholding information outweighs the public interest in releasing it.

Where the public interest test is relevant, NICIE will apply it separately to each piece of potentially exempt information. Where a document cannot be released in its entirety, NICIE will endeavour to release what it is able to, in as intelligible a format as possible. Where information is not held, NICIE will confirm this to the requester (unless even confirming that information is or is not held may be sensitive and an exemption from the duty to confirm or deny whether information is held under Part II of the FOIA applies) and will seek to provide advice and assistance to the requester as appropriate.

## 10. Consultation with third parties

NICIE may consult with a third party if:

- the views of that third party may assist NICIE to determine whether an exemption under the FOIA applies to the information requested; and/or
- where the views of the third party may assist NICIE to determine where the public interest lies under section 2 of the FOIA.

## 11. Refusal of requests

Where NICIE refuses a request, it will give the requester a notice setting out the reasons for the refusal (as per section 17 of the FOIA). When a written request is refused, NICIE will notify the requester of NICIE's internal review process and their right to make a complaint to the Information Commissioner's Office (ICO) should they be unhappy following the review outcome, including the relevant contact details for the ICO.

Section 12(1) of the FOIA allows a public authority to refuse to comply with a request for information where the cost of compliance is estimated to exceed a set limit known as the appropriate limit. NICIE reserves the right to refuse to respond to a request for information if it exceeds the value of £450 to process in terms of staff time and disbursements. The cost of £450 is calculated to be 18 hours of staff time based on an hourly rate of £25 per hour, which is provided for by Regulation 4 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

## 12. NICIE's internal review process

A requester can request an internal review if they are unhappy with:

- the way in which their request has been handled; and / or
- is dissatisfied with the decision made regarding disclosure or non - disclosure of information requested.

All responses issued by the Data Protection Officer will provide the requester with details on how to request such an internal review.

An internal review will consider the original request process including how the request was handled and the initial response, whether the relevant information was identified, and will review the original exemptions applied. The internal reviewer is empowered to either uphold or overturn the original decision.



Internal Reviews will, where possible, be conducted by a different and more senior member of NICIE team, who was not involved in the processing of the original FOI request. Where a senior person has processed the original request, a Board member may be the most appropriate person to conduct the internal review.

NICIE will only consider requests for an internal review which are made within 40 working days of the date of the response to the requester.

The requester will be notified as to the outcome within a reasonable timescale. NICIE aims to deal with internal reviews within 20 working days of receipt. If it becomes clear at any stage of the internal review that NICIE will not be able to meet this target, the requester will be notified accordingly.

### 13. The Information Commissioner's Office (ICO)

The ICO is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

If the requester remains dissatisfied with the decision made as a result of the internal review procedure, they can, under section 50 of the FOIA, complain to the Information Commissioner by writing to the ICO to apply for a decision as to whether the request has been dealt with in accordance with the requirements of Part 1 of the FOIA at:

Wycliffe House,

Water Lane,

Wilmslow,

Cheshire

SK9 5AF

([www.ico.org.uk](http://www.ico.org.uk))

A Decision Notice will be served if the Information Commissioner decides that NICIE has failed to:

- communicate information;
- confirm or deny where required to do so by section 1(1) of the FOIA;

- comply with requirements of section 11 of the FOIA (which refers to the manner of communication in response to a request for information); or
- comply with any of the requirements of section 17 of the FOIA (which refers to the refusal of a request for information).

The Decision Notice will specify the steps which must be taken by NICIE to comply with the FOIA and the timescale for compliance. (Decision notices of the ICO are published on the ICO website).

The Information Commissioner can serve an Information Notice on NICIE requiring the provision of specified information to him / her (unless legal professional privilege applies).

If the Information Commissioner is satisfied that NICIE has failed to comply with any of the requirements under Part 1 of the FOIA, he / she may serve an Enforcement Notice on NICIE, requiring NICIE to take particular steps within a specified time to comply with those requirements.

All public authorities may appeal to the First-Tier Tribunal (Information Rights) against Decision Notices and Information and Enforcement Notices.

## 14. Alternative formats

NICIE is committed to equal opportunities and our aim is to make this Policy easy to use and accessible to all. We will take reasonable steps to accommodate any reasonable adjustments required to:

- enable access to this Policy;
- provide responses to requests in other formats; or
- provide such assistance as may reasonably be required.

Should a copy of this Policy be required in an alternative format, please contact the Data Protection Officer using the contact details set out in paragraph 7 above, "Advice and Assistance".

## 15. Policy review

This policy is subject to regular review including in response to any relevant changes.