



**NORTHERN IRELAND PRACTICE AND EDUCATION
COUNCIL FOR NURSING AND MIDWIFERY**

**Freedom of Information
Policy**

July 2024

Any request for the document in another format or language will be considered

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1. Introduction

The Freedom of Information (FOI) Act 2000 gives people a general right of access to information held by or on behalf of public authorities, subject to certain conditions and exemptions. It is intended to promote a culture of openness and accountability amongst public sector bodies, therefore facilitating a better public understanding of how public authorities carry out their business, why they make the decisions they do, and how they spend public money.

FOI places a statutory obligation on NIPEC to publish details of all recorded information that it holds when requested, except where an exemption or other ground for refusal of a request under the FOI Act applies. FOI is wholly retrospective and applies to all information held by public authorities regardless of its date.

The Environmental Information Regulations 2004 (EIR) gives the right to access 'environmental information' held by public authorities, and therefore requires similar measures for any environmental information held by NIPEC.

2. Purpose

NIPEC acknowledges its obligations as set out under FOI and EIR, and is committed to the principles of openness, transparency and accountability.

This policy establishes a framework which underlines the commitment. The purpose of this policy is to ensure that NIPEC is compliant with the FOI and EIR, and sets out the procedures for dealing with requests for information.

3. Supporting Legislation

This policy has been written to support staff in compliance with the following legal requirements and best practice guidance, as set out within NIPEC's Information Governance Framework.

4. Scope

The scope of this policy is to support the control and management of information and support compliance against FOI and EIR. The policy will cover all information held by NIPEC and is concerned with all information systems, electronic and non-electronic information. It applies to all services, all staff, and as appropriate to contractors and third-party service providers acting on behalf of NIPEC. This includes, but is not limited to information:

- Stored on computers, paper and electronic structured records systems;
- Transmitted across internal and public networks such as email or Intranet/Internet;
- Stored within databases;
- Printed or handwritten;

- Stored on removable media such as CDs, hard disks, pen drives, tapes and other similar media;
- Stored on fixed media such as hard drives and disk subsystems;
- Held on film or microfiche;
- Information recording and processing systems whether paper electronic video or audio records;
- Presented on slides, overhead projectors, using visual and audio media;
- Spoken during telephone calls and meetings or conveyed by any other method.

Under FOI and EIR, NIPEC is required to provide any information it holds, unless it can demonstrate that an exemption or exception, respectively, applies.

This policy covers all forms of recorded information held, including personal data as defined in UK GDPR and data protection legislation, as well as organisational, business and operational information.

5. Responsibilities

- The **Council** has overall responsibility to ensure compliance in all areas of information governance;
- The **Chief Executive** has ultimate responsibility for the delivery of this policy;
- The **Personal Data Guardian (PDG)** is a senior person responsible for protecting the confidentiality of personal information;
- The **Senior Information Risk Officer (SIRO)** is a senior manager who has responsibility to ensure compliance with legislation through the development and monitoring of policy and codes of practice;
- The **Head of Corporate Services (HoCS)** is responsible for ensuring compliance with FOI requirements and is responsible for ensuring that this policy and associated procedures are kept up to date. The Head of Corporate Services is supported in managing incoming FOI requests by the Council Secretary.
- All **Senior Managers** are responsible individually and collectively for the application of the Information Governance suite of policies within NIPEC;
- All **Staff members**, whether permanent, temporary or agency workers are responsible for ensuring that they are aware of the requirements incumbent upon them and for ensuring that they comply with these on a day to day basis. Staff are expected to familiarise themselves with, and abide by, the principles set out within this policy.

6. Processing FOI Requests

6.1 Contact Details

All formal FOI requests should be sent to NIPEC's Head of Corporate Services jill.jackson@nipec.hscni.net or Council Secretary heather.mallon@nipec.hscni.net or by posting to the following address:

NIPEC, 4th floor
James House
2-4 Cromac Avenue
Belfast
BT7 2JA

6.2 Defining a Valid FOI Request

As defined in Section 8 of the FOI Act, to meet all the requirements of a valid FOI request, a request must:

- Be in writing¹;
- State the name of the applicant and a valid address² for correspondence;
- Describe the information requested;
- Be received in a legible form.

A request is deemed as 'received'³ when it is delivered to NIPEC (for example, to the inbox of the relevant member of staff), and not the date the request is forwarded for onward processing. In respect of emails, where an automated 'Out of Office' message provides direction for re-directing a message, the message will not be 'received' until it has been re-sent to the alternative contact.

Any requests for information under FOI must be forwarded to the Head of Corporate Services and the Council Secretary immediately for processing.

The EIR does not specify how a valid request must be made therefore requests for information under EIR can therefore be made in writing or verbally. However, as the EIR states that responses should be in writing, NIPEC will also need to ask the applicant for a name and contact details for correspondence.

6.3 Identity of the applicant and reason for the request

The Information Commissioner's Office (ICO) has advised that, as FOI enables disclosure on grounds of public interest, responses should be applicant and motive

¹ The term 'in writing' covers requests submitted by letter and electronic form, including those sent via Social Media.

² In line with ICO guidance, a valid address is any address where the requester may be contacted (including postal or email addresses) and does not have to be their normal residential or business address.

³ Where NIPEC has sought clarification in order to identify and locate the requested information, the request will only be deemed as 'received' only once this sufficient clarification is provided. In line with [ICO guidance](#), this clarified request will represent a new request for information.

blind. NIPEC will therefore assess all requests on the understanding that applicant identity is not a relevant consideration.

Possible exceptions to this include:

- a request is deemed to be repeated;
- to consider if a request, or requests, are vexatious and/or manifestly unreasonable;
- if disclosure would be contrary to UK GDPR and Data Protection principles or would be likely to endanger the health and safety of any other person;
- to consider aggregated costs in line with Fees Regulations.

6.4 Time limits for compliance with requests

The FOI Act states that FOI requests should be responded to within **20 working days**. However, where possible, NIPEC will endeavour to respond prior to the 20-working day deadline. Staff should be vigilant in their observation of enquiries arriving either through the postal system or via email.

In line with Section 10 of the FOI Act and the Freedom of Information Code of Practice, this response time may be increased where complex public interest judgments need to be made. If it becomes clear at any stage that the above timescales cannot be met, NIPEC will inform the applicant in writing and give a revised deadline for completion.

In the event that an applicant expresses a preferred method for communication, NIPEC will endeavour to comply with that request so far as is reasonably practicable.

6.5 Approval and Signature

An initial draft response will be sent to the Chief Executive for consideration. Once final amendments have been made, a signed response will be issued by either the Chief Executive's Office or the Head of Corporates Services.

6.6 Exemptions

There are 24 exemptions from the right of access, these can be found in Part II of the Act, at sections 21 to 44. More detail on exemptions can be found on the Information Commissioner's website <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/refusing-a-request/?q=exemptions#9>

Some exemptions are designated 'absolute', meaning that the duty to provide the information does not apply. Most are designated 'qualified' exemptions and require a

public interest test to be applied, to decide whether the public interest in withholding the information outweighs the public interest in disclosing it.

In determining whether disclosure would be likely to prejudice the effective conduct of public affairs (Section 36 of FOI), the designated Qualified Person will decide on the exemption's engagement. In NIPEC's case, this is the Chief Executive Officer and where necessary, legal advice will be sought.

Where an exemption is deemed to apply to some or all of the information requested, the applicant will be notified in writing. The relevant exemption will be cited and any information that is not exempt will be provided.

6.7 Vexatious Requests

Section 14 of the FOI Act gives NIPEC provision to refuse a request where it is considered vexatious or repeated. Regulation 12(4) of the EIR gives NIPEC provision to refuse a request that is considered to be manifestly unreasonable.

In determining whether a request is vexatious or manifestly unreasonable, and in line with ICO guidance, NIPEC will consider all the circumstances including, but not limited to:

- the burden (on the public authority and its staff);
- the motive of the requester;
- the value or serious purpose of the request; and
- any harassment or distress of and to staff.

Section 14(2) of FOI states that a request can be refused as repeated when all three of the following criteria have been fulfilled:

- the request is identical or substantially similar to a previous request from the same applicant;
- NIPEC has previously provided the information to the applicant or confirmed that information is not held in response to an earlier FOI request; and
- No reasonable interval has elapsed since the previous request.

Should an applicant make a vexatious request or 'repeated' request for identical or substantially similar information, NIPEC will inform the applicant in writing that they will not fulfil the request, by indicating the reason(s) why. If the request is for information recently refused, NIPEC will treat the request as a request for internal review of the original decision.

6.8 Internal Review

In line with Section 17 of the FOI Act and the Cabinet Office Freedom of Information Code of Practice ('the Code'), NIPEC will advise all applicants within a response of their right to seek an internal review of its handling of a request.

In line with Paragraph 5.3 of the Code, NIPEC will not be obliged to accept a request for internal review not made within 40 days from the date the initial response to the applicant was issued. NIPEC will make this clear in its initial response.

NIPEC will only accept requests for internal review that are made in writing.

Internal Review Panels will consist of at least two members of staff with no involvement in the original handling of the request, and preferably chaired by a non-executive member of the Council.

The panel should make a fresh decision based on all the available evidence that was relevant at the date of the request for information. This should include:

- How the request was handled and the initial response, including reserving the right to interview members of staff involved in the original decision;
- Whether the relevant information was identified;
- Whether it wishes to uphold the original exemption (if applicable), or apply a different exemption (if applicable).

NIPEC will conduct internal reviews and relay the outcome to the applicant within 20 working days of receipt of such a request, or 40 working days in exceptional circumstances.

Applicants who may remain dissatisfied with the outcome of an Internal Review will be advised that they may exercise their right to appeal to the Information Commissioner.

6.9 Costs

NIPEC will follow the appropriate Fees Regulations in determining cost of complying with a request. The appropriate limit is established under the Fees Regulations as £450, or 18 hours work as per ICO guidance. The appropriate limit should be considered before any exemptions in Part 2 of the FOI Act.

In calculating cost, NIPEC should only consider the time taken to determine whether it holds the information, locating and retrieving the information and extracting the relevant information from a document containing it.

If NIPEC is using the cost limit as grounds for refusing the request, the following will apply. NIPEC will:

- Provide a written refusal notice, stating that complying with the request would exceed the appropriate cost limit;
- Issue a fees' notice advising the applicant of the amount to be charged for complying with the request;
- State whether the information is held, unless finding this out would in itself incur costs over the limit; and

- Provide the applicant with reasonable advice to refine their request, including explaining why the limit would be exceeded and what information, if any, may be available within the limits.

If the requester refines their request appropriately, NIPEC will then deal with this as a new request.

7. Transferring Requests for Information

NIPEC will not contact another authority on the applicants' behalf to transfer the request. However, in circumstances where NIPEC believe that the information requested is held by another public authority, it will:

- advise the applicant that NIPEC will not be taking the request further;
- provide contact details of that authority where possible.

In addition, NIPEC will not accept requests transferred from another public authority to NIPEC.

8. Non-Compliance

A copy of this policy will be given to all staff, who should be aware of and ensure this policy is followed. A failure by staff to adhere to this policy and any associated procedures may result in disciplinary action against the staff member.

Staff should be aware that they may be personally liable for prosecution for non-compliance with (in relation to the use of ICT equipment including the use of the internet and email) and open to claims for damages if their actions are found to be in breach of legislation. Where appropriate, breaches of this policy may be reported to the ICO, PSNI or other public authority for further investigation.

9. Equality Statement

This policy has been screened for equality implications as required by Section 75 and Schedule 9 of the Northern Ireland Act 1998 and it was found that there were no negative impacts on any grouping. This policy will therefore not be subject to an Equality Impact assessment.

The equality screening has been published and can be accessed here:

<https://bso.hscni.net/directorates/people-and-place/655-2/equality-and-human-rights-screening/equality-screening/>

10. Review of Policy

This policy shall be reviewed in December 2028, or earlier if there are updates to applicable legislation, guidance or best practice.