



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

**Freedom of Information
Policy**

December 2020

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. It is intended to promote a culture of openness and accountability amongst public sector bodies, and therefore to facilitate better public understanding of how public authorities carry out their duties, why they make the decisions they do, and how they spend public money.

A Freedom of Information Code of Practice (July 2018) issued by the Cabinet Office provides guidance for public authorities on best practice in meeting their responsibilities under Part 1 of the Act. It sets the standard for all public authorities when considering how to respond to FOI requests and can be found at www.gov.uk/government/publications/freedom-of-information-code-of-practice

FOI places a statutory obligation on NIPEC to publish details of all recorded information that it holds, except where an exemption 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.

3. Supporting Legislation

This policy has been written to support staff in compliance with the following legal requirements and best practice guidance, which includes but is not limited to:

- Data Protection Act 2018/General Data Protection Regulation (GDPR) 2016
- Common Law Duty of Confidentiality
- Freedom of Information Act 2000
- Public Records Act (Northern Ireland) 1923
- Disposal of Documents Order 1925
- Re-Use of Public Sector Information Regulation 2005
- Access to Health Records (Northern Ireland) Order 1993
- Human Rights Act 1998
- Electronic Communications Act 2000

- Environmental Information Regulations 2004
- Public Interest Disclosure Act 1998
- The Investigatory Powers Act 2016
- Guidance from the Information Commissioners Office (ICO)
- The Department of Health (DoH) Good Management, Good Records

4. Scope

The scope of this policy is to support the control and management of information. The policy will cover all information within NIPEC and is concerned with all information systems, electronic and non-electronic information. It applies to all services, all permanent and temporary staff, all agency workers, and as appropriate to contractors and third party service providers acting on behalf of NIPEC. This includes, but is not necessarily 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.

This policy covers all forms of information held, which includes but is not necessarily limited to:

- Information about members of the public
- Non- employees on organisational premises
- Staff and Personal information
- 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 has delegated day to day responsibility for managing incoming FOI requests to the **Corporate IT and Information Officer**;
- 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 Corporate IT & Information Officer (CITIO) at enquiries@nipec.hscni.net or by posting to the following address:

NIPEC
 Centre House
 79 Chichester Street
 BELFAST
 BT1 4JE

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

The term 'in writing' covers requests submitted by letter and electronic form, including those sent via social media. The request does not have to make any direct reference to the Act, or be the sole or main theme of the requester's correspondence.

A request is deemed as 'received' when it is delivered to NIPEC (for example, to enquiries@nipec.hscni.net or the inbox of a 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 Corporate Information & IT Officer immediately for processing.

6.3 Identity of the applicant and reason for the request

The ICO has advised that, as FOI enables disclosure on grounds of public interest, responses should be applicant and motive 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;
- if disclosure would be contrary to data protection principles or would be likely to endanger the health and safety of any other person;
- 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.

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

A request can be treated as vexatious where NIPEC can demonstrate an affirmative response to one or more of the following questions:

- Could the request fairly be seen as obsessive?
- Is the request harassing the organisation or causing distress to staff?
- Would complying impose a significant burden in terms of expense and distraction?
- Is the request designed to cause disruption or annoyance?
- Does the request lack any serious purpose or value?

Section 14(2) of FOI states that a request can be refused as repeated if:

- It is made by the same person as a previous request;
- It is identical or substantially similar to the previous 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 Review

The applicant should be advised of the opportunity to request a review should they be dissatisfied with the outcome. Whilst applicants should be invited to informally discuss their concerns, any request for a formal review should be made in writing to NIPEC. The Chief Executive should be advised of all such requests for formal review. Once received, a formal review will be carried out and a response forwarded to the applicant within 20 working days.

Internal Review Panels will consist of two members of staff with no involvement in the original handling of the request. Where appropriate this may include a non-executive member of the Council. A response will be signed by all members of the review panel.

Applicants who may remain unsatisfied 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 Regulations in determining cost of complying with a request. Accordingly, all requests that cost less than the appropriate limit of £450 (calculated at £25 per hour) to process will be complied with free of charge.

In calculating cost, NIPEC should only take into account the time taken to determine whether it holds the information, and to locate, retrieve and extract it. It should not take into account the time taken to consider exemptions, to seek and obtain legal advice, to consider whether a request is vexatious, to obtain authorisation to provide the information, to calculate fees or to perform any redactions. Where NIPEC intends to charge a fee, a fees notice should be issued to the applicant. In this event the twenty working day compliance period will be placed on hold until the fee is received.

If the estimated cost of compliance exceeds the appropriate limit, the duty to comply with the request does not arise. However, in keeping with the duty to provide advice and assistance, NIPEC will first seek to refine the request with the applicant in order to provide relevant and useful information within the limit appropriate limit.

7. Transferring Requests for Information

It is NIPEC policy not to 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.

8. Consultation with Third Parties

Where disclosure cannot be made without the consent of a third party and would constitute an actionable breach of confidence such that an exemption would apply, NIPEC will consult that third party with a view to seeking their consent, unless such consultation is not practicable. NIPEC may also undertake consultation where the views of the third party may assist in determining:

- whether an exemption applies, or
- where the Public Interest lies.

In such cases NIPEC will consider the most reasonable course of action to take in light of the requirements of FOI.

9. Monitoring 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 to adhere to FOI, this policy and any associated procedures may result in disciplinary action.

10. Equality Statement

This policy has been screened for equality implications as required by Section 75 and Schedule 9 of the Northern Ireland Act 1998.

The screening has identified specific equality impacts and outlines the way that these will be addressed. No significant equality implications have been identified therefore the policy will not be subject to an equality impact assessment.

The equality screening has been published and can be accessed here
<http://www.hscbusiness.hscni.net/services/2166.htm>

11. Review of Policy

This policy is based on a regional HSC policy. It will be monitored and reviewed in December 2023, or sooner if a revised HSC policy is issued.