**Freedom of Information Act Policy and Complaints Procedure**

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| Responsible Officer | Director of Finance, Strategy & Transformation |
| Author | Corporate Office |
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**Version control table**

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| **Version** | **Date** | **Author** | **Replaces** | **Comment** |
| 2.0 | October 2013 | Corporate office & enquiry handling team | Freedom of Information Policy 2005 and Freedom of Information Complaints policy |  |
| 3.0 | August 2017 | Corporate Office | Freedom of Information Policy and Complaints Procedure  Version 2.0 | Policy reformatted; duplicated content removed. Section relating to offences removed – this is to form part of an internal procedure document for NICE staff. |
| 3.1 | August 2019 | Corporate Office | Freedom of Information Policy and Complaints Procedure  Version 3.0 | Accessibility tested.  Update to job title p.7 |
| 3.1 | December 2020 | Data Protection and Information Governance Manager | Freedom of Information Policy and Complaints Procedure  Version 3.1 |  |
| 3.2 | January 2021 | Information Governance Manager and Deputy DPO | Freedom of Information Policy and Complaints Procedure  Version 3.1 | Minor changes to the policy, adding in more responsibilities and further data protection information. |

# Introduction

1. The Freedom of Information (FoI) Act 2000 provides public access to information held by public authorities.
2. Under the Act, anyone can make a request in writing for recorded non-personal information held by or on behalf of NICE. NICE must provide the information within 20 working days, unless one of the exemptions within the Act applies. In some circumstances an additional 20 working days may be permitted to consider the public interest test.

# Scope

1. This policy relates to all recorded information held by the organisation and applies to all staff in NICE and the Non-Executive Directors.
2. This policy is intended to cover all records created when carrying out business for NICE, including information held electronically and hard copy. In line with guidance from the Information Commissioner’s Office (ICO), information contained in non-NICE email accounts, information held by third parties on behalf of NICE, text messages and other forms of communications such as instant messaging platforms will also be within scope of the Act when the information held on these relates to the official business of the public authority (NICE).
3. This policy sets out how NICE will:
   * Respond and comply with FoI requests
   * Publish information about NICE activities (publication scheme)
   * Answer complaints about our management of FoI requests.
4. The policy does not apply to requests for individuals’ personal data under the Data Protection Act 2018 and UK General Data Protection Regulation (GDPR), or requests for the re-use of NICE content under the Re-use of Public Sector Information Regulations, which are covered in separate documents.

# Responsibilities

1. The enquiry handling team are responsible for managing and responding to FoI requests. They liaise with teams across NICE to ensure that requests are dealt with in accordance with the Act.
2. The Head of Information Governance and Records Management, who is also the Data Protection Officer (DPO), is the responsible person for reviewing complaints about NICE’s response to requests under the Act, maintaining the publication scheme, liaising with the ICO, and developing policies.
3. The Associate Director, Corporate Office is responsible for responding to complaints about requests under the Act.
4. The Procurement team is responsible for ensuring that all contracts with third parties include relevant clauses in relation to the supplier’s responsibilities under the Act, and a data protection addendum authorised by the DPO.
5. Information Asset Owners are responsible for ensuring information and records are managed effectively and appropriately. The management of records is dealt with by the retention and disposal schedule which should be referred to for guidance in the management of information.
6. All managers are responsible for ensuring staff have read and understood their responsibilities under the policy.
7. All staff are responsible for ensuring requests for information that fall under the scope of the Act are sent to the enquiry handling team ([nice@nice.org.uk](mailto:nice@nice.org.uk)) as soon as they receive them and information and records are managed in line with relevant policies and procedures, including the retention and disposal schedule.

# Publication scheme

1. NICE maintains a publication scheme listing categories of information we are obliged to publish. The scheme is available on the NICE website and maintained in accordance with the Act.

# How requests are handled

1. The enquiry handling team manages FoI requests in accordance with the Code of Practice issued under section 45 of the Act.
2. The dedicated routes for information requests are:

* Email: [nice@nice.org.uk](mailto:nice@nice.org.uk)
* Post:

The enquiry handling team

National Institute for Health and Care Excellence

Level 1A

City Tower

Piccadilly Plaza

Manchester

M1 4BT

1. Requests for information must:

* be in writing.
* include the real name of the requester.
* include a valid address for correspondence (an email address is valid)
* describe the information requested.
* be received in a legible form

1. FoI requests do not have to make any direct reference to the Act or be the sole or main theme of the requester’s correspondence. For this reason, it is important that all staff read and understand the FoI policy and procedure and know how to recognise a potential request.
2. The enquiry handling team will usually acknowledge receipt of requests within two working days.
3. NICE will respond to requests for information within 20 working days starting from the day following receipt of the request. If the response is likely to take longer than this, for example, because NICE needs to consider the public interest test, the enquiry handling team will advise the requester and keep them informed of progress.
4. If NICE is unclear on any point in the request, the enquiry handling team will contact the requester to ask for clarification. If clarification is not provided within 20 working days, NICE will assume that the information is no longer required, and the request will be closed.
5. If NICE does not hold the information requested but believes another public body may hold the information, we will advise the applicant to contact the other public authority directly.
6. If NICE believes information within scope of the request may be held in a non-NICE (private) email account or other private messaging platform we will ask an individual/s to search those email accounts for information which might fall within the scope of an FoI request. Before requesting the information from an individual/s, NICE will consider:

* the focus of the request, indicated by the words used by the requester.
* the subject matter of the information which falls within the scope of the request;
* how the issues to which the request relates have been handled within the public authority;
* by whom and to whom was the information sent and in what capacity (e.g. public servant or political party member); and
* whether a private communication channel was used because no official channel was available at the time.

# Exemptions

1. The Act contains exemptions that allow NICE to withhold information from a requester in certain cases, for example where the information is for confidential material or where disclosure may conflict with the data protection legislation.
2. Some exemptions require consideration of whether the disclosure is in the public interest. The public interest test means NICE must consider whether the public interest in withholding information outweighs the public interest in disclosing the information.
3. When information is withheld the requester will be told which exemptions have been applied and why.

### Consultation with third parties

1. If disclosure of the requested information is likely to affect the interests of third parties, NICE will, where possible, contact those individuals before determining whether an exemption applies. In such circumstances NICE retains the final decision on the response.

### Charges

1. NICE does not charge for complying with FoI requests. However, in line with the Act, NICE is not obliged to comply with a request if it is estimated that the cost of compliance would exceed £450 - or 18 hours (the ‘appropriate limit’) to determine information is held, locate, retrieve, and extract the information requested. Time taken to redact exempt information cannot be included.
2. Where a request is estimated to exceed the ‘appropriate limit’, the enquiry handling team will give the requester reasonable advice and assistance to change or narrow the request if this is possible.

### Complaint’s procedure

1. If a requester is unhappy with the handling of a response to a FoI request, they can contact the enquiry handling team to see if the matter can be resolved informally. If a requester does not wish to do this or, if following the informal discussion, a requester remains dissatisfied with the response, a formal complaint can be made (known as an ‘internal review').
2. Any expression of dissatisfaction with the handling of the initial request will be treated as a complaint.
3. Complaints should be made in writing to the address below. If the complaint is about a response to an FoI request, it should be made within 40 working days of the response and sent to:

* Email: complaints@nice.org.uk
* Post:

Associate Director, Corporate Office

National Institute for Health and Care Excellence

2 Redmond Place

Stratford

London

E20 1JQ

1. NICE will acknowledge complaints within five working days.
2. Complaints will be reviewed by the Corporate Office and/or two non-Executive Directors at the discretion of NICE depending on the nature of the complaint. A response will be sent by the Associate Director, Corporate Office within 20 working days. If the review is likely to take longer than 20 working days, for instance where there is a need to consider the public interest or due to the complexity of the case, NICE will write to the requester with a revised timescale at the earliest opportunity.
3. In all cases if the requester is not satisfied with the outcome of the internal review, they can appeal to the ICO at the following address:

The Information Commissioner’s Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

# Review

1. This policy will be reviewed every three years.

### Related policies

* Information Governance and Records Management Framework policy
* Individual Rights procedure
* Records management policy
* Retention and Disposal Schedule
* General complaints policy and procedure
* Re-use of public sector information policy and complaints procedure
* Policy on managing unreasonable or persistent enquirer contact.