

## **Freedom of Information Policy & Procedure**

### **Introduction**

The aim of the Freedom of Information Act (FOIA) 2000 is to promote a culture of openness and accountability amongst public sector bodies and therefore 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.

The main features of the act mean that National Centre for Circus Arts (NCCA) has the following duties of responsibility:

- To facilitate a general right of public access to recorded information held by the Centre, subject to certain conditions and abiding to certain exemptions.
- To inform the person making the request whether the Centre holds the information requested, and except in the case of exemptions, to communicate the information to them in an acceptable timeframe.
- To adopt an approved scheme by the Information Commissioner, which relates to the publication of information by NCCA and to publish information in accordance with the scheme.

The Act also:

- Created a new office of Information Commissioner with wide powers to enforce the rights created by the Act and to promote good practice, and a new Information Tribunal.
- Placed a duty on the Lord Chancellor to publish Codes of Practice for guidance on specific issues.

### **Publication**

Adopting a publication scheme is a requirement of the FOIA. A publication scheme sets out the kinds of information that a public authority should proactively make available routinely. The information should be easy for the authority and any individual to find and use.

Further details about the information NCCA is expected to routinely publish can be found on the Governance pages of our website.

### **Responsibilities and Accountabilities**

All Freedom of Information (FOI) requests received by NCCA will be handled by the Chief Operating Officer, or another member of the Senior Management Team in the COO's absence.

Any member of staff receiving a request for information, which they consider is an FOI request, must contact the Chief Operating Officer.

The Accountable Person (under the Act) is the Chief Executive of the Centre.

## Procedure for Handling FOI requests

The procedure provides an overview on how the Centre handles FOI requests and meets its obligations under the Act.

## Assessing Requests for Information

Requests can take the following forms:

- a) **Straightforward/Routine Requests**  
A good example is a request for the course information or Prospectus and other marketing/recruitment documents. These types of requests will be dealt with as normal, core business, and not under the FOI.
- b) **Other Requests**  
This refers to requests for information which go beyond the normal day-to-day correspondence. In these circumstances, the request must be forwarded to the Chief Operating Officer.
- c) **Subject Access - General Data Protection Regulation Article 15**  
Any request from an individual seeking personal information about themselves is considered under the FOIA as a Data Subject Request (SAR) which refers the matter to be dealt with under Article 15 of the General Data Protection Regulation. SARs should be forwarded to the Chief Operating Officer.

NCCA Data Protection Policy (privacy policy) can be found at:

<https://www.nationalcircus.org.uk/privacy-policy/>

- d) **Access to Environmental Information - the Environmental Information Regulations**  
Revised Environmental Information Regulations (EIR), 2004, also came into force on 1 January 2005. They give access rights specifically to information relating to any decisions, activities and policy formulation that may have an impact on the environment. Any request in this area must be dealt with under the EIR regulations and should be directed to the Head of Buildings & Facilities.

## An individual's rights

Subject to the exemptions in the Act, any person can make a request to the Centre for information. They must be informed whether NCCA holds the information, and if so, the information must be communicated.

In order to deal with any FOI requests, the 'ask' must satisfy certain conditions:

- It must be in writing (including email and posting through social media). The request can be from anyone of any age, nationality or location.
- It must state the name of the person who is requesting the information, which must be a **real name of a person or company**.
- It must provide an address for correspondence (this can be an email address)
- The correspondence must detail clearly and specifically what information is requested.

### Duty of NCCA to provide assistance

Where the request for information is not clear, NCCA staff, as far as it is practicable, will provide assistance to the person making the request (in up to two further emails) to help them to describe more clearly the information requested.

NCCA will assist in other ways by:

- Providing an outline of the different kinds of information which might meet the request.
- Providing a general response to the request, and setting out options for further information that could be provided on request.
- If clarification is required, identifying which method of communication should be used, offering that first preference will be email.
- Maintaining a detailed log of any letters, e-mails and telephone conversations with the person making the request in the course of providing advice and assistance.

If, after providing assistance, the person making the request still fails to describe the information in such a way for it to be identified and located, NCCA will inform them that it is unable to comply with the request and no further clarification will be sought.

NCCA will disclose any information which has been successfully identified and is not covered by an exemption.

NCCA is not obliged to comply with a request for information if the costs of doing so would exceed the "appropriate limits" set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (£450, the equivalent of 15 hours of staff time). However, NCCA would try to indicate what information could be provided within the cost ceiling, and person making the request will be given the opportunity to review and modify their request.

If it is not possible to fully comply with the request, it will be explained to the requestor why this is the case and details provided of how the person may appeal through our complaints procedure.

The Centre will not provide assistance to requestors whose requests are considered vexatious as defined in section 14 of the Act.

### Information covered by the Right of Access

All information held by NCCA is covered by the right of public access. This entitles individuals to have access to information and not to documents, although the most appropriate way to provide the information may be to supply a copy of the document in which the information is held.

Information subject to the right of access can be held in various forms including drafts, out-of-date or inaccurate information:

- Electronically (such as on PCs, laptops or an electronic records management

- system)
- Recorded on paper (such as a letter, memo, report or papers in a file)
- Sound and video recordings (such as a DVD, or Media file)
- Information in storage
- Notes written in the margins of a document, note pad or on a post-it note.

#### Information that has been deleted or amended

The right of public access applies to information held by NCCA at the time the request is received. Information must **not** be deleted or amended after the request has been received. Altering, defacing, blocking, erasing, destroying or concealing information in these circumstances may constitute a criminal offence and an individual committing the offence may be held personally responsible.

If requested information has been deleted after a request has been received, but unknowingly, i.e. the person deleting the information was not aware of the request, this would not be in breach of the Act.

#### Time frame

Information requested must be provided within **20 working days**.

Additional time can be added to the 20 working days for the following reason:

- Applying the Public Interest Test: If the information being sought has to be considered under an exemption to which the Public Interest Test applies, then the timescale is extended by a "reasonable period", but no later than an additional 20 working days. The person making the request will be informed of the proposed extension date which should be realistic and reasonable in the circumstances of the case.
- Where there are any delays and where NCCA is not able to meet the estimated date, the person making the request will be informed of reasons for the delay and kept informed of progress.

#### Fees

The fees regulations reflect the Government's approach that there will be no financial barrier to people in exercising their rights under the legislation.

#### Form of the Disclosure

The person making the request may ask for the information to be released in a particular format, such as paper or electronic copies; as a summary/digest. When considering whether the information can be released, the format should be considered but NCCA is not obliged to disclose information in the requestor's preferred format if the information is part of the Publication Scheme, although it is good practice to assist where practicable.

Whilst it will be remembered that the public's right of access is to information and not documents, wherever possible and where the request for a particular format is considered reasonable, the Centre will disclose in the required format.

Particular consideration will be made regarding format requests from anyone with a disability.

If the information being requested is only routinely provided in English, there is no legal requirement to provide it in another language.

#### Publishing datasets for re-use

Public authorities must publish under their publication scheme any dataset they hold that has been requested, together with any updated versions, unless they are satisfied that it is not appropriate to do so. So far as reasonably practicable, they must publish it in an electronic form that is capable of re-use.

If the dataset or any part of it is a relevant copyright work and the public authority is the only owner, the public authority must make it available for re-use under the terms of a specified license. Datasets to which the Crown owns the copyright or the database right are not relevant copyright works.

The Datasets Code of Practice recommends that public authorities make datasets available for re-use under the Open Government Licence. The term 'dataset' is defined in Section 11(5) of the Freedom of Information Act 2000 (FOIA). The terms 'relevant copyright work' and 'specified licence' are defined in Section 19(8) of the FOIA. The Information Commissioner's Office (ICO) has published guidance on the dataset provision in FOIA. This explains what is meant by "not appropriate" and "capable of re-use".

NCCA submits student and staff data to the Higher Education and Statistics Agency (HESA) annually. The public can access this data directly from HESA.

#### Exemptions

The FOIA provides detailed guidance on what information is exempt. In doing so it provides the Government's present view but in the light of practical experiences and developments in case-law, this is likely to change. These exemptions permit NCCA to withhold some or all of the information requested, where that information fits one or more of the exemptions. See Appendix A for list of exemptions.

#### Refusal of a Request

Where a request for information is refused, or where some of the requested information is withheld, NCCA must notify the requestor as to which exemption has been applied; why the exemption has been applied; and explain why the balance of the Public Interest favours non-disclosure. This notification is provided by the Chief Operating Officer.

Particular care and attention will be given to the writing of all responses that withhold or partially withhold information, and any concerns about disclosing data must be raised with the Chief Operating Officer.

#### Vexatious Requests

Under certain circumstances an individual request or a series of requests can be determined as "vexatious" under Section 14 of the FOIA. If a request or requests are

vexatious, the Centre can refuse to respond. Guidance on what may constitute a Vexatious request has been published by the ICO and can be found [here](#).

General examples of vexatious request include those that are abusive, or are designed to be deliberately time-wasting.

Any decision to refuse a request under Section 14 should only be made by the Chief Operating Officer in consultation with the Senior Management Team who will seek legal advice if deemed necessary.

#### Formally Responding to a Request

NCCA follows the good practice advice provided by the Information Commissioner's Office (ICO).

A response letter must always inform the requestor of their right of appeal to the Centre and their right to complain to the Information Commissioner and how they can exercise this right.

All responses will be drafted and dispatched only by the Chief Operating Officer.

#### Complaints/Appeals

The Office of the Information Commissioner: <http://www.ico.org.uk>

## Appendix A: Exemptions

The Act provides detailed guidance on what information is exempt from FOI requests. In doing so it provides the Government's present view but in the light of practical experiences and developments in case-law, this is likely to change. These exemptions permit NCCA to withhold some or all of the information requested, where that information fits one or more of the exemptions.

There are 2 types of exemptions (numbers in brackets refer to the relevant section of Part II of the FOIA):

- (a) Absolute exemptions:
- Information accessible to the person making the request by other means (S21), such as the Centre's website and the Centre's Publication Scheme: person making the requests will be directed to the website.
  - Information supplied by, or relating to, bodies dealing with security matters (S23)
  - Court records (S32)
  - Parliamentary privilege (S34)
  - Personal Information (where the person making the request is the subject of the information) (S40)
  - Information provided in confidence e.g. from lawyers (S41)
  - Where disclosure is prohibited by law (S44)
- (b) Qualified exemptions:
- Information intended for future publication (S22)
  - National security (S24)
  - Defence (S26)
  - International Relations (S27)
  - Relations within the United Kingdom (S28)
  - The economy (S29)
  - Investigations and proceedings conducted by public authorities (S30)
  - Law enforcement (S31)
  - Audit Functions (S33)
  - Formulation of government policy (S35)
  - Prejudice to effective conduct of public affairs (S36)
  - Communications with Her Majesty (S37)
  - Health and safety (S38)
  - Environmental Information (to be access through the Environmental Information Regulations) (S40)
  - Some personal Information (S40)
  - Legal professional privilege (S42)
  - Commercial Interests (S43)

In considering exemptions, each request will be considered on its own merits.

Any decision on whether requested information is exempt under the Act, must be taken in conjunction with the Chief Operating Officer.

In determining whether information falls into one of the qualified exemptions under the

Act, it may be necessary to apply the Public Interest Test. In short, the question to ask is: Does it serve the interests of the public better to withhold or to disclose the information? This determination is usually carried out by the Senior Management Team and, where appropriate, seeking legal advice.

If the information is exempt from disclosure, NCCA will inform the person making the request whether it holds the information, unless doing so would in itself prejudice some relevant interest after applying the Public Interest Test.

If the information is complex or incomplete and therefore misleading, this may in itself not be sufficient justification for withholding it.

### **Appendix B: Freedom of Information Act (2000) Complaints and Appeals Procedures.**

The Freedom of Information Act 2000 allows the public certain rights to seek a review of NCCA's decision not to disclose information surrounding a request made by a person or company, or if the person making the request is dissatisfied with the way a request for information has been handled.

Throughout the procedure, you will be kept fully informed on the progress of your appeal and the next stage in the process.

There are 2 stages to the procedure:

Stage 1, appeal directly to NCCA

If you are not satisfied with how your request has been handled, you should appeal in writing to:

Kate White  
Chief Executive Officer  
National Centre for Circus Arts  
Coronet Street  
London  
N1 6HD

An internal review will be conducted and a full response will be made within 20 working days. As a small specialist institution there may be unusual circumstances which make meeting this deadline impossible e.g. when an appeal comes in during a period when key members of staff are absent or if the Centre is closed for business (bank and public holidays) or if the appeal and/or internal review is complex and more than 20 working days are needed to investigate. This will be explained to you in writing and a realistic date provided for when the response can be expected.

Stage 2, Complaint to the Information Commissioner

If you have followed stage 1 of the appeal process and you are still not satisfied with the outcome response to the appeal from NCCA, you have the right to apply to the Information Commissioner for a decision as to whether the request for information has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000.



The complaint should be made in writing to:

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Details on how to complain can be found on the Information Commissioner's website:  
[www.ico.org.uk](http://www.ico.org.uk)