

Freedom of Information (FOI)

Introduction

The main objective of the Freedom of Information Act is to foster and develop a culture of openness, transparency and accountability in public bodies and agencies. The Act confers three legal rights on individuals:

- The right to obtain information held by the NCTE
- The right to obtain reasons for decisions affecting oneself
- The right to have official information relating to oneself amended where it is incorrect, incomplete or misleading

The provisions of the Freedom of Information Act were extended by the Department of Finance to apply to a number of bodies under the aegis of the Department of Education & Skills, including the NCTE, from the 31st May 2006.

What information is covered by the Act?

The Act allows the public access to records held by public bodies and agencies.

Records are defined widely in the Act and include manual records, electronic records, diagrams and sound recordings. In general, the Act does not permit access to records created before 21 April 1998.

The Act attempts to strike a balance between the public's right to access records held by public bodies and an individual's right to privacy. In doing so, certain categories of information are exempted from the remit of the Act, including commercially sensitive information and personal information. Information that is otherwise available to the public is also excluded from the scope of the Act.

Routinely Available Information

The NCTE currently makes a considerable amount of information routinely available to the public in relation to its functions and activities. Such information will continue to be available without the need to make a formal request under the FOI Act.

The FOI Act is designed to allow public access to information held by public bodies which is NOT routinely available through other sources. Access to information under the Act is subject to certain exemptions and involves specific procedures and time limits.

How Do I Make a Freedom of Information Request to the NCTE?

You may send a letter in writing to the FOI Officer, NCTE, INVENT Building, Dublin City University, Dublin 9.

Your letter should:

1. refer to the FOI Act
2. give as much information as possible about the records being sought
3. specify if you would like to obtain copies of the record or would prefer access in another form. If you require the record in a particular form, e.g. photocopy, computer disk, your application should specify that form;
4. include contact details, as it will be necessary for NCTE to contact you in relation to your application
5. you may be required to prove your identity and may be asked to provide a copy of your drivers licence, passport, birth certificate etc.

How much can I be charged for access to a record?

Where NCTE grants access to records, it may charge certain fees. The amount NCTE may charge is governed by the Freedom of Information Act, 1997 (Section 47(3)) Regulations, 1998.

Application Fees

A standard application fee of EUR 15 must accompany an FOI request made under section 7 of the Act for a record or records containing non-personal information. A reduced fee of EUR 10 applies if the person making such a request is covered by a medical card.

The following requests/applications are exempt from application fees:

- (a) A request under section 7 for a record or records containing only personal information related to the requester.
- (b) An application under section 17 (right of amendment of records relating to personal information).
- (c) An application under section 18 (right of person to information regarding acts of public bodies affecting the person).

Search and Retrieval and photocopying fees

Fees may also be charged for search and retrieval of records as follows:

- In respect of personal records, fees in respect of the cost of copying the records requested may apply.
- In respect of other (non-personal) information, fees may be charged in respect of the time spent in efficiently locating and copying records, based on a standard hourly rate of EUR 20.95. No charges shall apply in respect of the time spent by public bodies in considering requests.
- NCTE may charge the following for reproduction of records:
 - (a) photocopy EUR 0.04 per sheet;
 - (b) EUR 0.51 per computer disk (3 1/2 inch);
 - (c) EUR 10.16 for each CD Rom.

Charges may be waived in the following circumstances:

- where the cost of collecting and accounting for the fee would exceed the amount of the fee; or
- where the information would be of particular assistance to the understanding of an issue of national importance; or
- in the case of personal information, where such charges would not be reasonable having regard to the means of the requester.

The relevant fee should be paid by cheque and made payable to *Dublin City University*.

How does NCTE process my application?

- NCTE is obliged to acknowledge receipt of your request within two weeks and to decide on your application within four weeks.
- This four week time limit may be extended by an additional three weeks where third parties are consulted during the decision making process (as detailed in the Act) and by an additional four weeks in certain other limited circumstances including where meeting the original time limit is not possible due to the quantity of documents requested. Where NCTE fails to respond to your request within the applicable time limit, this amounts to a refusal of your request.
- If NCTE grants your request for access to information, you will also be notified of the fee (if any) and the form of access. In general, you will have four weeks from receipt of this notification to access your record, subject to payment of any fee.
- NCTE may refuse access to information where the record sought falls into an exempted category. This includes records that relate to personal information of a third party or information that is commercially sensitive. If NCTE refuses access and you disagree with the decision, you may apply for an internal review of the decision. You may also

apply for an internal review on other grounds including the level of fees and where the record is not given to you in the form you requested.

How do I apply for internal review?

A request for internal review must be submitted to NCTE in writing to FOI Internal Appeals, NCTE, INVENT Building, Dublin City University, Dublin 9 within four weeks of receipt of the notification of refusal. NCTE will then have another three weeks to issue a decision. Where NCTE fails to respond to your application within the applicable time limit, this amounts to an affirmation of the original decision of NCTE. A staff member ranking above the initial decision maker will carry out the internal review.

What can I do if I am still unhappy with the decision?

Where you are still dissatisfied with the decision, you may appeal to the Office of the Information Commissioner (“OIC”). Generally, applications for appeal must be made within six months of the decision of internal review. Some types of appeal have a shorter time limit and if you are dissatisfied with the outcome of internal review, you should contact the OIC as soon as possible.

The Office of the Information Commissioner,
18 Lower Leeson Street,
Dublin 2

Tel: (01) 639 5689

Fax: (01) 639 5674

Email: foi@ombudsman.irlgov.ie

Where can I get further information ?

If you have queries on FOI or need assistance with making an application to NCTE under FOI, you may contact the FOI Officer at info@ncte.ie or by phoning 01 7008200.