



The Freedom of Information Act 2000

Policy & Procedures

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1 Introduction

- 1.0 The Freedom of Information Act 2000 (the Act) was passed on 30 November 2000 and came into force on 1st January 2005. It gives the public the right of access to all types of recorded information held by public authorities, but also sets out exemptions from that right. The term 'public authority' is defined in the Act and includes all public bodies and Government departments in the United Kingdom (UK).
- 1.1 The purpose of the Act is to make the work of public authorities in the UK more open and transparent to the general public and to ensure greater accountability.
- 1.2 Individuals already have the right of access to information about themselves under the Data Protection Act 1998. As far as public authorities are concerned, the Freedom of Information Act 2000 extends this right to allow public access to all types of recorded information held by public authorities.
- 1.3 The main features of the Act and the duties placed on NILGOSC are:
- A general right of public access to recorded information held by NILGOSC, subject to certain conditions and exemptions.
 - A duty to confirm or deny to an applicant whether NILGOSC holds the information requested and to communicate this information, except in the case of applied exemptions.
 - A duty to provide advice and assistance to a requestor, even in cases where NILGOSC does not hold the information requested.
 - A statutory duty to adopt and maintain a Publication Scheme, approved by the Information Commissioner's Office (ICO), which sets out the kinds of information NILGOSC should make readily available to the public, without the need for specific written requests.
- 1.4 NILGOSC is fully committed to the implementation of the provisions of the Act. This policy document aims to provide a framework that fully endorses and adheres to the principles of freedom of information in order to promote greater openness and transparency and to build public trust and confidence. This will be balanced against the need to maintain confidentiality of certain information, where disclosure is exempt or not in the public interest.
- 1.5 The policy and procedures set out in this document will adhere to the standards set out in the Lord Chancellor's Code of Practice under section 45 of the Act, which provides guidance on the practice to be followed in handling requests for information, and will also comply with best practice recommended by the ICO.

2 Roles and Responsibilities

2.1 The Information and Compliance Manager has responsibility for:

- Processing and co-ordinating responses to all FOI requests received by NILGOSC in accordance with the requirements of the Act and this policy.
- Providing guidance and assistance to the general public in regard to this policy and procedures and to the Act in general.
- Promoting policy compliance and provide advice, guidance and training to staff and Committee members with regard to the Act, Codes of Practice and NILGOSC policy and procedures.
- Ensuring the Publication Scheme is kept relevant and up-to-date.

2.2 Senior managers have responsibility for ensuring that freedom of information issues are managed in a way that meets the provisions of this policy and procedures and ensuring that their staff adhere to the provisions.

2.3 It is the responsibility of all staff to comply with the provisions of the Act and to make themselves aware of their responsibilities under the Act. All staff are required to adhere to the provisions set out in this policy and procedures. In particular, all staff should recognise an FOI request when received and pass on promptly for processing and provide assistance with the collection of information to provide a response, where appropriate.

2.4 The Deputy Secretary has overall responsibility for the Publication Scheme.

3 Publication Scheme

3.1 All public authorities are required to adopt the model scheme produced and approved by the ICO. NILGOSC has adopted the scheme set out for all Non-Departmental Public Bodies.

3.2 The Publication Scheme sets out the information that NILGOSC will routinely publish, where this information is available and if there will be a charge applied for providing the information.

3.3 In accordance with ICO requirements, NILGOSC has also produced a 'Guide to Information' for information routinely published via the Publication Scheme.

3.4 The Publication Scheme and Guide to Information are available on the NILGOSC website at <http://www.nilgosc.org.uk/FOI.html>. A hard copy is also available by request to the Information and Compliance Manager at the contact details set out in 12.2 below.

4 Non-Routine Requests for Information

4.1 Information that is not already available to the public via the Publication Scheme can be requested from NILGOSC by submitting a written request.

- 4.2 Any person who submits a written request (known as an 'applicant') has the right to:
- Be told whether or not the information is held;
 - Receive the information; and
 - The right to an internal and external review in the event of any decision to withhold information.
- 4.3 NILGOSC is not entitled to know why the applicant wants the information nor, unlike with data protection, is NILGOSC entitled to check the identity of the applicant.
- 4.4 A written request may be received by any staff in NILGOSC but should be forwarded to the Information and Compliance Manager, who will deal with all FOI requests.
- 4.5 A non-routine request for information will be answered within 20 working days of its receipt by NILGOSC, where possible. If further clarification is required to determine what information the applicant is actually seeking, the time period for compliance does not start until NILGOSC has received all the information it requires to process the request.
- 4.6 If a fee is required, the 20 working day period can be extended by up to three months until the fee is paid. If the fee is not paid, the request will be deemed to have lapsed.
- 4.7 NILGOSC will provide the information in the requested format, where possible. Information will be disclosed in a permanent form and particular consideration will be made regarding format requests from anyone with a disability. If the information requested is only provided in English, there is no requirement to provide it in another language.
- 4.7 The procedure for processing FOI requests is set out at Appendix A and the process is summarised at Appendix B.

5 Valid Requests

- 5.1 The applicant does not need to specify that the request is being made under the Act or refer to 'Freedom of Information'. To be valid a request must:
- Be made in writing (this includes e-mail and fax)
 - Be legible
 - State the name of the applicant
 - Include an address for correspondence
 - Describe the information that is being sought
 - Be capable of being used for future reference (ie recorded)

6 Exemptions

- 6.1 There are 23 exemptions under the Act. There are some exemptions where the public interest test applies (qualified exemptions) and others which are absolute exemptions, where the information should not be disclosed, without the need to apply the public interest test. A full list of exemptions is provided at Appendix C.
- 6.2 The 'public interest test' will require NILGOSC to determine whether the public interest in withholding the exempt information outweighs the public interest in releasing it, by considering the circumstances of each particular case and the exemption that covers the information. The balance will lie in favour of disclosure, because information may only be withheld if the public interest in withholding it is greater than the public interest in releasing it, for example where disclosure of institutional information would harm a police investigation.
- 6.3 In all cases where the public interest test needs to be applied, it will be handled in accordance with NILGOSC procedure and in line with guidance issued by the ICO and/or the Department for Constitutional Affairs.

7 Vexatious and Repeated Requests

- 7.1 Where a repeated request is received that is identical or substantially similar to a previous request from the same person, NILGOSC will consider this as a repeated request. Under the Act, NILGOSC is not obliged to comply with repeat requests for information unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request. In determining whether a request can be categorised as a repeat request, NILGOSC will consider:
- The time that has elapsed since the previous request. A 'reasonable interval' will be deemed to be 40 working days;
 - Whether the request is identical or substantially similar to the previous request;
 - Whether any relevant, new information has been generated since the previous request.
- 7.2 NILGOSC is not required to comply with vexatious requests under the Act. In determining whether a request should be refused because it is vexatious, NILGOSC will consider the circumstances of the request, including:
- The context and history of requests submitted by the applicant;
 - Repeat requests submitted by the applicant;
 - Whether the request is likely to cause unjustified distress, disruption or irritation;
 - Whether the request could fairly be seen as obsessive;
 - Whether complying with the request imposes significant burden;
 - Whether an applicant is habitually and persistently submitting requests where there appears to be no reasonable grounds for them to do so;
 - Whether there is a strong likelihood that such requests are being made to intentionally cause harassment, cause distress to staff, divert resources or to disrupt the proper workings of NILGOSC.

- 7.3 Where a request is refused on the grounds that it is deemed to be repeated or vexatious, a written notice from NILGOSC will be issued within 20 working days of receipt of the request. This will include information about NILGOSC's Internal Review Process and details of the rights to appeal to the ICO will also be enclosed.
- 7.4 Where a notice has been previously issued to the applicant that the request is repeated, NILGOSC will not issue a further notice.
- 7.5 Where a notice has been previously issued to the applicant that the request is vexatious, NILGOSC will neither acknowledge or answer subsequent requests that are made on a similar subject.

8 Transferring Requests for Information to another Public Authority

- 8.1 If NILGOSC receives a request for information that it does not hold, but knows is held by another public authority, it will provide as much assistance as possible to the applicant in transferring their request to the authority, which holds the information. This may be by simply directing them to the appropriate public authority.
- 8.2 If NILGOSC holds any of the information that has been requested it will treat that part of the request as an FOI Act request and process it accordingly. At the earliest opportunity NILGOSC will inform the applicant of the information it does not hold and provide reasonable assistance to enable them to locate it elsewhere.
- 8.3 If the applicant indicates to NILGOSC that they do not object to the transfer of the request to the other public authority, NILGOSC may transfer the request to the other authority direct. However NILGOSC will notify the applicant if this is to be done.
- 8.4 All transfer of requests and contact with those who have requested information that is held by another public authority will be undertaken as soon as possible so that there is no undue delay. The time period for compliance with the request in respect of the part of information not held by NILGOSC does not start until the public authority that does hold it receives that request.

9 Consultation with Third Parties

- 9.1 NILGOSC recognises that disclosure of information may affect the legal rights of a third party and this policy is written in accordance with the terms of the Data Protection Act 1998 and the Human Rights Act 1998. NILGOSC further recognises that unless an exemption is provided for in the Act, there will be a requirement to disclose that information in response to a request.
- 9.2 If the consent of a third party is required prior to disclosure of information, NILGOSC will, at the earliest opportunity, seek to consult with that third party with a view to seeking their consent to disclosure, unless such a consultation is not practical. The consultation may assist NILGOSC in determining whether an

exemption under the FOI Act applies to the information requested, or the views of the third party may assist NILGOSC in determining where the public interest lies under section 2 of the Act.

- 9.3 A third party's refusal to consent to disclosure of information does not necessarily mean that information will not be disclosed. If the cost of consultation with the third party is disproportionate, consultation may not be undertaken. NILGOSC will not undertake consultation if it does not intend to disclose the information because of another exemption, or where the views of the third party would have no effect on the decision of NILGOSC because no exemption applies.

10 Environmental Information Regulations 2004 (EIR)

- 10.1 Under the EIR, an applicant can request environmental information from NILGOSC. The definition of environmental information is broad but will include information relating to any decisions, activities and policy formulation that may have an impact on the environment.
- 10.2 A request can be made by anyone, at anytime and from anywhere. NILGOSC is required to respond to such requests within 20 working days. A request under EIR does not have to be in writing but can be submitted orally.
- 10.3 NILGOSC recognises there are important differences between EIR and the Act and will fully comply with the requirements of the EIR. However, in order to ensure consistency, NILGOSC will manage its compliance with EIR in accordance with the same procedures and responsibilities that it uses to comply with its obligations under the Act, as set out in this document.

11 Charges and Fees

- 11.1 Information made available through the NILGOSC Publication Scheme will be free of charge, unless otherwise specified.
- 11.2 Fees Regulations made under the Act require that requests should be processed without any charge unless the costs involved exceeds the appropriate limit, which is £450 for NILGOSC as a Non-Departmental Public Body.
- 11.3 The range of activities that can be taken into consideration when determining the cost is limited. In determining whether a request would exceed the appropriate limit, NILGOSC can only take into account the costs it reasonably expects to incur in:
- Determining whether it holds the information;
 - Locating the information or a document containing it;
 - Retrieving the information or a document containing it; and
 - Extracting the information from a document containing it.
- 11.4 'Extracting' the information means separating out all the information that is relevant to the request from other information that is not in the scope. It does not include the process of redacting any of the requested information that falls

under the exemptions in the Act. (This is a result of the ruling of the high court in the case of the ICO v The Chief Constable of South Yorkshire Police in 2011).

- 11.5 NILGOSC can take into account the costs attributable to the time that persons (both NILGOSC staff and external contractors) are expected to spend on these activities. Such costs are calculated at £25 per hour per person for all authorities regardless of the actual cost or rate of pay, which means that the limit will be exceeded if these activities exceed 18 hours for NILGOSC.
- 11.6 NILGOSC does not have to make a precise calculation of the costs – only an estimate is required. Where a reasonable estimate has been made that the appropriate limit would be exceeded, there is no requirement for NILGOSC to undertake work up to the limit.
- 11.7 Full details of the NILGOSC Charging Schedule and Copyright Policy is available on request from the Information and Compliance Manager at the contact details provided in 12.2 below.
- 11.7 Where a request is refused on the grounds that it is deemed to exceed the appropriate limit, a written notice from NILGOSC will be issued within 20 working days of receipt of the request. This will include information about NILGOSC's Internal Review Process and details of the rights to appeal to the ICO will also be enclosed.

12 Complaints

- 12.1 If an applicant is dissatisfied with any aspect of the response received to a request then a right to review is available to them. An internal review procedure is available to an applicant and a further external appeal can be made to the Information Commissioner.
- 12.2 If an applicant is dissatisfied with how NILGOSC has handled their request for information, in the first instance, they should contact the Information and Compliance Manager to try and resolve the problem. This can be done in writing, by telephone, by email or by personal visit to our office (no appointment necessary). The relevant contact details are as follows:

NILGOSC
 Templeton House
 411 Holywood Road
 Belfast, BT4 2LP.
 Tel: 0845 308 7345
 Fax: 0845 308 7344
 E-mail: info@nilgosc.org.uk

- 12.3 The Information and Compliance Manager will aim to respond to the complaint as soon as possible and no longer than 20 working days from receipt of the complaint. If the complaint is complicated and takes longer to investigate, an explanation will be given to the applicant as to why and when they can expect a response.

- 12.4 If the applicant is not satisfied with the response from the Information and Compliance Manager, they can invoke Stage 1 of the formal complaints procedure. To do so, an applicant must apply, in writing, to the Secretary at the address shown at 12.2 above. The complaint or request for a review must be made within six months of the event or decision giving rise to it. The Secretary will acknowledge receipt of the letter within five working days and will inform the applicant of his decision within two months.
- 12.5 If the applicant remains dissatisfied with the response from the Secretary, they can invoke Stage 2 of the formal complaints procedure by making a further appeal to the Committee in writing to the address shown at 12.2 above. The request must be made within six months of receiving the Secretary's decision. The Committee will then review the case and inform the applicant of its decision within two months of receiving the request.
- 12.6 If an applicant remains dissatisfied with the response from NILGOSC either because of a delay in providing information or a decision not to provide the requested information, he/she can seek an independent review of that decision by the Information Commissioner. Requests for a review by the Information Commissioner should be made in writing to:

The Information Commissioner
 Wycliffe House
 Water Lane
 Wilmslow
 Cheshire, SK9 5AF.
 Tel: 01625 545 700
 Fax: 01625 5524510

13 Links with Other Policies

- 13.1 This policy and procedures has been formulated within the context of the following NILGOSC documents:
- Freedom of Information Publication Scheme
 - Data Protection Policy and Procedures
 - Document Management Policy
 - Charging and Copyright Policy
 - Complaints Procedure
- 13.2 A copy of these documents is available on request from the Information and Compliance Manager at the contact details provided in 12.2 above.

14 Training

- 14.1 NILGOSC will provide appropriate training in freedom of information for all relevant staff and will include awareness training at induction.

15 Monitoring and Review

- 15.1 Compliance with this policy and procedures will be monitored by the Information and Compliance Manager.
- 15.2 This policy and procedures was approved by the Deputy Secretary on 13 October 2011. The policy and procedures will be reviewed at least annually to ensure they remain relevant and up-to-date.

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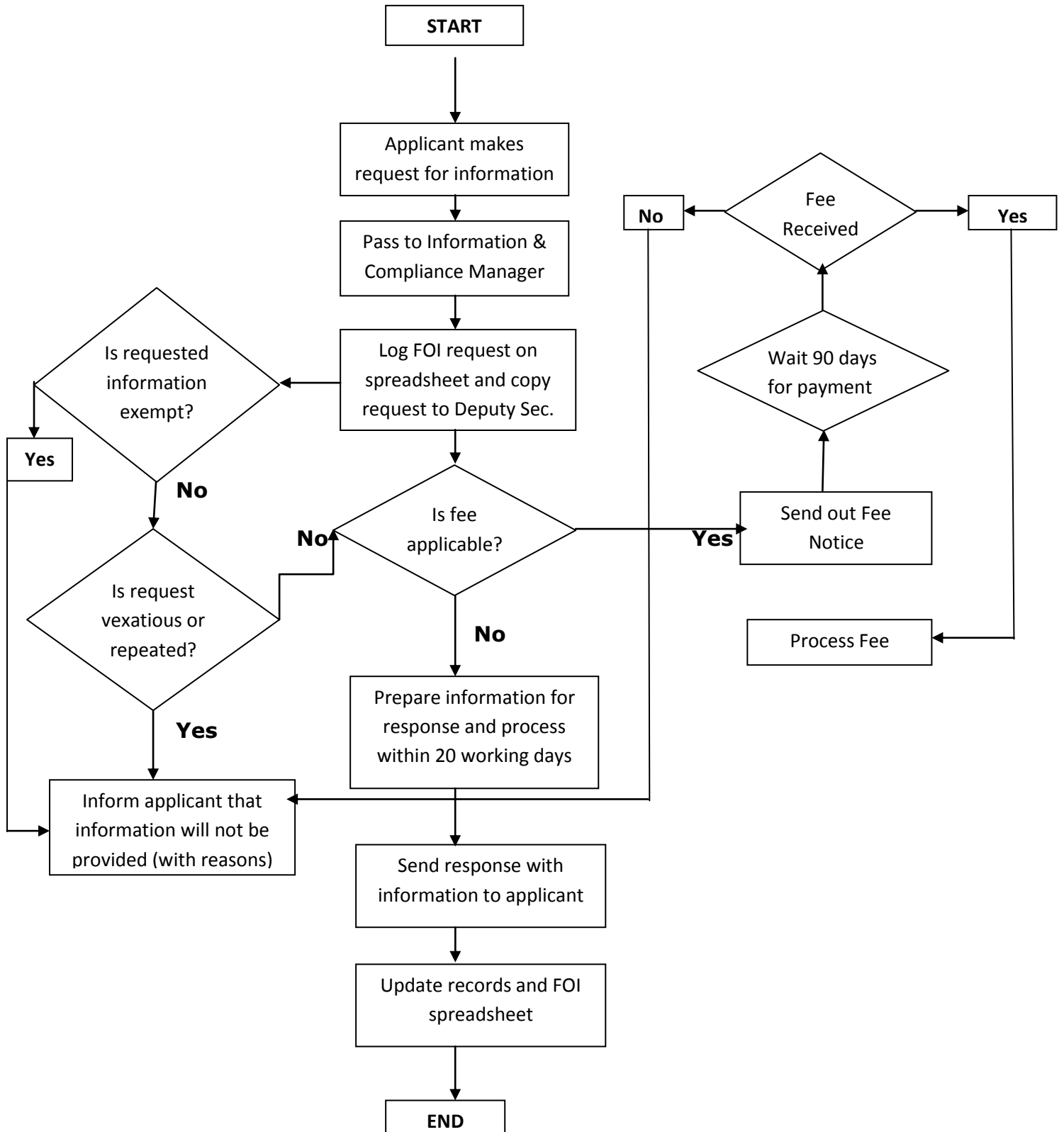
Appendix A

Procedure for Processing FOI Requests

1. FOI request received.
2. Note date received and forward to FOI Officer (Information & Compliance Manager).
3. FOI Officer will check validity of the request. If not a valid request, the applicant will be informed and advised why it is not valid. If the request is valid, the following steps will apply.
4. FOI Officer will allocate a reference number to the request (mmyy/xxxx) and update a tracking form/spreadsheet with relevant details of the request (ref no., contact details, if further information is required, if fees required, dates when such instructions are sent to the applicant, deadline for reply, who and when the request is forwarded to, date reply is sent along with any other relevant notes/comments).
5. FOI Officer will make the Deputy Secretary aware of the request and forward it to the appropriate person to prepare the information requested. A date for the return of the information will be specified.
6. Relevant information returned to FOI Officer.
7. FOI Officer responds to the applicant with information requested.
8. FOI Officer updates the tracking spreadsheet and files copies of the associated correspondence in the FOI Request file. The Committee will also be informed of FOI requests on a monthly basis through the Secretary's Report.
9. If any/all of the information cannot be released the applicant will be provided with the reasons for withholding the information.
10. If a fee is payable before information can be released, the FOI Officer will advise the applicant of this (in writing), will explain why a charge has to be applied and will specify the amount to be paid. When the fee is paid, the request can be processed. If a fee is not received within three months, the request will be deemed invalid.
11. FOI Officer will forward emails during any periods of leave/absence to the Investment and Governance Manager. Any post will also be dealt with by the Investment and Governance manager during such periods.

Appendix B

FOI Process for dealing with written requests for information



Appendix C

Freedom of Information Act 2000 – Exemptions

The Freedom of Information Act 2000 sets out 23 exemptions where the general right of access to information is either not to be allowed or will be qualified. Apart from vexatious or repeated requests, to which NILGOSC need not respond, there are two general categories of exemption: (a) absolute exemptions and (b) qualified exemptions. A summary of these exemptions is set out below.

a) Absolute exemptions

Absolute exemptions are the exemptions for which there is no duty to consider disclosure in the public interest. They are set out in Part II of the Freedom of Information Act 2000.

Section 21: Information accessible to the applicant by other means.

Section 23: Information supplied by, or relating to, bodies dealing with security matters.

Section 32: Court records, etc.

Section 34: Parliamentary privilege.

Section 36: Prejudice to effective conduct of public affairs (information held by the Houses of Lords and Commons only).

Section 40: Personal Information. There is an absolute exemption from the provisions of the Freedom of Information Act 2000 if the applicant making the request for information is the subject of the information requested as they have right of access to that information under the Subject Access right of the Data Protection Act 1998. There is also an exemption from the provision of the FOIA if the information requested concerns a third party and disclosure would breach one of the Data Protection Principles.

Section 41: Information provided in confidence.

Section 44: Prohibitions on disclosure where a disclosure is prohibited by an enactment or would constitute contempt of court.

b) Qualified exemptions

Even though an exemption exists, NILGOSC will have a duty to consider whether disclosure is required in the public interest.

- Section 22:* Information intended for future publication.
- Section 24:* National security (other than information supplied by or relating to named security organisations, where the duty to consider disclosure in the public interest does not arise).
- Section 26:* Defence.
- Section 27:* International relations.
- Section 28:* Relations within the United Kingdom.
- Section 29:* The economy.
- Section 30:* Investigations and proceedings conducted by public authorities.
- Section 31:* Law enforcement.
- Section 33:* Audit functions.
- Section 35:* Formulation of government policy etc.
- Section 36:* Prejudice to effective conduct of public affairs (except information held by the Houses of Lords and Commons).
- Section 37:* Communications with Her Majesty, etc. and honours.
- Section 38:* Health and safety.
- Section 39:* Environmental information.
- Section 40:* Personal information. If NILGOSC believes that disclosure would not breach any of the Data Protection principles, but the individual who is the subject of the information has properly served notice under s.10 of the Data Protection Act that disclosure would cause unwarranted substantial damage or distress, or the individual who is the subject of the information would not have a right to know about it or a right of access to it under the DPA 1998, there will be no absolute exemption, and NILGOSC will be obliged to consider the public interest in deciding whether to release the information.
- Section 42:* Legal professional privilege.