



**NIJAC**

**Freedom of Information  
Publication Scheme**

## 1. Background

1.1 Northern Ireland Judicial Appointments Commission (NIJAC) was established on 15 June 2005 as an independent public body under the Justice (Northern Ireland) Act 2002 as amended. Upon the devolution of justice on the 12 April 2010 the Northern Ireland Act 2009 (the 2009 Act) extended NIJAC's statutory duties.

1.2 NIJAC is an appointing body, selecting and appointing to non-crown judicial offices in various Courts and Tribunals throughout Northern Ireland. NIJAC select and make recommendations for crown appointments up to and including High Court Judge.

1.3 NIJAC selects, recommends and appoints on merit, through fair and open competition and by selecting from the widest possible range of eligible applicants. Its work encompasses the principles of:-

- Merit;
- Independence;
- Diversity;
- Fairness;
- Transparency;
- Accountability;
- Partnership.

1.4 The Justice (Northern Ireland) Act 2002 (as amended) (the Act) sets out the NIJAC's statutory obligations. These are:

- To conduct the appointments process and select and appoint, and recommend for appointment, applicants in respect of all listed judicial offices up to and including High Court Judge as set out in Schedule 1 of the Act;
- To recommend applicants solely on the basis of merit;

- To engage in a programme of action to secure, so far as it is reasonably practicable to do so, that appointments to listed judicial offices are such that those holding such offices are reflective of the community in Northern Ireland;
- To engage in a programme of action to secure, so far as it is reasonably practicable to do so, that a range of persons reflective of the community in Northern Ireland is available for consideration by NIJAC whenever it is required to select a person to be appointed, or recommended for appointment, to a listed judicial office; and
- To publish an Annual Report setting out the activities and accounts for the past year.

## **2. Confidentiality**

- 2.1 Confidentiality is a fundamental principle which is enshrined in legislation regarding the appointment to judicial office. NIJAC considers that information is confidential if it relates to an identified or identifiable individual.
- 2.2 Section 9I of the Justice (Northern Ireland) Act 2002 (as amended), as inserted by section 132 of the Constitutional Reform Act 2005, provides the statutory framework on confidentiality in relation to judicial appointments. It provides -
- “(1) A person who obtains confidential information, or to whom confidential information is provided, under or for the purposes of a relevant provision must not disclose it except with lawful authority.”*
- 2.3 Section 9I(4) provides when and to what extent the disclosure of confidential information can lawfully be made: this can happen (a) when the disclosure is with the consent of each person who is the subject of the information; (b) when the disclosure is for (and is necessary for) the exercise by any person of functions under a relevant provision or a

decision whether to exercise them; (c) when the disclosure is required, under rules of court or a court order, for the purposes of legal proceedings of any description.

2.4 Disclosure outside of these provisions is **unlawful**.

2.5 NIJAC Commissioners and staff are responsible for ensuring that confidential information is not unlawfully disclosed.

### **3. Publication Scheme**

3.1 Under section 19(1) of the Freedom of Information Act 2000 (FoIA) every public authority is required to adopt and maintain a publication scheme setting out the classes of information it holds, the manner in which it intends to publish the information and whether or not a charge will be made for the information.

3.2 The Information Commissioner, responsible for monitoring and enforcing compliance with the FoIA, has drawn up a Model Publication Scheme for all public sector organisations. NIJAC has formally adopted the Information Commissioner's model publication scheme.

3.3 The scheme is organised into seven classes of information which are set out below;

- **Who we are and what we do.**
- **What we spend and how we spend it.**
- **What are our priorities and how are we doing.**
- **How we make decisions.**
- **Our policies and procedures.**
- **Lists and registers.**
- **The services we offer.**

The full publication scheme is available at **Annex 1** of this document.

3.4 Due to the particular scope of NIJAC's activities not all classes of information referred to in the Model Publication Scheme apply.

#### **4. Compliance with the Freedom of Information Act (and the Data Protection Act)**

- 4.1 The FoIA states that anybody may request information from a public authority which has functions in Northern Ireland.
- 4.2 Publication Schemes are intended to ensure that information is made available without the need for a specific request i.e. without the need for specific consideration under the FoIA and to inform the public of the extent of material that is available. Our Scheme defines the types of information we publish (as required under Section 19 of the FoIA and includes details about where you can find that information.
- 4.3 The Scheme should be your first reference point when looking for information (see Annex 1 at pages 13-19). If an item or class of information does not appear on the Scheme, it may still be available under the provisions of the FoIA.
- 4.4 The Act confers two statutory rights on people making FoIA requests:
- To be told in writing whether or not the public authority holds that information; and if so,
  - To have that information communicated to them.
- 4.5 Upon receiving a request for information, NIJAC will indicate to you whether we have the information you seek and if it is available.
- 4.6 If there is a charge, we will notify you at that point. If we do not hold the information, we will try to indicate, for example, which government department may hold it.
- 4.7 While we have adopted the Information Commissioner's Model Publication Scheme please note that certain information, which would be considered to prejudice or would be likely to prejudice the effective

conduct of public affairs, would be exempt under the FoIA Part II section 36 (c) (2). Such information may not be released or may be redacted out of documents provided under the Scheme.

- 4.8 A significant proportion of the information that NIJAC holds is 'personal data'. The Data Protection Act 2018 (DPA) as a general rule states that a person has a right of access to information held relating to him and confirmation that information relating to him is being held; it also recognises that there are valid reasons for withholding information.
- 4.9 The DPA sets out a number of exemptions from disclosure and it is noted that Section 14 (1) to Part 2 of Schedule 2 of the DPA provides an exemption from the General Data Protection Regulations (GDPR) provisions where data is processed for the purposes of " ... *assessing a person's suitability for judicial office*". Section 40 of the FoIA sets out the absolute exemption regarding access to information where the information requested relates to personal data.
- 4.10 In this context 'personal data' has the same meaning as in the DPA, which also includes a range of exemptions (s14 of Part 2 to Schedule 2) from Articles 13-21 and Article 34 of the General Data Protection Regulations (EU 2016/679) on the disclosure of personal data processed for the purpose of assessing a person's suitability for judicial office.
- 4.11 NIJAC regards the following information as "personal data processed for the purpose of assessing a person's suitability for judicial office":
- **Applicants' assessment scripts;**
  - **Applicants' scores at the assessment and selection process;**
  - **Applicants' position on any merit list;**
  - **Any notes made by Selection Committee Members at any stage of the assessment and selection process;**
  - **Recordings (including audio, video or transcripts) of any stage of the assessment and selection process;**

- **Minutes of Selection Committee and other Committee meetings where the assessment and selection of applicants has been mentioned;**
- **Referee Comment Forms and related documentation;**
- **Any documentation used as part of the appointments, renewals and/or swearing in process.**

***(This list is not intended to be exhaustive and the applicability of the relevant legislation to any record not mentioned above will be determined by NIJAC upon receipt of a request)***

4.12 In brief, confidentiality is overarching. The DPA provides for an individual to gain access to their own information however in the context of judicial appointments documentation relating to assessment and selection is exempt from disclosure. The FoIA restricts access by a third party to personal data and also provides qualified exemptions from access to other information.

## **5. Copyright**

- 5.1 NIJAC will retain copyright (and database rights, where applicable) in all the material in this Scheme except where individual material shows otherwise e.g. where it is shown as Crown Copyright.
- 5.2 Unless any material specifically states otherwise (in which case formal permission is required) material in this Scheme, for which NIJAC has copyright or database rights, may be copied and reproduced without formal permission, provided:
- (a) it is copied or reproduced accurately and is not used in a misleading context;
  - (b) where the material is being copied or reproduced for others, the source of the material is identified and the copyright status acknowledged; and
  - (c) the copying or reproduction is not for financial benefit.

- 5.3 This provision does not give a right to use any of NIJAC's trademarks or logos.
- 5.4 Some of the material in this Scheme is subject to Crown copyright. Copyright in certain Crown copyright material may be freely reproduced.
- 5.5 Categories of material for which copyright has been waived include: government press notices, legislation and explanatory notes on the legislation, ministerial speeches, consultation documents, documents featured on official websites (except where expressly indicated otherwise), headline statistics and unpublished public records.
- 5.6 For other types of material, the supply of documents under this Scheme does not give the person or the organisation who received them an automatic right to reuse the documents in a way that would infringe copyright, for example by making multiple copies, publishing and issuing copies to the public.
- 5.7 Some of the material included in this Scheme may be subject to copyright owned by third parties (other than the Crown). Formal permission of the third party owner is needed before such material may be copied or reproduced unless the relevant material expressly states that formal permission is not required.
- 5.8 Brief extracts of any of the material included in this Scheme may be reproduced under the fair dealing provisions of the Copyright, Designs and Patents Act 1988 (sections 29 and 30) for the purposes of research, private study, criticism, review and news reporting.
- 5.9 Applications for formal permission to use NIJAC's copyright material (including databases subject to database rights) must be made to NIJAC at the address shown in the section headed 'Responsibility for the Scheme.'

5.10 Applications for permission to use Crown copyright material can also be made to the appropriate authority. Applications for permission to use other copyright material, where no waiver of copyright is stated, must be made to the copyright owner. If in doubt, users should contact NIJAC in the first instance.

## **6. Requests for Personal Data**

6.1 You have a statutory right of access (certain exemptions apply) to personal data about yourself under the DPA.

6.2 The right of access relates to personal data held on computer or on structured manual files and you are entitled to be informed whether any personal data concerning yourself is being held by the 'data controller' i.e. NIJAC, and, if so

- To be given a description of the data in question
- To be told for what purposes the data are processed
- To be told of the recipients or classes of recipients to whom the data are or may be disclosed.

6.3 Subject to the exemptions outlined earlier in this scheme, you are also entitled to be given confirmation of the information held and a copy of the information with any unintelligible terms explained and to be given any information available to NIJAC as to the source of the data.

6.4 The FoIA extended this right to access to personal data held on any type of file, with effect from 1 January 2005.

6.5 If you wish to apply for access to your personal data, known as 'subject access request', you should write to NIJAC at the address provided.

Finance Director  
Northern Ireland Judicial Appointments Commission  
Headline Building  
10-14 Victoria Street  
Belfast BT1 3GG

- 6.6 A request for access to personal data must be dealt with promptly and, in any event, within 1 month of receipt of the request.
- 6.7 If you consider that a request by you for access to your personal data was not dealt with in accordance with the DPA you may take further action as follows:
- a) You may apply to the court alleging a failure to comply with the subject access provisions of the 2018 Act
  - b) You may write to the Information Commissioner who may make an assessment as to whether it is likely or unlikely that NIJAC has complied with the 2018 Act.

## **7. Responsibility for the Scheme**

- 7.1 NIJAC's Chief Executive has overall responsibility for the Publication Scheme.
- 7.2 However, the person responsible for maintaining the Publication Scheme on a daily basis is:

Director of Governance and Appointments  
Northern Ireland Judicial Appointments Commission  
Headline Building  
10-14 Victoria Street  
Belfast BT1 3GG

7.3 If you wish to obtain a hard copy of any of the publications contained within the Scheme, please write to the Finance Director – at the above address or Email at: [judicialappointments@nijac.gov.uk](mailto:judicialappointments@nijac.gov.uk)

## **8. Comments and Complaints about the Scheme**

8.1 If you have any comments, or complaints, about our Publication Scheme or if you think we have not supplied information in accordance with our Scheme then you should write to NIJAC (at the address/email address above) in the first instance setting out your reasons.

8.2 NIJAC will address your comments or investigate your complaint and communicate a decision to you.

8.3 If, after investigation of your complaint, you remain dissatisfied then you may ask for the matter to be reviewed internally.

8.4 We shall aim to conduct and complete the investigation of your complaint within 28 days. We shall also aim to complete any internal review within 28 days of being notified of your decision to seek an internal review.

8.5 If you are still dissatisfied then you may refer your complaint to the Information Commissioner (see contact details below).

Information Commissioner  
51 Adelaide Street  
Belfast  
BT2 8FE  
Tel: 028 9026 9300  
Fax: 028 9026 9388  
Email: [ni@ico.gsi.gov.uk](mailto:ni@ico.gsi.gov.uk)

## **9. Variation of policy**

- 9.1 This policy, or the arrangements under it, may be varied, amended or adjusted at any time.

## **10. Policy Review**

- 10.1 This policy and procedure will be reviewed regularly in accordance with the guidelines provided by the Office of the Information Commissioner.

## NIJAC Publication Scheme information

In the event that any class of information cannot be found on our website as directed you should write to NIJAC asking for the relevant information.

Class of Information	Description	Available from
<b>Who we are and what we do</b>	Roles and Responsibilities	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'About NIJAC' and in Annual Report & Accounts.
	Organisational Structure	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in our Annual Report & Accounts and in our Corporate Plan.
	Information relating to the legislation relating to the organisations functions	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in our Corporate Plan.
	<b>Lists of and information relating to organisations with which the NDPB works in partnership</b>	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in our Annual Report & Accounts.
	<b>Meetings of Chief Executive or Board Members with Ministers and external organisations on NIJAC business (including meetings with newspaper and other media proprietors, editors and senior executives)</b>	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in our Annual Report & Accounts.
	The location of and contact details for the organisation	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Contact Us'.

Class of Information	Description	Availability
<b>What we spend and how we spend it</b>	Financial statements, budgets and variance reports	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in our Annual Report & Accounts.
	<b>Capital programme</b>	Please write to NIJAC to request this information.
	<b>Spending reviews</b>	Please write to NIJAC to request this information.
	<b>Financial Audit Reports</b>	Please write to NIJAC to request this information.
	Senior Staff and Board Members Allowances and Expenses	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in our Annual Report & Accounts.
	<b>Pay and grading structures</b>	NIJAC follows NICS pay and grading structures. Please write to NIJAC to request this information.
	<b>Procurement procedures</b>	NIJAC follows NICS procurement procedures. Please write to NIJAC to request this information.
	<b>Financial statement for projects and events</b>	Please write to NIJAC to request this information.
	Internal financial regulations	Please write to NIJAC to request this information.

Class of Information	Description	Available from
<p style="text-align: center;"><b>What are our priorities and how are we doing</b></p>	<p><b>Annual Business Plan</b></p>	<p>Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in Business Plan.</p>
	<p><b>Annual Report</b></p>	<p>Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in Annual Report &amp; Accounts.</p>
	<p><b>Internal and external performance reviews</b></p>	<p>Please write to NIJAC to request this information.</p>
	<p><b>Reports to the NI Assembly</b></p>	
	<p><b>Inspection reports where the NDPB is subject to formal inspection</b></p>	
	<p><b>Impact assessments</b></p>	
	<p><b>Privacy impact assessments (in full or summary format)</b></p>	
	<p><b>Service standards</b></p>	
	<p><b>Statistics produced in accordance with the NDPB's requirements</b></p>	
	<p><b>Strategic Plans</b></p>	<p>Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in our Annual Report &amp; Accounts, Business Plan and in our Corporate Plan.</p>
	<p><b>Public service agreements</b></p>	<p>Please write to NIJAC to request this information.</p>

Class of Information	Description	Available from
<b>How we make decisions</b>	<b>Major policy proposals and decisions</b>	Available under minutes of Plenary meetings as set out below.
	<b>Background information relating to major policy proposals and decisions</b>	Please write to NIJAC to request this information.
	Public Consultations	Please write to NIJAC to request this information.
	<b>Minutes of senior level meetings</b>	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in 'Minutes'.
	<b>Reports and papers provided for consideration at senior level meetings</b>	Please write to NIJAC to request this information.
	<b>Internal communications guidance and criteria used for decision making i.e. process systems</b>	

Class of Information	Description	Available from
<b>Policies and procedures</b>	Policies and procedures for the conduct of organisational business	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Quick Links' in 'Policies'.
	<b>Policies and procedures for the provision of services</b>	NIJAC follows NICS policies and procedures. Please write to NIJAC to request this information.
	<b>Policies and procedures for the recruitment and employment of staff</b>	
	Customer service	
	<b>Records management and personal data policies</b>	
	<b>File-plans (high level, for current records management systems)</b>	
	<b>Charging regime policies</b>	

Class of Information	Description	Available from
<b>Lists and Registers</b>	<b>Public registers and registers held as public records</b>	Available for inspection upon request to NIJAC.
	<b>Asset registers and information asset register</b>	
	<b>CCTV</b>	Please write to NIJAC to request this information.
	<b>Disclosure logs</b>	
	Register of Gifts and hospitality provided to Board members and senior personnel.	
	Any register of interests kept in the organisation	
<b>Other lists required by law</b>		

Class of Information	Description	Available from
<b>The services we offer</b>	<b>Regulatory responsibilities</b>	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications' in our Annual Report & Accounts, Business Plan and in our Corporate Plan
	<b>Services for public authorities</b>	
	<b>Services for industry</b>	
	<b>Services for other organisations</b>	
	<b>Services for members of the public</b>	
	<b>Services for which the NDPB is entitled to recover a fee together with those fees</b>	Please write to NIJAC to request this information (if available)
	Leaflets, booklets and newsletters	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Publications'
	<b>Advice and guidance</b>	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'Useful Resources' in 'Applicant Guidance'.
	<b>Media releases</b>	Available at <a href="http://www.nijac.gov.uk">www.nijac.gov.uk</a> under 'News'.