

## Freedom of Information – NERC Policy on Peer Review

The purpose of this document is to set out what information the NERC will and will not release concerning the peer review process.

The Government has implemented a new and wide-ranging information access regime within which the Research Councils operate. The Freedom of Information Act 2000 creates a statutory right for individuals to request information held by public authorities and aims to embed a culture of openness within the public sector. As a listed public authority, NERC fully supports the aims of the Act and NERC aims to be as open as possible in informing others how it conducts its business.

The main component of NERC's mission is to gather and apply knowledge, create understanding and predict the behaviour of the natural environment and its resources, and communicate all aspects of its work.

Peer review in this context is the process by which research proposals submitted to NERC are reviewed for funding. It involves sending the proposals to other researchers working in the same or related fields and using their comments to assess the quality and relevance of the application as a basis for deciding whether NERC should fund it. More details are available on the NERC website at: [www.nerc.ac.uk/funding](http://www.nerc.ac.uk/funding)

Peer review has been used for this purpose by research funders for as long as they have been in existence. Peer review itself was reviewed in 1990 by an Advisory Group reporting to the then Advisory Board for the Research Councils<sup>1</sup>. The Group concluded, *inter alia*:

“While any system of human decision-making is liable to fallibility, peer review is the only practicable method of assessment in the field of basic research - in part because it has the overwhelming support of the academic community. However, the imperfections of peer review should be recognised, as should the consequent obligation to work hard continually on peer review practices to make these as effective as possible”.

The Freedom of Information Act 2000, which came fully into force on 1 January 2005, gives the public a legal right to obtain information held by public authorities and universities, including the NERC. The Act sets out exemptions to that right and places a number of obligations on public authorities. **All requests for information are considered on a case-by-case basis.** The release (or withholding) of information is subject to a public interest test in most cases. Peer review needs to protect intellectual property rights (IPR), personal information, and confidential information, including that involved in the free and frank exchange of ideas in the decision making process. Peer review is thus a two-sided process – both sides have interest in confidentiality: those submitting and those reviewing/making decisions. Overall, NERC believes that the confidentiality of aspects of the peer review process is in the best interests of good science, and hence also of the public generally.

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<sup>1</sup> Peer Review. A Report to the Advisory Board for the Research Councils from the Working Group on Peer Review. ABRC, 1990.

The NERC must therefore ensure that there is no inappropriate release, and must not damage the system which, by and large, works well. Once released, information cannot be retrieved. Specifically, damage to the peer review process may be caused by:

- Release of confidential and personal information. (Loss of IPR/subsequent challenge under the Data Protection Act).
- Loss of confidence of reviewers (including those outside the UK).
- Reviewers and Board members being unwilling to provide free and frank comment.
- An overly defensive approach leading to inadequate record-keeping

In consultation with the other UK Research Councils, the NERC has reviewed its policy concerning the release of information at various stages of the peer review process and has decided on the following framework for disclosure. The framework is applicable to the processing of all types of applications for funding, including research, fellowship and training.

**TERMS:**

**'Applicant'** – Covers all applicants including Principal Investigators (PI) and Co Investigators (Co I), as named on the application.

**'Grade'** - a final assessment of the 'fundability' of an application aggregating and reflecting the various inputs i.e. referees' comments (and grades), Board members' comments and discussions. It does not cover the individual grades (where used) in individual assessments.

**'IPR'** – Intellectual Property Rights.

**'Personal information'** – the right to information under the FOI Act does not generally override an individual's right to protection of their personal information under the Data Protection Act. Although grant applications are technically submitted by an Institution rather than an individual, much of the information contained in them and received in relation to them is likely to constitute personal information. Personal information should not normally be released without the prior consent of the person to whom it belongs.

**'Process forms'** - forms or proformas used to deliver the process e.g. the reviewers' form, final report form, panel members' form.

**'Routinely disclosed'** - information released, either pro-actively or on request, to applicants or the public. The NERC may choose to disclose further information within legislation.

**'Routinely withheld'** - information that is not normally released other than as required within the peer review process, unless there is an overriding public interest.

**Text in square brackets [ ]** refers to Personal information – released only to a named individual requesting information about themselves.

Stage in process	Routinely Disclosed <i>(Mostly on the NERC website: www.nerc.ac.uk)</i>	Routinely Withheld
<b>0. Overall process</b>	Policy and guidance on the overall process. Specific policy and guidance on each stage of the process. Application/submission guidance. Application forms. Process forms. Statistics on success rates, appropriately aggregated. Records management policies.	
<b>1. Set-up of Boards/ Committees College</b>	Names of members. Selection process. Register of interests of high-level decision-making bodies.	Identity of nominators. Non-selected nominees or applicants.
<b>2. Proposal submission/ Application receipt</b> <i>(all papers including application form, proposal and supporting documentation)</i>	[Application, excluding content supplied in confidence by third parties, e.g. references] <i>N.B. may also be released to those formally authorised in application i.e. referees/HEIs/other Research Councils in some circumstances.</i>	Any information not explicitly listed as “Routinely disclosed”.
<b>3. Proposal, application distribution for review</b>	Process for reviewer selection.	Identity of proposed reviewer(s). Identity of selected reviewer(s) Proposal/Application.
<b>4. Receipt of reviewers’ comments and grading</b>  <i>This does not include comments by Board/committee members</i>	[Anonymised comments] <i>where not excluded from the process because of poor quality/slander etc.</i>	Identity of reviewers. Responses - i.e. notification from reviewers unable to provide comments because of lack of time or proposal is outside their area of expertise. Release of attributed reviewers’ comments and individual reviewer’s grades.
<b>5. Distribution of reviewer comments to applicants</b>	Statistics on overall turnaround times for process i.e. from receipt of application to final decision as a minimum.	
<b>6. Applicant’s response to reviewers’ comments</b>		Applicant’s response.

<i>Release only to Board/committee members in next stage of process</i>		
<b>7. Decision-making - quality of research</b>  <i>This covers comments by Board/committee members, including visiting Subcommittees</i>	[Agreed meeting record for applicant's proposal].	Meeting papers. Full meeting minutes. Draft ranking list. Identity of those making specific comments. Panel members' individual contributions to decision including attribution of votes. Draft meeting notes.
<b>8. Decision making – funding</b>  <i>This is a separate process, although in some cases the same Board or committee as for decision making on quality.</i>	Funding algorithm (where used).	Final ranking list with funding cut-off.
<b>9. Feedback to applicant</b>	[Grades]. [Decision summary]. [Anonymised comments] <i>where these formally exist.</i>	Identity of individual participants as above.  Release of individual reviewer's grades and attributed comments.
<b>10. Decision information into public domain</b>	Outcome statistics on success rates.  Key details of successful grants. Normally this will include: investigator name(s), institution, title, abstract, summary, amount, dates, but sensitive content may be withheld/edited to protect Health & Safety, IPR, etc  Statistics of unfunded applications by broad subject group.	Details of unfunded grants - except by broad subject area only.
<b>11. Conflicts of interest</b> (see also Section 1 for register of interests)	[Agreed record of conduct of meeting – i.e. where member left the room].	
<b>12. Information held on file.</b>	Peer Review records management policies including disposal	To follow principles as above.

<i>(To include end of project reports and reviews)</i>	schedules for paper and/or electronic records where used. At present NERC retain paper files for unsuccessful applications for 3 years. For grants awarded, we retain the file for 10 years after the end date of the award. <i>(NERC is currently reviewing, its records management policy and will publish this in due course).</i>	
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**Any requests for information contained in the right-hand column above will be considered on their own merits on a case-by-case basis.** However, such requests are likely to be declined by reference to the exemptions contained within the Freedom of Information Act. Those likely to be most relevant are:

<b>Relevant exemptions under the FoI Act include:</b>
<u>Section 12</u> , the Council reserves the right to refuse a request where the cost of researching, extracting or copying the information is disproportionately high ( <i>i.e.</i> >£450 or more than 2.5 days work)
<u>Section 14</u> : Repeated requests for information or vexatious requests ( <i>“Vexatious” is undefined in the Act</i> )
<u>Section 21</u> : Where information is reasonably accessible to the applicant by other means
<u>Section 22</u> : Information intended for future publication - where release would result in the premature publication of research
<u>Section 23</u> : Information supplied by, or related to, bodies dealing with security matters
<u>Section 27</u> : International relations – where disclosure would, or would be likely to, prejudice relations between the UK and any other state or international organisation, or international court, interests of UK abroad etc.
<u>Section 36(2)b</u> : Prejudice to effective conduct of public affairs - where disclosure would, or would be likely to, inhibit the free and frank provision of advice, or the free and frank exchange of views for purposes of deliberation, or would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs
<u>Section 38</u> : Health and Safety - where release might result in the compromising of physical or mental health, or personal security ( <i>includes information involving sensitive areas of research</i> )
<u>Section 40</u> : Personal information - which is covered by the Data Protection Act 1998, involving the disclosure of personal information
<u>Section 41</u> : Information provided in confidence - by a third party
<u>Section 43</u> : Commercial interests - where release might result in breach of commercial confidentiality

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