

Freedom of Information Act **Sections 15 & 16 Reference Book**

**A guide to the functions, records, rules
and practices of the National Council for
Special Education.**

Preface

Background

This National Council for Special Education's FOI Sections 15 and 16 Reference Book – A Guide to the functions, records, rules and practices of the National Council for Special Education, May 2006- is compiled in accordance with the Freedom of Information Acts 1997, as amended by the Freedom of Information Act 2003. All references in this manual to the Freedom of Information Act or Acts refer to the 1997 Act as amended by the 2003 Act.

The Freedom of Information (FOI) Acts, effective from 21st April 1998, establish three new statutory rights:

- a legal right for each person to access information held by public bodies;
- a legal right for each person to have official information relating to him/herself amended where it is incomplete, incorrect or misleading; and
- a legal right to obtain reasons for decisions affecting oneself.

The Acts assert the right of members of the public to obtain access to official information to the greatest extent possible consistent with the public interest and the right to privacy of individuals.

Purpose of Reference Book

This reference book has been prepared and published in accordance with the requirements of Sections 15 and 16 of the FOI Acts.

In accordance with **Section 15** of the Act, the purpose of this reference book is to facilitate access to official information held by National Council for Special Education (NCSE), by outlining the structure and functions of this organisation, details of the services we provide and how they may be availed of, information on the classes of records we hold, and information on how to make a request to the NCSE under the Freedom of Information Acts, 1997 and 2003.

Section 16 of the FOI Act requires us to publish a book containing:

- the rules, procedures, practices, guidelines and interpretations used by the body, and an index of any precedents kept, for the purposes of decisions under any enactment or scheme administered by us 'with respect to rights, privileges, benefits, obligations, penalties or other sanctions to which members of the public are or may be entitled or subject under the enactment or scheme' together with
- 'appropriate information in relation to the manner or intended manner of administration of any such enactment or scheme.'

How to use this Reference Book

This book is divided into a number of parts.

Part 1 of the Book - **Access to Information** - explains how to access information from us under FOI and any fees that may arise.

Part 2 of the Book - the "**Our Role and Structure**" - outlines the role of the National Council for Special Education and its organisational structure. This part

gives a breakdown of our internal structure and organisation. Information is provided under the following headings:

- **Role** – outlines the main work we do.
- **Structure** – gives details of our personnel structure.
- **Work we do** – provides a synopsis of our main activities.
- **Records held** – details of records we hold.
- **Contact points**– how to contact us for assistance.
- **Rules and Practices** – this information is provided in accordance with Section 16 of the FOI Act as amended. Where we provide any scheme impacting on the public within the meaning of Section 16 of the Act, as outlined under the heading Purpose of Reference Book earlier in this document, then the rules and practices that we use in delivery of this scheme are outlined or referenced under the Rules and Practices heading.

Appendices

- **Appendix 1 –FOI application form** to request access to records under the Act from the National Council for Special Education.

Availability of this Book

Copies of this publication are available on our web site www.ncse.ie . An electronic or printed copy will be made available free on request to the National Council for Special Education, Mill Street, Trim, Co. Meath (046 948 6400).

Part 1 - Access to Information

How to get information

Routinely Available Information

Information dealing with the Organisation is available on our website www.ncse.ie or through contact with your local Special Educational Needs Organiser

Applications under the FOI Act

Under the FOI Act, anyone is entitled to apply for access to information not otherwise publicly available. Each person has a right to:

- Access to records held by us not covered by one of the exemptions in the Act.
- Correction of personal information relating to oneself held by us where it is inaccurate, incomplete or misleading.
- Access to reasons for decisions made by us directly affecting oneself.

The following records come within the scope of the Act:

- All records relating to personal information held by us irrespective of when created.
- All other records created from commencement date of the Act i.e. 21st April 1998.
- Any other records necessary to the understanding of a current record.
- Personnel records of serving staff created from 21st April 1995 and those created prior to that date where they are being used or proposed to be used in a way which adversely affects or may affect the person involved.

We will normally be obliged to respond to a request within 4 weeks. A week is defined in the Act to mean 5 consecutive weekdays, excluding Saturdays and public holidays (Sundays are also excluded, as they are not week days).

Applications under the FOI Act should be addressed to:

Mr Cyril O'Neill, Assistant Principal, The National Council for Special Education, 1-2 Mill Street, Trim, Co. Meath.

Compiling your application

- (i) Your application should be in writing and, if applicable, accompanied by the appropriate fee (see "fees" below). The relevant fee should be paid by Bank Draft, Money Order, Postal Order or cheque drawn on a bank in the Republic of Ireland, made payable to the National Council for Special Education.

You may use the form entitled 'Request for Access to Records under the Freedom of Information Acts' which is available on www.foi.gov.ie.

If you are not using the form outlined above, then your application should indicate that the information is sought under the Freedom of Information Act.

- (ii) If you require a reply in a particular format i.e. photocopy, computer disk, etc. please mention this in your application.
- (iii) Please be as detailed and as specific as possible when compiling your application as this will assist us in dealing with it. It can also result in lesser charges being incurred on search and retrieval in cases where these fall to be paid. Where possible please try to indicate the time period for which you wish to access records e.g. records created between May 2003 and December 2003. If you have any difficulty in preparing your application our staff will be happy to assist you in this regard.
- (iv) You may be required to prove your identity, especially when seeking personal information, so you may, therefore, be asked to produce your Birth Certificate, Driving Licence, Passport or other form of identity.
- (v) Please include a daytime telephone number, if possible, so that you may be contacted quickly if it is necessary to clarify details of your request.

We are happy to provide assistance to members of the public who seek advice on making a request.

Assistance to persons with a disability

We are available to provide assistance to persons with a disability to exercise their rights under the FOI Act (e.g. accepting oral requests from requesters who are unable to read, print and/or write due to their disability, enabling the requester to inspect or have records explained to him or her).

FOI Decision Making in the National Council for Special Education

The Decision Maker will normally be the Higher Executive Officer in the Unit responsible for the subject matter. In the event of an appeal on foot of the reply to the original application, the internal reviewer will be of higher grade than that of the original decision maker.

We acknowledge receipt of FOI applications not later than 2 weeks following their receipt and forward them to the FOI Decision Maker for decision. The Decision Maker proceeds to deal with the request, liaise with the requester as appropriate and make a decision on the matter.

Rights of Review and Appeal

The Act sets out a series of exemptions to protect sensitive information where its disclosure may damage key interests of the State or of third parties. Where a Public Body invokes these provisions to withhold information, the decision may be appealed. Decisions in relation to deferral of access, charges, forms of access, etc. may also be the subject of appeal. Details of the appeals mechanisms are as follows:

Internal Review

You may seek internal review of the initial decision which will be carried out by an official at a higher level if:

- (a) you are dissatisfied with the initial response received i.e. refusal of information, form of access, charges, etc., or
- (b) you have not received a reply within 4 weeks of your initial application. This is deemed to be a refusal of your request and allows you to proceed to internal review.

Requests for internal review should be submitted in writing and, if applicable, accompanied by the appropriate fee, (see under Fees) to:

Mr C. O'Neill, Assistant Principal, Corporate Affairs, National Council for Special Education, Mill Street, Trim, Co. Meath.

The relevant fee should be paid by Bank Draft, Money Order, Postal Order or cheque drawn on a bank in the Republic of Ireland, made payable to the National Council for Special Education.

Such a request for internal review must be submitted within 4 weeks of the initial decision. We must complete the review within 3 weeks. Internal review must normally be completed before an appeal may be made to the Office of the Information Commissioner.

Review by the Information Commissioner

Following completion of internal review, you may seek independent review of the decision from the Information Commissioner. Also if you have not received a reply to your application for internal review within 3 weeks, this is deemed to be a refusal and you may appeal the matter to the Information Commissioner.

Appeals in writing, and, if applicable, accompanied by the appropriate fee, (see under Fees below) may be made directly to the Information Commissioner at the following address:

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

**Telephone: 01-6395689
Fax: 01-6395676
E-mail: info@oic.ie
Website: <http://www.oic.ie>**

Application fees

A standard application fee of **€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 **€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).

Internal review fees

A standard application fee of **€75** must accompany an application for internal review under section 14 of the Act.

A reduced fee of **€25** applies if the person bringing the application is a medical card holder or a dependant of a medical card holder.

The following internal review applications are exempt:

- (a) An application in relation to a decision concerning records containing only personal information related to the applicant.
- (b) An application in relation a decision under section 17 (right of amendment of records relating to personal information).
- (c) An application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person).
- (d) An application in relation to a decision to charge a fee or deposit, or a fee or deposit of a particular amount.
- (e) An appeal of a decision which is deemed to be refused because the original request was not replied to within the required time limits.

Review by Information Commissioner

A standard application fee of **€150** must accompany applications to the Information Commissioner for review of decisions made by public bodies under section 34 of the Act.

A reduced fee of **€50** applies if

- (a) the person bringing the application is a medical card holder or a dependant of a medical card holder or
- (b) the person is specified in section 29(2) i.e. a third party with the right to apply directly to the Information Commissioner where a public body decides to release their information on public interest grounds.

The following applications to the Information Commissioner do not require an application fee:

- (a) An application concerning records containing only personal information related to the applicant.
- (b) An application in relation a decision under section 17 (right of amendment of records relating to personal information).

- (c) An application in relation to a decision under section 18 (right of person to information regarding acts of public bodies affecting the person).
- (d) An application in relation to a decision to charge a fee or deposit exceeding €25.00 under section 47 in respect of search and retrieval and photocopying of records (decisions in relation to the charging of fees or deposits for search and retrieval and/or photocopying of less than €25 are not subject to review by the Information Commissioner).
- (d) An application in relation to a decision to charge a fee under section 47(6A), or a fee of a particular amount under section 47(6A), on the grounds that the records concerned do not contain only personal information related to the requester or the requester is not a medical card holder or a dependant of a medical card holder.
- (e) An appeal of an internal review decision which is deemed to be refused because that decision was not made within the required time limits.

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 will 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 €20.95. No charges shall apply in respect of the time spent by public bodies in considering requests.

A deposit may be payable where the total fee is likely to exceed €50.79. In these circumstances, we will, if requested, assist the member of the public to amend the request so as to reduce or eliminate the amount of the deposit.

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.

Section 47 of the FOI Act sets out the rules for applying search and retrieval fees. Fees are currently set as follows in accordance with Statutory Instruments Nos. 264 of 2003, 139 of 1998 and 13 of 1997:

- €20.95 per hour - search and retrieval
- €0.04 per sheet for a photocopy
- €0.51 for a 3½ inch computer diskette
- €0.16 for a CD-ROM
- €6.35 for a Radiograph (X-Ray)

Part 2 – Our Role and Structure

Our Mission Statement

The National Council for Special Education was set up under the Education for Persons with Special Educational Needs Act, 2004 and was statutorily established on the 1st October 2005. The Council was set up to improve the delivery of education services to persons with special educational needs arising from disabilities with particular emphasis on children. Special educational needs are defined in the Act as :

“a restriction in the capacity of the person to participate in and benefit from education on account of an enduring physical, sensory, mental health or learning disability or any other condition which results in a person learning differently from a person without that condition”.

Our Policy on Confidentiality

We undertake to treat as confidential any information provided to it in confidence by individuals or others, subject to our obligations under law, including the Freedom of Information Act. If, for any reason, you wish that information provided to us should not be disclosed because of its sensitive nature, then you must, when supplying the information, make clear this wish and specify the reasons for the information’s sensitivity. We will consult with you before making a decision on any Freedom of Information request received involving sensitive information which you may have supplied.

Detailed Information on our Structure and Organisation

The National Council for Special Education was set up to improve the delivery of education services to persons with special educational needs arising from disabilities with particular emphasis on children.

The National Council for Special Education was first established as an independent statutory body by order of the Minister for Education and Science in December 2003.

With effect from 1 October 2005 it has been formally established under the Education for Persons with Special Educational Needs Act 2004 (EPSEN Act). That Act sets out both the general functions of the Council and its specific function in relation to the provisions of the Act.

The general functions of the Council as set out in Section 20 of the EPSEN Act may be summarised as follows.

- Planning and co-ordinating provision of education and support services to children with special educational needs.
- Disseminating information on best practice concerning the education of children with special educational needs.
- Providing information to parents in relation to the entitlements of children with special educational needs.
- Assessing and reviewing resources required by children with special educational needs.
- Ensuring that progress of students with special educational needs is monitored and reviewed.
- Reviewing education provision for adults with disabilities.
- Advising educational institutions on best practice.
- Consulting with voluntary bodies.
- Advising the Minister for Education and Science on matters relating to special education.
- Conducting research and publishing findings.

In addition the Council has specific functions in relation to the core provisions of the Act such as assessment and individual education plans.

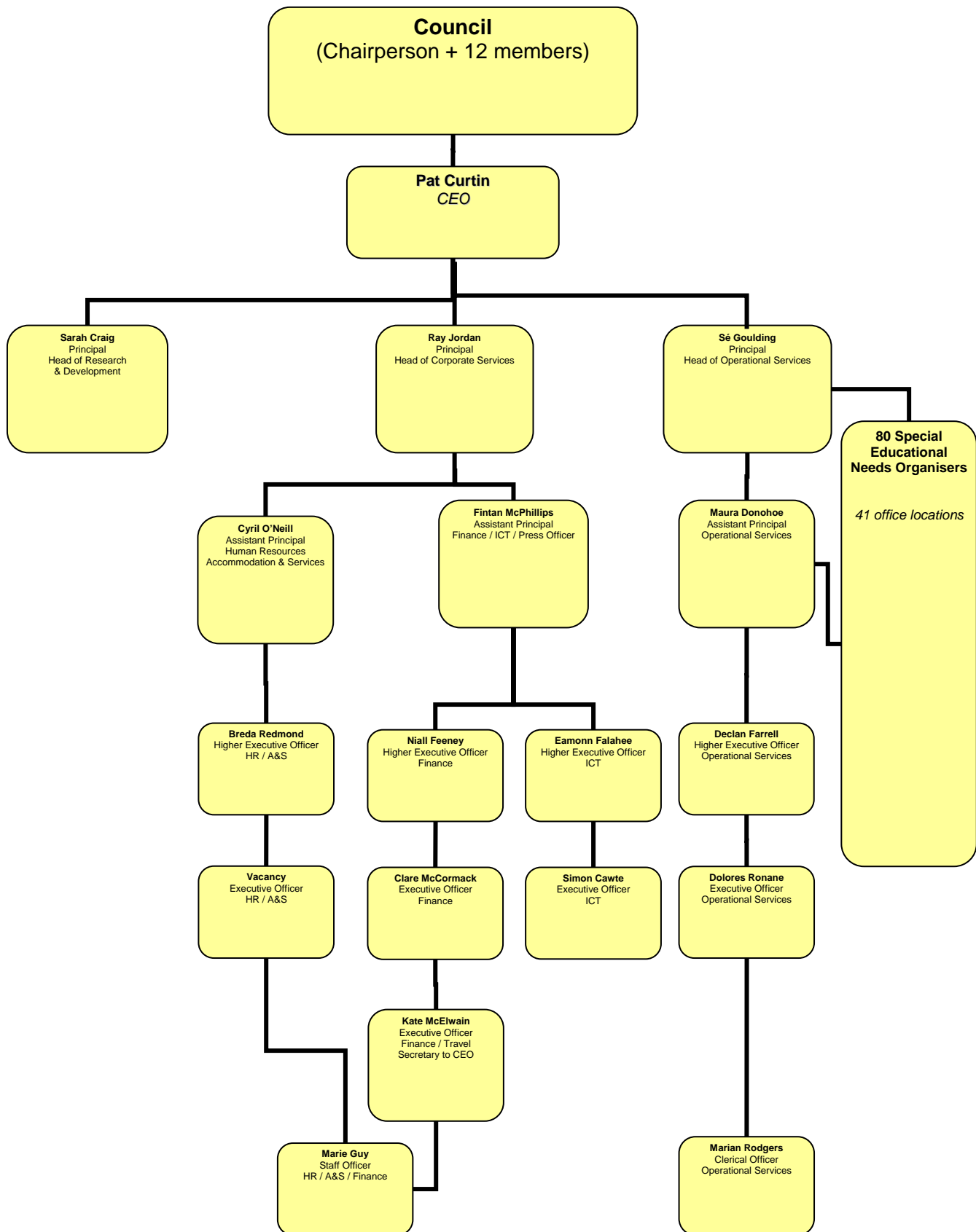
In carrying out its functions under the Act the Council is required to consult directly with stakeholders as necessary and to establish a formal national Consultative Forum representative of all the stakeholders.

The National Council for Special Education is required under the Education for Persons with Special Educational Needs Act, 2004 to prepare a report to the Minister for Education and Science by October 2006 to outline the steps that must be taken in order that the provisions of the Act will be fully implemented within the period of not more than 5 years).

Under the Disability Act, 2005, the NCSE has also been give responsibility for adults with disabilities mainly in relation to assessment

- To assist the HSE in the assessment of adults with disabilities and the preparation of service statements
- To consult with the HSE, education service providers and such other persons as the Council considers appropriate, for the purposes of the provision of education services to persons with disabilities
- In consultation with the Minister for Education and Science and the HSE, to plan and co-ordinate the provision of education services to adults with disabilities
- To assess and review the resources required in relation to educational provision for adults with disabilities.

Structure



WORK WE CURRENTLY DO

The Council discharges all usual corporate functions of a stand alone statutory body including financial management, budgeting, procurement, accounting, human resource management and development, provision and maintenance of accommodation, services, IT systems, Industrial relations, compliance with statutory requirements, corporate governance.

At operational level, the Council allocates additional teaching and other resources available to support the special educational needs of children with disabilities. It took over this function from the Department of Education and Science in January 2005. Special Educational Needs Organisers (SENOs) are now dealing with applications for additional teaching and Special Needs Assistant support for children with special educational needs from all schools. They are currently issuing decisions and explaining the reasoning behind these to schools directly.

SENOs deal with the following resource allocation functions:

- Processing applications from all schools for resource teacher support in respect of children with low-incidence disabilities such as moderate general learning disabilities, visual or hearing impairments, physical disabilities or autism, and deciding on the level of support appropriate to the school
- Processing applications from second-level schools for resource teacher support in respect of children with high-incidence disabilities such as mild general learning disability and deciding on the level of support appropriate to the school
- Processing applications from schools and deciding on the appropriate level of special needs assistant support for children with disabilities
- Examining applications from all schools for special equipment/assistive technology
- Examining applications from schools for transport arrangements for children with disabilities and making recommendations to the Department of Education & Science
- Identifying the appropriate educational setting for individual children with special educational needs

In addition the Council has specific functions in relation to the core provisions of the Act such as assessment and individual education plans.

Classes of records held

Decisions regarding the allocation of resources to individual students maintained in the regional office locations. Other records classes are held are procurement, service contracts, financial management, IT management personnel , payroll, payments, policy.

Contact points

Head Quarters Address: National Council for Special Education
1-2 Mill Street
Trim
County Meath

Public office hours: Monday to Friday, 9.45 am – 12.45 pm and 2.00 pm – 5.00 pm

Telephone: 046 9486400

Fax: 046 9486404

E-mail: info@ncse.ie

Website www.ncse.ie

Contact details for our 80 Special Educational Needs Organisers based in 40 local offices are available on our web site www.ncse.ie from your local school or from NCSE headquarters.

Rules and practices

Post Primary

[Guidelines Second Level 22 03 06](#) (Microsoft Word format)

Information and Guidelines for Second Level Schools in Processing Applications for Resources for Pupils with Special Educational Needs

[10.3.06 Appendix 1 - NCSE SN1 06 07 Post Primary](#) (Microsoft Word format)

1st TIME APPLICATION ONLY – Please use form NCSE SN2 06/07 for pupils for whom resources were accessed in 2005/06

[Appendix 2 - NCSE SN2 06 07 Post Primary](#) (Microsoft Word format)

Continuation of approved resources for pupils with special needs

[Appendix 3 - NCSE SN3 06 07](#) (Microsoft Word format)

2006/07 – Profile Special Class/Group - Applications should be submitted by the Principal and C.E.O. of VEC if applicable to the area Special Educational Needs Organiser

[Appendix 4 - Use of Prof Reports](#) (Microsoft Word format)

Use of professional reports in support of applications for pupils with Borderline Mild GLD and Specific Learning Disability

[Appendix 5 - NCSE Disability Codes Post Primary](#) (Microsoft Word format)

Primary / Post Primary - Schedule of Disability Codes

[Appendix 6 - NCSE SN4 Supplementary Post Primary](#) (Microsoft Word format)

Supplementary Mainstream Post Primary - Year 2005/06 - 2006/07 – To be submitted by School Principal and CEO of VEC if applicable.

[Appendix 7 NCSE Appl Asst Tech](#) (Microsoft Word format)

Primary / Post Primary - Application to NCSE for Assistive Technology

[Appendix 8 NCSE APPL Transport](#) (Microsoft Word format)

Primary / Post Primary - Application to NCSE for School Transport

Primary

[Final Primary Guidelines 23.3.06](#) (Microsoft Word format)

Information and Guidelines for Primary Schools and Special Schools in Processing Applications for Resources for Pupils with Special Educational Needs

[Appendix 1 - NCSE Appl LIH SNA](#) (Microsoft Word format)

Primary - Application to NCSE for Access to Low Incidence Hours and SNA Support

[Appendix 1 NCSE DC1.06](#) (Microsoft Word format)

High Incidence

**(Pupils who have a Specific Learning Disability, Mild General Learning Disability and or Borderline Mild General Learning Disability) to be completed by the school principal.*

[Appendix 2 - NCSE APPL Transport BACK 2 BACK](#) (Microsoft Word format)

Primary / Post Primary - Application to NCSE for School Transport

[Appendix 2 NCSE DC2.06](#) (Microsoft Word format)

Year: 2006/7 Low Incidence as per Circular Sp Ed 01/05

[Appendix 3 - NCSE Appl Asst Tech BACK 2 BACK](#) (Microsoft Word format)

Primary / Post Primary - Application to NCSE for Assistive Technology

[Appendix 3 NCSE DC3.06](#) (Microsoft Word format)

Special Schools/Classes – To be completed by the school principal

[Appendix 4 NCSE App1 4](#) (Microsoft Word format)

Pupils in receipt of resources currently enrolled who will not be in the school in September 2006 – to be completed by the school principal.

[Appendix 5 - NCSE App 5](#) (Microsoft Word format)

List pupils previously in receipt of resources and who have left the school since the previous Application Submitted – To be completed by the school principal.

[Appendix 6 Disability Codes](#) (Microsoft Word format)

Schedule of Disability Codes

[Covering letter for Primary 23 3 2006](#) (Microsoft Word format)

Cover letter to Principals regarding the applications process which will apply in relation to the 2006/07 academic year for pupils with special educational needs (SEN) and a data collection exercise.

[Final Information Data Circular - rev 23.03.2006](#) (Microsoft Word format)

Circular letter to Boards of Management, Principal Teachers and All Teaching Staff of Primary Schools regarding collection of data for pupils with special educational needs.

[NCSE Appl TP SNA](#) (Microsoft Word format)

SPECIAL SCHOOL/CLASSES - Application to NCSE for Access to Teaching Posts and SNA Support

[Appendix 1 - NCSE Appl LIH SNA prim](#) (Microsoft Word format)

PRIMARY - Application to NCSE for Access to Low Incidence Hours and SNA Support

[Appendix 2 - NCSE APPL Transport BACK 2 BACK](#) (Microsoft Word format)

Primary / Post Primary - Application to NCSE for School Transport

[Appendix 2 - NCSE APPL Transport BACK 2 BACK Sp.Sc](#) (Microsoft Word format)

SPECIAL SCHOOL/SPECIAL CLASS - Application to NCSE for School Transport

[NCSE Appl Asst Tech](#) (Microsoft Word format)

Primary / Post Primary - Application to NCSE for Assistive Technology

[NCSE Appl Asst Tech special](#) (Microsoft Word format)

SPECIAL SCHOOL/CLASS - Application to NCSE for Assistive Technology