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Health Education and
Improvement Wales (HEIW)

FREEDOM OF INFORMATION OPERATIONAL PROCEDURES FOR THE PROCESSING OF INFORMATION REQUESTS

Document Author: Board Secretary

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1.0 INTRODUCTION

1.1.0 Freedom of Information Act 2000 (FOIA)

1.1.1 This Operational Procedure puts into practical effect the requirements under the Freedom of Information Act 2000 (FOIA) for HEIW and should be read in conjunction with it.

1.2.0 Department of Constitutional Affairs Code of Practice

1.2.1 This document is based upon the Code of Practice issued by the Department of Constitutional Affairs pursuant to section 45(5) of the Act¹. It is designed to support implementation of the Act and ensure compliance with Code of Practice.

1.2.2 Failure to comply with the Code of Practice may result in the making of a best practice recommendation by the Information Commissioner who has a duty under Section 47 of the Act to promote the observance of the Code by public authorities. Evidence of compliance with the Code by HEIW will be regarded as evidence of good practice.

1.3.0 Duty to Provide Advice and Assistance

1.3.1 Section 16 of the Act places a duty on public authorities to provide advice and assistance to applicants. The procedures in this manual will facilitate compliance with this duty which, again, is enforceable by the Information Commissioner. In the discharge of this duty, HEIW will take account of other Acts of Parliament that may be relevant to the provision of advice and assistance to those requesting information, e.g. the Human Rights Act 1998, the General Data Protection Regulation (GDPR), the Disability Discrimination Act 1995 and the Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000).

1.4.0 Aims and Scope of the Operational Procedures

1.4.1 In common with the Code of Practice, the aim of these procedures is to facilitate the disclosure of information under the Act by setting out good administrative practice that HEIW will follow when handling requests for information, including, where appropriate, the transfer of a request to a different authority.

1.5.0 Publication Scheme or general right of access?

1.5.1 Requests for information under the Act will arise from two different rights:

- through the right of access to the material published on HEIW's Publication Scheme]; or
- through the general right of access to recorded information held by public authorities.

¹ Lord Chancellor's Code of Practice On The Discharge of Public Authorities' Functions Under Part I of the Freedom of Information Act 2000, Issued under Section 45 of the Act, November

1.5.2 The HEIW has adopted a model Publication Scheme which is accessible through its website.

1.6.0 Responsibilities

1.6.1 The **Board Secretary** is responsible to the Board for the operation of FOIA within the HEIW. The FOIA Team shall constitute the Corporate Governance Manager in conjunction with the Board Secretary.

1.6.2 The **Corporate Governance Manager** is responsible for reviewing draft FOIA responses in conjunction with the Board Secretary and for ensuring HEIW meet timescales taking any necessary action to address system weaknesses.

1.6.3 The **Corporate Governance Manager** is responsible for ensuring that the requests received are acknowledged, and that draft responses are prepared on a timely basis utilising information gathered and/or provided by HEIW FOIA Department Leads (which include the addition of any appropriate context to aid interpretation by the requestor), and for ensuring appropriate senior authorisation of the proposed final draft is obtained prior to final sign off by the relevant member of the Executive Team (i.e. the Director who has responsibility within HEIW for the subject matter of the FOIA request). The Corporate Governance Manager is also responsible for reporting performance data via the FOIA database.

1.6.4 The Corporate Governance Manager is responsible for the day-to-day co-ordination of requests for information including the acknowledging and release of responses, gathering information to allow response formulation and analysis of compliance with targets.

1.6.5 **Directors** are responsible for promptly relaying any FOIA requests received (which have not previously been logged centrally by the Corporate Governance Manager) and for providing information requested by the Corporate Governance Manager in response to FOIA requests. The timescales for this are contained in section 4.2. They are also responsible for publishing relevant information to meet the needs of the Publication Scheme (refer to Section 3) and any information that has been the subject of more than three requests in a 12 month period

1.7.0 Guidance Leaflet

1.7.1 There is attached at **Appendix 2** a copy of the Guidance Leaflet which will be made available to anyone who is seeking to make, or is making, a request for information under the Act.

1.8.0 When not to use these Procedures

1.8.1 Whilst, any request in writing for access to information is a request made under the Act in practice, information is made available by HEIW to stakeholders through staff on a daily basis as part of the routine day to day business of providing education and training services. It would be impractical and overly bureaucratic to attempt to record this activity for FOIA purposes.

2.0 CATEGORISING AN ENQUIRY

There be many types of requests and it is important to establish what type of information is being asked for by using the table and that the requestor is re-directed without delay where appropriate:

Request	Format	Department Responsible	Legislation	Deadline
Information about the applicant (or someone authorised to act on their behalf)	Written	<ul style="list-style-type: none"> • Information Governance Manager <u>or</u> • Human Resources 	GDPR	20 calendar days
Information about someone else (a 'third party') or any other written information.	Written	Corporate Governance Team	Freedom of Information	20 working days
Information about the environment or human interaction with the environment (land, landscape, soil, water, air, atmosphere, flora and fauna, etc.)	Oral or written	FOIA Team	Environmental Information Regulations	20 working days
General advice e.g. opening hours, directions, visiting hours, facilities available at a site etc.	Any	Relevant local staff	Not applicable	No formal deadline but usual to provide information in a reasonable timeframe.

3.0 PROCEDURE FOR DEALING WITH THE INITIAL APPLICATION FOR INFORMATION

3.1.0 Publication Scheme Applications

3.1.1 The Publication Scheme directs all applicants who require assistance in obtaining information from the HEIW to the FOIA Team.

3.1.2 In the event that a request arising from the Publication Scheme is directed to an individual other than the FOIA Team, they must:

- take the name and contact details of the applicant;
- ascertain what information the applicant wants and inform them that their request will be referred to the FOIA Team within one working day;
- provide the applicant with the contact details of the FOIA Team, and inform them that their enquiry will be responded to as soon as possible and within a maximum of twenty working days;
- pass the applicant's name, contact details and a detailed account of what information they require to the FOIA Team within one working day.

3.1.3 The Publication Scheme sets out the nature of the information that all public service organisations must publish as a minimum and this is accessible through the website. Delivery Units must identify an officer who is responsible for the publication of relevant data/information for their domain via the internet site. Should an information request be received that can be addressed by reference to the Publication Scheme it can be declined on the basis that it is already in the public domain.

3.2.0 General Right of Access Applications

3.2.1 Applications made under the general right of access to recorded information will also relate to all recorded information not listed in the Publication Scheme. These requests may be retrospective in that they may seek information held by the organisation that is no longer being actively used or that has been archived.

3.2.2 Unless the nature of a request is classed as 'normal day to day business' or originates from a journalist that relates to a specific news item being managed by the Communications Team, all written requests for information to the HEIW will be treated as if they are a FOIA request. This judgement will be made by the FOIA Team.

3.2.3 All FOIA requests *must* be received in writing (which includes a request transmitted electronically) and provide a postal or email address. If the application has been made in the form of a letter this should be relayed to the FOIA Team electronically promptly being no more than two working days.

3.2.4 Once the FOIA Team has received the applicant's request, the procedures for processing requests for information will be activated and the request logged.

4.0 PROCEDURE FOR PROCESSING REQUESTS FOR INFORMATION

4.1.0 Stage One - Upon Receipt of a Request

4.1.1 On receipt of a request the FOIA Team will be responsible for logging the following information:

- Date request received by HEIW
- Name and contact details of applicant
- Information requested
- The potential information source department(s).

The FOIA Team will write to the applicant (email contact will be appropriate if the applicant has made contact by email) within two working days of receipt of the applicant's request to acknowledge the request.

4.2. Stage Two - Accessing the Information

4.2.1 The FOIA Team will within two working days identify and write to the individual(s) in HEIW who are believed to hold the information being requested. A copy of 'A Guide to managing requests' (**Appendix 1**) will accompany all requests to internal departments/individuals.

4.2.2 Upon receipt of an information request from FOIA team, FOIA Department Leads will have ten working days to locate and provide the information requested. If it is not possible to meet this deadline, the FOIA team must be informed immediately (see Appendix 1 – A Guide to Managing Requests). Should such contact not be received by the eighth working day a reminder will be sent to prompt the department thought to be holding the information. Where information is not returned by the twelfth working day the matter will be reported to the, Board Secretary and relevant Director(s).

4.2.3 If it would take more than 18 hours to do this (the time taken for data analysis is not included in this calculation) then the Act does not require public bodies to provide the information. However, it places a duty upon organisations to help the requestor to narrow their request to fall inside this timeframe. Therefore a decision will need to be made as to the amount of information could be retrieved from records in this timeframe – the requestor can then decide how they wish to proceed.

4.2.4 The information that the applicant has requested will, once it has been identified and retrieved, be forwarded to the FOIA team who will then review the information. Where any data analysis is necessary this will have been undertaken by the relevant source department who will also include any relevant context which could aid interpretation of such information. The source department will also identify any relevant sensitivities to the request so that these can be considered by the FOIA team in drafting the response.

Should any exemptions be applicable, the Procedure for the Refusal of Requests will be activated (see 5.0). If fees are payable the applicant will be issued with a Fees Notice as described in 9.2.

- 4.2.5 Once drafted, the proposed response which will include a paragraph advising the requestor that if they are dissatisfied they have the right to request internal review and if they are then not satisfied that they can refer the matter to the Information Commissioner. Contact details for the Information Commissioner's office will be included within the response. The draft will then be forwarded to the relevant Director for approval as appropriate. Upon receipt of Director approval, the final response will be submitted to the Board Secretary in turn for assessment. Where information is being provided to a requestor based on a previous FOIA on the same subject, a copy can be provided as an appendix with the necessary redaction of the original sender's details.. Where the Board Secretary is absent and is not able to authorise the use of their electronic signature, the relevant Director should sign the letter of response.
- 4.2.6 Prior to sending the final signed copy, the FOIA team will liaise with the Communications Department on responses relating to the media, AMs or any which are considered potentially controversial. Should the Communications Department suggest any changes the draft response will need to be reviewed and re-signed by the Board Secretary or the relevant Director.

4.3. Stage Three – Delay in providing information

- 4.3.1 Where it is not possible to provide the requested information within the 20-day timescale the requester should be contacted by the FOIA Team through a letter informing them that their request is being dealt with and this should include a projected date for a full response if this can be forecast at that point. This does not serve to extend the deadline in any way and merely keeps the requestor informed.
- 4.3.2 Where it is only possible to fulfil part of a response this will be sent the requestor within the twenty working day timescale. The response will set out the reasons why it has not been possible to fulfil the request. If this is due to a temporary delay in being able to access information the letter will set out when it is expected that this will be possible. Should the reason for a full response not being provided relate to an issue of clarity, reference should be made to 6.2 of this procedure.

4.4. Stage 4 – Providing the Information

- 4.4.1 The final signed response will be scanned to the FOIA database and sent to the applicant by email or by mail as relevant.
- 4.4.2 If it is determined that it is not reasonably practicable to comply with any preference for information in the form requested by the applicant, the FOIA Team will notify the applicant of the reasons for this. The information will then be provided by such means as deemed reasonable.

5 PROCEDURE FOR REFUSAL OF REQUESTS

- 5.1 A request for information may be refused in whole or in part. A request for information may be refused if:
- (a) the information is exempt from disclosure under Part II of the Act.
 - (b) a fees notice or charge has not been paid within three months beginning on the day on which the fees notice was given to the applicant/the applicant was notified of the charge (see 8.0).
 - (c) the cost of compliance exceeds the appropriate limit, as set out in statutory Fees Regulations.
 - (d) the request is demonstrably vexatious or repeated.
- 5.2 If a decision is made to refuse a request for information for any of the reasons set out at paragraph 5.1 above, the applicant will be informed of the reasons for this decision within twenty working days. In line with section 17(7) of the Act, the applicant will also be informed of their right to request an Internal Review of the decision and of the statutory right to complain to the Information Commissioner (see 10.0).
- 5.3 Section 17 of the Act requires written notice to be given to the applicant when the HEIW refuses to disclose requested information and any such notice will be signed by the Board Secretary or relevant Director.
- 5.4 The FOIA team will keep records of all notices issued to refuse requests for information as part of the FOIA database. This file will be subject to periodic review to maintain consistency in decision-making.
- 5.5 The process will not apply where a request is refused under Section 36.5(h) of the Act. In these circumstances the Board Secretary will consult with the Chairman and Chief Executive and where the Chairman's action is agreed, the Chief Executive will sign the refusal notice and details of action taken will be relayed to HEIW at the next meeting.

6. PROVISION OF ADVICE AND ASSISTANCE TO APPLICANTS

6.1. Contact Point

- 6.1.1 The Corporate Governance Manager will act as the key contact point for staff within the HEIW.
- 6.1.2 The Corporate Governance Manager will provide advice and assistance to potential and actual applicants for information under the Act.
- 6.1.3 A record will be kept of all instances, including those described below, where advice and assistance has been provided to (potential) applicants.

6.1.4 The FOIA team will also act as a source of advice and support for HEIW staff in regard to the Act and participate in the network arrangements for FOI Contacts.

6.1.5 Where a potential applicant is unable to frame a request in writing, the FOIA Team will take reasonable steps to ensure that appropriate assistance is given to enable the individual to make a request for information.

6.2 Applicant has provided insufficient information to fulfil their request

6.2.1 Where the applicant has not described the information sought in a way that enables HEIW to identify or locate it, or the request is ambiguous, the FOIA team will contact the applicant to clarify the request.

6.2.2 The purpose of this contact will be to clarify the nature of the information sought, not to determine the aims or motivation of the applicant.

6.2.6 The twenty working day time limit is not activated until the applicant has provided sufficient information for the HEIW to supply the applicant with the information sought.

6.3 Applicant is unprepared or unable to pay a fee or fees exceed appropriate limit

6.3.1 In some circumstances an applicant may indicate that they are not prepared or is unable to pay the fee notified in any fees notice. In such cases the FOIA team after consultation will contact the applicant and explore ways in which the fee or charge may be reduced. For example by:

- providing information electronically instead of in hard copy; or
- inviting the applicant to view the information and take notes or to select the information the applicant feels to be most relevant.

6.3.2 Under section 12(1) and regulations made under section 12(4) of the Act, the HEIW is not obliged to comply with a request for information where the cost of complying would exceed the "appropriate limit" (i.e. cost threshold). In such circumstances, the HEIW has three options:

- (a) to refuse the request on the basis that it exceeds the cost threshold;
- (b) to charge, under section 13 of the Act, for the provision of the information;
- (c) to seek a means by which information could be provided within the cost ceiling.

6.3.3 In the event of a request exceeding the cost ceiling and the applicant still wishes to pursue the original request, the FOIA team will ask the applicant whether or not he or she would be willing to pay the full fee for the information requested.

6.3.4 If the applicant is willing to pay the full fee for the information requested a Fees Notice will be issued. If the applicant is unwilling to pay the full fee the Procedure for Refusal of a Request will be initiated (see 5.0 above). The

applicant will also be informed of their rights to appeal under the complaints procedure and section 50 of the Act (see 10.0).

6.4 Vexatious or repeated requests

6.4.1 The Corporate Governance Manager will liaise with the Board Secretary on any requests considered repeated or vexatious. Decisions regarding these will be taken by the Board Secretary and arrangements will be made for the Board Secretary or the relevant Executive to sign any response sign such correspondence.

6.4.2 HEIW should be able to demonstrate that the applicant's request is vexatious or repeated based upon the monitoring data that has been collected. Each request must be considered individually.

6.5 Requests which appear to be part of an organised campaign

6.5.1 The HEIW may receive a number of related requests that, under section 12(1) and regulations under section 12(4), take the cumulative cost of compliance over the "appropriate limit" as prescribed in Fees Regulations.

6.5.2 In such circumstances the Corporate Governance Manager will consider whether the information could be disclosed in another, more cost effective, manner i.e. published on the website.

7.0 TRANSFERRING REQUESTS FOR INFORMATION

7.1 If HEIW receives a request for information which it does not hold, within the meaning of section 3(2) of the Act, but which is held by another public authority, the Corporate Governance Manager will oversee the process for considering whether to transfer the request to the other public authority.

7.2 The "holding" of information includes holding a copy of a record produced or supplied by another person or body (but does not extend to holding a record on behalf of another person or body as provided for in section 3(2)(a) of the Act). Provided HEIW "holds" information that is requested, it will be under an obligation, irrespective of whether the information was produced by the HEIW, to confirm or deny and to subsequently provide the information.

7.3 HEIW will deal with all initial requests for information in accordance with the procedure described in 4.0. When it becomes apparent to the FOIA team that the HEIW does not hold all or part of the information requested, the applicant will be advised of this fact.

7.6 All transfers of requests should take place as soon as is practicable, and the applicant should be informed by email or letter as soon as possible once this has been done. The target time for such transfers by the HEIW to another public authority will be twenty working days.

7.7 A record will be kept of all activity associated with the transfer of requests for information to other public authorities.

8.0 CONSULTATION WITH THIRD PARTIES

8.1. Where a request affects legal rights of a third party

8.1.1 In some cases the disclosure of information pursuant to a request may affect the legal rights of a third party. This may arise where information is subject to the common law duty of confidence or where it constitutes "personal data" within the meaning of the Data Protection Act 2018 ("the DPA"). Unless an exemption provided for in the Act applies in relation to any particular information, HEIW is obliged to disclose that information in response to a request.

8.1.2 In some cases disclosure of information cannot be made without the consent of a third party. For example, where information has been obtained from a third party, disclosure of that information without consent would in some circumstances constitute an actionable breach of confidence, such that the exemption at section 41 of the Act would apply. In such cases the FOIA team will consult the third party with a view to seeking the consent of the third party to the disclosure, unless such a consultation is not practicable, for example because the third party cannot be located or because the costs of consulting them would be disproportionate.

8.1.3 Where information constitutes "personal data" within the meaning of the DPA, the FOIA team will have regard to Section 40 of the Act which makes detailed provision for cases in which a request relates to such information and deals with the interplay between the Act and the DPA in such cases.

8.1.4 A record will be kept by the FOIA team of all contacts with third parties regarding consultation and decision making relating to the disclosure of information that may affect the third parties' legal rights.

8.2. Where there is no response or a refusal to consent by the third party

8.2.1 The fact that a third party has not responded to consultation does not remove HEIW's duty to disclose information under the Act, or its duty to reply within the time specified in the Act.

8.2.2 In all cases, it is for the HEIW not the third party to determine whether or not information should be disclosed under the Act. A refusal to consent to disclosure by a third party does not, in itself, mean information should be withheld.

8.2.3 A record will be kept by the FOIA team of all responses to consultations and the decision making processes that arise from them.

9. CHARGES AND FEES

9.1. Publication Scheme Charges

9.1.1 Most information will be available free of charge, although some information may incur a charge.

9.1.2 Information that is available from the HEIW's web site will be free of charge, although any charges for Internet Service provider and personal printing costs must be met by the individual applicant. For those without Internet access, a single print-out of the information as on the web site will be available by postal or personal application to the FOIA team.

Requests for multiple printouts, or for archived copies of documents that are no longer accessible or available on the web, may attract a charge for the retrieval, photocopy, postage and so on. In such circumstances, the Corporate Governance Manager will inform the applicant in writing of the cost and the charges that will have to be paid in advance.

9.1.3 Leaflets and brochures produced by HEIW will be provided free of charge.

9.1.4 Any "glossy" or other bound paper documents, or information contained on CD ROM, video or other media may be subject to a charge as determined by the costs to HEIW of producing the information. A price will be given on application to the applicant.

9.1.5 Any information that can be transmitted by e-mail will be provided free of charge, unless otherwise stated.

9.1.6 The charges will be reviewed regularly by the FOIA team in conjunction with Finance Department.

9.2 Fees under general right of access

9.2.1 HEIW will levy a fee in accordance with Fees Regulations made under the Act in respect of requests made under the general right of access.

9.2.2 The Fees Regulations do not apply:

- to material made available under a publication scheme under section 19 (covered in 9.1.0);
- to information which is reasonably accessible to the applicant by other means within the meaning of the exemption provided for at section 21; or
- where provision is made by or under any enactment as to the fee that may be charged by the public authority for disclosure of the information as provided in sections 9(5) and 13(3) of the Act".

9.2.3 HEIW will issue a Fees Notices after consultation between the FOIA team and the Finance Department to determine level. Fees Notices will be signed by the Board Secretary.

9.2.4 A record will be kept by the FOIA team of the date of despatch to the applicant of the Fees Notice and of the date that payment is received.

9.3. Fees, Charges and Timescales

9.3.1 If a Fees Notice is issued to an applicant, the 'clock stops' and then once an applicant has paid the necessary fees, the 'clock' starts again from the point within the twenty working days that it 'stopped'. The applicant may then, subject to any exemptions, be provided with the information requested.

9.3.2 Applicants will have three months beginning on the day on which they were given the Fees Notice to pay the fee/charge in question.

10. COMPLAINTS / REQUESTS FOR INTERNAL REVIEW (IR)

10.1 All complaints, verbal or written (including those transmitted by electronic means), must be referred to the Chairman for consideration.

10.2 All complaints will be acknowledged within two working days, and will be investigated and responded to within twenty working days.

10.3 Complaints should be received within three months of the requester receiving the original response from the FOIA Team. Requests received after this three month period, will be treated as a new FOIA request, rather than a complaint.

10.3 All complainants will be informed of their right to complain directly to the Information Commissioner and will be given the Information Commissioner's contact details. Complainants/ IR requestors who remain dissatisfied with HEIW at the end of the Local Resolution Stage will be advised to take their complaint to the Information Commissioner.

11. MONITORING PERFORMANCE

11.1 The FOIA team will set deadlines for return of information requested under the FOIA process which will generally allow ten working days (refer to section 3).

11.2 Information regarding the number, nature and performance achieved in respect of FOIA requests will be maintained by the FOIA team for inclusion in the organisational Annual Report, to relevant Committees and for corporate performance reviews.

12. ACCESSING AND MAINTAINING THE PUBLICATION SCHEME

12.1 The Publication Scheme that will be published via HEIW's website will be a 'living' document and therefore will need to be updated by those holding the

relevant information on a regular basis. The timeliness of its content will be overseen by the Corporate Services Manager who will notify any area should their content not be maintained on a regular basis. Should this continue the matter will be brought to the attention of the relevant Executive(s).

13. LEGAL ADVICE

- 13.1 Legal advice may be sought on behalf of the Board Secretary by the Corporate Governance Manager subject to first receiving approval by the Board Secretary. A record will be kept of the advice sought from and provided by HEIW's solicitors.

14. PROCESSING REQUESTS FOR INFORMATION

- 14.1 General inquiries from the general public are received via the generic mailbox heiw.foi@wales.nhs.uk.
- 14.2 General inquiries are acknowledged within 2 working days and passed on to the relevant department to action. All correspondence is filed in the Inquiries mailbox in Outlook.

14. REFERENCES

- Freedom of Information Act 2000
- Lord Chancellor's Code of Practice on the Discharge of Public Authorities' Functions under Part I of the Freedom of Information Act 2000, issued under Section 45 of the Act.

APPENDIX 1

Freedom of Information (FOI) Act – A Guide to Managing Requests

The FOI Act gives the public a right of access to a variety of records and information held by public bodies that is considered non-personal in nature (Personal Information requests need to be made under the Data Protection Act). FOI requests must be made in writing either by letter or by email.

The majority of FOI requests are received centrally where they are logged and acknowledged through the FOIA Team in the Board Secretary's team. Should any requests be received outside this department **they should be sent ideally on the same day or certainly within two working days of receipt to HQ** by email to heiw.foi@wales.nhs.uk.

The HEIW is also bound to manage any requests made under the Environmental Information Regulations which covers issues such as how we manage disposable waste, energy issues, maintenance issues etc. Requests for this type of information need not be made a writing but instead can be made in person or by telephone.

Depending on the nature of the request, the FOIA Team is required to identify which department may hold the information being sought and then sets a timeframe of 10 working days for the information to be provided to the FOIA Team. If the department to whom the request is sent has been selected erroneously then the receiver should notify FOIA team **immediately** so that it can be redirected.

Remember - you have a **maximum of 10 working days** to look into the matter and provide the FOIA team with your response. You therefore need to ask yourself the following questions upon receipt of a FOI/ EIA request:

- **Is the request sufficiently clear?** - if the way the question is posed is open to interpretation, it may be appropriate to suggest to corporate admin that they revert to the requestor to seek clarification. Under no circumstances should anyone other than the FOIA team revert to the requestor.
- **Do you have the information being sought?** – if yes, what is the nature of the information – is it non-personal in nature? For instance, if it is only available from individual health records we are not required to provide it. Even if someone is asking for his or her own personal information this cannot be disclosed under the FOI Act – it has to be dealt with under the Data Protection Act. If the information being sought is not held ask yourself is that because we have not collected it previously or has it been destroyed in line with a destruction policy.
- **Is the request reasonable?** - if the requestor is seeking information that would take longer than 18 hrs to locate and extract then the Act does not require public bodies to provide the information. These hours do not include any time for analysing data. If it would take more than 18.5 hours, the Act places a duty on

us to help the requestor to narrow their request to fall inside this timeframe. Therefore, you will need to gauge what level of information could be located and extracted from records in this timeframe.

- **Would it be useful to discuss this request with colleagues in other Health Boards/Trusts?** - to understand their interpretation of the request and the perspective from which they will be responding to it.
- **Is there any justification for not disclosing the information either indefinitely or at the current time?** The information may be personal which case it cannot be disclosed under FOI. Another valid reason to withhold disclosure would be if there were low numbers involved. If this is the case, let FOIA team know the position and they will assess if the number is sufficiently small to withhold. The information being sought might also be part of a current draft document that is due to be published in due course. The FOI Act permits the withholding of draft document providing the intention is to share the final version of the document with the requestor in due course. Perhaps the information being sought contains commercially sensitive information, which may or may not be eligible for exemption. Again, communicate as soon as possible with the FOIA team so that they can take appropriate action.
- **Is there any context you need to provide to help the requestor to fully understand the information?** The Act requires us to assist the requestor wherever possible and appropriate. However, any contact must be through the FOIA team, not other departments.

Upon receipt of a response from the department that holds the information being sought, the FOIA team review the detail and draft an appropriate response for sign off. The final draft of the response to an FOI request will also be subject to review by the relevant Director. Where possible the Director will be given two working days to review the final draft. Some FOIs can be very complicated and may involve the collation of a lot more information than you are aware of so it's crucial that you keep to the 10 working day timescale to allow Corporate Administration time to formulate an appropriate response and for Executive and where relevant the Communications Team to review it.

If we receive three or more requests of a similar nature within a three-month period this will require the holder of such information to publish it in an appropriate form on the website as part of the Publication Scheme. (Contact Corporate Governance Manager for advice on this). By arranging such publication, we are able to refuse any future requests seeking such information on the basis it's already available to them.

Performance monitoring takes place on a regular basis and will be reported on a half-year basis to the Audit and Assurance Committee. Should the performance of a Delivery Unit in providing information for FOI requests fall below the required level this will be escalated to the respective CEO in order that action can be taken to improve this.

APPENDIX 2



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Addysg a Gwella Iechyd
Cymru (AaGIC)
Health Education and
Improvement Wales (HEIW)

THE FREEDOM OF INFORMATION ACT (FOIA) 2000

THE ACT

The Freedom of Information Act 2000 (the FOI Act) gives the public a right of access to a variety of records and information held by public bodies. This can relate to any information subject to certain exemptions.

THE PUBLICATION SCHEME

Implementation of the FOI Act began in October 2003 when all public bodies were required to make their 'Publications Schemes' available. Health Education and Improvement Wales' (HEIW) Publication Scheme contains general information about the organisation and specifies the information that is readily available to the public.

The HEIW Publication Scheme is available on the website at: **[insert website link - TBC]**

A paper copy is available from the Corporate Governance Manager at HEIW, Tŷ Dysgu, Cefn Coed, Nantgarw, CF15 7QQ. Telephone: 03300 585 005; email: HEIW.FOI@wales.nhs.uk

KEY RIGHTS AND OBLIGATIONS UNDER THE FOI ACT 2000

The Applicant

- has the right to make a written request for information (by letter or email) providing a name and address so that HEIW can reply;
- has the right to be informed in writing if the information being sought is available.

Health Education and Improvement Wales:

- has a duty to provide reasonable advice and assistance to anyone making a request;
- must aim to respond within 20 working days and keep the applicant informed if this cannot be met;
- does not have to release information if there is a provision in the FOI Act conferring an absolute exemption;
- must consider releasing information in the public interest if applicable;
- where practicable, should supply the information requested, in the format requested;
- is not obliged to comply with a request if the costs involved exceed the upper fees limit;
- if refusing a request, must tell the applicant why and state which exemption is being relied on;
- must maintain an up-to-date Publication Scheme and publish information in accordance with this Scheme.

RESPECTING AN INDIVIDUAL'S RIGHT TO CONFIDENTIALITY

The FOI Act does not change the rights of individuals, whether they are patients or members of staff, to expect that the personal information that HEIW holds about them be protected. Maintaining the legal right of confidentiality of all personal information continues to be an important commitment for HEIW.

OUR COMMITMENT TO YOU

- to be as open as we can be in relation to the work we do
- to do our best to provide you with any information you are seeking
- to work within the required timescales
- to refer any complaints about release of information for Internal Review by someone who is independent of the original decision.

If you remain dissatisfied, you can refer any concerns you may have to the Information Commissioner at :

Information Commissioner's Office – Wales
2nd Floor, Churchill House,
Churchill Way,
Cardiff
CF10 2HH
Telephone: 029 2067 8400
e-mail: wales@ico.gsi.gov.uk