

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.