

HYWEL DDA UNIVERSITY HEALTH BOARD



Freedom of Information Policy

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Brief Summary of Document:	This policy states our commitment as a Health Board to meet the requirements of the Freedom of Information Act and associated guidance from the Lord Chancellor and the Information Commissioner's office and outlines mechanisms for ensuring this takes place
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Scope:	This policy applies to those members of staff that are employed by the Hywel Dda University Health Board, both permanent and non-permanent, and for whom the Health Board have legal responsibility including contractors and those who undertake work on behalf on contractors
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To be read in conjunction with:	<p>174 - Re-Use Of Public Sector Information Policy 224 - Information Classification Policy 201 – All Wales Disciplinary Policy 225 – Data Protection Policy 249 – Access to Health Records Policy 346 – Records Management Strategy 836 – AW Information Governance Policy http://www.wales.nhs.uk/sitesplus/documents/862/836-AWInformationGovernancePolicy1.pdf</p>
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Owning Committee	IGSC
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Executive Director:	Sarah Jennings	Job Title	Director of Governance, Communications & Engagement
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Reviews and updates		
Version no:	Summary of Amendments:	Date Approved:
1	New Policy	1/3/2014
2	Reviewed	14/6/2013
	Amended – added flowchart	30/7/2013
3	Reviewed	26/6/2018
	Link to the new All Wales Information Governance Policy added to front sheet	11.9.2019

Glossary of terms

Term	Definition
FOI	Freedom of Information
SIRO	Senior Information Risk Owner
EIR	Environmental Information Regulations 2004
GDPR	General Data Protection Regulations 2016

Keywords	FOI; Freedom of Information, FOIA
DPA	Data Protection Act 2017-2019 (draft)

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HYWEL DDA UNIVERSITY HEALTH BOARD

1. INTRODUCTION

This document sets out the Freedom of Information Policy for Hywel Dda University Health Board (Health Board). It explains what Hywel Dda University Health Board will do to meet their obligations under the Freedom of Information Act 2000 (hereafter referred to as the Act).

This policy is guided by the *Lord Chancellor's Code of Practice on the Discharge of Public Authorities Functions under Part 1 of the Freedom of Information Act 2000 issued under Section 45 of the Act.*

This policy is supported by Operational procedures for help in complying with the Act.

The Act replaces the Code of Practice on Openness in the NHS.

2. POLICY STATEMENT

It is the duty of each NHS body to establish and keep in place arrangements for the purpose of monitoring and improving the quality of healthcare provided by and for that body. Hywel Dda University Health Board is committed to this duty and its implementation.

The Health Board supports the Government's commitment to greater openness in the public sector. The Act will further this aim of greater openness, by enabling members of the public to be able to access key documents and as such scrutinise and question the decisions of public authorities more closely and ensure that the services provided are properly delivered. In doing so it wishes to create a climate of openness and dialogue with all of their stakeholders. Improved access to information about the Health Board will help to support this aim. The Health Board will make such information available in a range of formats as required to meet the needs of the person requesting the information.

The Health Board believes that individuals also have a right to privacy and confidentiality. This policy does not overturn the common law duty of confidence or the statutory provisions that prevent disclosure of personal identifiable information. The release of such information is covered by the General Data Protection Regulations 2016, and any subsequent UK legislation replacing the Data Protection Act 1998, and the Access to Health Records Act 1990, and is dealt with in other relevant policies including the Health Board's 225 - Data Protection Policy and 249 - Access to Health Records Health records documents. However, it must be noted that some personal information may be released under the provisions of the FOI Act.

The Health Board believes that public authorities should be allowed to discharge their functions effectively, in doing so it will use the exemptions contained in the Act where either:

- An absolute exemption applies, or;
- Where a qualified exemption can reasonably be applied in terms of the public interest in disclosure.
- See Section 11 for further details on exemptions.

3. SCOPE

This policy applies to those members of staff that are employed by the Health Board, both permanent and non-permanent, and for whom the Health Board have legal responsibility including contractors and those who undertake work on behalf on contractors.

4. AIM

The aim of the policy will be to provide a framework within which the Health Board will ensure compliance with the requirements of the Act and will underpin any operational procedures and activities connected with the implementation of the Act.

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5. OBJECTIVES

The aim of this policy will be met by ensuring that a process is in place which is followed by all relevant Health Board staff.

6. DEFINITIONS

6.1. Publication Scheme

A Publication Scheme contains all published corporate information held by a public authority. It is both a public commitment to make certain information available and a guide to how that information can be obtained. The Health Board has adopted the model publication scheme and this will be reviewed annually to ensure this remains accurate and up to date.

6.2. Vexatious request

Dictionary definitions refer to “causing annoyance or worry”. Section 14(1) of the Act states that public authorities do not have to comply with vexatious requests. There is no public interest test. To decide whether a request is vexatious, its context and history need to be looked at. The key question is whether the request is likely to cause unjustified distress, disruption or irritation.

6.3. “Recorded Information Held”

Recorded information held is that which has been captured and can be reproduced in a readable form.

7. ENVIRONMENTAL INFORMATION REGULATIONS 2004

The Health Board recognises that in addition to the FOI Act, there is also an obligation on public authorities to respond to requests for environmental information under the Environmental Information Regulations (EIR) 2004.

The Health Board recognises that there are some differing regulations between EIR and FOI on the provision of information. These include rules governing what environmental information may be disclosed (exceptions under EIR) and the requirement to respond to requests for environmental information whether the request is in writing or verbal form. EIR requests are treated separately from FOI and are dealt with by the Estates Department.

8. MAIN FEATURES OF THE ACT

The main features of the Act are:

- A General Right of Access from 1 January 2005 to recorded information held by public authorities, subject to certain conditions and exemptions;
- A duty on public authorities to:
 1. Inform the applicant whether they hold the information requested and;
 2. Communicate the information to them, subject to certain conditions and exemptions;
- A duty on every public authority to adopt and maintain a Publication Scheme. This duty has been applicable to the NHS since 31 October 2003;
- The establishment of the office of Information Commissioner with wide powers to enforce the rights created by the Act and to promote good practice together with a First Tier Tribunal;
- A duty on the Lord Chancellor to establish Codes of Practice for guidance on specific issues.

9. PUBLICATION SCHEME

Section 19 of the Act makes it the duty of every public authority to adopt a Publication Scheme.

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The Health Board's Publication Scheme details the information that it has published or intends to publish in the future. It details the format in which the information is available and whether or not a charge will be made for the provision of that information. The Publication Scheme is available on the internet <http://www.wales.nhs.uk/sitesplus/862/page/71534> of the Health Board and is downloadable free of charge. The contents of the Publication Scheme will be reviewed and updated on an annual basis.

Applications for information listed in the Publication Scheme may be received verbally or in writing and the majority of information can be downloaded from the site or can be provided upon application.

10. GENERAL RIGHTS OF ACCESS

Section 1 of the Act gives a general right of access from 1 January 2005 to recorded information held by any public body, subject to certain conditions and exemptions. Any person making a request for information to the Health Board is entitled to:

- Be informed in writing, or any other appropriate format on request, whether it holds the information described in the request; and
- Have that information communicated to them if it is held by the Health Board and is in appropriate format.

This is referred to as the "duty to confirm or deny". These provisions are fully retrospective, meaning, that if the Health Board holds the information when the request is received, it should be provided, unless it is subject to certain conditions or exemptions.

The Act states that requests for information under the General Rights of Access must be received in writing and to include the name of the applicant, an address for correspondence, and a description of the information requested. As long as the request has a valid address for acknowledgment and response this is acceptable. The Freedom of Information Officer will be able to provide assistance if necessary. Requests transmitted by electronic means will be treated as written requests if they are received in legible form and contain sufficient information to process the request.

Under the Act, most public authorities may take up to 20 working days to respond (Appendix A shows a flowchart of the process with the Health Board).

11. CONDITIONS AND EXEMPTIONS

The "duty to confirm or deny" and to provide information is subject to certain conditions and exemptions.

The duty to confirm or deny does not arise where further information in order to identify and locate the information is requested and the applicant is informed of that requirement. Public bodies are required to contact the applicant for additional information.

The duty to confirm or deny does not arise if a fees notice has been issued to an applicant and the fee has not been paid within the period of three months beginning on the day on which the fees notice is given to the applicant.

The duty to comply with a request for information does not arise if the Health Board estimates that the cost of compliance with the request would exceed the appropriate limit in national fees regulations. To keep compliance costs to a minimum but reserves the right to either refuse to comply with the request or to charge for the communication of information that exceeds this limit. The Health Board has a duty to comply with section 16 of the Act to provide advice and

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assistance and will work with applicants in order to be able to provide appropriate information relating to the request.

The Health Board is not obliged to comply with a request for information if the request is considered vexatious. Where it has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or similar request from that person unless a reasonable interval has elapsed between the two requests. All requests for information will be logged for monitoring purposes and will be able to identify repeated or vexatious requests.

Under Section 2 of the Act, a public body does not have to comply with the duty to confirm or deny if the information is exempt under the provisions of Part II of the Act, Sections 21 and 44. These provisions either confer an absolute or qualified exemption. Details of the exemptions may be found on the Information Commissioners website at www.ico.org.uk.

By applying an absolute exemption the Health Board may refuse to confirm or deny whether they hold the information requested.

A qualified exemption also allows the Health Board the same right to neither confirm nor deny but must carry out a "public interest test". This means that the Health Board must demonstrate that, in all circumstances of the case, the public interest in refusing to confirm or deny outweighs the public interest in favour of disclosure.

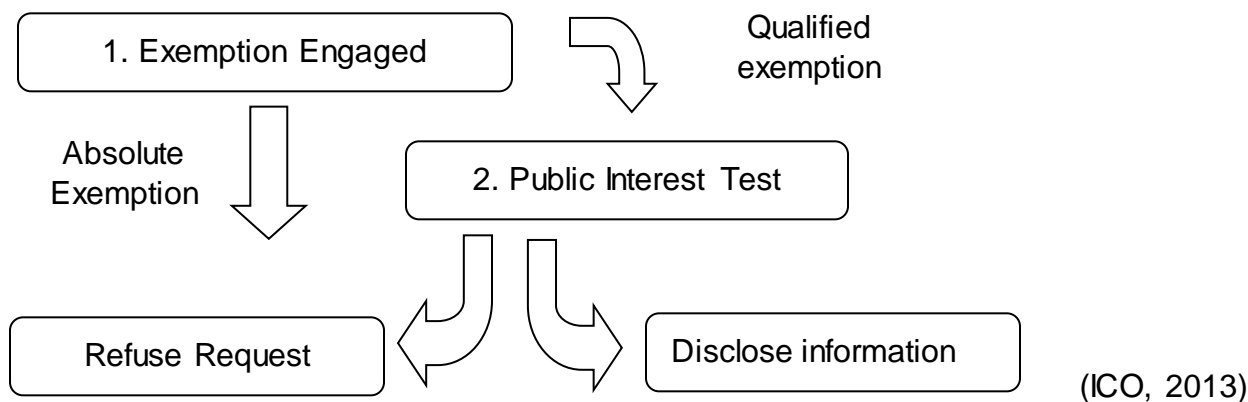
Requests for information relating to living individuals are automatically transferred to the Subject Access provisions within Article 15 of the GDPR.

Requests for access to records of deceased patients fall mainly within the Health Board's policy 249 - Access to Health Records however under certain circumstances these can be dealt with under Freedom of Information Act. If a request relates purely to a request under the Access to Health Records Act then these requests will be dealt with by the Medical Records Manager. The Information Commissioner's Office (ICO) has ruled that when a public authority has received a request for access to the records of a deceased person consideration must be given to any duty of confidence.

12. PUBLIC INTEREST TEST

The public interest will be considered in every case where a qualified exemption may apply. Defining the public interest will vary according to the information being requested. It may often involve issues around accountability, transparent decision making and good management. When considering the public interest to reach a decision on a qualified exemption, the Health Board will seek appropriate professional advice (including legal advice). The Health Board will aim to use the qualified exemptions appropriately and will, in accordance with Section 17 of the Act, justify their use.

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12.1. What is the “Public Interest” test?

The Premise which govern access to information held by public bodies are based on the same building blocks:

- A general right of access to information held by public authorities.
- The right of access is subject to a range of exemptions covering issues like security, international relations, formulation of government policy and commercial confidentiality.
- Some of the exemptions are subject to a public interest test which requires the decision-maker to take public interest considerations into account when deciding whether to release information even where an exemption applies.
- The “public interest test” weighs the public interest considerations in disclosing against the public interest in maintaining the exemption.

It is often suggested that the fact that the term “the public interest” is not defined in FOIA leads to difficulty. This should not be the case. From time to time weighing competing interests may be difficult. However, this does not mean that the nature of the task facing a public authority when applying the public interest test is unclear. In effect something “in the public interest” is simply something which serves the interests of the public, but it should be made clear that what interests the public is not the same as what is in the public interest.

12.2. Things to be ignored when applying the public interest test

The question of where the public interest lies has often been considered by the courts in newspaper cases, particularly where an individual or organisation attempts to prevent publication of a story. The courts have often distinguished between things which are in the public interest from things which merely interest the public. It will be helpful to bear the distinction in mind. It is also important to bear in mind that the competing interests to be considered are the public interests favouring disclosure against the public (rather than private) interest favouring the withholding of information.

There will often be a private interest in withholding information which would reveal incompetence on the part of or corruption within the public authority or which would simply cause embarrassment to the authority. However, the public interest will favour accountability and good administration and it is this interest that must be weighed against the public interest in not disclosing the information. Of course, there will be many occasions when public and private interests coincide.

12.3. Factors in favour of the disclosure of information.

There is a presumption running through FOIA that openness is, in itself, to be regarded as something which is in the public interest. Setting out the considerations for a public authority

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when adopting or reviewing its publication scheme, FOIA requires that "... a public authority shall have regard to the public interest –

- (a) in allowing public access to information held by the authority, and
- (b) in the publication of reasons for decision held by the authority."

It may be helpful to think about why openness should be regarded as being for the public good. In the Introduction to the Freedom of Information Act 2000, the Commissioner lists the following public interest factors that would encourage the disclosure of information:

- Furthering the understanding of and participation in the public debate of issues of the day. This factor would come into play if disclosure would allow a more informed debate of issues under consideration by the Government or a local authority.
- Promoting accountability and transparency by public authorities for decisions taken by them. Placing an obligation on authorities and officials to provide reasoned explanations for decisions made will improve the quality of decisions and administration.
- Promoting accountability and transparency in the spending of public money. The public interest is likely to be served, for instance in the context of private sector delivery of public services, if the disclosure of information ensures greater competition and better value for money that is public. Disclosure of information as to gifts and expenses may also assure the public of the personal probity of elected leaders and officials.
- Allowing individuals and companies to understand decisions made by public authorities affecting their lives and, in some cases, assisting individuals in challenging those decisions.
- Bringing to light information affecting public health and public safety.

12.4. Assistance in thinking about the public interest test

A public interest test is by no means an unusual feature in freedom of information legislation. On the contrary, virtually everywhere there is freedom of information legislation there is a public interest test. For UK public authorities, the most useful case law is from decisions of the First Tier Tribunal.

12.5. Responsibilities in applying 'the public interest test'.

The Freedom of Information Officer will consider and apply the Public Interest test before providing the information to the applicant. If a decision is taken to exempt the information, then the Freedom of Information Officer will provide justification with the appropriate exemption as to why the information should not be disclosed. The application of the exemption process is scrutinised by the Senior Corporate Information Officer before the response is submitted.

13. CHARGES AND FEES

The Health Board will follow the national fees regulations for General Rights of Access under the Act. These will determine appropriate limits on charges and fees, how they may be calculated and in what circumstances no fee should be levied. In exceptional circumstances, the Health Board may, at its own discretion, waive any applicable fees.

Charges may be made for the reasonable costs expected to incur in:

- contacting the applicant to inform them the requested information is held (even if the information will not be provided), and
- communicating the information to the applicant.

This includes, but is not limited to, the costs of:

- reproducing any document containing the information e.g. printing or photocopying;
- postage and other forms of transmitting the information; and

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□ complying with section 11 FOIA where the applicant has expressed a preference for the means of communication and where this is reasonably practicable.

Redaction

Charges may be made for the costs of physically redacting exempt information. This could include the costs of materials, (for example, tape or black ink) or the use of specialist equipment (for example, rental or licensing) for the specific activity of redaction.

Charges may be made for the time it takes a member of staff to redact the exempt information. This may only be charged at £25 per hour. (Staff time spent redacting exempt information cannot be taken into account when initially estimating whether it would exceed the appropriate limit to comply with the request.)

Where charges are applicable, a fees notice will be issued to the applicant, as required under Section 9 of the Act. Applicants will be required to pay any fees within a period of three months beginning with the day on which the fees notice is given to them.

14. TIME LIMITS FOR COMPLIANCE WITH REQUESTS

The Health Board is required to establish systems and procedures to ensure that the organisation complies with the duty to confirm or deny and to provide the information requested within 20 working days of a request, in accordance with Section 10 of the Act. All staff, contractors and Independent Board Members will be required to comply with the requirements of these procedures; failure to do so may result in a warning letter from the Chief Executive warning of the implications of non compliance. Non compliance is also monitored by the Information Governance Sub Committee.

When a charge or a fee has been incurred and the applicant has paid this in accordance with Section 9(2) of the Act, the working days in the period between the applicant's receipt of the fees notice and the Health Board's receipt of their payment will not be included when calculating the 20 working days for responding to a request.

If the Health Board chooses to apply an exemption of any information or to refuse a request as it appears to be vexatious or repeated, or exceeds the appropriate limit for costs of compliance, a notice shall be issued within 20 working days informing the applicant of this decision.

If the Health board is unable to reach a decision within the 20 working day period on whether or not an exemption is to be applied the applicant must be informed.

15. METHOD OF PROVIDING INFORMATION

In accordance with Section 11 of the Act and where it is reasonably practicable, the Health Board will convey information by any one or more of the following means, subject to any preference expressed by the applicant:

- The provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant;
- The provision to the applicant of a reasonable opportunity to inspect a record containing the information;
- The provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant.

If it is decided that it is not reasonably practicable to comply with any preference expressed by the applicant, the Health Board will inform the applicant of the reasons for their decision and will discuss if it is possible to provide the information by another means.

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The Health Board will establish systems and procedures to monitor the provision of information arising from requests under the Act.

16. REFUSAL OF REQUESTS

As indicated above, the duty to confirm or deny the existence of information or provide the information to the applicant does not arise if the Health Board:

- Applies an exemption under Part II of the Act;
- Has issued a fees notice to the applicant under Section 9 of the Act and the fee has remained unpaid after a three month period;
- Estimates that the cost of compliance with the request for information exceeds the appropriate limit, however information may still be provided up to the £450 appropriate limit;
- Can demonstrate that the request for information is vexatious or repeated.

If the Health Board intends to refuse a request for information, the applicant will be informed of the reasons for this decision within 20 working days. The applicant will also be informed of their rights, conferred by Section 50 of the Act, to appeal to the Information Commissioner against the decision if the applicant is not satisfied with the outcome of the Health Board's internal complaints procedure.

If the Health Board decides to refuse to confirm or deny whether it holds the information requested and/or to refuse to provide that information, an exemption notice will be issued to the applicant within 20 working days which will:

- State the fact;
- Specify the exemption in question; and
- Explain why the exemption applies.

If the Health Board is unable to reach a decision on the application of an exemption within the 20 working day period then the applicant will be given notice that no decision has been reached and an estimate of the date by which it expects that the decision will have been reached.

As indicated by the Lord Chancellor's Code of Practice issued under Section 45 of the Act, the Health Board will endeavour to make such estimates realistic and reasonable. If an estimate is exceeded, the applicant will be given a reason for the delay and offered an apology. If the Health Board find, whilst considering the public interest, that the estimate is proving unrealistic, the applicant will be kept informed. The Health Board will keep a record of instances where estimates are exceeded, and where this happens more than occasionally, take steps to identify any problems and rectify them.

If applying a qualified exemption under Section 2 of the Act using the "public interest test", the Health Board will, in its notice to the applicant, state the reasons for claiming:

- That, in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the information is held; or
- That, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The notice should not involve the disclosure of information which would itself be exempt information.

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If the Health Board refuses a request because it can be demonstrated that it is vexatious or repeated and a notice has already been issued to the applicant stating this fact, a further notice is not required.

The Health Board will keep a record of all notices issued to refuse requests for information.

17. DUTY TO PROVIDE ADVICE AND ASSISTANCE

The Health Board will ensure that systems and procedures are in place to provide advice and assistance to members of the public who propose to make, or have made requests for information. This is a duty under Section 16 of the Act.

The Health Board will ensure that the systems and procedures to provide advice and assistance also conform to the Lord Chancellor's Code of Practice issued under Section 45 of the Act.

18. TRANSFERRING REQUESTS FOR INFORMATION

When responding to requests for information, The Health Board can only provide information that it holds. If it receives a request for information which it does not hold (or holds only in part) but which is held by another public authority, then it will consider what would be the most helpful way of assisting the applicant with their request. This is likely to involve:

- Informing the applicant that the information requested may be held by another public authority;
- Suggesting that the applicant re-applies to that authority;
- Providing the applicant with contact details for that authority;
- Transferring a request to the other body where they hold information relating to part of a request made to the Health Board, and vice versa, in line with this policy. Any transfer of the request must be with the consent of the applicant.

19. CONSULTATION WITH THIRD PARTIES

There will be instances where information requested under the Act will include information relating to third parties (i.e. references to organisations or individuals other than ourselves). Such information will normally be disclosed unless:

- It is "personal data", as defined by the Data Protection Act 1998 (DPA) and in guidance issued by the Information Commissioner;
- Where disclosure without consent would constitute an actionable breach of confidence as described in Section 41 of the Act;
- Where a common law duty of confidence is owed (e.g. information concerning a deceased patient).

Where none of the conditions described above apply and where there are no other exemptions, the Health Board will normally be obliged to disclose the information requested. The Health Board will write to third parties to advise them of what information is being released and ask them to contact us if they have any concerns, however the final decision rests with the Health Board.

The Health Board will only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of their functions and it would not be otherwise provided.

The Health Board will not agree to hold information received from third parties "in confidence" unless the information has the necessary quality of confidence. Acceptance of any

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confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioner.

20. MANAGING CONTRACTS

When entering into contracts, the Health Board will refuse to include contractual terms which seek to restrict the disclosure of information relating to the contract, beyond the restrictions permitted by the Act. Unless an exemption provided for under the Act is applicable in relation to any particular information, the Health Board will retain the right to disclose that information in response to a request, regardless of the terms of the contract.

When entering into contracts with non-public authority contractors, the Health Board may be asked to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance are exempt from disclosure. Such clauses will be rejected wherever possible. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, the Health Board will investigate the option of agreeing with the contractor a schedule of the contract which clearly identifies information which should not be disclosed. When drawing up any such schedule the Health Board will be mindful that any restrictions on disclosure could potentially be overridden by obligations under the Act and that such confidentiality provisions must be for good reasons and be capable of being justified to the Information Commissioner.

In order to avoid unnecessary secrecy, any such constraints on disclosure will be drawn as narrowly as possible and according to the individual circumstances of the case. Apart from such cases, the Health Board will not impose terms of secrecy on contractors.

The Health Board will not agree to hold information "in confidence" where it is not in fact confidential in nature, that is, where the information has been obtained from another organisation or individual and the disclosure of the information to the public, otherwise than under the Act, would constitute an actionable breach of confidence.

21. APPEALS PROCESS

If the Health Board refuses to supply all or part of the information that an individual has asked for, a letter will be written to the applicant giving the reasons for refusal. The requester has a right to appeal to the Health Board if they are dissatisfied with the response or where they believe that the charges that the Health Board has made to supply information are unfair. Appeals will be investigated by Board Secretary. The outcome of the review will be formally documented.

The Health Board will respond to all appeals about the way it has responded to requests for information by conducting an enquiry, which will examine:

- Whether the requestor was given adequate advice and guidance about their request for information;
- Whether the procedures for responding to requests for information were followed correctly in this instance;
- Whether, if an exemption was applied, the reasons were explained adequately to the requestor.

Where information has been withheld, the application of any exemption will be re-examined as will any application of the public interest test in the case of a qualified exemption.

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When responding to requests for information the Freedom of Information Officer will inform the applicant of the procedure for handling appeals as well as advising them of their rights of appeal to the Information Commissioner.

The letter of appeal will be acknowledged within two days of the date of receipt and the Health Board has a target of 20 working days to deal with an appeal. If the requestee is still dissatisfied after the internal appeals panel has considered the appeal, the individual can appeal further to the Information Commissioner's Office if they feel that the Health Board not complied with its obligations under the Freedom of Information Act (2000).

Refer to Appendix B is a flowchart for the appeals process.

22. RECORDS MANAGEMENT

The Health Board will have systems and processes in place for managing their corporate records in both electronic and paper format in order to respond effectively to requests for information. The Health Board's 346 - Records Management Strategy and supporting procedures will be compliant with the Welsh Assembly Government guidance WHC (1998) 81" For the Record" as well as the "Lord Chancellor's Code of Practice on the Management of Records under Section 46 of the Freedom of Information Act 2000".

23. TRAINING

Freedom of Information training is available to all staff via the corporate induction programme. A range of other ad hoc training sessions will be considered in relation to identified needs for either individuals or groups. The Senior Corporate Information Officer will consider specific training to identified groups.

FOI guidance will be placed on the intranet to support staff and an FOI leaflet and other supporting documentation for members of the public will be placed on the website to support the publication scheme, policies and procedures.

24. RESPONSIBILITIES

24.1. Health Board

The Health Board needs to have secure and robust information governance processes in place to ensure it meets its statutory responsibilities. Information Governance encompasses all aspects of data handling, Freedom of Information being one of these.

24.2. Chief Executive

The Chief Executive has ultimate responsibility for the organisation's compliance with the Act. Responsibility for bringing FOI issues to the Board is delegated to the Director of Partnerships and Corporate Services.

24.3. Board Secretary

The Board Secretary is responsible for managing the appeals process

24.4. Director of Partnerships and Corporate Services

The Director of Partnerships and Corporate Services has overall responsibility for the corporate function of the Health Board including FOI requests.

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24.5. Senior Corporate Information Officer

The Senior Corporate Information Officer will provide support and guidance to those officers to ensure that the information is collated and to ensure the Health Board remains compliant with the requirements of the Act. The Senior Corporate Information Officer will also ensure that all processes and procedures put in place have been tested to ensure they meet the requirements of the Act. The duties of the Senior Corporate Information Officer will include:

- Providing advice and assistance to applicants requesting information under the Act;
- Discussing the applicants particular requirements e.g. format in which the information is to be provided in line with the Health Board's bi-lingual policy;
- Production and maintenance of the FOI policy and procedures and in conjunction with the Welsh language officer provide a bi-lingual version in line with the Health Board's Welsh language scheme, should this be requested;
- Promotion of FOI awareness across the Health Board through training and the dissemination of the FOI procedures to all staff;
- Ensuring that all staff and the general public are provided with information about their rights and responsibilities under FOI in an accessible format;
- Regularly updating the Publication Scheme;
- Ensuring information available on the Health Board's website is kept accurate and up to date;
- Maintain appropriate records of requests for information.

24.6. Freedom of Information Officer

The Health Board has a named FOI Lead, who will ensure that the work required to comply with the Act is carried out.

24.7. Head of Information Governance

The Health Board Head of Information Governance who provides advice and assistance.

24.8. Information Governance Sub-Committee

The Information Governance Sub-Committee reports to the Business Planning & Performance Assurance Committee and comprises of key staff from the Health Board. The Information Governance Sub-Committee will oversee the development and updating of FOI policy and procedures and ensure that awareness of FOI is maintained across the Health Board.

24.9. All staff, Independent Board Members and Contractors

All staff, Independent Board members, contractors and those who undertake work on behalf of contractors are obliged to adhere to this policy. They should be familiar with the requirements of the Act and be aware of their personal responsibilities under the Act.

24.10. Line managers

In certain circumstances, to support equality and diversity, line managers will need to consider individual requirements of staff to support good practice in complying with this policy.

Line managers must ensure that their staff are aware of this policy and procedure and how to deal with a Freedom of Information request should they receive one.

Figure 1.1: Governance Accountability Structure

HYWEL DDA UNIVERSITY HEALTH BOARD

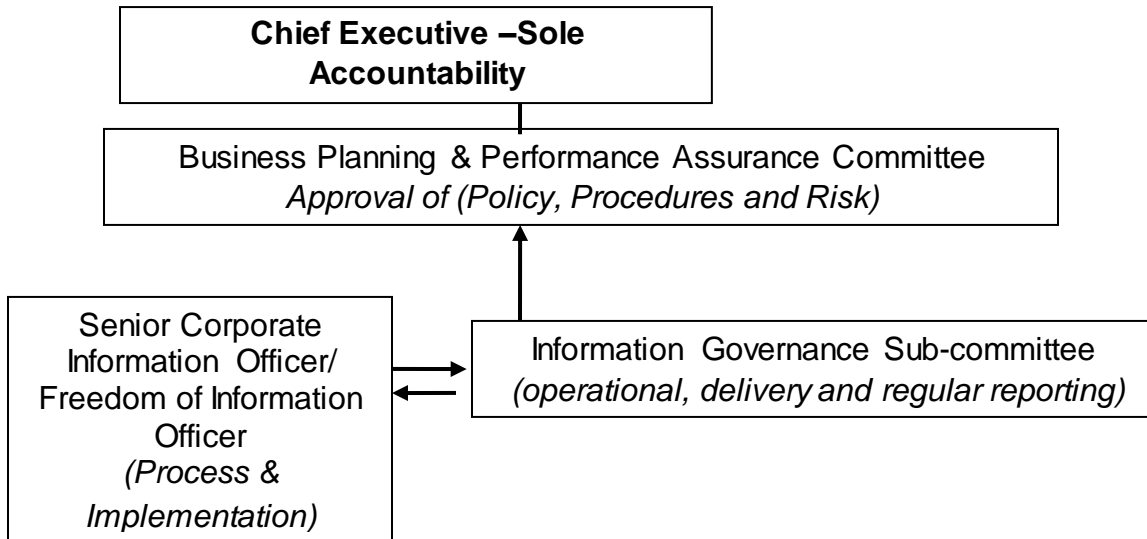
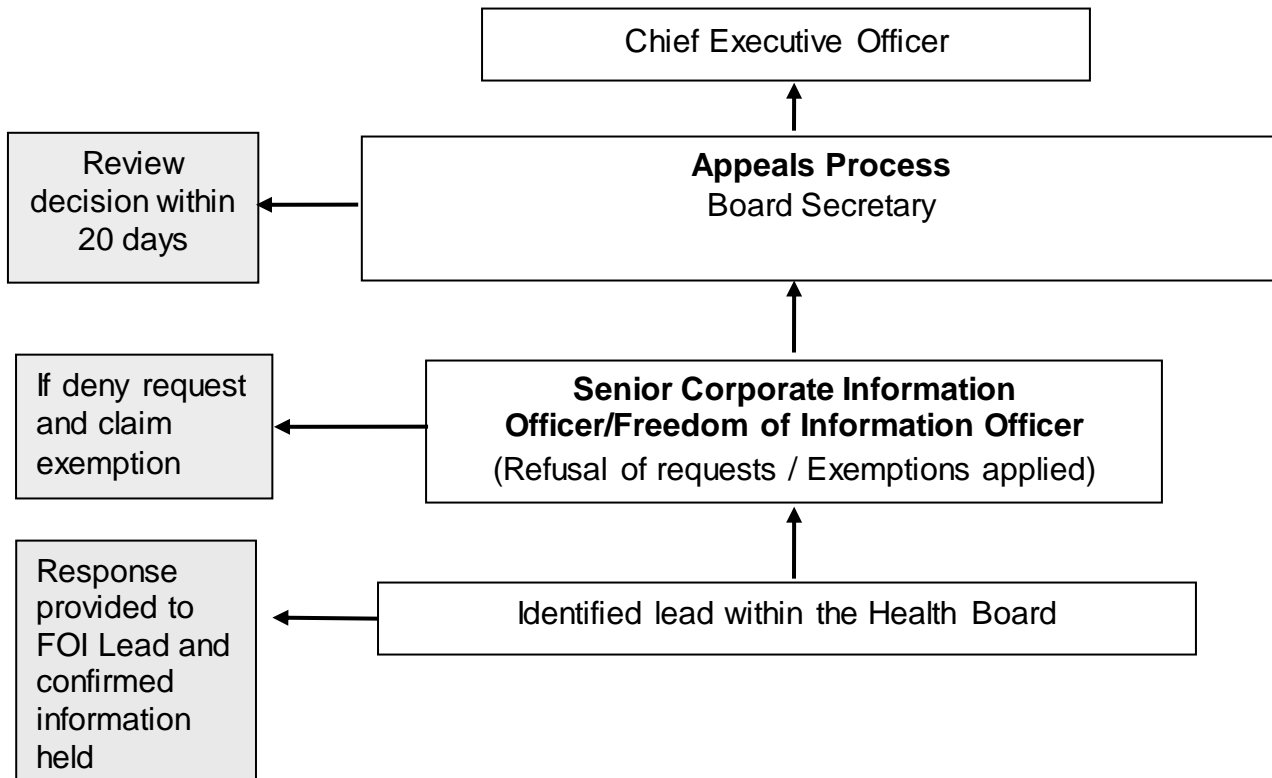


Figure 1.2: Staff / Managers Accountability Structure in compliance with requests



25. IMPLEMENTATION

It will be the responsibility of the Senior Corporate Information Officer to ensure that this policy is implemented effectively across the Health Board, through training.

Information Governance issues, including Freedom of Information, will be highlighted on a routine basis through the Information Governance Sub -committee to the Business Planning & Performance Assurance Committee.

HYWEL DDA UNIVERSITY HEALTH BOARD

26. STANDARDS AND KEY PERFORMANCE INDICATORS

Lord Chancellor's Code of Practice (Section 45): The Senior Corporate Information Officer will regularly assess performance in meeting the standards and statutory timeframes of the Code.

27. MONITORING COMPLIANCE

The Health Board will review the Freedom of Information arrangements to ensure compliance with this policy.

The FOI Officer will maintain records of all FOI requests for monitoring purposes in accordance with the Lord Chancellor's Code

The Senior Corporate Information Officer will produce quarterly reports to the Information Governance Management Group under delegated authority from Business Planning & Performance Assurance Committee to assess performance in meeting the statutory timeframes and applicant satisfaction with the process.

28. REFERENCES

Freedom of Information Act 2000 - <http://www.opsi.gov.uk/acts/acts2000/20000036.htm>

Information Commissioners Office Freedom of Information Act webpage - http://www.ico.gov.uk/what_we_cover/freedom_of_information.aspx

Code of Practice on the discharge of public authorities' functions under Section 45 of the Freedom of Information Act – <http://www.dca.gov.uk/foi/reference/statCodesOfPractice.htm>

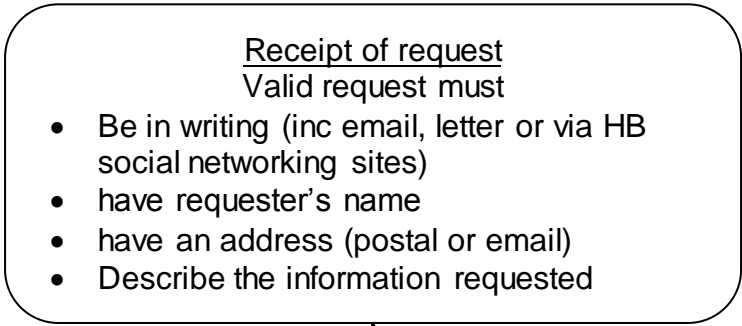
HYWEL DDA UNIVERSITY HEALTH BOARD

29. APPENDIX A – FREEDOM OF INFORMATION FLOWCHART

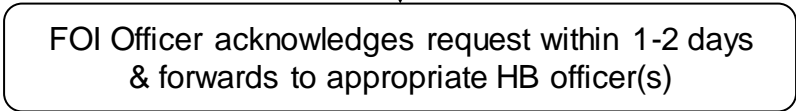
HYWEL DDA UNIVERSITY HEALTH BOARD

DAY 1

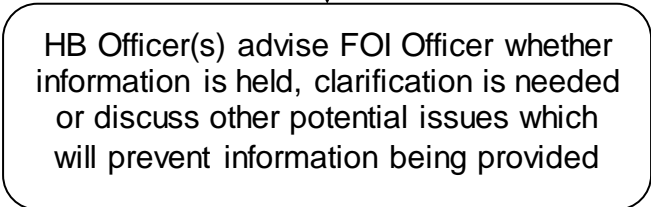
Day 1 is the first day it arrives in the organisation not in the FOI Office



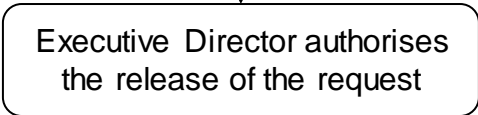
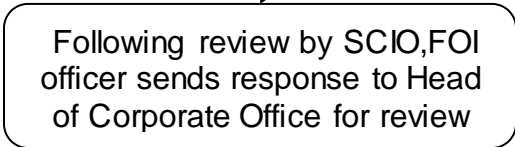
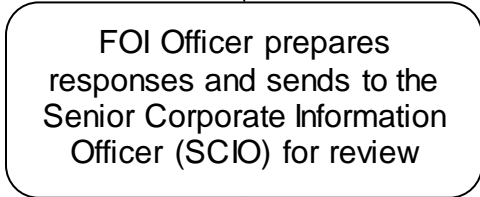
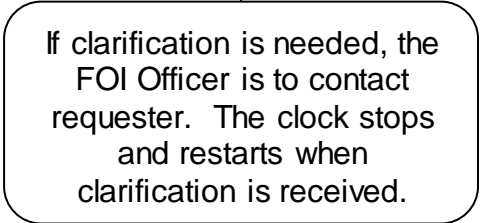
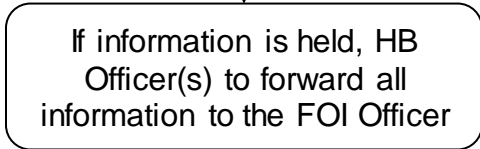
BY DAY 2



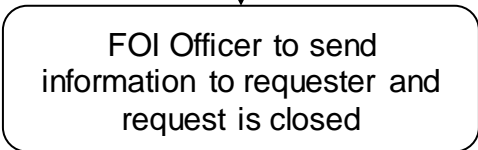
BY DAY 4



BY DAY 10



BY DAY 20



HYWEL DDA UNIVERSITY HEALTH BOARD

30. APPENDIX B – APPEALS PROCESS FLOWCHART

HYWEL DDA UNIVERSITY HEALTH BOARD

DAY 1

Day 1 is the first day it arrives in the organisation not in the FOI Office

Receipt of appeal

- Requestor dissatisfied with Health Board response, appeal to Health Board received.
- Must be in writing (inc email, letter or via HB social networking sites)
- Must include requester's name
- Must include an address (postal or email)
- Must contain the reasons for appealing the response

BY DAY 2

FOI Officer acknowledges appeal within 1-2 days & forwards to Board Secretary

BY DAY 10

Board Secretary conducts a review to establish:

- The procedures for responding to the request were followed correctly.
- All information, relevant to the request, held by the Health Board, was provided to the requestor.
- Where any information was withheld, the application of exemption/s used was done so correctly and explained fully.

BY DAY 20

Following completion of the review, the Board Secretary drafts the appeal response and sends to the requestor