

HYWEL DDA UNIVERSITY HEALTH BOARD



Re-use of Public Sector Information Procedure

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|-----------------------|-----|--------------------|---|---|-----------|
| Policy Number: | 174 | Supercedes: | 1 | Standards For Healthcare Services No/s | 1, 19 &20 |
|-----------------------|-----|--------------------|---|---|-----------|

| Version No: | Date Of Review: | Reviewer Name: | Completed Action: | Approved by: | Date Approved: | New Review Date: |
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| 1 | 0/03/2011 | Bob Mander | Developed Document | IGC | 01/03/2011 | 01/03/2014 |
| 2 | 12/09/14 | Charlotte Beare | Reviewed Document | IGC | 02/12/2014 | 02/12/2017 |
| | December 2017 | Kathryn Thomas | Extended whilst review is finalised | BPPAC Exec Team | 19/12/2017 12.6.2019 | 31/03/2018 30.11.2019 |
| | | | Extended due to work pressures/COVID19 | PPPAC | 27.8.2020 | 27.2.2021 |

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| Brief Summary of Document: | The purpose of this procedure is to ensure that requests for the re-use of public sector information are managed in accordance with the Re-use of Public Sector Information Regulations 2005 (the Regulations). |
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| To be read in conjunction with: | 173 – Freedom of Information Policy 224 – Information Classification Policy |
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|------------------------|-----------|------------------|-----------|--------------------------------------|------|
| Classification: | Corporate | Category: | Procedure | Freedom Of Information Status | Open |
|------------------------|-----------|------------------|-----------|--------------------------------------|------|

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| Authorised by: | Jo Wilson | Job Title | Interim Board Secretary | Signature: | A signed copy of this document is stored with Corporate Services |
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|------------------------------------|-----------------|----------------------|-------------------|---------------------------------------|
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|--------------|--------------------------|-------------------------------------|--------------------|--------------------------|------------------------|--------------------------|--------------------|--------------------------|
| Scope | ORGANISATION WIDE | <input checked="" type="checkbox"/> | DIRECTORATE | <input type="checkbox"/> | DEPARTMENT ONLY | <input type="checkbox"/> | COUNTY ONLY | <input type="checkbox"/> |
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|--------------------|-------------------------|-------------------------------------|-----------------------------|-------------------------------------|---------------------------|-------------------------------------|-------------|-------------------------------------|
| Staff Group | Administrative/ Estates | <input checked="" type="checkbox"/> | Allied Health Professionals | <input checked="" type="checkbox"/> | Ancillary | <input checked="" type="checkbox"/> | Maintenance | <input checked="" type="checkbox"/> |
| | Medical & Dental | <input checked="" type="checkbox"/> | Nursing | <input checked="" type="checkbox"/> | Scientific & Professional | <input checked="" type="checkbox"/> | Other | <input checked="" type="checkbox"/> |

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|---------------------|---|----------------|----------------|----------|
| CONSULTATION | Please indicate the name of the individual(s)/group(s) or committee(s) involved in the consultation process and state date agreement obtained. | | | |
| | Individual(s) | FOI Dept Leads | Date(s) | 18/08/14 |
| | Group(s) | | Date(s) | |
| | Committee(s) | IGSC | Date(s) | 18/08/14 |

| | | | |
|---|-------------------------|------------------------|---------------------------------|
| RATIFYING AUTHORITY (in accordance with the Schedule of Delegation) | KEY | | COMMENTS/ POINTS TO NOTE |
| NAME OF COMMITTEE | A = Approval Required | Date Approval Obtained | |
| | FR = Final Ratification | | |
| Integrated Governance Committee | FR | 2.12.2014 | |

| | | | |
|---|------------|--|---------------------------------|
| Date Equality Impact Assessment Undertaken | 14/08/2014 | Group completing Equality impact assessment | Charlotte Beare & Jackie Hooper |
|---|------------|--|---------------------------------|

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| Please enter any keywords to be used in the policy search system to enable staff to locate this policy | Re-use, public sector information, RPSI |
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| Document Implementation Plan | | | |
|--|--|---------------------------|-----------|
| How Will This Policy Be Implemented? | The Corporate Governance Team will be responsible for implementing this policy by dealing with the day to day management of requests for re-use of information | | |
| Who Should Use The Document? | Staff who receive requests for re-use of public sector information and/or involved in providing information to freedom of information requests | | |
| What (if any) Training/Financial Implications are Associated with this document? | None | | |
| What are the Action Plan/Timescales for implementing this policy? | Action | By Whom | By When |
| | Made Active on Written Control Document system | Corporate Governance Team | Sept 2014 |
| | All staff notified via What's new/Global e-bulletins | Corporate Governance Team | Sept 2014 |
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1. INTRODUCTION

The purpose of this procedure is to ensure that requests for the re-use of public sector information are managed in accordance with the Re-use of Public Sector Information Regulations 2005 (the Regulations). The purpose of the Regulations is to establish a framework that provides for effective re-use of public sector information and is based on the principles of fairness, transparency, non-discrimination and consistency of application.

Most information supplied in response to information access regimes such as the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 will be protected by copyright and permission to re-use it will be required as the provision of information does not confer any automatic right to re-use the information. The Regulations provide a framework for re-use of information once access has been obtained. However, the Protection of Freedoms Act 2012 which amends S102 of the Freedom of Information Act contain provisions under which certain public sector owned datasets will be reusable at the point of access by means of a specified licence.

Re-use of information occurs where information is used for a purpose other than the original purpose for which it was created by a public sector body within its public task. Re-use helps to deliver three key government priorities: public sector transparency; increased public involvement in achieving government objectives; and increased economic growth (UKGLF, 2013).

2. SCOPE

This procedure applies to:

- All employees, including permanent, temporary, contractual and agency, and Independent Members;
- Volunteers, students or any other authorised people working with or for the UHB
- Those who hold information on behalf of the UHB.

3. AIMS

This procedure is to ensure that Hywel Dda University Health Board (UHB) is compliant with the Re-use of Public Sector Information Regulations 2005.

4. OBJECTIVES

This procedure will set out the arrangements for the following:

- Dealing with applications for re-use within 20 working days in a non-discriminatory way
- To publish terms of re-use, usually in the form of a licence
- Not to enter into exclusive arrangements other than in exceptional circumstances
- To provide information about what information is available for re-use. This should be in the form of an information asset list

5. DEALING WITH APPLICATIONS FOR RE-USE

5.1. Copyright

Most information produced by the UHB is subject to copyright protection and the UHB has the right to authorise the re-use of the information it produces under UK copyright legislation. The Regulations only apply to copyright and related rights (database rights, publication rights and rights in performances). They do not apply to other intellectual property rights such as patents, trade marks and design rights.

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5.2. Documents

All documents held by the UHB fall within the scope of the Regulations with the exception of those which:-

- fall out of the public task of the UHB
- contain content in which the relevant intellectual property rights are owned or controlled by a person or controlled by a person or organisation other than the UHB, eg photographs
- are exempt from release under the freedom of information (except where s21 applies), environmental information and any other access legislation

The Regulations define 'document' by relating it to 'content' which is information recorded in any form.

5.3. Request for re-use

The provision of information does not confer any automatic right to re-use the information. Regulation 6 state that applicants should:

- Make requests for re-use in writing, including email. Requests must be legible and usable for subsequent reference
- Provide their name and address
- Specify which documents they want to re-use
- State the purpose for which the document is to be re-used

Where the requester cannot provide the request in writing, assistance can be provided to the applicant whereby the request can be drafted and confirmed with them. Once confirmation is received, it is considered to be a written request and the UHB is obliged to respond.

Requests in Welsh and other languages will also be accepted and the Health Board will adhere to relevant equality legislation when providing information requested. (See also 5.6 below)

5.4. Responding to a request for re-use

Regulation 8 sets out how public sector bodies should respond to requests, including timescales. In response to requests for re-use, the UHB can issue one of the following responses:

- A refusal to give permission to re-use
- Supply the document to the applicant, if it has not already been supplied under access to information legislation, ie Freedom of Information.
- Offer terms and conditions for re-use, often in form of a licence

In terms of timescales, documents will fall under 2 broad categories:

5.4.1. Readily available documents

This covers documents which have already been made available and would include those which have already been published or are identified as being available for re-use on an asset list. These must be responded to within 20 working days.

Under the Regulations, the UHB is allowed up to 20 working days following the date of receipt of the request for re-use to finalise any license offer.

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5.4.2. Previously Unreleased Documents

This covers unpublished documents and information that has not been identified as being available for re-use. Permission for re-use is subject to access issues being resolved.

If the request for access and re-use is combined, it must be dealt with fully in terms of access to the information before a final decision on re-use can be taken. Where requests for re-use are extensive in terms of the number of documents requested, or raise complex issues, the UHB may extend the response time. However, it must be prepared to justify that the time taken to respond is reasonable. The UHB must also inform the applicant before the expiry of the 20 working days that it is unable to respond to the request within the standard time frame and provide an indication of when a response can be expected.

5.5. **Notification of Refusal**

Under Regulation 9, when the UHB refuses a request for re-use, it must:-

- Set out the reasons for refusal in writing
- Explain what forms of redress are open to the applicant, both internal and independent
- Where the refusal is based on the fact that copyright or other relevant intellectual property rights (IPRs) are owned by a third party, the owner must be identified (where known)
- Where the owner of the third party copyright is not known, the name of the person from whom the document was obtained should be provided (where known). If it is not known, this fact should be stated.

5.6. **Processing requests for re-use**

Under Regulation 10, requests for re-use should be dealt with electronically, where possible, and should take advantage of existing licensing systems that are available. However Regulation 11 does not require public bodies to make documents available in a format other than the format or language in which the document already exists (unless it has duties to do so under other legislation such as disability discrimination legislation and the Welsh Language Act). Regulation 11 also confirms there is no obligation to:

- create or adapt a document to comply with a request for re-use
- provide extracts of documents where this would entail disproportionate effort
- continue producing a document purely for re-use by others

5.7. **Conditions**

Regulation 12 allows the UHB to set conditions on the re-use of documents. Conditions should not unnecessarily restrict the way in which a document can be re-used nor should it seek to restrict competition between re-users.

Terms and conditions are set out within the licences below. There are 3 different types of licence which can be issued:-

5.7.1. Open Government Licence (OGL)

The [Open Government Licence](#) is an open licencing model and tool for public sector bodies to licence the re-use of their information and data easily. It consists of a simple set of terms and conditions to which public sector bodies simply point as the relevant licence. Use of information under the OGL is free and allows information to be used and re-used for commercial and/or non-commercial purposes. Licencees are required to include an attribution statement in any use of the information. An attribution statement identifies the name, creator and date of information, and acknowledges them appropriately. It demonstrates further the source of the information and its use under the OGL. Public bodies are encouraged to use the

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OGL symbol on their websites and in publications wherever possible. Templates on how to apply the OGL to UHB on-line information resources and print publications can be found at Appendix 1.

5.7.2. Non-Commercial Government Licence

The default position is that public sector information should be licensed for use and re-use free of charge under the OGL. However there are specific circumstances where information may only be released for use and re-use for non-commercial purposes. The [Non-Commercial Government Licence](#) has been developed to meet those circumstances. When a public sector body licenses its information under the Non-Commercial Government Licence, it should insert a visible statement asserting this and provide the Non-Commercial Government Licence URI (Uniform Resource Indicator) or URL (Uniform Resource Locator) in the information.

Templates on how to apply the Non-Commercial Government Licence to the UHB on-line information resources and print publications can be found at Appendix 2.

5.7.3. Charged Licence

As indicated in previous sections, public sector information should be licensed for use and re-use free of charge under the OGL. However there are circumstances where it is appropriate to charge for use and re-use. The Charged Licence is designed for use in situations such as the context of s102 of the Protections of Freedoms Act 2012. Legal advice should be sought before offering information for use and re-use where charges are made.

5.7.4. Licensing software and source code

The public sector produces software or source code as well as types of content such as documents and data. Software is protected by copyright and this makes licensing considerations important. Many developers release their work under open source licences which enable software to be re-used freely and free of charge.

Public sector bodies that are involved in developing their own software and source code are encouraged to make them available as openly as possible. Developers may choose to release their software and source code under OGL or alternatively the Open Source Initiative maintains a list of approved [open source licences](#) covering software and source code that can be used (<http://opensource.org/licenses>).

5.8. **Non-discrimination**

Under Regulation 13, the UHB must not discriminate in the conditions applied between applicants who re-use documents for similar purposes. The emphasis is on the use of the documents rather than the re-user. The only exception to this is where a particular user or groups of users have a statutory right to re-use material. For example, libraries, archives and educational establishments enjoy special privileges under the Copyright, Designs and Patents Act 1988, which also includes special provisions for the reproduction of material for visually impaired persons.

5.9. **Prohibition of Exclusive Arrangements**

Under Regulation 14, the UHB should not enter into exclusive arrangements as it prevents others from re-using the document and inhibits competition. This covers appointing publishers to publish versions of documents. An important exception to this is where a service in the public interest cannot be provided other than by means of granting an exclusive license. However the terms of the arrangement must be published and the justification regularly reviewed (at least every 3 years).

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5.10. Charging

Although there is no obligation on the UHB to charge for re-use, it retains the right to do so, and where a charge is made it will be noted on the UHB Publication Scheme. Under the Regulations the UHB is permitted to charge for re-use however the total income should not exceed the cost of collection, production, reproduction and dissemination of documents and a reasonable return on investment. As much of the information held by the UHB is available in digital format, the costs of allowing for re-use will often not involve any additional costs.

The UHB should be able to justify any charges that are applied for re-use and if the charge includes supplying of the document, or that it has been subject of a request under Access to Information Legislation (ie Freedom of Information Act) then the access fee should be deducted from the fee for re-use.

Nominal charges may cover basic costs relating to:

- The collection, production, reproduction and dissemination of the documents including relevant copyright work, eg, copying, printing and postage
- The cost of conversion of the information to a different format or extraction from a larger dataset

5.11. Information to be published by the UHB

Public bodies must be open, transparent and fair in processing applications for re-use. Under Regulation 16, the UHB is required to publish asset lists, standard licence terms and details of any charges, electronically where possible.

5.12. Internal review procedure

The Regulations require that the UHB has an effective procedure to consider any complaints that arise from the application the Regulations. Regulation 17 requires that complaints are responded to 'within a reasonable time'. The UHB aims to provide a response to a complaint relating to re-use within 20 working days unless there are good reasons why this is not possible.

All complaints must be made in writing to the UHB in the first instance, providing all the relevant information. The UHB response must also be in writing clearly setting out the reasons behind its decision, within the timeframe outlined above. If the internal process fails to resolve the issue, the complainant can refer the issue to the Office of Public Sector Information at the National Archives (Further information can be found on the following link:

<http://nationalarchives.gov.uk/documents/information-management/psi-complaints-procedure.pdf>).

6. RESPONSIBILITIES –

6.1. Chief Executive

Overall responsibility for compliance with the Regulations lies with the Chief Executive.

6.2. Board Secretary/Senior Risk Information Officer (SIRO)

The responsibility for ensuring arrangements are in place for compliance with the Regulations has been devolved to the Director of Corporate Services/Senior Risk Information Officer (SIRO).

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6.3. **Assistant Director of Corporate Services**

The responsibility for ensuring that there are day to day arrangements in place for managing requests for re-use and undertaking reviews into complaints received in relation to the re-use of information lies with the Assistant Director of Corporate Governance.

6.4. **Corporate Governance Team**

The responsibility for the day to day management of requests for re-use and providing advice to UHB staff lies with the Corporate Governance Team. This involves developing and maintaining this policy, managing requests for re-use, maintaining a record of requests for re-use, issuing licences and any related fees notices.

6.5. **All staff**

Staff are responsible for ensuring that requests for re-use are passed to the Corporate Governance Team and that documents are appropriately licensed before publication.

7. **TRAINING**

The Corporate Governance Team can provide advice and assistance to staff on the management of requests for re-use and licensing arrangements.

8. **IMPLEMENTATION**

The Corporate Governance Team will be responsible for implementing this policy ensuring that requests for re-use are managed in accordance with the Regulations.

9. **FURTHER INFORMATION**

The Re-use of Public Sector Information Regulations 2005

National Archives

UK Government Licensing Framework for Public Sector Information 2013

10. **REVIEW**

This Policy will be reviewed after 3 years, or sooner, as required.

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11. APPENDIX 1 – TEMPLATE COPYRIGHT NOTICES & STATEMENTS UNDER OGL

11.1.1. Online information resources (including website statements)

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11.1.2. Print publications

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Any enquiries regarding this publication should be sent to: Hywel Dda University Local Health Board, Corporate Governance Department, Springfield Block, Withybush General Hospital, Fishguard Road, Haverfordwest, SA61 2PZ.

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12. APPENDIX 2 – TEMPLATE COPYRIGHT NOTICES & STATEMENTS FOR NON-COMMERCIAL GOVERNMENT LICENCE

12.1.1. Online information resources (including website statements)

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