

## RELEASE OF INFORMATION PROCEDURE

### Introduction and Aim

The Information Governance Policy stipulates that there is a requirement to process certain requests for information received by Public Health Wales according to current legislation. This procedure informs employees how to identify these types of requests and how to process with the guidance of Risk and Information Governance Team so that Public Health Wales is in compliance with legislation.

### Linked Policies, Procedures and Written Control Documents

Information Governance Policy

### Scope

This procedure applies to all employees employed by Public Health Wales.

### Equality and Health Impact Assessment

This procedure is subject to the EHIA completed for the Information Governance Policy

### Approved by

Information Governance Working Group

### Approval Date

22 January 2018

### Review Date

22 January 2020

### Date of Publication:

17 May 2018

### Accountable Executive Director/Director

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### Disclaimer

**If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the [Corporate Governance](#).**

<b>Summary of reviews/amendments</b>				
<b>Version number</b>	<b>Date of Review</b>	<b>Date of Approval</b>	<b>Date published</b>	<b>Summary of Amendments</b>
1	22 Jan 2020	22 Jan 2018	17 May 2018	New document.

## **1. Introduction**

Much of the activity of Public Health Wales is concerned with providing information to external stakeholders and to the public. There are, however, some types of requests for information that need to be processed in particular ways to ensure that the organisation complies with relevant legislation and guidance.

Public Health Wales has to ensure that all information is properly managed to comply with relevant legal, regulatory frameworks and policies to balance the need for openness, wherever possible, with effective controls for any information where the duty of protection may outweigh the expectation of openness.

This procedure helps teams to identify requests for information that can be handled by them as part of their daily business from those which will fall under a particular Act or Regulation. For these latter requests it will guide teams on the processes to follow.

This procedure does not cover or seek to replace existing systems for responses to our clients/patients or the public which have been and still remain part of our normal service delivery. However any locally devised arrangements must comply with the relevant legislation and it the responsibility of the relevant manager to ensure that any response for information is dealt with within the law.

## **2. Roles and responsibilities**

*All staff will:*

- Refer any requests for information to their manager or business manager

*Managers and Business Managers will:*

- Respond promptly and in line with this procedure to any requests for information
- Assess any request to determine whether or not it can be dealt with locally
- Refer the request to the Chief Risk Officer if:
  - The request states or could be inferred that it is made under Freedom of Information Act,

Environmental Information Regulations or Data Protection Act

- Dealing with the request would necessitate exceptional levels of work beyond the normal departmental capacity
- There is any consideration of refusing the request or engaging an exemption

*The Chief Risk Officer will:*

- Assess any submitted requests
- Determine which legislation will apply
- Provide advice and guidance to managers
- Ensure relevant staff are informed
- Advise on the engagement of exemptions
- Collate the requested information
- Provide requested information in a standardised format
- Ensure that the Head of Communications is consulted prior to release of information under either the Freedom of Information Act or the Environmental Information Regulations.
- Approval the final release of information
- Publish all requests and answers on PHW's internet

*The Head of Communications will:*

- Raising any issues with the Chief Risk Officer on first sight of the request
- Approve the final response from a communications perspective to the Chief Risk Officer

### **3. Procedure**

*General Provisions*

A request for information is a standard business process whose purpose is to collect written information about the functions or output of a business or about personnel.

It is primarily used to gather information to help make a decision on what steps to take next.

Information requests can come in many different forms, from a simple 'What is the address of Public Health Wales', or 'What is the name of your Chief Executive' up to a complex request for detailed Health Intelligence data.

Simple requests for information which can be answered with a few words or a quick email are not within the scope of this procedure. There is however no clear line in the sand between a simple request and a request which requires a formal response and it is a matter for local discretion. If any doubt exists, advice should be sought from the Risk and Information Governance Team.

#### *Requests governed by legislation*

Special provisions will apply when a request is made in circumstances that are provided for under the following legislation:

- Freedom of Information Act 2000
- Environmental Information Regulations 2004
- Data Protection Act 1998

These are all requests requiring a formal response. However, not all requests will mention the legislation, but that does not mean the relevant legislation does not apply. In these cases a formal response is still required.

**Any request for information which may attract a formal response must be notified to the Risk and Information Governance Team.**

#### *Freedom of Information Act 2000*

Information may be requested across a large range of data including corporate documents, financial information, performance and business statistics and other non-person identifiable data.

- The default position under this legislation is that the requested information must be released unless there are grounds for not doing so (see Exemptions)
- Compliance must be within 20 working days after any fee has been paid and the information sought understood.
- Requests must be in writing / email

- There must be a contact name and address
- There must be no checks as to identity of requester or purpose of the request
- The request must be unambiguous
- If required, clarification of the request can be obtained
- Public Health Wales must hold the information
- Public Health Wales need not process data just to comply with the request

Public Health Wales is also under an obligation to consider release of any information it holds procured from a third party, whatever contractual conditions apply, although the Act expects consultation with the supplier.

The Risk and Information Governance Managers are responsible for ensuring that the correct procedures are followed, that the requested information is collated, and that the Freedom of Information Request is replied to appropriately.

The Information Governance Managers will record it on DATIX for audit.

It may be necessary to contact third parties for their views on disclosure of information which may affect their legal rights. However, it should be noted that there is no extension available under Freedom of Information Act in which to complete this dialogue.

#### *Environmental Information Regulations 2004*

These requests are concerned with environmental issues but are to be treated similarly to Freedom of Information requests. The same conditions apply, with the addition of the following:

- The request may be verbal or written
- Contact name/address must be supplied
- Compliance must be within 20 working days for simple requests
- Compliance for complex requests must be within 40 working days

#### *Data Protection Act 1998*

Every person has the right under the Data Protection Act to request

what data or information an organisation holds about them. For example, Public Health Wales commonly receives such requests from service users asking for their screening information, such as results or mammograms, from staff members seeking employment or disciplinary records and from solicitors acting on the subject's behalf.

Any requests must comply with the following provisions to be considered valid:

- Must be for a living person
- Must be made in writing
- The identity of the applicant to be verified

Compliance must be within 40 calendar days of receiving the request. Such a request is termed under Data Protection Act as a Subject Access Request.

#### *Requests for information about people who have died*

If an individual has died then their personal information is no longer covered by the Data Protection Act. However, consideration should be given to any duty of confidence to ensure their personal information remains confidential and is not disclosed without due consideration.

Under the Health Records Act 1990 a deceased patient's personal representative(s) and any persons who may have a claim arising out of the patient's death, can request access to any medical record held by Public Health Wales.

#### *Exemptions from release of information*

Advice from the Risk & Information Governance Team is to be sought where a request is received from any source necessitating:

- Searching records for the information you would not normally release
- Conducting bespoke analysis
- Collation of information within the team or from other teams

Such requests may involve a team in considerable amounts of work, but correct application of relevant legislation will ensure compliance and that any exemptions will be correctly applied.

See Appendix 3 for a list of exemptions for Freedom of Information

and Environmental Information Regulations.

**Any consideration of engaging exemptions when making decisions on the release of information must be referred to the Chief Risk Officer.**

#### **4. Training requirements**

Training will be provided on how to recognise differing requests for information. However the Risk & Information Governance Team will assist as necessary.

#### **5. Monitoring compliance**

The Chief Risk Officer will monitor this procedure to ensure it is compliant with current legislation and to ensure it is effectively implemented.

#### **6. Publication**

Anonymised responses to Freedom of Information and Environmental Information Regulation requests are published on the Public Health Wales internet as part of the Publication Scheme.

#### **7. Further information**

The Information Commissioner's Office publishes detailed advice on Freedom of Information, Environmental Information Regulation and Subject Access Requests. Anyone wanting more detailed information can consult the Information Commissioner's Office guidance by following this link.

For Freedom of Information & Environmental Information Regulation requests:

<https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/>

For Subject Access Requests – click Subject Access in the list

<https://ico.org.uk/for-organisations/guidance-index/data-protection-and-privacy-and-electronic-communications/>



## Appendix 1

### Definitions

Term	Definition
Data Protection Act	The <b>Data Protection Act</b> 1998 (DPA 1998) is an <b>act</b> of the United Kingdom (UK) Parliament defining the ways in which information about living people may be legally used and handled. The main intent is to protect individuals against misuse or abuse of information about them.
Data Protection Act – Subject Access Request	An individual has the right to get a copy of the information that is held about you. This is known as a <b>subject access request</b> . This right of <b>subject access means</b> that you can make a <b>request</b> under the <b>Data Protection Act</b> to any organisation processing your personal <b>data</b> .
DATIX	<b>Datix Limited</b> is a patient safety organisation that produces web-based incident reporting and risk management software for healthcare and social care organizations. It is used by Public Health Wales.
Environmental Information Regulations	The <b>Environmental Information Regulations 2004</b> (EIR) is a <a href="#">UK Statutory Instrument</a> (SI 2004 No. 3391) that provides a statutory right of access to environmental information held by UK public authorities. The regulations came into force on 1 January 2005. <sup>1</sup>
Environmental Information Regulations Request	A request for Environmental information would include information about air, water, soil, land, flora and fauna, energy, noise, waste and emissions. Environmental Information also includes information about decisions, policies and activities that affect the environment.  It is accepted by the UK Government that most maps will contain environmental information.
Freedom of Information Act 2000	The Freedom of Information Act 2000 provides public access to information held by public authorities.  It does this in two ways: <ul style="list-style-type: none"> <li>• public authorities are obliged to publish certain information about their activities; and</li> <li>• members of the public are entitled to request information from public authorities.</li> </ul>
Freedom of Information Request	Can be for any recorded information held by a public authority. Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings but not person identifiable data.
Person Identifiable Information (PII)	Any data that could potentially identify a specific individual. This includes partial demographic data such as date of birth, postcode, IP address, image.

## Appendix 2

### Legislative criteria

	<b>Freedom of Information</b>	<b>Environmental Regulations</b>	<b>Data Protection Act Subject Access Request</b>
<b>Submission of request</b>	In writing including email	Verbal or in writing	In writing with valid identification of requester
<b>Valid contact address</b>	Yes	Yes	Yes
<b>Type of information</b>	How PHW makes decisions; statistical information; financial, employment and IT information; other non-person identifiable Information	Anything to do with the environment i.e. refuse tip emissions; pollution; food contamination; effect of environment on disease	The requester's own information held by PHW; Only applies to living individuals.
<b>Time limit to respond</b>	20 working days from day after date of receipt	20 working days from day after date of receipt but can extend to 40 days if very complex	40 calendar days
<b>Format</b>	Comply with format requested if at all possible	Comply with format requested if at all possible	N/A
<b>Other</b>	Request must be unambiguous. If not clarification must be sought through RIG Team.		
			If the person has died please seek advice of Risk & Information Governance Team
			Only information about the subject can be released. Other information will need to be redacted. Seek advice from Risk & Information Governance Team
Clock stops until a request is clarified by requester			

## **Appendix 3**

### **Exemptions**

There are many exemptions to the releasing of information, however this is a complex area of legislation.

The following headings are provided for information only, and any consideration of engaging an exemption from release must be referred to the Chief Risk Officer for advice.

#### **Exemptions – Freedom of Information Act 2000**

Section 21:	Information reasonably accessible to the applicant by other means
Sections 22 and 22A:	Information intended for future publication and research information
Section 23:	Security bodies
Section 24:	Safeguarding national security
Section 26:	Defence
Section 27:	International relations
Section 28:	Relations within the UK
Section 29:	The economy
Section 30:	Investigations and proceedings
Section 31:	Law enforcement
Section 32:	Court, inquiry or arbitration records
Section 33:	Public audit
Section 34:	Parliamentary privilege
Section 35:	Government policy
Section 36:	Effective conduct of public affairs
Section 36:	Record of the qualified person's opinion

Section 37:	Communications with Her Majesty and the awarding of honours
Section 38:	Health and safety
Section 39:	Environmental information
Section 40:	Personal information
Section 40:	Access to information held in complaint files
Section 40:	Information exempt from the subject access right
Section 40:	Neither confirm nor deny in relation to personal data
Section 40: others	Personal data of both the requester and others
Section 40:	Requests for personal data about public authority employees
Section 41:	Information provided in confidence
Section 42:	Legal professional privilege
Section 43:	Commercial interest
Section 44:	Prohibitions on disclosure

### **Exceptions – Environmental Information Regulations**

Regulation 12(4)(a)	Information not held – please see ‘Holding information’ below.
Regulation 12(4)(b):	Manifestly unreasonable requests
Regulation 12(4)(c):	Requests formulated in too general a manner
Regulation 12(4)(d):	Material in the course of completion, unfinished documents and incomplete data
Regulation 12(4)(e):	Internal communications
Regulation 12(5)(a):	International relations, defence, national security or public safety

- Regulation 12(5)(b): The course of justice and inquiries exception
- Regulation 12(5)(c): Intellectual property rights
- Regulation 12(5)(d): Confidentiality of proceedings
- Regulation 12(5)(e): Confidentiality of commercial or industrial information
- Regulation 12(5)(f): Interests of the person who provided the information to the public authority
- Regulation 12(5)(g): Protection of the environment
- Regulation 12(9): Information on emissions
- Regulation 13: Personal information