



Pecyn Cymorth Llywodraethu
Gwybodaeth Cymru
Welsh Information Governance
Toolkit

IGDC • DHCW

Expectations Guidance Document

2-Freedom of Information Act (FOIA) & Environmental Information Regulation (EIR)

Introduction

This guidance will provide basic information on what will be required from Organisation Administrators and Users to work through and complete the Freedom of Information (FOIA) & Environmental Information (EIR) section of the Welsh Information Governance Toolkit (WIGTK).

The Freedom of Information Act 2000 (FOIA) is designed to increase transparency; providing members of the public the opportunity to be able to routinely access information held by public authorities. It does this in two ways:

- public authorities are obliged to routinely publish certain information about their activities; and
- members of the public are entitled to request information from those public authorities.

The Act covers any recorded information that is held by a public authority. Public authorities include government departments, local authorities, police forces, state schools and the NHS; this includes information from Health Bodies, GMPs, Pharmacies, Dentists and Optical Contractors, Prison Healthcare providers, Urgent and Emergency Care (OOH) services and other Third Party Contractors concerning their NHS work.

Recorded information includes printed documents, computer files, letters, emails, photographs and sound or video recording, which is held by a public authority.

The Environmental Regulations 2004 (EIR) are comparable to the Freedom of Information Act but are limited to information regarding the environment. The EIR grants the right for any person to request access to environmental information held by public authorities and for public authorities to take steps to proactively make environmental information available to the public.

The EIR interpret 'environmental information' widely, with the scope to include information such as health and safety policies, details about recycling, land development, pollution levels, energy production, and waste management.

Minimum Expectations

Recognising requests

The FOIA 2000 confers two rights on the public:

- a. the right to be informed whether a public body holds certain information.
- b. the right to obtain a copy of that information.

For a request to be valid it must meet the following requirements:

- be in writing (this could be a letter, email or via the web)



- include the requester's real name
- include an address for correspondence (this can be any address at which you can write to them, including a postal address or email address)
- describe the information requested

Requests for 'environmental information', for example, can be made verbally.

Requests for information should be met within 20 working days of receipt of the request or, where a fee is charged, within 20 working days of receipt of that fee. Providing all staff with basic training and guidance on FOIA & EIR will help the organisation to ensure that requests are recognised and correctly directed to ensure prompt action and compliance.

Directing FOI/EIR Requests – Third Party Contractors only

Where an organisation is not subject to the Freedom of Information Act 2000 directly but is contracted by a Public Authority, the organisation is not obliged to answer any requests for information it receives, it is however good practice for such requests to be forwarded to the relevant Public Authority for action.

Publication Scheme

The FOIA requires every public authority to adopt and maintain a publication scheme, and to proactively publish information in accordance with the scheme. All public authorities must use one of the [model publication schemes](#) created by the Information Commissioner's Office (ICO).

The amendments to the FOIA by the Protection of Freedoms Act 2012 also require public authorities to publish any requested datasets as part of their publication scheme, if appropriate.

The model scheme is suitable for all sectors and consists of seven commitments and seven classes of information that must be published. The classes of information cover areas such as what services an organisation offers, how much it spends, its priorities, etc.

Policies and Procedures – Third Party Contractors only

The organisation should have an established process for the management of its FOI & EIR responsibilities. This should be recorded within a procedure or other relevant guidance and include high level responsibilities of staff. The procedure should include the recognition of FOI & EIR requests received into the organisation, the processing of these requests and the organisation's publication scheme commitments.

Signposting to further information – Not applicable to Third Party Contractors

As well as having a publication scheme available to the public, organisations should also:



- produce a guide to information, (or ensure that an existing website meets this need) that specifies the information the organisation publishes, how it will be published and how it is available. For example, online or by contacting the organisation by post.
- provide a schedule of fees, saying what the organisation charges for information.
- ensure that members of the public can easily obtain the information.

The organisations should ensure it utilises communication points to indicate where further/additional information can be found.

Training – HB/Trusts/SHA, Prison Healthcare and Third Party Contractors only

Comprehensive staff training should be provided to staff members with specific responsibility for FOI and EIR. The training should cover the following:

- recognising and responding to a request for information;
- developing and maintaining a Publication Scheme;
- records management;
- exemptions – public interest and absolute exemptions;
- complaints / enforcement;
- the interface between freedom of information and data protection;
- vexatious/repeated requests;
- fees.

Staff should also be made aware of any relevant guidance on good practice issued by the ICO.

Larger authorities should ensure that they have a central core of staff with expertise in Freedom of Information who can provide expert advice to other members of staff as needed.

Exceeded Expectations

This section is not required to be completed; however, it will help to further demonstrate your compliance and provide assurance.

These questions build on those you will have answered in the minimum expectations section; however, they are slightly more in depth.

Please note: If you are Third Party Contractor completing the Welsh IG Toolkit, there are no exceeded expectations in this section.

Website content

Regarding publication schemes, the Freedom of Information Act (2000) says:



- (1) It shall be the duty of every public authority—
(c) from time to time to review its publication scheme.

The organisation should conduct regular reviews of the organisation's website with content regularly reviewed to ensure it aligns with the publication scheme.

Training – GPs, Community Pharmacy, Optoms, Dentistry and Urgent and Emergency Care only

Comprehensive staff training should be provided to staff members with specific responsibility for FOI and EIR. The training should cover the following:

- recognising and responding to a request for information;
- developing and maintaining a Publication Scheme;
- records management;
- exemptions – public interest and absolute exemptions;
- complaints / enforcement;
- the interface between freedom of information and data protection;
- vexatious/repeated requests;
- fees.

Staff should also be made aware of any relevant guidance on good practice issued by the ICO.

Larger authorities should ensure that they have a central core of staff with expertise in Freedom of Information who can provide expert advice to other members of staff as needed.

Disclosure Log

The organisation should maintain a disclosure log to actively publish details of requests received under FOI and EIR which may be of the wider public interest, along with the organisation's response to these requests.

The disclosure log should be made readily available on the organisation's website.

Performance Figures – HB/SHAs/Trusts and Prison Healthcare only

Senior management/board members should receive regular FOI performance reports which highlight:

- number of FOI requests received;
- number of requests responded to within the 20-working day limit and the reasons for any exceeding the statutory deadline;
- the justification for the application of any exemptions;
- details of any complaints made about any response or the process itself; and
- details of any requests that have been escalated to the Information Commissioner's Office by the applicant.



Based on these reports, any necessary improvement plans, or recommendations for improvements can be implemented. For example, identify additional resources if there is continued failure to meet statutory deadlines, increasing staff awareness through additional training or guidance materials to recognise requests.

