

**West Dunbartonshire
Health & Social Care Partnership**

**WEST DUNBARTONSHIRE
HEALTH & SOCIAL CARE
PARTNERSHIP BOARD**

Freedom of Information (FOI) Policy

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1. PURPOSE

1.1 West Dunbartonshire Health & Social Care Partnership Board (the name given to the Integration Authority for West Dunbartonshire) is responsible for the strategic planning and reporting of a range of health and social care services delegated to it by NHS Greater Glasgow & Clyde Health Board and West Dunbartonshire Council (described in full within its approved Integration Scheme). The Council and the Health Board discharge the operational delivery of those delegated services (except those related to the Health Board's Acute Division services most commonly associated with the emergency care pathway) through the partnership arrangement referred to as West Dunbartonshire Health & Social Care Partnership. The Health & Social Care Partnership Board is responsible for the operational oversight of West Dunbartonshire Health & Social Care Partnership (HSCP).

1.2 The Partnership Board's:

- Mission is to improve the health and wellbeing of West Dunbartonshire.
- Purpose is to plan for and ensure the delivery of high quality health and social care services to and with the communities of West Dunbartonshire.
- Core values are protection; improvement; efficiency; transparency; fairness; collaboration; respect; and compassion.

1.3 The Partnership Board is a legal entity in its own right created by Parliamentary Order, following ministerial approval of its Integration Scheme (as per the Public Bodies [Joint Working] Act 2014). However, the Partnership Board has neither replaced nor assumed the rights or responsibilities of either the Health Board or the Council as the employers of the staff delivering integrated services; or for the operation of buildings or services under the operational remit of those staff.

1.4 The Freedom of Information (Scotland) Act 2002 (usually known as FOISA or FOI) aims to increase openness and accountability in government and across the public sector by making sure that people have the right to access information held by Scottish public authorities. This includes environmental information which is covered by the Environmental Information (Scotland) Regulations 2004 (known as the EIRs). The Act is overseen by the Scottish Information Commissioner, who has the power to issue enforcement notices and, if need be, initiate court proceedings to ensure compliance. Further advice and information can be found on the Scottish Information Commissioner's website at:

<http://www.itspublicknowledge.info>.

And you can read more about Scottish Law concerning Freedom of Information here:
<http://www.legislation.gov.uk/asp/2002/13/section/5>.

1.5 Integration Authorities are a Scottish Public Authority for the purposes of FOI legislation. FOI and the EIRs therefore apply to all recorded information held by the West Dunbartonshire Health and Social Care Partnership Board (with the exception of personal information).

1.6 This document details the required Freedom of Information Policy for the West Dunbartonshire Health & Social Care Partnership Board. It provides advice and guidance to staff that are responsible for handling FOI requests, but is also aimed at members of the public who want to understand their rights and know what to expect, under the Partnership Board's policy.

1.7 In light of the Partnership Board having delegated responsibility for the management oversight of the delivery of a wide range of services within Adult and Children's Social Care and Health Services, a FOI request may be more appropriately dealt with through either NHS Greater Glasgow and Clyde or West Dunbartonshire Council's

FOI policies - unless it is a request concerned directly with statutory functions held by the Partnership Board.

2. Our Commitment to Effective Governance

2.1 As expressed within both its Local Code of Good Governance and its approved Publication Scheme, the Partnership Board is committed to transparency and will favour disclosure of information whenever possible. This policy will demonstrate that commitment to work within the spirit of FOISA its related Regulations and Codes of Practice. This policy should be interpreted in conjunction with the Records Management, Information Sharing and Publication Scheme Policies that together provide the framework for governing recorded information. The Partnership Board commits to:

- Ensure that, where appropriate, information will be published through its publication scheme and on its website.
- Handle all requests promptly and within the legal timeframe.
- Fairly apply the public interest test in cases where a qualified exemption applies.
- Make its members aware that it is an offence to prevent disclosure by altering, defacing, blocking, erasing, destroying or concealing any record.
- Where valid exemptions apply to a FOISA (e.g. data protection) the Partnership Board will state the reasons why it has withheld all or part of the information.

3. Roles and Responsibilities

- 3.1 Overall responsibility and accountability for compliance with information legislation lies with the Chief Officer of the Partnership Board, reporting to the Partnership Board as a whole. Partnership Board Members may also be involved in considering complex information requests.
- 3.2 Given the narrow breadth of information 'controlled' by the Partnership Board, (see Publication Scheme), it is likely that, in many cases, that an initial FOI request may actually be more appropriately dealt with by either NHS Greater Glasgow & Clyde or West Dunbartonshire Council as 'data controllers' under their own FOI Policies.
- 3.3 Where a FOI request is submitted to the Integration Joint Board and it becomes apparent it is in relation to information technically held by West Dunbartonshire Council or NHS Greater Glasgow & Clyde, then the relevant policy and procedures for either would be more properly enacted and the request dealt with under the relevant policy. The applicant would be informed of this in writing.
- 3.4 The Chief Officer is responsible for ensuring that the Partnership Board meets its obligations under this legislation, drawing on appropriate advice from within their Senior Management Team. This includes responsibility for reviewing operation of the Partnership Board's compliance with Freedom of Information legislation and for ensuring that the relevant policy is in place. FOI response performance will be reviewed quarterly by the Chief Officer and annually by the Partnership Board.
- 3.5 The Chief Finance Officer (or nominated person) will generally oversee the independent review process, should the applicant be dissatisfied with the initial response provided by the Chief Officer.
- 3.6 Managers are responsible for ensuring staff under their direction and control are aware of the freedom of information policies, procedures and guidance agreed and for ensuring that those staff understand and apply appropriately those policies, procedures and guidance in carrying out their day to day work. Staff must know where to refer any issues on which they require guidance.

3.7 It is a criminal offence to destroy information that is subject to a FOI request.

4. Handling Requests for Recorded Information

4.1 Anyone can make a request for information held by the Partnership Board. Unless there are specific exemptions which apply to the information, this information should normally be provided within 20 working days; the 20 working day period starts when the Health and Social Care Partnership first receives the request, not when it reaches the correct personnel.

4.2 A request for information must be made in a permanent format, for example in writing or via email, cassette or video recording. The request must include the applicants name with an address or email address to which a response can be sent and should include a description of the information they are seeking.

4.3 It is not always the case, the applicant refers to FOISA within the terms of their request and they are not obliged to inform the Partnership Board why they want the information. They can also state a preference for how they wish the response to be sent.

4.4 It is up to the Chief Officer (on behalf of the Partnership Board) to determine if the request for information falls under FOISA legislation.

A request must be sent to:

**The Chief Officer,
West Dunbartonshire Health and Social Care Partnership Headquarters, Council
Offices, Garshake Road, Dumbarton, G82 3PU**

Or by email to: WDHSCP@west-dunbarton.gov.uk

4.5 An applicant will receive a written acknowledgement of their request (via email or post) detailing the deadline to which they should expect a response. A response should be issued as soon as possible and always within the 20 working dayrule.

4.6 Where a request has been received but more information is required from the applicant to identify and locate the relevant information, the Chief Officer should approach the applicant for clarification as soon as possible.

4.7 As per section1(3) and 10(1)(b) of the Act the statutory 20 working days deadline will not start until sufficient clarification has been received from the applicant to allow the Chief Officer (on behalf of the Partnership Board) to identify and locate the requested information. See the Scottish Ministers Code of Practice here for further information:

<http://www.gov.scot/Resource/Doc/933/0109425.pdf>.

4.8 Once a written response has been received by the applicant, if they are unhappy with the response, they have the right to challenge the information provided and ask the Partnership Board to review their response. The Chief Finance Officer (or their nominated person) is responsible for undertaking the review on behalf of the Partnership Board, which will be followed by a second and independent response being sent to the applicant.

4.9 If after further correspondence, the applicant continues to be dissatisfied, they then have the right to appeal to the Scottish Information Commissioner who will decide if further investigation is necessary. The website address for the Scottish Information Commissioner can be found in the earlier section of this document.

5. What isn't a FOI request?

- 5.1 Telephone requests are not subject to FOISA.
- 5.2 A request for a service is not dealt with under FOISA. Instead these requests will be passed to the relevant service area to be dealt with through normal operations.
- 5.3 Requests for personal information either about themselves or about another individual (and they can prove they are acting as that person's representative), then the application should be handled under Subject Access Request legislation (Data Protection Act 1998). Subject Access Requests would fall within the policies of either West Dunbartonshire Council or NHS Greater Glasgow & Clyde, as the Partnership Board do not and will not hold personal data.
- 5.4 The Access to Health Records Act 1990 grants rights to certain individuals to see what has been written about a deceased person in a hospital and other health records. Access is available to the deceased patient's personal representative or to any person having a claim arising out of a patient's death. Again, this would fall within the relevant policy of NHS Greater Glasgow & Clyde, as the Partnership Board do not and will not hold such records.

6. Responding to a FOI Request – 20 Days

- 6.1 As already noted, the statutory timescale for responding to a FOI request is 20 working days. Working days are defined as Monday to Thursday 8:45 to 4:45 and Friday, 08:45 to 3:55 excluding bank holidays and weekends. All FOI requests will be responded to within the statutory period, regardless of staff absence or working patterns.
- 6.2 The 20 day period commences when the request is first received and must be date stamped by the Health and Social Care Partnership upon receipt. The FOI Request will be recorded in order to support formal reporting to the Information Commissioner. Suitable arrangements will be made to respond to FOI requests in the absence of the Chief Officer and relevant mailboxes monitored on a daily basis.
- 6.3 The 20 day period is 'stopped' when:
 - The information is sent to the applicant.
 - A fees notification/refusal notice is issued. Or.
 - Further clarification is required from the applicant to inform the response.

7. Publication Scheme

- 7.1 FOISA requires all public authorities to produce and maintain a publication scheme. A publication scheme sets out the following:
 - The Classes of information already available to the public.
 - Details of how the information can be obtained.
 - Its location.
 - Whether there is a charge for providing the information.
- 7.2 The Publication Scheme for the Partnership Board can be found here:
<http://www.wdhscp.org.uk/media/1884/wdhscp-board-publication-scheme-oct-17.pdf>
Any information made available through the Publication Scheme will be free of charge unless otherwise specified.

8. Charges

- 8.1 The Partnership Board may charge an appropriate fee for dealing with a specific request. This charge will be calculated in accordance with the statutory 'fees regulations'.
- 8.2 The Partnership Board can charge direct and indirect costs incurred in locating, retrieving and providing information.
- 8.3 Charging for time spent determining whether the information is held cannot be charged for, nor can a charge be levied for providing information in a particular format.
- 8.4 If costs exceed £600, the Partnership Board does not have to comply (section 12 of the Act) with the request.
- 8.5 Staff time can be charged for up to a maximum of £15 per hour. The fees regulations limit the chargeable amounts as follows:
- Up to £100 - no charge can be made.
 - £100 to £600 – first £100 deducted, the Partnership Board can charge 10% of this cost.
 - Over £600 - no obligation to provide information.
- 8.6 The cost for responding to a request should be calculated before the request is answered and within the 20 working day deadline. A fees notice will be issued and the applicants request only needs to be answered on payment of the fee. The Payment must be received within 3 months.

9. Exemptions and refusal to respond

- 9.1 The Partnership Board does not have to comply with information requests if the information is exempt under the provisions made in Sections 25 to 41 of the Act.
- 9.2 Exemptions will be applied on a case by case basis rather than applying on a blanket basis, (see Appendix 1 for a full listing of exemptions).
- 9.3 Exemptions may be applied to an entire request or part of a request. The Chief Officer or their deputy shall apply exemptions to responses as applicable. If necessary the application of exemptions will be discussed with West Dunbartonshire Council's Legal Services (as per its corporate support to the Partnership Board and the Chief Officer). There are two types of exemptions and these are outlined below.

10. Non - Absolute Exemptions

- 10.1 The 'public interest' test applies to determine if the public interest in disclosing the information outweighs the public interest in maintaining confidentiality. This includes commercial interests and personal information of third parties.

11. Absolute Exemptions

- 11.1 If an absolute exemption applies the Chief Officer (on behalf of the Partnership Board) will not release the information. Absolute exemptions include confidential material and information published elsewhere amongst others. The 'public interest' test does not need to be considered.

- 11.2 The Partnership Board will favour disclosure wherever possible. If applying an exemption it will inform the applicant and provide information on why the request has been refused.
- 11.3 If a request or part of a request is subject to an exemption, and is therefore being refused, the response will include a refusal notice. The refusal notice will include notice that the Partnership Board does or does not hold the required information, details of the exemption being claimed, including the appropriate section of the Act and an explanation of why the exemption applies. The notice will also include information about how to request a review or make an appeal to the Scottish Information Commissioner.
- 11.4 The Partnership Board is not obliged to comply with a request deemed to be vexatious or repeated (section 14 of the Act). The request log can be used to identify repeated or vexatious requests.
- 11.5 When applying the 'public interest' test, the Chief Officer (on behalf of the Partnership Board) will explain the reason(s) for claiming the public interest if applying the exemption outweighs the public interest in disclosure.

12. How the Partnership Board will respond

- 12.1 The Equality Act 2010 places a duty on public authorities to be sensitive to the requirements of applicants. For example, where reasonable, information should be provided in a format requested such as in large print, Braille, audio or recording or other languages.
- 12.2 A standard template will be used to provide the response from the Chief Officer of the Partnership Board.

13. Requesting a Review

- 13.1 If the applicant is dissatisfied with the way a request has been dealt with or is unhappy with the decision, they may request a review to be undertaken under FOISA.
- 13.2 The request for a review must also be in writing or in a permanent form, for example, email. The request for a review must be made no later than 40 working days following receipt of the response to the original request.
- 13.3 The applicant must explain what issue they are dissatisfied with, for example:
- The application of exemptions.
 - The handling of the request.
 - The fact that no response was received to the original request within the prescribed deadline of 20 working days.
- 13.4 The request should state the name of the applicant and an address (which can be an email address).
- 13.5 The Partnership Board does not have to conduct a review if the review request or the original request is deemed to be vexatious. In such instances, the Chief Finance Officer (or nominated person), on behalf of the Partnership Board, will explain this to the applicant and include information on their rights of appeal to the Scottish Information Commissioner.
- 13.6 The Chief Finance Officer (or nominated person), on behalf of the Partnership Board, has 20 working days within which to conduct and respond to the request for a review, from the date it was first received. The Chief Finance Officer (or

nominated person) will contact the applicant acknowledging their request for a review.

13.7 The Chief Finance Officer (or nominated person) will work with the Chair of the Partnership Board and consult with any staff involved in the original request. If required, the Chief Finance Officer (or nominated person) will obtain legal advice from a solicitor who was not involved in the original decision, either through West Dunbartonshire Council or NHS Greater Glasgow & Clyde.

13.8 The review process will be:

- Fair and impartial.
- Able to reach a different decision if appropriate.
- Straightforward and capable of reaching an outcome promptly.
- As per paragraph 66 of the Scottish Ministers Code of Practice the review will be handled by staff who were not involved in the original decision, where this is reasonably practicable.

13.9 The applicant can expect the following outcomes following a review:

- Confirmation of the original decision.
- The release of all or part of the information initially withheld.
- A finding that the Partnership Board did not follow the correct procedures for dealing with the request for information.

13.10 The Scottish Ministers' Scottish Ministers' Code of Practice under Section 60 provides valuable guidance and advice on dealing with review requests.

13.11 Following receipt of the outcome, applicants who continue to be dissatisfied with the Partnership Board's decision or the way in which their request was handled can appeal to the Scottish Information Commissioner. Applicants can appeal within six months from the date on which they received a response to their request for a review.

13.12 Requests for an independent review should be made in writing to the Scottish Information Commissioner:

Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

Or by email to: enquires@itspublicknowledge.info

14. Records Management and Monitoring

14.1 The Partnership Board will maintain a register of all requests made for information under the Act. Details of the applicant, dates, staff involved, exemptions applied will be collected along with other useful details.

14.2 A log shall also be kept of all review requests and appeals. Details of important dates, deadlines and staff involvement will be collated.

14.3 Monitoring reports will be reviewed quarterly by the Chief Officer and submitted to the Partnership Board (or its Audit Committee) annually to ensure compliance with the FOISA legislation and to address any areas for improvement.

14.4 The Chief Officer will make arrangements to ensure that the requirement to submit quarterly statistics to the Scottish Information Commissioner is fulfilled.

14.5 Records created under FOISA are retained in accordance with relevant Records Retention and Disposal Schedule. After the end of the relevant retention period, the records are destroyed by shredding.

15. Contact Us

15.1 For further advice or guidance on this document please contact:

**West Dunbartonshire Health and Social Care Partnership Headquarters,
Hartfield Clinic, Latta Street, Dumbarton, G82 2DS**

Or by email to: WDHSCP@west-dunbarton.gov.uk

Or by telephone: 01389 776833

Appendix 1 - Summary of FOISA Exemptions

Exemption.	Absolute.	Public Interest.	Substantial Prejudice.	Section of FOISA.
Information otherwise accessible.	Yes.	-	-	25
Prohibition on disclosure by other legislation.	Yes.	-	-	26
Confidential information obtained from a third person.	Yes.	-	-	36(2)
Court Records.	Yes.	-	-	37
Access to personal data about themselves.	Yes.	-	-	38
Information intended for future publication (within 12 weeks).	-	Yes.	-	27
Relations within the United Kingdom.	-	Yes.	Yes.	28
Formulation of Scottish administrative policy.	-	Yes.	-	29
Prejudice to the effect conduct of public affairs.	-	Yes.	Yes.	30
National security and defence.	-	Yes.	-	31
International relations.	-	Yes.	Yes.	32
Commercial interest and the economy.	-	Yes.	Yes.	33
Investigations by Scottish public authorities.	-	Yes.	-	34
Law enforcement.	-	Yes.	Yes.	35
Confidentiality of communication in legal proceedings (legal privilege).	-	Yes.	-	36(1)
Personal information about a third party.	-	Yes.	-	38
Health, safety and the environment.	-	Yes.	-	39
Audit functions.	-	Yes.	Yes.	40
Communications with the Royal household and the granting of honours.	-	Yes.	-	41