

## Freedom of Information Policy

<b>Document Location</b>	<b>G:\CHS\Corporate Services &amp; Strategy\Information Governance\Policy and Procedure\Approved Policies and Procedures</b>
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### 1. Introduction and purpose

- 1.1 Children's Hearings Scotland (CHS) is required to comply with the Freedom of Information (Scotland) Act 2002 (FOISA). CHS is listed in schedule 1 Part 7 of FOISA as a Scottish public authority.
- 1.2 There are two main requirements of FOISA that CHS must comply with. These are:
  - Responding to requests for information, and
  - Maintaining a Publication Scheme

In order to comply with these requirements, CHS has website pages relating to both the [Publication Scheme](#) and making a [Freedom of Information request](#). These pages are updated regularly.

- 1.3 Responsibility for the enforcement of FOISA sits with the Scottish Information Commissioner. CHS reports their FOISA statistics to the Commissioner on a quarterly basis.
- 1.4 The purpose of this policy is to outline the key principles of Freedom of information law and set out how CHS meets its legal obligations to respond to requests and publish information in compliance with data protection law. All members of the CHS National Team must read this policy.

### 2. The Freedom of Information Law

- 2.1 Freedom of Information law gives individuals the right to ask for and be given information from a wide range of public organisations in Scotland, including CHS. Individuals can ask for any type of recorded information, and applies to paper and electronic records and audio and visual recordings.
- 2.2 As well as responding to requests, under FOISA Scottish public authorities must make certain types of information available proactively. This is often referred to as the 'Publication Scheme' duty. Under this duty CHS produces a Guide to Information that shows what information has been made available, where you can find it, and whether it is available free of charge or for a fee.

- 2.3 CHS may apply exemptions listed under FOISA to the information that has been requested. Most exemptions are subject to the public interest test, meaning the information must be disclosed unless the public interest in disclosing the information is outweighed by the public interest in maintaining the exemption. Scottish public authorities are also able under FOISA to not comply with requests for information that are vexatious or repeated, as outlined in the legislation.

### **3. Handling Requests**

#### **3.1 Receiving and Recognising a Request**

- 3.1.1 Anyone can make a FOISA request to CHS. Requesters do not have to be located in Scotland or the UK, and do not need to mention FOISA or freedom of information, but just to ask for the information they are looking for.
- 3.1.2 A valid FOISA request must be in writing or a format that can be kept for future use (e.g. email, audio recording) and must include the requesters real name and postal/ email address for responding to.

#### **3.2 Responding to Requests**

- 3.2.1 CHS has a duty of assistance to requesters. If a request is not clear then the requester must be supported to clarify the request, and if CHS does not hold the relevant information but is aware of where the information may be held by another public body they must share that with the requester. Where information is publicly available, the requester must be directed to the information they have asked for.
- 3.2.2 Any member of staff at CHS can receive a FOISA request, but all requests will be handled by Information Governance officers. Anyone receiving a request for information must pass the request on to [information@chs.gov.scot](mailto:information@chs.gov.scot).
- 3.2.3 Requests must be passed on as quickly as possible. CHS will always aim to acknowledge requests within one working day of receipt and will ensure acknowledgement within 5 working days.
- 3.2.4 CHS must respond to the request within 20 working days of receipt, unless an extension to this timescale has been agreed with the requester.
- 3.2.5 Where it is not possible to supply the information that has been requested the Information Governance (IG)G officers will provide the requester with an explanation of the reason and include details of how to request a review of the decision.

### **3.3 Exemptions**

3.3.1 FOISA makes provisions for exemptions both absolute and qualified. Qualified exemptions may only be applied if the public interest in disclosing the information is not outweighed by the public interest in maintaining the exemption. This is known as the public interest test. Whenever CHS makes use of a qualified exemption the public interest test will have applied prior to response.

3.3.2 CHS does not make regular use of many exemptions, but the most common exemption used is s38, third party personal information. This exemption is used to protect the personal information of individuals who are not the requester and is an absolute exemption where release of personal information would contravene data protection principles.

### **3.4 Vexatious or Repeated Requests**

3.4.1 CHS is not obliged to respond to a request if the information has been previously provided to the requester and is unchanged, or if the request is vexatious

## **4. Reviews**

### **4.1 Handling of Requests for review**

4.1.1 if a requester is dissatisfied with the response from CHS to their request they can require CHS to carry out a review.

4.1.2 Requests for a review must be made in a recorded format and must provided the requesters name and postal/ email address. They must also describe why they are dissatisfied with the response from CHS.

4.1.3 Requests for review will be handled by a senior officer with information governance responsibilities who was not involved in the original request. In practice this may be the Data Protection Officer (DPO) or if they have been involved in the original request, the review will pass to the Senior Information Risk Owner (SIRO) for handling.

4.1.4 Requests for review must be acknowledged within five working days, and must be responded to within 20 working days of receipt.

4.1.5 If a requester is dissatisfied with the outcome or handling of a review they can make an application to the Scottish Information Commissioner for a decision. Applications to the Scottish Information Commissioner can be made at [www.itspublicknowledge.info](http://www.itspublicknowledge.info).

### **4.2 Monitoring of Decisions taken**

4.2.1 The IG officers will maintain a log of all requests processed and actions taken on each application, including requests for review. This log will ensure consistency and enable quicker

replies to requesters by identifying whether the same or similar information has previously been requested and provided.

4.2.2 The log may also be used to identify duplicate or vexatious requests and allow recurring request to be identified and published within the CHS Publication Scheme.

## **5. Publication Scheme**

### **5.1 Obligation to Publish Information**

5.1.1 CHS is obligated under FOISA (s23) to adopt and maintain a publication scheme that is approved by the Scottish Information Commissioner, publishing information that may be of interest to the public. CHS's Publication Scheme has been approved by the Commissioner.

5.1.2 CHS subscribes to the Commissioner's Model Publication Scheme which lists nine Classes of information CHS must publish if held. Any updates the Commissioner makes to the Model Publication Scheme are adopted into CHS's Publication Scheme. The Classes of information are as follows:

1. About CHS
2. How CHS delivers its functions and services
3. How CHS takes decisions and what it has decided
4. What CHS spends and how it spends it
5. How CHS manages its human, physical and information resources
6. How CHS procures goods and services from external providers
7. How CHS is performing
8. Our commercial publications
9. Our Open Data

5.1.3 To be classed as published information, the information CHS publishes must be easily accessible to any member of the public that may wish to view it. CHS makes most information available on its website, and also provides alternative access arrangements.

5.1.4 The Publication Scheme provides a means of displaying that CHS is accountable and transparent, and acting in the public interest in its decision-making and service delivery. If information is published, CHS is not required to provide it in information request responses since it is already available (FOISA s25).

### **5.2 Guide to Information**

5.2.1 Under the Model Publication Scheme, CHS must produce and maintain a Guide to Information, which is available on the CHS website. The Guide to Information sets out what information CHS publishes through the Model Publication Scheme, how to access it, any charges for access, and how to get help to access the information.

5.2.2 The Guide to Information lists all the information that CHS publishes on the website, under nine Classes, along with a link to where the public can access the information. This is updated as new information is published/existing information is updated.

### 5.3 Exemptions

5.3.1 Any applicable exemptions will be applied to information due to be published. However, where possible the exempt information will be redacted and the remaining information published to make sure CHS publishes as much information as possible.

### 5.4 Publication Scheme Operation

5.4.1 The IG Records Officer maintains the Publication Scheme and Guide to Information, in liaison with the Communications Team who publish the information and updated Guide to Information on the website. The IG Records Officer applies any redactions and applicable exemptions, makes sure information gets published, and updates the Guide to Information.

## 6. Equality and Diversity

6.1 CHS employs various techniques to provide pages on our website which will meet the accessibility standards for site visitors with movement, cognitive. and visual impairments. Appropriate assistance will also be provided to people with learning disabilities when they submit an information request.

6.2 CHS can provide information in accessible formats, including hard copy and large print on request. Wherever possible CHS will endeavour to provide information requested under FOISA in the preferred format of the requester.

## 7. Monitoring and Review

7.1 This policy will be reviewed every two years or as appropriate to take into account changes to legislation that may occur, and/or guidance from the Scottish Government and/or the [Scottish Information Commissioners Office](#).

### Document Control

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<b>Author</b>	Sophie-Elise Anker, 2022
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Version	Date	Status	Author	Amendments to policy	Approved by
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1.0		Final	Sophie-Elise Anker	N/A	SIRO, DCEO

## Appendix A: Definitions

- 1.1 **Freedom of Information** and **FOISA** both refer to the 2002 Scottish Act.
- 1.2 **Freedom of Information request** refers to any request for information which falls under the 2002 Act.
- 1.3 The **Scottish Information Commissioner** is the independent public official responsible for promoting and enforcing Scotland’s freedom of information law.
- 1.4 The **CHS National Team** refers to all paid staff members employed by CHS.
- 1.5 The **Publication Scheme** refers to the structured collection of information proactively published by CHS in line with the Model Publication Scheme.
- 1.6 **Exemptions** refer to freedom of information mechanisms by which public authorities can legitimately not publish information that has been requested.
- 1.7 **Vexatious** refers to requests identified under freedom of information law as intended to create frustration or annoyance.
- 1.8 **Data Protection Officer (DPO)** refers to the Information Governance officer with responsibility for monitoring and advising senior management on compliance with data protection law and regulations.
- 1.9 **Senior Information Risk Owner (SIRO)** refers to the Senior Management member who takes overall ownership of information risk within the authority.