



Freedom of Information Policy

July 2023

Any request for the document in another format or language
will be considered

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1. Introduction

The Freedom of Information Act 2000 (FOI) gives the public a general right of access to information held by a public authority, subject to certain conditions and exemptions. FOI promotes greater openness and accountability across the public sector, therefore facilitating a better understanding of how public bodies carry out their business and how they spend public money.

FOI places a statutory obligation on the Patient and Client Council (PCC) to publish details of all recorded information that it holds, except where an exemption applies. FOI is wholly retrospective and applies to all information held by public authorities regardless of its date.

The Environmental Information Regulations 2004 (EIR) gives the right to access 'environmental information' held by public authorities, and therefore requires similar measures for all environmental information held by PCC.

2. Purpose

PCC acknowledges its obligations as set out under FOI and EIR, and is committed to the principles of openness, transparency and accountability.

This policy establishes a framework which underlines the commitment. The purpose of this policy and related procedures is to ensure that PCC is compliant with the FOI and EIR legislation, and sets out the procedures for dealing with requests for information in an efficient manner.

3. Supporting Legislation

This policy has been written to support staff in compliance with the following legal requirements and best practice guidance, which includes but is not limited to:

- UK General Data Protection Regulations
- Data Protection Act 2018
- Common Law Duty of Confidentiality
- Freedom of Information Act 2000
- Public Records Act (Northern Ireland) 1923
- Disposal of Documents Order 1925
- Re-Use of Public Sector Information Regulation 2005
- Access to Health Records (Northern Ireland) 1923
- Human Rights Act 1998
- Electronic Communications Act 2000
- Environmental Information Regulations 2004
- Equality Act 2010
- Public Interest Disclosure Act 1998
- The Investigatory Powers Act 2016
- Guidance from the Information Commissioners Office (ICO)
- The Department of Health (DoH) Good Management, Good Records
- [Guide to freedom of information | ICO](#)

4. Scope

The scope of this policy is to support the control and management of information in line with FOI and EIR requirements. The policy will cover **all** recorded information within the PCC and is concerned with all information systems, electronic and non-electronic information. It applies to all directorates, services and departments, all permanent and temporary staff, all agency staff, and as appropriate to contractors and third party service providers acting on behalf of PCC.

This includes, but is not necessarily limited to information:

- stored on computers, paper and electronic structured records systems
- transmitted across internal and public networks such as email or Intranet/Internet
- stored within databases
- printed or handwritten
- stored on removable media such as CDs, hard disks, pen drives, tapes and other similar media
- stored on fixed media such as hard drives and disk subsystems
- held on film or microfiche
- information recording and processing systems whether paper electronic video or audio records
- presented on slides, overhead projectors, using visual and audio media
- Recordings, notes or minutes of telephone conversations and meetings.

5. Responsibilities (see Appendix A)

- 5.1 The **Council** has overall responsibility to ensure compliance in all areas of information governance.
- 5.2 The **Chief Executive** has ultimate responsibility for the delivery of this policy.
- 5.3 The **Personal Data Guardian (PDG)**, Head of Operations, is the senior person responsible for ensuring that the PCC protects the confidentiality of personal information.
- 5.4 The **Senior Information Risk Owner (SIRO)**, Head of Business Support, is the focus for the management of information risk at Board level.
- 5.5 The **Head of Business Support** is responsible for ensuring compliance with FOI requirements.
- 5.6 The **Business and Governance Manager** is responsible for ensuring that this policy and associated procedures are kept up to date, and for the day to day management of FOI and EIR requests. Advice, guidance and assistance as

appropriate is provided by the Business Services Organisation (BSO) as set out in the Service Level Agreement between the PCC and BSO.

- 5.7 All **Head of Functions** are responsible individually and collectively for the application of the Information Governance suite of policies, including this Freedom of Information Policy, within their Departments.
- 5.8 **Managers** are responsible for ensuring that this policy and its supporting standards and guidelines are built into local processes.
- 5.9 **All Staff** members, whether permanent, temporary or agency are responsible for ensuring that they are aware of the requirements incumbent upon them and for ensuring that they comply with these on a day to day basis. Staff are expected to familiarise themselves with, and abide by, the principles set out within this policy

6. Handling and tracking of requests

6.1 Defining a Valid FOI Request

As defined in Section 8 of the FOI Act, to meet all the requirements of a valid FOI request, a request must:

- Be in writing
- State the name of the applicant and a valid email or postal address for correspondence
- Describe the information requested
- Be received in a legible form

The term 'in writing' covers requests submitted by letter and electronic form, including those sent via Social Media. The request does not have to make any direct reference to the Act, or be the sole or main theme of the requester's correspondence.

A request is deemed as 'received' when it is delivered to PCC (for example, to the inbox of a member of staff), and not the date the request is forwarded for onward processing¹. Any requests for information under FOI must therefore be forwarded to the Business and Governance Manager immediately for onward processing.

6.2 Identity of the applicant and reasons for the request

The ICO has advised that, as FOI enables disclosure on grounds of public interest, responses should be applicant and motive blind. PCC will therefore

¹ In respect of emails, however, where an automated 'out of office' message provides instructions on how to re-direct a message, the request would not be 'received' until it was re-sent to the alternative contact.

assess all requests on the understanding that applicant identity is not a relevant consideration. Possible exceptions to this include:

- a request is deemed to be repeated
- if disclosure would be contrary to Data Protection principles or would be likely to endanger the health and safety of any other person
- aggregated costs in line with Fees Regulations

6.3 Time Limits for Compliance with Requests

PCC has, and continues to develop, systems and procedures to ensure that it complies with its duties to provide a response to requests within the statutory timeframe of twenty working days from the point of a valid request being received.

If it becomes clear at any stage that the above timescales cannot be met, PCC will inform the applicant in writing and give a revised deadline for completion.

6.4 Means by which information will be conveyed

When an applicant expresses a preference for communication by particular means, PCC so far as is reasonably practicable, will give effect to that preference.

In determining whether it is reasonably practicable, PCC will consider all the circumstances, including the cost of doing so. If it is determined that it is not reasonably practicable to comply with any preference expressed by the applicant, the applicant will be notified of the reasons for its determination and will provide the information by such means as which it is deemed reasonable.

6.5 Approval and Signature

The process for handling FOI requests is set out in Appendix B.

Once the final draft response has been agreed by BSO Information Governance Department and PCC Business Support, it is submitted to the Head of Business Support for signature or in their absence, the Head of Operations.

Signed responses will be issued to applicants via the BSO's Information Governance Department

7. Refusing requests

The duty to confirm or deny does not arise if:

- an exemption under FOI is applicable
- the request is considered vexatious and/or repeated
- a fees notice has been issued and the fee has not been paid

7.1 Exemptions

The FOI Act contains a number of exemptions that allow information to be withheld from a requester. Some are designated 'absolute' meaning, that the

duty to provide the information does not apply. Most are designated 'qualified' exemptions and require a public interest test to be applied, to decide whether the public interest in withholding the information outweighs the public interest in disclosing it.

In determining whether disclosure would be likely to prejudice the effective conduct of public affairs (Section 36 of FOI), the designated Qualified Person will decide on the exemption's application, taking advice from BSO's Information Governance Officer. In PCC's case, this is the Chief Executive Officer.

Where an exemption is deemed to apply to some or all of the information requested, the applicant will be notified in writing. The relevant exemption will be cited and any information that is not exempt will be provided.

If legal opinion is deemed necessary, it will be sought in conjunction with BSO's Information Governance Department.

7.2 Vexatious and Repeated Requests

If a request is vexatious, the PCC does not have to comply with it.

When considering if a request is vexatious, the context and history of a request, including the identity of the requester and previous contact with them can be taken into account. However, it should be noted that it is the request that is considered to be vexatious and not the requester. (i.e. a subsequent request from the same requester can only be considered as vexatious if it meets the criteria for determining this.)

The key question to consider when determining if a request is vexatious is whether it is likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation.

Section 14(2) of FOI states that a request can be refused as repeated if:

- It is made by the same person as a previous request;
- It is identical or substantially similar to the previous request; and
- No reasonable interval has elapsed since the previous request

Should an applicant make a vexatious request or 'repeated' request for identical or substantially similar information, PCC will inform the applicant in writing that they will not fulfil the request, by indicating the reason(s) why. If the request is for information recently refused, the organisation will treat the request as a request for internal review of the original decision.

7.3 Cost

PCC will follow the appropriate Regulations² in determining the cost of complying with a request. Accordingly, all requests that cost less than the 'appropriate limit' of £450 (calculated at £25 per hour) to process will be complied with free of charge.

In calculating cost, PCC may only take into account the time taken to determine whether it holds the information, and to locate, retrieve and extract it. It may not take into account the time taken to consider exemptions, to seek and obtain legal advice, to consider whether a request is vexatious, to obtain authorisation to provide the information, to calculate fees or to perform any redactions.

If the estimated cost of compliance exceeds the appropriate limit, the duty to comply with the request does not arise. However, in keeping with the duty to provide advice and assistance, PCC will first seek to refine the request with the applicant in order to provide relevant and useful information within the appropriate limit.

If PCC is intending to charge a fee, it must issue a fees notice to the applicant. In the event of a fees notice being issued, the twenty working day compliance period is placed 'on hold' from the date of issue until the fee is received. If no fee is received, the request will be closed three months from the date of fees notice.

No 'appropriate limit' is set by EIR. However, PCC reserves the right to refuse to comply with requests under Section 12(4) of EIR which are 'manifestly unreasonable' or 'too general'. As with FOI, PCC has a duty to advise the applicant on how to re-focus the request to one that would be acceptable.

8. Internal Review

Applicants may ask PCC to conduct an Internal Review of its handling of FOI / EIR requests.

Internal Reviews consider decisions made, rationale, public interest, timeliness and all other relevant aspects of the request.

Internal Review Panels will consist of two PCC members of staff with no involvement in the original handling of the request, and preferably:

- A member of the Executive team
- An Information Asset Owner

PCC will conduct internal reviews within 20 working days or 40 working days where a review is shown to be particularly complex.

² *The Relevant Fees Regulation is The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004*

The review panel will reserve the right to interview members of staff involved in the original decision, in order to better inform their decision. A response will be signed by both members of the review panel, and issued to the applicant via BSO's Information Governance Department.

Applicants who may remain unsatisfied with the outcome of an Internal Review will be advised that they may exercise their right to appeal to the Information Commissioner.

9. Transferring Requests for Information

It is PCC policy not to contact another authority on the applicants' behalf to transfer the request. However, in circumstances where PCC believe that the information requested is held by another public authority, it will:

- advise the applicant that PCC will not be taking the request further;
- provide contact details for that authority.

10. Consultation with Third Parties

Where disclosure cannot be made without the consent of a third party and would constitute an actionable breach of confidence such that an exemption would apply, PCC will consult that third party with a view to seeking their consent, unless such consultation is not practicable. PCC may also undertake consultation where the views of the third party may assist in determining:

- whether an exemption applies, or
- where the Public Interest lies.

PCC may consider that consultation is not appropriate where:

- the cost of consulting with the third party would be disproportionate;
- the view of the third party can have no effect on the decision as to whether to disclose;
- an exemption applies.

In such cases it will consider the most reasonable course of action to take in light of the requirements of FOI. Equally, a refusal to consent to disclosure by, or lack of response from, a third party does not automatically mean information will be withheld. At all times, PCC will consider its duty under FOI.

11. Publication Scheme

FOI makes it a duty for PCC to adopt and maintain a scheme relating to the publication of its information. PCC has adopted the 'approved model' Publication Scheme introduced by the Information Commissioner's Office, and can be found on its website.

In addition to updating its Publication Scheme, PCC will maintain an online disclosure log that lists responses to requests made to us under FOI and EIR.

12. Performance and Monitoring Compliance

The effectiveness of this policy will be kept under review with regular reports to the Information Governance Group, Executive Management Team, and Business Committee. An annual report is presented to Council.

13. Non-Compliance

A failure to adhere to FOI³, this policy and any associated procedures may result in disciplinary action.

14. Review

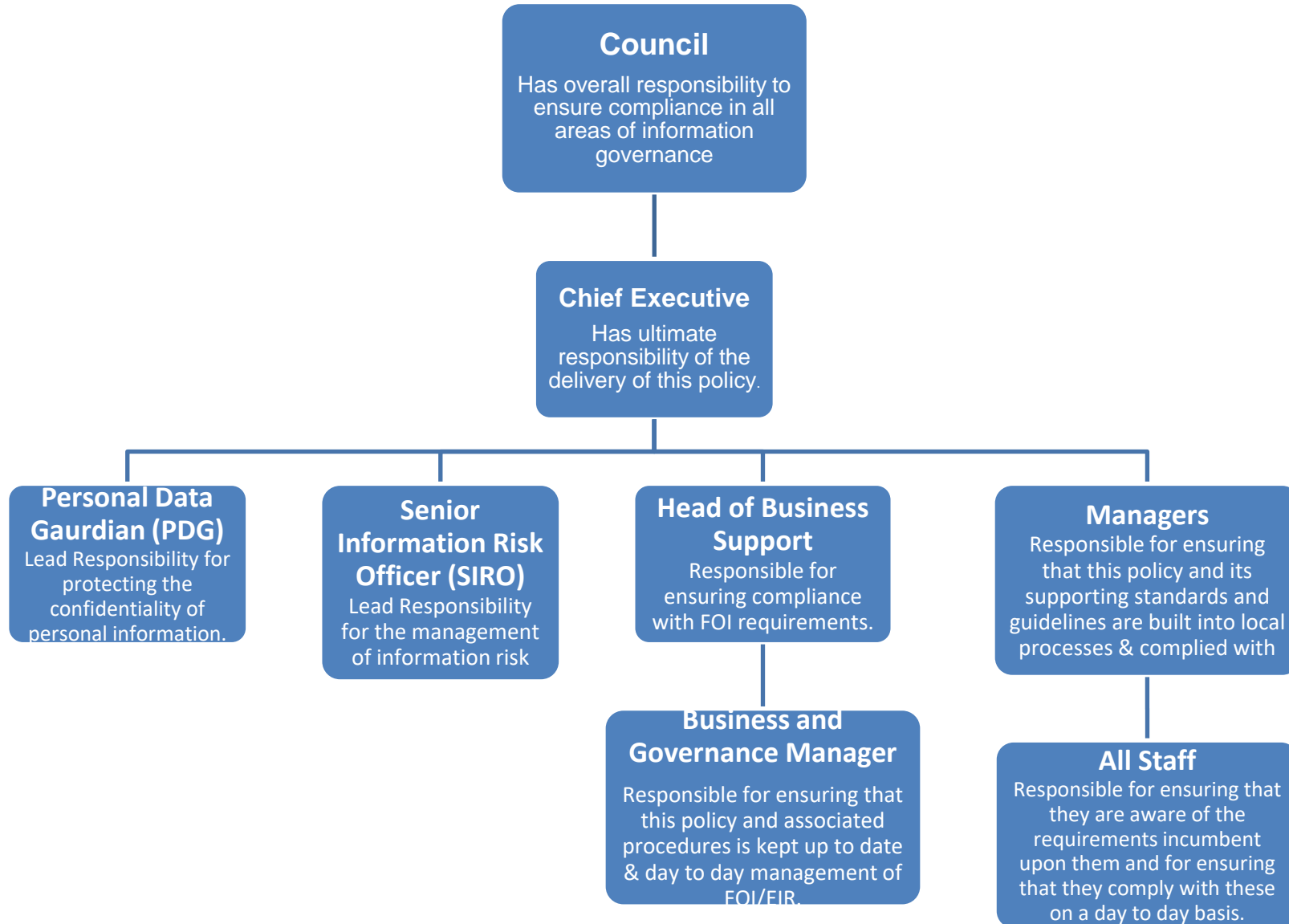
This policy and any associated procedures will be reviewed no later than 5 years from approval, to ensure their continued relevance to the effective management of Information Governance within PCC. The policy may however be reviewed earlier if necessary, for example in light of legislative changes.

15. Equality Statement

This procedure has been screened for equality implications as required by Section 75 and Schedule 9 of the Northern Ireland Act 1998. The screening has not identified specific equality impacts. The equality screening has been published and can be accessed here [Freedom Of Information Equality Screening](#)

³ It should also be noted that Section 77 of FOI states that “any person ... is guilty of an offence if he alters, defaces, blocks, erases, destroys or conceals any record held by the public authority, with the intention of preventing a disclosure ... of all, or any part, of the information to the communication of which the Applicant would have been entitled”.

Appendix A



Appendix B

Receiving and logging a FOI request

All requests must be forwarded to PCC's Business and Governance Manager (BGM)
The request will be logged on the PCC's Information Request Register (IRR) and forwarded to BSO's Information Governance Department
BSO will log the request on their register, allocate a reference number and acknowledge the request with the applicant, advising of a timescale for response. The BGM will update the IRR with the reference number and agreed timescale

Investigating the FOI request

PCC's BGM will initiate the investigation and identify the Information Asset Owner (IAO) responsible for collating the information, advising them of the request without divulging the identity of the applicant & timescale for providing the information.
Once the BGM has received the relevant information, they will send a draft response of the FOI request to BSO for review

Reviewing and compiling the response

BSO IG will review the draft response sent from the BGM and check FOI guidance to ensure all technical specifications have been met (including redactions where appropriate)
Once BSO IG are content, the draft response is returned to the BGM for final review, approval and signature

Approval and Final sign off

The BGM will review this final draft and forward it to the Head of Business Support or, in their absence, the Head of Operations for final signature (where contentious or sensitive CEO will approve first)
BSO IG send the final response to the applicant
The IRR is updated and a copy of the FOI retained for future reference and a copy placed on PCC's website for reference