

**Report of the Head of Board Administration**

**Freedom of Information Monitoring Report for the period  
1 April 2014 to 31 March 2015**

**Recommendation:**

The NHS Board is asked to:

- (a) note the Monitoring Report on the operation of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 in NHS Greater Glasgow and Clyde for the period 1 April 2014 to 31 March 2015; and
- (b) note that a revised Freedom of Information Policy has been adopted, effective from 28<sup>th</sup> July 2015.

**Statistical Summary:**

	<b>2014/15</b>	2013/14
Requests for information received	<b>779</b>	786
Requests for information responded to	<b>771</b>	778
Percentage of requests responded to within 20 working days	<b>89%</b>	90%
Average response time (working days)	<b>17</b>	17.5
Number of Reviews carried out	<b>18</b>	14
Number of cases appealed to the Scottish Information Commissioner	<b>1</b>	0
Decisions issued by the Scottish Information Commissioner	<b>0</b>	1

**1 BACKGROUND**

- 1.1 The Freedom of Information (Scotland) Act 2002 (FOISA) came into force on 1 January 2005. The Act provides a statutory right of access to recorded information held by Scottish public bodies including NHS Boards and incorporates the Environmental Information (Scotland) Regulations 2004 (the EIRs).
- 1.2 The Board maintains a Publication Scheme which describes information that the organisation routinely publishes and that can be obtained without the need for a formal request under the Act. Most of this information can be accessed through the Board's website ([www.nhsggc.org.uk](http://www.nhsggc.org.uk)). Where information is not available through these sources, an applicant can, under the Act, make a request for information. The request must be in a permanently recorded form (eg in writing or by e-mail).
- 1.3 Requests for access to information can be made by anyone, whether resident in the UK or not, and can be made for information held prior to enactment of the Act. The Act specifies that requests for information must be responded to within 20 working days.
- 1.4 While most information requested can be released, some information is exempt under the Act. The right of access to information is subject to a number of exemptions within FOISA, or exceptions under the EIRs, many of which also require a public interest test to be applied.

## 2 REPORT

- 2.1 This report covers the 12-month period from 1 April 2014 to 31 March 2015. The report summarises the requests for information received by NHS Greater Glasgow and Clyde under both FOISA and the EIRs during this period.

## 3 OPERATION OF THE LEGISLATION WITHIN NHS GREATER GLASGOW AND CLYDE DURING 2014/15

- 3.1 Since the Act came into force on 1 January 2005, the organisation has sought to ensure that robust arrangements for managing requests for information made to NHS Greater Glasgow and Clyde are in place. These have been adapted where necessary to respond to the changing needs of the organisation.
- 3.2 All requests from media sources (eg journalist, newspaper/magazine or broadcast media) have been managed through the Corporate Communications Directorate. Requests for information on Board-wide functions and requests from MSPs have been managed through the FOI Manager based within Board HQ. Requests for information on Acute Services Division functions and services have been responded to by its Corporate Administration Department which is managed by the Head of Administration for the Acute Services Division.
- 3.3 Requests for CHP information were handled through local management structures and CHPs also dealt with FOI requests relating to services hosted by them.
- 3.4 The organisation has specific FOI email addresses so that requests can be made direct to the appropriate area, although arrangements are always in place to forward requests on to relevant FOI colleagues. Advice is always available to all staff primarily from the FOI Manager or other appropriate FOI contacts within NHSGGC.
- 3.5 With the creation of Integrated Joint Boards/Health & Social Care Partnerships in the year 2015/16, these new bodies will each be responsible for responding to freedom of information requests in the same way as the health Board. It is anticipated that there may be some lack of clarity initially at least about where responsibility for responding to FOIs lies between the Board, the relevant local authority, and the appropriate Health & Social Care Partnership. The guiding principle to be followed remains that it is the organisation that holds information that is responsible for complying with the legislation.

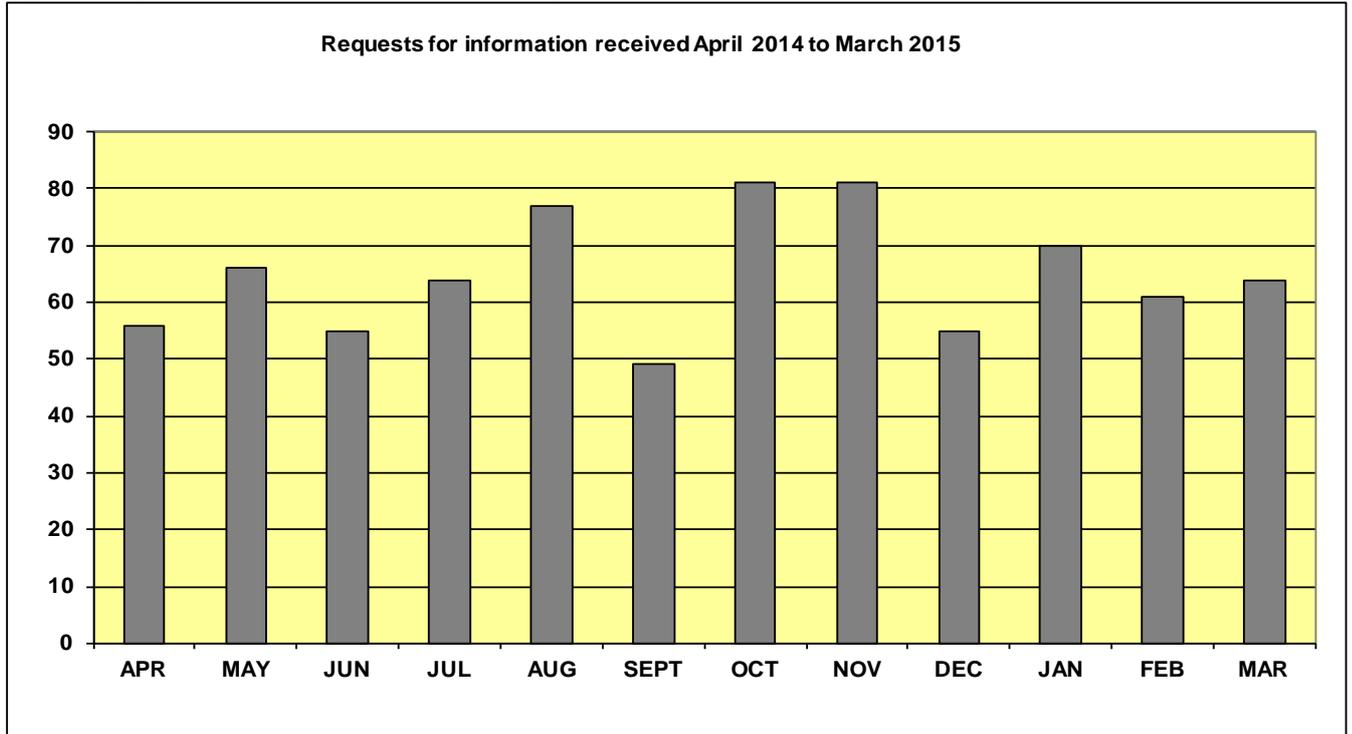
## 4 NUMBER OF REQUESTS RECEIVED

- 4.1 The overall number of requests received during 2014/15 of 779 remained fairly static compared to 786 requests in 2013/14.
- 4.2 Table 1 below shows the number of requests for information received each month from 1 April 2014 to 31 March 2015. Fig 1 shows the information represented in a chart format.

**Table 1 – April 2014 to Mar 2015 – Number of Requests Received**

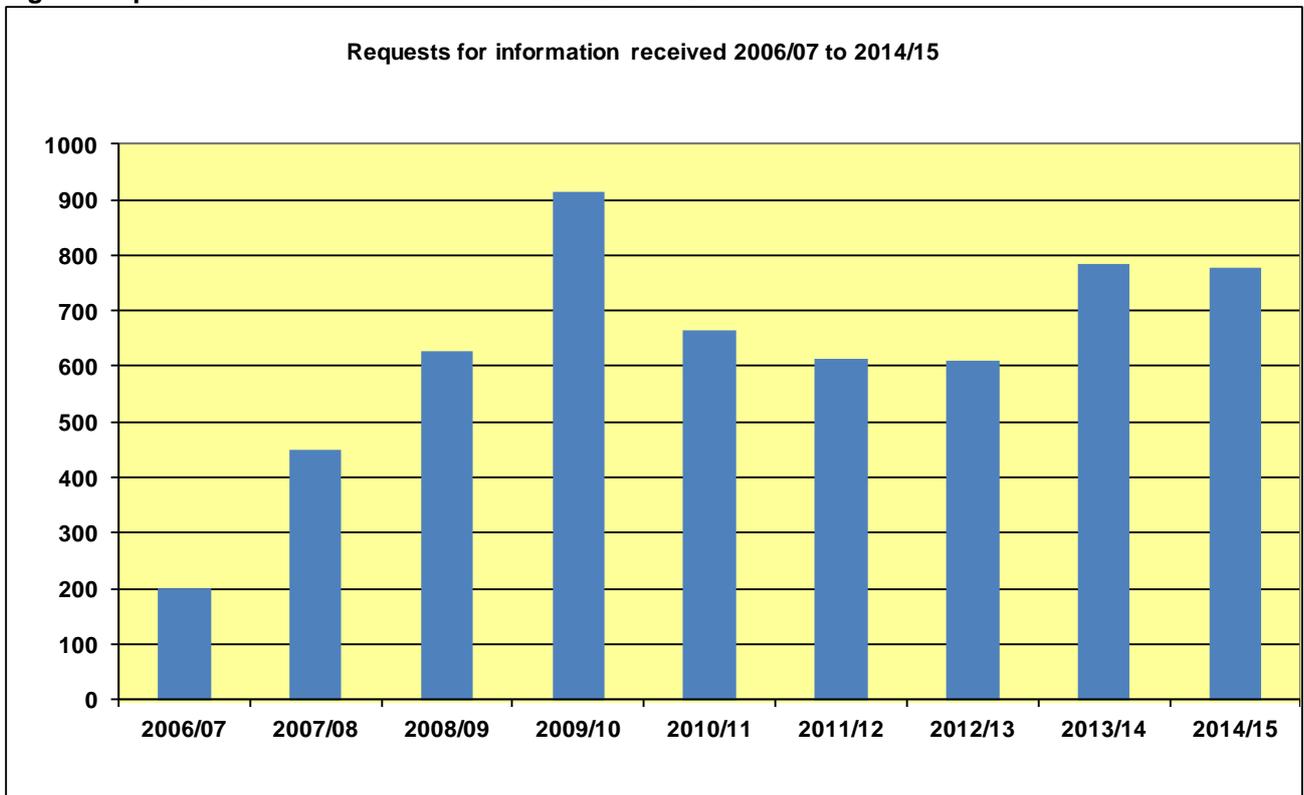
	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Total
<b>Number of Requests Received</b>	56	66	55	64	77	49	81	81	55	70	61	64	<b>779</b>

**Fig 1 – Requests for information received April 2014 to March 2015**



4.3 Fig 2 below shows a comparison of the overall number of requests received from 2006/07 to 2014/15. As previously reported, the high number of requests received in 2009/10 was due to an increased number of requests from NHSGGC employees in relation to Agenda for Change issues. However such requests have now decreased significantly.

**Fig 2 - Requests for information received 2006/07 to 2014/15**



## 5 PERFORMANCE MONITORING

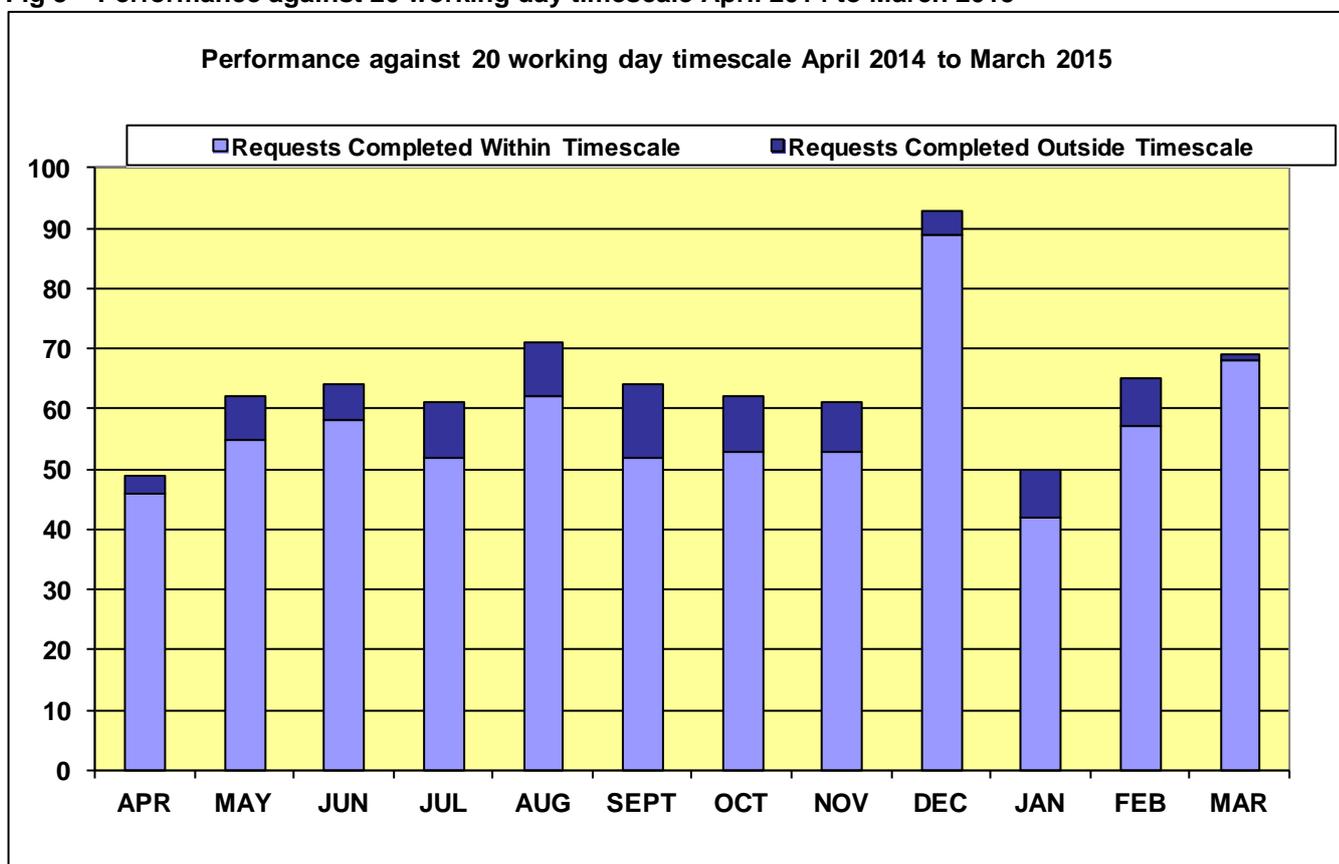
5.1 771 requests were responded to during 2014/15. Of these, 687 requests (89%) were responded to within the requirement of 20 working days (Table 2) compared to 90% in 2013/14.

5.2 Table 2 and Fig 3 show the number of requests completed both within and outside the 20 working day timescale.

**Table 2 – Number and percentage of requests responded to within 20 working days – 2014/15**

	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR	TOTAL
<b>Total Number of Requests Responded</b>	<b>49</b>	<b>62</b>	<b>64</b>	<b>61</b>	<b>71</b>	<b>64</b>	<b>62</b>	<b>61</b>	<b>93</b>	<b>50</b>	<b>65</b>	<b>69</b>	<b>771</b>
Number of Requests Completed within 20 Working Days	46	55	58	52	62	52	53	53	89	42	57	68	<b>687</b>
Number of Requests Completed outwith 20 Working Days	3	7	6	9	9	12	9	8	4	8	8	1	<b>84</b>
Percentage completed within 20 Working Days	94	89	91	85	87	81	85	87	96	84	88	99	<b>89</b>

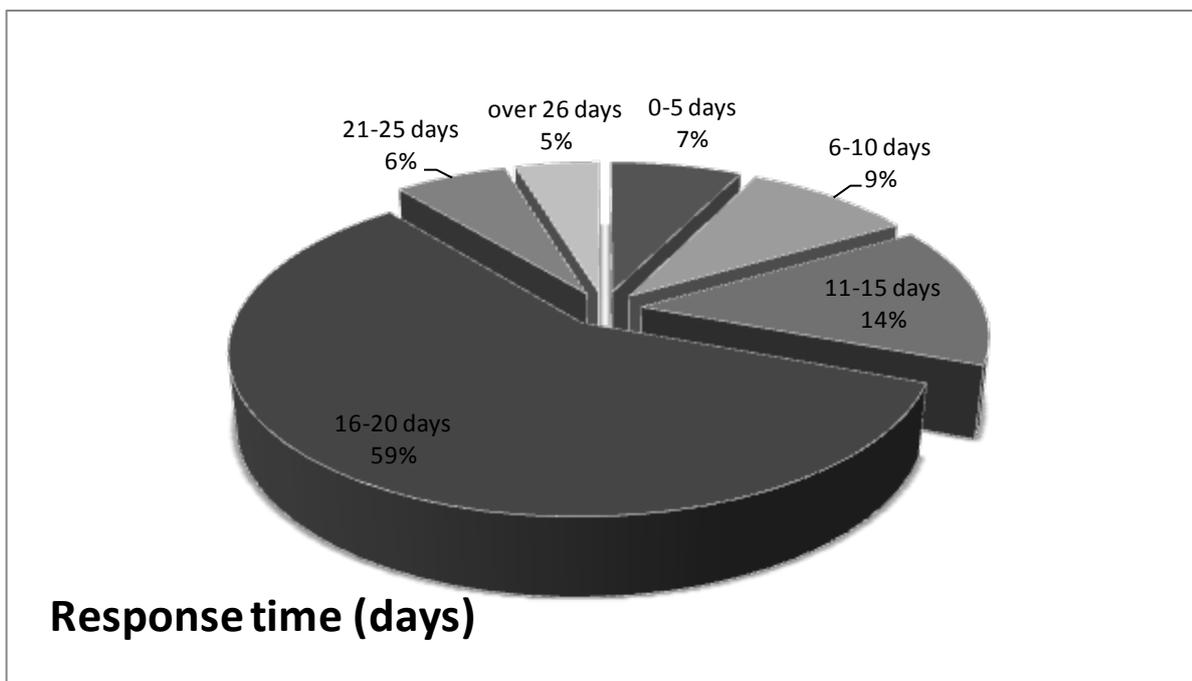
**Fig 3 – Performance against 20 working day timescale April 2014 to March 2015**



5.3 We seek to respond to all requests within 20 working days, but inevitably we are not able to achieve 100% performance. In 2014/15, 11% of requests exceeded the statutory timescale, with less than 5% being significantly over the requirement. The 20 working day turnaround presents challenges where there are complex cases. Other issues may contribute to difficulties in meeting the timescale, such as delays in processing requests or where the initial request was not sent to the correct part of the organisation.

5.4 Fig 4 below shows the request response time in days. On average, requests for information were responded to within 17 working days.

**Fig 4 Response time (days)**



5.5 Information on the organisation’s performance in respect of the percentage of FOI requests responded to within the statutory 20 working day timescale was provided quarterly to the Board’s Quality and Performance Committee as part of the integrated score-card report. Performance was within agreed targets with the exception of Quarter 2 (July-August-September).

5.6 During 2015/16 the Board will continue to monitor its performance against the 20 working day timescale, with the aim of increasing the percentage of requests completed within 20 working days.

5.7 From 1 April 2013 the Scottish Information Commissioner introduced a new requirement for Scottish public authorities to submit quarterly statistics to her office. Statistics continue to be submitted via an on-line portal providing details such as performance against the 20 working day target, number and type of exemptions applied and number of reviews carried out. The information within the on-line portal is publicly available to view and download.

## **6 SOURCE OF REQUESTS**

6.1 The total number of requests received in 2013/14 and 2014/15 has not changed significantly, so most of the main sources of requests show only minor fluctuations.

6.2 However, the number of requests from journalists and media sources has continued to rise over recent years as follows:

- 2011/12            141 requests
- 2012/13            168 requests
- 2013/14            198 requests
- 2014/15            258 requests.

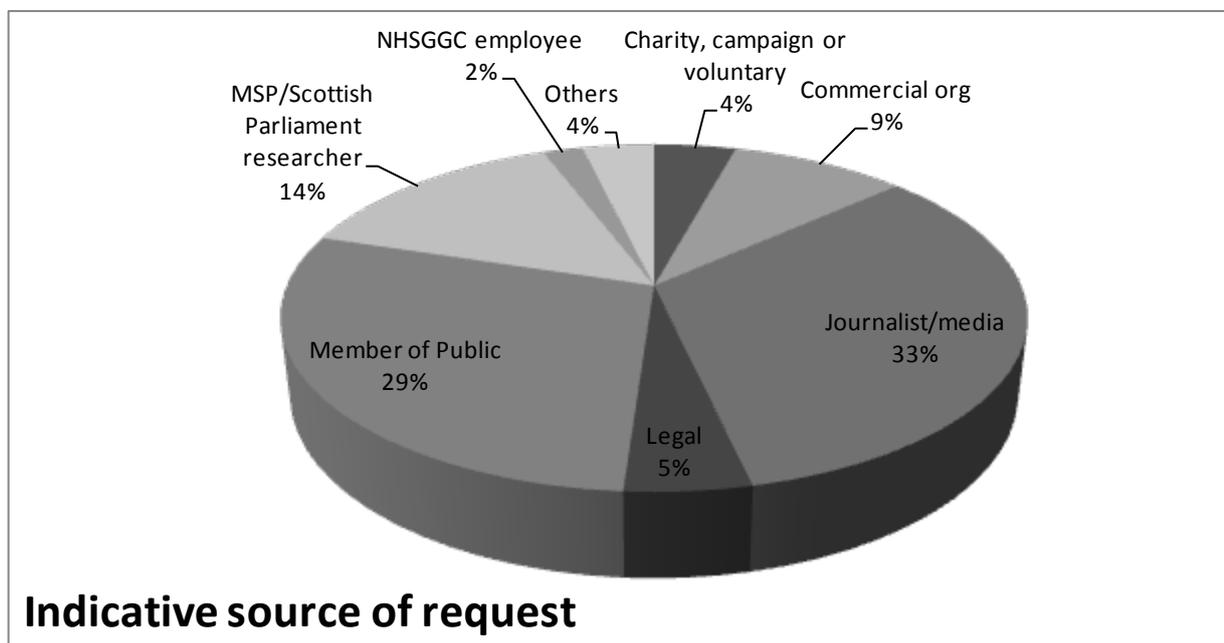
6.3 Requests from NHSGGC employees showed a significant decrease from 118 in 2013/14 to 16 in 2014/15.

6.4 A breakdown of the source of requests is shown below in Table 3 and in Fig 5.

**Table 3 – Indicative Source of Request 2014/15**

Indicative source of request	2014/15		2013/14	
	Number	% of total requests received	Number	% of total requests received
Charity/Campaign/Voluntary organisations	33	4.2	23	2.9
Commercial organisations	71	9.1	58	7.4
Journalist/Media organisation	258	33.1	198	25.2
Legal	36	4.6	38	4.8
Individuals	224	28.8	211	26.8
MSP/Scottish Parliament/Other elected official	115	14.8	122	15.5
NHSGG&C Employee	16	2.1	118	15.0
Trade Union/Professional Representative body	10	1.2	4	0.5
Other NHS	3	0.4	4	0.5
Other Public Body	4	0.5	5	0.6
Education/research	9	1.2	5	0.6
<b>Total</b>	<b>779</b>	<b>100.0%</b>	<b>786</b>	<b>100.0%</b>

**Fig 5 – Indicative Source of Request 2014/15**



## 7 TYPE OF INFORMATION REQUESTED

7.1 As in previous years a wide range of information was requested from NHS Greater Glasgow and Clyde, with some requests generated by issues of local interest. Requests for information often contained a significant number of separate elements, or a large number of requests submitted in a single email or letter. Many of the requests submitted were complex, and required careful consideration of the application of the relevant legislation before information was released.

7.2 Several recurring themes were identified in the subject matter of requests for information.

- Land and property
- Corporate policies and reports
- Finance and expenditure
- Use of locum and agency staff
- Violence and aggression/health and safety issues
- Pharmacy and prescribing issues
- IT contracts, data loss and IT security
- Drug and alcohol use and treatment
- Clinical incidents, protocols and guidelines
- Bariatric Surgery
- Child incidences of abuse of drugs/alcohol
- Accident and Emergency
- Cosmetic Surgery
- New South Glasgow Hospital
- Asbestos.

## 8 OUTCOME OF RESPONSES

8.1 In some cases the information requested was considered by the Board to be exempt from disclosure under the Act. Where there is a valid reason for withholding information an appropriate exemption must be applied and the Board's response must clearly state the exemption within FOISA (or exception within the EIRs) that is being relied upon to withhold the information. The use of an exemption must be treated with care and, in most cases, only after further consideration of whether it is in the public interest to withhold or disclose the information, with the presumption being in favour of disclosure.

8.2 During 2014/15 the following exemptions were used to withhold information requested under FOISA:

- Section 25 - Information otherwise accessible
- Section 27 - Information intended for future publication
- Section 30 - Prejudice to effective conduct of public affairs
- Section 33 - Commercial interests and the economy
- Section 36 – Confidentiality in legal proceedings
- Section 38 - Personal Information

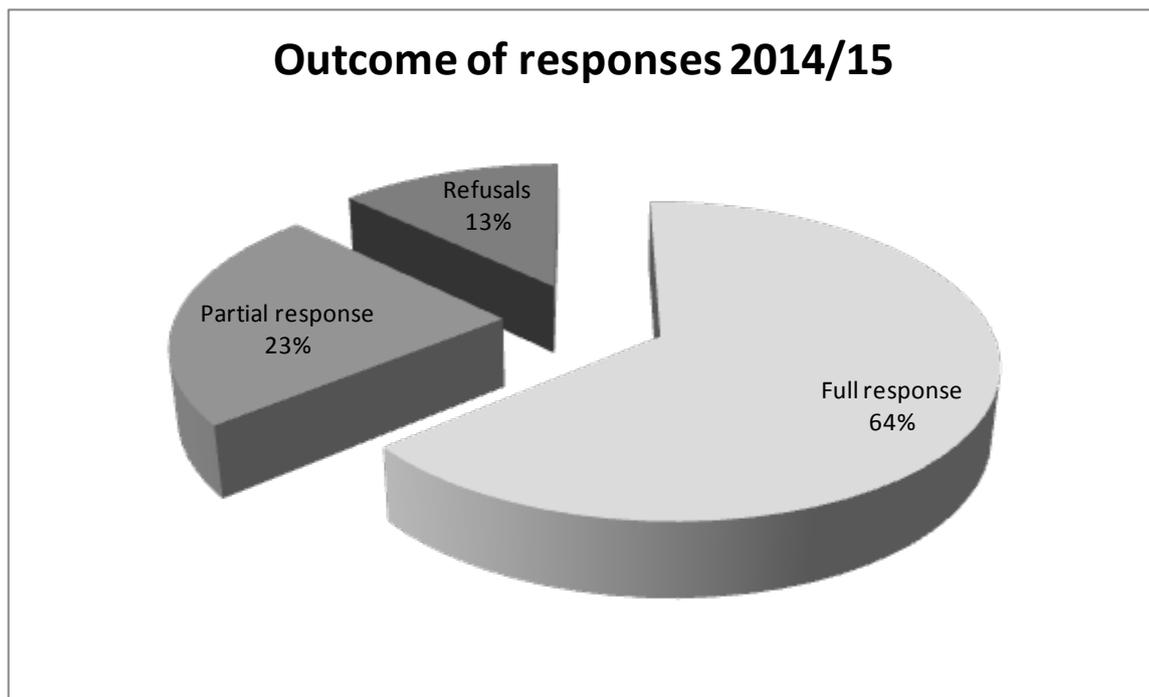
7 requests were handled under the EIRS but no exceptions were applied to the information requested under these regulations.

8.3 An analysis of the outcome of responses is shown in Table 4 below:

**Table 4 – Outcome of responses**

Outcome of responses	2014/15	
	Number	%
<b>Full response:</b> Number of requests for which information was provided in full	<b>493</b>	<b>64.0%</b>
<b>Partial response:</b> Number of requests for which part of the information requested was not provided		
Excessive costs	18	
Information not held	118	
Exemption(s) applied	27	
Combination of above reasons	15	
<b>Partial response Total</b>	<b>179</b>	<b>23.1%</b>
<b>Refusals:</b> Number of requests for which all of the information requested was not provided		
Excessive costs	17	
Vexatious or repeated	2	
Information not held	62	
Exemption(s) applied	10	
Combination of above reasons	8	
<b>Refusals Total</b>	<b>99</b>	<b>12.9%</b>
<b>Total responses</b>	<b>771</b>	<b>100.0%</b>

**Fig 6. Outcome of responses 2014/15**



8.4 In a number of cases requests were responded to under Section 12 of FOISA, where the Board did not provide all or part of the information being requested as it estimated that the cost of complying with the request would exceed the cost threshold set by Scottish Ministers (currently £600). These cases were typically those where a large amount of complex information was requested that would take an excessive amount of time and resources to provide, for example cases where the information could only be provided by analysing a significant number of individual records. The Board was required to demonstrate to the applicant how the estimated costs had been arrived at, and was also obliged to provide reasonable advice and assistance to the applicant either to modify the request or suggest what information could be provided in order to bring the estimated costs under the cost threshold.

## 9 REQUESTS FOR REVIEW

9.1 Following a request for information, an applicant has the right to request a review of the Board's handling of a request, if they are dissatisfied with the response received. An applicant has up to 40 working days following receipt of a response in which to submit their request for a review.

9.2 In line with the procedures agreed by the NHS Board, Reviews are carried out by a Non-Executive Director of the Board with the support of an FOI practitioner. 2 Non-Executive Directors participated in reviews during 2014/15.

9.3 18 requests for review from 6 different applicants were responded to in 2014/2015. This represents 2.3% of all requests responded to in 2014/15. 14 of the reviews were responded to within the statutory time period of 20 working days. A summary is given in Table 5 below:

**Table 5 – Reviews completed during 2014/15**

	<u>Review No</u>	<u>Details of Review</u>	<u>Outcome</u>
Applicant #1	1	The applicant requested the review on the grounds that information had been withheld. The review investigation found that the original search for information had identified one specific case, but on further examination found that this case was outwith the specific criteria set out in the request.	Apology to applicant for factually incorrect information.

	<u>Review No</u>	<u>Details of Review</u>	<u>Outcome</u>
		There were therefore no cases that fell within the scope of the request. The applicant was provided with an apology that the original response was factually incorrect. Staff dealing with FOIs were reminded of the need to check the accuracy of information.	
Applicant #2	2	<p>The applicant requested all information relating to a business trip including details of accommodation, social activities, business meetings, stopovers. A review was requested on the grounds that the initial response was 'totally inadequate'.</p> <p>Further information in the form of email correspondence was provided to the applicant as a result of the review. The review highlighted the difference between an applicant's expectation of recorded information, and the information actually held.</p>	Additional information provided to the applicant.
Applicant #3	3	<p>The applicant requested information on clinical and ward areas not audited during period November 2008 to March 2009 and rationale behind not auditing these areas. The response referred the applicant to a response to a previous request made by them which had already provided the information.</p> <p>The Review found that the information provided in the previous response did not cover all the terms of the current request and recommended that a further search for information be undertaken.</p>	For applicant
	4	<p>The applicant requested information on the number of emails from the applicant received by a named NHSGGC employee and how many emails were responded to. The request was considered to be invalid as it did not sufficiently identify the information being requested.</p> <p>The Review found that, although the request was considered invalid, the applicant should have been provided with advice and assistance on how to make their request valid. This was omitted. Staff dealing with FOI requests were reminded of the requirement to offer reasonable advice and assistance under Section 15 of FOISA.</p>	For applicant
	5	<p>The applicant requested information on the number of emails from the applicant received by a named NHSGGC employee and how many emails were responded to. The request was considered to be invalid as it did not sufficiently identify the information being requested.</p> <p>The Review found that, although the request was considered invalid, the applicant should have been provided with advice and assistance on how to make their request valid. This was omitted. Staff dealing with FOI requests were reminded of the requirement to offer reasonable advice and assistance under Section 15 of FOISA.</p>	For applicant
	6	The applicant requested information on the number of incidents reported through Incident Reporting Forms. The applicant requested a review on the grounds that not all information had been provided.	Original decision upheld, no further action required.

<u>Review No</u>	<u>Details of Review</u>	<u>Outcome</u>
	The Review found that the response provided to the applicant was adequate, particularly when viewed in relation to previous requests and communications in this matter.	
7	The applicant requested information relating to an Incident Report Form. The request was difficult to interpret.  The review found that the response was issued outwith appropriate timescales and that clarification should have been sought at an early stage of the request.	Applicant provided with an apology for the failure to respond within timescales.
8	The applicant's request was responded to under the Data Protection act.  Staff dealing with requests for information under FOISA should be reminded of the need to use appropriate exemptions, particularly when dealing with requests where there is an interface between FOISA and the DPA and to ensure that the applicant is clearly advised under which piece of legislation the response is being made.	
9	The applicant asserted that the information provided in the response was factually misleading and false and that the response was issued outwith the statutory timescales in the Act.  The review confirmed that the response was issued outside the appropriate timescales.	Applicant provided with an apology for the failure to respond within timescales.
10	The response to the applicant indicated that the request was not valid, however no advice was provided to the applicant as to how they could make their request valid.  During the review process the applicant separately approached another NHSGGC employee and obtained the information they sought. Staff dealing with FOI requests were reminded of the duty to provide reasonable advice and assistance including advice to applicants on how to submit a valid request.	
11	The applicant was advised that they information they sought was not held by NHSGGC. The applicant requested a review as they disagreed with this statement.  The review found that there was no record of searches made but further investigation confirmed that the information was not held. The review recommended that the applicant should be provided with a note of the searches conducted.	
12	The response to the applicant indicated that all information on the requested subject had already been provided in previous responses. The applicant requested a review on the grounds that information had been withheld.  The review confirmed that no further information was held on the subject specified by the applicant. The applicant was offered the opportunity to search archived files themselves, which they did. No further information was found.	Original decision upheld.

	<u>Review No</u>	<u>Details of Review</u>	<u>Outcome</u>
	13	<p>The applicant was advised that the specific information requested by them was not held by NHSGGC. A review was requested on the grounds that information had not been provided.</p> <p>The review confirmed that the information requested by the applicant was not held by NHSGGC. No further action was required.</p>	Original decision upheld, no further action required.
	14	<p>The applicant requested information on the date and time that a specific piece of information had been received by NHSGGC. The applicant was advised that the information was not held by NHSGGC and requested a review on the grounds that the response was misleading and that information had been withheld.</p> <p>The request focussed on a particular piece of information which the applicant believed had been received by NHSGGC. However NHSGGC did not hold the information and therefore did not hold details of the date and time it was received. The review therefore upheld the original response.</p>	Original decision upheld, no further action required.
	15	<p>The applicant was advised that information on a specific area of work was not held and a review was requested on the grounds that information had been withheld. The applicant subsequently provided specific details as to where further information could be located and this was retrieved.</p> <p>Further information was provided to the applicant following the location of the additional information. The applicant was issued with an apology that an adequate search had not been conducted initially. Staff were reminded of the need to conduct adequate and proportionate searches for information, including a record of searches where appropriate.</p>	Additional information was provided to the applicant
Applicant #4	16	<p>The applicant requested a review as they felt that information had been withheld. The review found that the response was lacking in technical aspects as the response stated that information was not held but did specifically quote Section 17 as required by the Act, and the redaction of information was not clearly explained.</p> <p>The applicant was provided with an amended response which re-provided the information requested and rectified the technical errors identified in the review.</p>	For applicant
Applicant #5	17	<p>The applicant requested information on the number of patients within specific age groups who had received specific treatment from 2010/11 to 2013/14, to be broken down by age of patient and by year. Some information was withheld due to the risk of individuals being identified due to small numbers within the group. The applicant disagreed with this and requested a review.</p> <p>The Review upheld the original position that a breakdown by age and by year would risk identification of individuals. However information on the total number of patients in the lowest age band was subsequently provided, but without the year-by-year breakdown. The applicant was provided</p>	Additional information was provided to the applicant.

	<u>Review No</u>	<u>Details of Review</u>	<u>Outcome</u>
		with an apology that a full explanation had not been provided in the original response.	
Applicant #6	18	<p>The initial response directed the applicant to a specific page on the NHSGGC website. A further response addressed the individual questions posed by the applicant. A review was requested by the applicant on the grounds that the response did not address the questions asked.</p> <p>The review concluded that the response provided to the applicant was incomplete. In using Section 25 (information otherwise accessible), it would have been helpful to provide direct links to the information but also to check that the information fully answered the request. The Review recommended that specific searches should be carried out for information, rather than relying on previous responses.</p>	The applicant was provided with an apology for the delay in issuing a response to his request.

## 10 DECISIONS ISSUED BY THE SCOTTISH INFORMATION COMMISSIONER

- 10.1 In the event that a public authority fails to respond to a request or the requester is not satisfied with the response, following the outcome of a Review there is a further right for an applicant to appeal to the Scottish Information Commissioner for a decision on the case if an applicant remains dissatisfied with the outcome. An applicant has up to 6 months following the outcome of the Review in which to apply to the Commissioner. Following a Decision by the Commissioner, an applicant who is still dissatisfied has a further right of review to the Court of Session, but on a point of law only.
- 10.2 No Decisions have been issued by the Scottish Information Commissioner during 2014/15 in relation to cases involving NHS Greater Glasgow and Clyde. One applicant appealed their case to the Commissioner for a decision but after further investigation by the FOI Manager, additional information was released to the applicant and the appeal was subsequently withdrawn.

## 11 SCOTTISH INFORMATION COMMISSIONER

- 11.1 Self-Assessment Tools  
During 2014 and 2015, the Board's FOI Manager continued to work as part of a small group of FOI practitioners from a cross-section of Scottish public authorities who have contributed to the content and provided feedback on a suite of self-assessment tools for public authorities. The self-assessment tools are in the form of modules, each module covering a separate aspect of managing and processing requests for information under the legislation. Each module is designed as a stand-alone unit but when complete, the suite of modules will cover the full range of processes, from responding to requests, through to reviews and appeals. Boards are encouraged to undertake the modules and provide voluntary feedback to the Commissioner. In December 2014 the Board's FOI Manager co-presented a workshop with Rosemary Agnew at the Holyrood Conference, to promote the launch of the self-assessment modules.

## 12 SECTION 60 CODE OF PRACTICE

- 12.1 Scottish public authorities are required to comply with a Code of Practice on the Discharge of Functions under the Act. This is issued by Scottish Ministers in consultation with the Scottish Information Commissioner. In December 2014, a revised Code of Practice was issued, replacing the previous 2010 edition. This introduced a number of changes including guidance on the following:

- Training arrangements
- Cover for those who respond to FOIs
- Reporting of statistical information
- Social media requests
- Voice mail requests
- Fee notices
- Records of searches undertaken
- Relationship between FOI and procurement legislation

The Board's Policy and Procedures have been reviewed in light of the new Code of Practice to ensure that the Board is fully compliant. A copy of the amended FOI Policy is attached for members' information.

### 13 TRAINING AND DEVELOPMENT

- 13.1 In July 2014 the Board's FOI Manager successfully completed the Practitioner Certificate in FOISA, run by Act Now training.
- 13.2 An E-learning training module for FOISA and the EIRs, developed by the FOI Manager, has been available to all staff in NHS Greater Glasgow and Clyde through the LearnPro E-learning platform since June 2012. The E-learning module provides staff with general awareness training on FOI legislation and includes information on the basic principles of FOISA and the EIRs, including how to recognise and respond to requests, circumstances where information might not be disclosed and the differences between FOISA and the EIRs. Staff who use the module also undertake an assessment of their learning in order to successfully complete the module.
- 13.3 During the reporting period of 1 April 2014 to 31 March 2015, a total of 3,061 staff successfully completed the module. A brief summary of the uptake by staff group is given in Table 6 below.

**Table 6 –Number of staff successfully completed FOISA/EIR E-Learning Module – 2012/13 to 2014/15**

Job Family	Number of staff completing module			
	2012/13*	2013/14	2014/15	Total
Admin/Senior Manager	253	479	518	1,250
Senior Manager Exec level	5	5	14	28
Allied Health Professions	372	493	430	1,295
Health Science Services	82	134	134	350
Medical & Dental Support	19	26	15	60
Medical & Dental	80	98	67	245
Nursing& Midwifery	1,747	1,926	1,666	5,339
Other not specified	59	118	118	295
Other Therapeutic	19	46	44	109
Support Services	47	56	55	158
<b>TOTAL</b>	<b>2,683</b>	<b>3,381</b>	<b>3,061</b>	<b>9,125</b>
Acute Division	1,824	2,119	1,911	5,854
Partnerships	783	1,109	1,015	2,907
Corporate Services	76	153	135	364
<b>TOTAL</b>	<b>2,683</b>	<b>3,381</b>	<b>3,061</b>	<b>9,125</b>

\* part year only, 26/06/12 to 31/03/13

- 13.4 Greater awareness of this legislation and its importance will be reinforced by re-publicising the E-Learning module through team brief and other internal communications to ensure that all staff are aware of the need to complete the module and that senior management support that principle. The aim of the module is to increase the knowledge and understanding of FOI within the organisation, so that we can improve performance against legislative timescales, improve the quality of responses and continue to develop the culture of FOI within the organisation.
- 13.5 Further development of the E-Learning module is currently being undertaken in accordance with the requirement of the Code of Practice on Discharge of Functions, which calls on authorities to

provide different levels of training, depending on the role of staff within the organisation and their level of involvement in the FOI process.

- 13.6 Resources available to staff via StaffNet include a Guide to Freedom of Information which contains standard text for responses and guidance through the process of handling requests made under FOISA and the EIRs. The resources on StaffNet also contain guidance to staff who are asked to provide information in response to requests. Although these resources are available on StaffNet, staff who receive requests for information are advised to make early contact with an FOI officer for appropriate advice and assistance.
- 13.7 The FOI Steering Group chaired by the Head of Administration for Glasgow City CHP met quarterly during 2014/15 to review the operation and management of the Act. The Steering Group acts as a forum for the discussion of FOI-related issues such as reviewing the Board's Publication Scheme, accessibility of information on the website, training and awareness, requests for reviews, and learning lessons from Decisions issued by the Commissioner. The Steering Group also considers new guidance issued by the Commissioner and other related issues such as records management and data protection and ensures its dissemination and implementation as necessary. Membership of the group includes staff directly involved in the day-to-day handling of requests and those with a wider management responsibility for the operation of the Act including all Heads of Administration.
- 13.8 NHS Greater Glasgow and Clyde is also represented on the NHS Scotland FOI Leads Forum, and members of the FOI Steering Group attend quarterly meetings of the Forum.

## **14 CONCLUSION**

- 14.1 The FOI Steering Group will continue to meet on a regular basis, and FOI practitioners within NHS Greater Glasgow and Clyde will continue to refine and improve compliance with the Act, including the processing and handling of requests, data capture, and content and accessibility of information. Work will also continue on training and development for those staff involved in the day-to-day management of requests for information, and improved accessibility of information.
- 14.2 Members are asked to note this Annual Monitoring Report on the operation of the Freedom of Information (Scotland) Act 2002 within NHS Greater Glasgow & Clyde, and give any comments or view on the presentation or format of the Report, or on any area with regard to implementation of the Act within NHS Greater Glasgow and Clyde.

**Alison Flynn**  
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# Freedom of Information Policy

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<b>Approved by</b>	<b>FOI Steering Group</b>
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**Freedom of Information Review**

**Environmental Information Representation**

# 1. Introduction

## ***General Obligation***

The Freedom of Information (Scotland) Act 2002 (as amended) (“the Act”) imposes a number of obligations on Scottish public authorities, including NHS Greater Glasgow and Clyde (NHSGG&C). Integration Joint Boards established under the Public Bodies (Joint Working) (Scotland) Act 2014 are separate responsible bodies under the Act from the date of their establishment<sup>1</sup>. The Act gives a general right of access to recorded information held by public authorities, subject to certain exemptions. The Act also imposes additional responsibilities:-

- (a) to produce a Publication Scheme subject to approval by the Scottish Information Commissioner. Publication schemes are high level, strategic documents in which a public authority makes binding commitments to make information available to the general public. Such schemes:-
- provide clear evidence to the public that an authority is meeting its obligations under the Act to be accessible, open & transparent;
  - enable the public to see what information is already published, and to access it without having to make a formal request for information;
  - give employees clear guidance about the information that they can and should give out to the public so they can respond to information requests efficiently;
  - help reinforce leadership messages about openness and accountability to staff at all levels in the organisation;
  - are to be easily accessible and designed to be easy to understand and to use – by everyone (including those with no web access).
- (b) to respond to requests (which must be in writing or some other permanent form) made by anyone for information held by the authority within set timescales (normally 20 working days) regardless of when it was created, by whom, or the format in which it is now recorded.
- (c) to advise an applicant if information is not held.
- (d) to specify within the terms of exemptions set out in the Act if the authority refuses to release the requested information.
- (e) to charge for the provision of information only in accordance with regulations made under the Act and to decline to provide information if the cost of doing so exceeds a specified level.

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<sup>1</sup> The Freedom of Information (Scotland) Act 2002 (Scottish Public Authorities) Amendment Order 2014

- (f) to make applicants aware of their right to seek a review of any decision on a request for information and of the right to pursue an appeal to the Scottish Information Commissioner if dissatisfied with the decision of the authority.
- (g) to provide advice and assistance to applicants seeking information.

### **Environmental Information**

Under Section 62 of the Act the Scottish Ministers have made the Environmental Information (Scotland) Regulations 2004 (EIRs). These make provision in Scottish law of the Aarhus Convention of June 1998 on “Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters”. They also implement the European Commission Directive 2003/4/EC. The Convention is based on the principle ***that every person has the right to live in an environment adequate to his health and wellbeing.***

Through the Environmental Information Regulations there is a provision similar, but not identical to, Freedom of Information legislation which conveys a “right to access environmental information”. Environmental information has a wide definition. The definition from the EIRs is reproduced as an Annex 1 to this Policy. It is not an exclusive definition and may include information on the Board’s policies, plans and activities likely to affect the state of human health and safety – for example, the cleanliness of our premises and control of infection.

There are differences in the obligations on the Board under the EIRs as compared with Freedom of Information Act. Most notable relate to:-

- (a) requests for information may be made orally – there is no requirement to put them in writing or other permanent form.
- (b) the timescale for responding may, in certain circumstances, extend to 40 working days.
- (c) the charging arrangements under EIRs allow for flexibility for the Board to recover the costs of providing information – but we cannot refuse to provide on the grounds of cost.

### **Data Protection Act 1998**

Under the Data Protection Act 1998 the subject of personal data (i.e. the person the information relates to) has a right to request access to that data. This may include health records. The rights under the Data Protection Act are not covered by this Policy. Reference should be made to relevant information security and related policies available via the Publication Scheme. Alternatively for a brief guide follow the link:-

<http://library.nhsggc.org.uk/mediaAssets/library/Document%203%20-%20Confidentiality%20Flyer%20-%20Oct%2008%20.pdf>

## 2. Scope of Policy

This policy sets out the arrangements that NHSGG&C has made to ensure compliance with the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

This Policy applies to all NHSGG&C employees and to Non-Executive Directors. Staff are accountable to the Board for compliance with this Policy. Under arrangements for joint working that accountability may extend to managers employed by local authorities.

Contractors, proposed contractors and others communicating with the Board shall be informed of our obligations under ***freedom of information legislation***<sup>2</sup> and that we may have to disclose information which is provided to us by them.

The Policy will provide a framework within which NHSGG&C will ensure compliance with our obligations under the Act and ensure that internal procedures developed are the most effective means of complying with the Board's obligations.

The Policy will be supported by more detailed guidance on our obligations under ***freedom of information legislation***. This guidance will be published on Staff Net.

## 3. Responsibilities

NHSGG&C has a statutory responsibility to make information available in accordance with ***freedom of information legislation***. It is essential that all staff are aware of and take seriously their responsibilities under the legislation. As an organisation we are committed to meeting statutory timescales under ***freedom of Information legislation*** and in supporting our staff to achieve the requirements of the legislation. Any member of staff who is unable to respond effectively to the principles set out in this Policy should advise their line manager or more senior member of staff.

**The Chief Executive** is ultimately responsible for the Board's compliance with relevant statutory provisions and shall provide strategic direction on operation of our Freedom of Information Policy.

**The Head of Board Administration** has responsibility for advising the Chief Executive on the application of ***freedom of information legislation*** and for

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<sup>2</sup> ***Freedom of Information legislation*** is to be read as reference to **both** the FOIA and EIRs

ensuring that the Board meets its obligations under legislation. He/She is assisted in this by a **Freedom of Information Manager**.

**The Director of Communications** has responsibility for ensuring that the Board meets its obligations under legislation in connection with our relationships with the media.

**The Head of Administration (Glasgow City H&SCP)** has responsibility for reviewing operation of the Board's compliance with **freedom of information legislation** and for ensuring that relevant Policy and operating procedures are in place. Through a Freedom of Information Steering Group performance of the Board is reviewed on a quarterly basis and guidance issued to the service.

**The Head of Administration (Acute Services) and Heads of Administration for Partnerships** (or equivalent) are responsible for quality assuring responses to information requests.

**The Chief Executive, Chief Officer (Acute Services), Directors and Heads of Service** (including professional leads) are responsible for ensuring that freedom of information requests submitted to their service receive appropriate and timely responses from their staff consistent with the legislation.

**Managers** are responsible for ensuring staff under their direction and control are aware of the freedom of information policies, procedures and guidance laid down by NHS GG&C and for ensuring that those staff understand and apply appropriately those policies, procedures and guidance in carrying out their day to day work.

**All staff** must have a general understanding of **freedom of information legislation** and know where to refer any issues on which they require guidance.

Compliance with the Policy is compulsory for all staff employed by NHS GG&C. A member of staff who fails to comply with this Policy may be subject to disciplinary action under the NHS GG&C's disciplinary policy.

#### **4. Policy Statement**

NHS GG&C is committed to being open and honest in the conduct of its operations and in complying fully with the Freedom of Information (Scotland) Act and the Environmental Information (Scotland) Regulations 2004. To this end NHS GG&C will ensure:

- Compliance with the relevant Scottish Ministers Codes of Practice on **Freedom of Information legislation** and to related guidance issued by the Scottish Information Commissioner;
- a significant amount of routinely published information about NHS GG&C is made available to the public as a matter of course through its Publication Scheme;

- that the content of our Publication Scheme is reviewed quarterly and updated through the proactive identification of material for inclusion in the Scheme;
- requests for information not included in the Publication Scheme will be processed in accordance with our statutory obligations;
- we will publish via the web and elsewhere guidance on how to make a valid information request and the procedures adopted by the Board;
- advice and assistance will be actively provided to applicants seeking information;
- staff are aware of the need to be able to demonstrate the steps they have taken to identify if the Board holds information sought by any individual and have completed a record of searches undertaken for every request where information sought cannot be located;
- that charges for information requested are made only in accordance with the statutory requirements and a fee notice is issued prior to any charge being levied;
- due consideration is given to whether or not information is covered by an exemption (or exception under EIRs) and should not be released;
- if we claim an exemption (or exception under EIRs) the reasons for our decision will be fully explained to the applicant, unless to do so would itself result in the disclosure of exempt information;
- that if we do not hold information requested, but it is known or suspect who does, we should as a matter of good practice confirm the availability of the information with another public body and provide appropriate advice and assistance to the applicant on where the information can be obtained;
- appropriate training and information is provided to staff at all levels within the organisation of their obligations and how they can obtain assistance in ensuring they meet these;
- staff are made aware that it is an offence under the Act to alter, deface, block, erase, destroy or conceal information with the intent of preventing disclosure.
- that the Complaints Procedure – **Requirement for Review** - adopted by the NHS Board on 20 July 2004 will be made publicly available and will be followed in processing any Requests for Review under the Act (See Appendix 2)..
- that a Records Management Plan under Public Records (Scotland) Act 2011 is developed which supports the ability of the organisation to effectively manage its corporate and operational records and provides a

framework for the Board's compliance with the Scottish Ministers Code of Practice on Records Management under Section 61 of the Act.

- That personal data as defined in the Data Protection Act 1998 is held securely and is not inappropriately disclosed in response to a request for information under ***freedom of information legislation***.

## 5. Communication and Training

All staff will have a general awareness of the Board's and each individual's obligations under ***freedom of information legislation***. Use will be made of an on-line training package to form part of the mandatory training for new entrants on freedom of information. Specific and focussed training will be provided on demand to specific categories of staff or staff groups.

Through Staff Net we will make resources available which will support staff in fulfilling their obligations. Training will be provided at three levels:-

**General Awareness** - This should be achieved through successful completion of the basic level Freedom of Information e-learning module on Learn-Pro.

**Response Training** – This is for those who are involved in responding to requests and require a full understanding of Fol procedures. This should be achieved through successful completion of the second level Freedom of Information e-learning on Learn Pro, to be re-validated every two years.

**Practitioner Training** – This is for those who process a wide range of Fol requests, some of which may be complex and/or spend a significant proportion of their job on Fol. Learn Pro training should be supplemented by refresher training every 2 years through attendance on short courses, formalised training or other evidence of on-going awareness of application of the legislation.

**Reviewer Training** – This is for Non-Executive Members involved in responding to requests for review submitted. Members will be required to complete the basic and second level Learn Pro Training, together with individually tailored advice on conducting reviews.

## 6. Recording & Monitoring

All services must ensure that all Fol requests are recorded promptly on the Datix "requests for information module" by a nominated person or persons within each operating unit.

Robust arrangements must exist to ensure that in an individual's absence a nominated deputy is available to respond to requests for information and/or record requests/responses. Details of all cover arrangements should be notified to the Freedom of Information Manager at the Board.

Monitoring of activity under ***freedom of information legislation*** will include the routine collection of data on:-

- the number of requests received and whether they fall under Fol or EIR
- the number of requests for review received
- the proportion of requests answered within and outwith the statutory timescale
- the number of requests refused (or partially refused) and the reasons for this. the number of times a fee has been charged
- the outcomes of reviews
- the number of cases appealed to the Commissioner and the outcome.

This data will be published through the Publication Scheme along with statistical information produced for the Scottish Information Commissioner's Office.

Operation of the Board's policies and procedures under ***freedom of information legislation*** will be reviewed on a regular basis via the Freedom of Information Steering Group who will also review decisions which are the subject of internal requests for review or external appeal to the Scottish Information Commissioner. The Group will keep under review guidance and directives issued by the Scottish Government and the Scottish Information Commissioner.

An annual report on the Board's compliance with legislation (including relevant statistical analysis) will be submitted to the NHS Board.

## **7. Social Media**

With the increasing use of social media e.g. Facebook and Twitter, and blogging sites such as Blogger and Wordpress, it is recognised that more and more requests for information may be submitted using these channels rather than traditional e-mails. Messages received by these media which are directed to the Health Boards social media accounts will be monitored by Corporate Communications who will ensure that any such requests are passed to the appropriate service for a response to be prepared and sent. Requests would only be valid if there was provided the applicant's full name, a means of responding in writing and details of the information requested in writing.

## **8. Voice Mail**

Generally answer phone recordings of telephone messages are not regarded as sufficient to be a valid Fol request, but may be for the purpose of EIR. Where there is a system in place which allows a voice mail request to be stored permanently e.g. recordings to out of hours services where permanent recordings of all calls are made, this may be regarded as a valid Fol request if

the information stored includes the individual's name and address for correspondence.

## **9. Procurement**

In addition to the responsibilities under ***freedom of information legislation*** there are obligations under the Public Contracts (Scotland) Regulations 2012 and the Procurement Reform (Scotland) Act 2014 to give tenderers involved in some tendering exercises the right to ask for information e.g. right to ask why a tender was not successful. The authority has the right to withhold information in some cases, subject to conditions within the Act. In exercising any decision to withhold information cognisance should be taken of the Board's responsibilities under ***freedom of information legislation***.

## **10. Impact Assessment**

The legislation requires that we respond to requests from anyone without questioning their motivation. It also requires us in responding to a request to comply so far as is practical with the provision of information in the format requested. There is also a requirement to comply with the Board's duties under the Equality Act 2010, specifically in relation to discrimination in relation to disability.

The Policy will be subject to review through the Equality Impact Assessment process. As the requirements to provide information apply universally to all applicants it is not envisaged that the Policy will require any significant adjustment under this process.

## **11. Review**

The Policy will be reviewed every two years or more frequently in the event of significant change in the legislative framework.

## Definition of Environmental Information

Any information in written, visual, aural, electronic or any other material form on –

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in paragraph (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in paragraphs (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;
- (e) cost benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in paragraph (c); and
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in paragraph (a) or, through those elements, by any of the matters referred to in paragraphs (b) and (c)

### Explanatory Note

The use of the word ‘any’ qualifying the word ‘information’ indicates a legislative intention that environmental information should be interpreted widely. Environmental information can be found in:

- documents, leaflets, reports, books, post-it notes, notes, data sets, memos, meeting notes, maps, diagrams, sketches, graphs, illustrations - basically, anything written down;
- digital and/or analogue records, such as tape recordings, answer phone recordings, recorded presentations, Dictaphone tapes, DVDs, memory sticks, compact discs or any other electronic or optical storage format;
- any type of electronic file, word-processor file, database (including GIS and related data), spreadsheet, computer models (including 3D models) and files, specially written bespoke programs, calendars, emails, archived web pages/sites, temporary or cached files and computer generated images;

- any other material form – that is, other forms not widely available, or not yet developed or invented at the time the EIRs came into force.

Public authorities are not required to acquire or create new information but may be required to compile or otherwise manipulate existing information which they hold to meet the terms of a request.

# FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

## Requirement for Review



### Introduction

1. We have procedures in place to allow an individual<sup>1</sup> who is dissatisfied in any way with a decision taken by us on the provision of information under the Freedom of Information (Scotland) Act 2002 to require us to review decisions taken.
2. This note sets out the procedures we follow where someone is dissatisfied.
3. Under the Freedom of Information (Scotland) Act 2002, this procedure is known as a "Requirement for Review". Under the Environment Information (Scotland) Regulations 2004 this is known as a "Representation"<sup>2</sup>. A requirement for review/representation can arise in circumstances where the applicant believes we have not complied with our obligations under the legislation, including (but not limited to):-
  - (a) where we indicate that we do not hold information, but the individual believes we do; or
  - (b) where the individual feels that we have not provided the advice and assistance we should have done; or
  - (c) where we have refused to provide information; or
  - (d) where we have failed to reply to a request for information; or
  - (e) where we have failed to respond to a request for information within the prescribed timescale; or
  - (f) where the individual feels the charge for providing information is higher than it should be.
4. If the applicant is dissatisfied in anyway he/she can require us to review the way the request was handled or the decision reached.
5. Whenever we reply to a request for information a copy of this Requirement for Review Procedure must accompany the response. The response must also explain to the applicant their right to seek a review of any decision taken and the subsequent right of appeal to the Scottish Information Commissioner and the Courts (see paragraphs 14 to 16 below).

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<sup>1</sup> Reference to an individual is to any person or organisation that makes a request for information.

<sup>2</sup> For our procedure under the Environmental Information (Scotland) Regulations 2004 see our separate guidance.

## Timescale

6. A requirement for review should be submitted in writing (or other permanent form) within 40 working days of either:-
  - the day the individual actually received a response from us; or
  - the end of the period within which we should have replied to a request.
7. We have the discretion to consider requests for review received beyond this timescale. It would normally be our intention to accept requirements for review outwith the 40 working days, unless there are practical difficulties in doing so e.g. relevant documentation was due for destruction and has been destroyed. It is always in the applicant's interests to submit a review request within the 40 working day period specified.

## Submission of Requirement for Review

8. Where a response is made to a request for information, the response must advise that any request for review is submitted to:-

John Hamilton  
Head of Board Administration  
NHS Greater Glasgow & Clyde  
Board Headquarters,  
JB Russell House,  
Gartnavel Royal Hospital,  
1055 Great Western Road,  
Glasgow G12 0XH

Telephone 0141 201 4608  
E-mail [john.hamilton@ggc.scot.nhs.uk](mailto:john.hamilton@ggc.scot.nhs.uk)

9. Should the person making the request submit their requirement for review to another person within our organisation, the recipient must pass it immediately to the Head of Board Administration.
10. The person seeking a request for review must state their name and an address for correspondence. A statement explaining why the individual feels aggrieved at the decision taken (or the lack of response) by the organisation should accompany any request for review. It is always helpful if the person seeking a review makes their dissatisfaction explicit in what they say to us and clearly sets out the grounds for requesting a review. Where the applicant is seeking further information relating to his/her original request this will normally be treated as a new request.

## Review Procedure

11. The review procedure is designed to be accessible, prompt, fair and impartial. It may result in a decision being made where no decision was made previously, confirmation of the original decision, or the making of a different decision to that originally taken being made. The decision will be binding on the organisation.
12. Requests for review have to be processed swiftly within a maximum timescale of 20 working days. During this timeframe we will review our

previous decision and provide any further information required if the review outcome requires this.

### Our Timescale

Event	Action	Day
(a) On receipt of a request.	Send acknowledgement within two working days of receipt.	2
(b) Identify person who was handling request.	Download relevant information about request and response (including search log) from Datix.	2
(c) Notify person who was handling request that a review request has been received and provide a copy of statement in support from applicant and seek comments on rationale for decision.	Receive comments from request handler.	2-3
(d) Selection of Review Person.	Head of Board Administration to contact Non-Executive Director and invite him/her to undertake review with support from nominated FOI Practitioner who was not involved in the original decision.	4
(e) Supply all available information to Reviewer and FOI Specialist.	Head of Administration to check all information is to hand then issue.	5
(f) Undertake Review	Non-Executive Member in consultation with FOI Practitioner who was not involved in the original decision, calling for further information if required.	10
(g) Write up of decision and sign off by Non-Executive Member.	Provide final report to Head of Administration.	15
(h) Notification of decision	Head of Administration to notify outcome of the review and right of further appeal.	20
(i) If appropriate, provide any additional information recommended by review process	Head of Administration with original handler to provide any appropriate additional information.	20

13. If at stage (h) above it is concluded that the applicant has been unfairly treated, an apology should be offered on behalf of the organisation.

## **RIGHT OF FURTHER APPEAL**

14. The applicant is to be advised of his/her right to raise the matter further with the Scottish Information Commissioner if he/she remains dissatisfied with the decision of the organisation. The right of appeal is to be exercised in writing (or some other permanent form) by the applicant who must provide an address for correspondence, specify the request for information to which the requirement for review relates and the reason for dissatisfaction. An appeal to the Commissioner must be made within a period of 6 months from the date of any notice issued by us on the review request, or within 6 months from when a decision should have been notified by us.
15. In advising of this right, the applicant should be given details of the contact address and e-mail address of the Commissioner at:-

Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
ST ANDREWS  
Fife KY16 9DS

Tel: 01334 464610  
E-Mail: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

16. The applicant should also be advised of their right to make an appeal against any decision by the Scottish Information Commissioner <sup>3</sup> on a point of law to the Court of Session.

## **Assistance to Applicants**

17. In the spirit of the Freedom of Information (Scotland) Act 2002, the recipient of a request for review should provide assistance, if required, to any applicant who seeks it. He should also ensure that the needs of persons with a disability within the terms of the Equality Act 2010 are not unfairly disadvantaged as a consequence of the procedure described above and shall make appropriate adjustments to the procedure where appropriate under the terms of that Act.

## **Review of Requirements for Review and Decisions of the Scottish Information Commissioner**

18. Our internal procedures will provide for decisions on requirements for review and decisions by the Scottish Information Commissioner to be reviewed to ensure that processes follow best practice in dealing with requests for information under the legislation.

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<sup>3</sup> Under Section 56 of the Act.

# ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004



## Representation

### Introduction

1. We have procedures in place to allow an individual<sup>1</sup> who is dissatisfied in any way with a decision taken by us on the provision of environmental information to require us to review the decision taken.
2. This note sets out the procedures we follow where someone is dissatisfied.
3. Under the Freedom of Information (Scotland) Act 2002, this procedure is known as a “Requirement for Review”.<sup>2</sup> Under the Environment Information (Scotland) Regulations 2004 this is known as a “Representation”. A requirement for review/representation can arise in circumstances where the applicant believes we have not complied with our obligations under the legislation, including (but not limited to):-
  - (a) where we indicate that we do not hold information, but the individual believes we do; or
  - (b) where the individual feels that we have not provided the advice and assistance we should have done; or
  - (c) where we have refused to provide information; or
  - (d) where we have failed to reply to a request for information; or
  - (e) where we have failed to respond to a request for information within the prescribed timescale; or
  - (f) where the individual feels the charge for providing information is higher than it should be.
4. If the applicant is dissatisfied in anyway he/she can require us to review the way the request was handled or the decision reached.
5. Whenever we reply to a request for information a copy of this Procedure must accompany the response. The response must also explain to the applicant their right to seek a review of any decision taken and the subsequent right of appeal to the Scottish Information Commissioner and the Courts (see paragraphs 14 to 16 below).

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<sup>1</sup> Reference to an individual is to any person or organisation that makes a request for information.

<sup>2</sup> For our procedure under the Freedom of Information (Scotland) Act 2002 see our separate guidance.

## Timescale

6. A representation should be submitted in writing (or other permanent form) within 40 working days of either:-
  - the day the individual actually received a response from us; or
  - the end of the period within which we should have replied to a request; or
  - the date by which any other action should have been taken by us.
7. We have **no** discretion to consider representations received beyond this timescale. Applicants must ensure therefore that any representations are made within 40 working days of the event described in paragraph 6.

## Submission of Representation

8. Where a response is made to a request for environmental information, the response must advise that any representation is submitted to:-

John Hamilton  
Head of Board Administration  
NHS Greater Glasgow & Clyde  
Board Headquarters,  
JB Russell House,  
Gartnavel Royal Hospital,  
1055 Great Western Road,  
Glasgow G12 0XH

Telephone     0141 201 4608  
E-mail         [john.hamilton@ggc.scot.nhs.uk](mailto:john.hamilton@ggc.scot.nhs.uk)

9. Should the person making the request submit their representation to another person within our organisation, the recipient must pass it immediately to the Head of Board Administration.
10. The person making a representation should provide their name and an address for correspondence. A statement explaining why the individual feels aggrieved at the decision taken (or the lack of response) by the organisation should accompany any representation. It is always helpful if the person making a representation is explicit as to their dissatisfaction in what they say to us and clearly sets out the grounds for making a representation. Where the applicant is seeking further information relating to his/her original request this will normally be treated as a new request.

## Representation Procedure

11. The representation procedure is designed to be accessible, prompt, fair and impartial. It may result in a decision being made where no decision was made previously, confirmation of the original decision, or the making of a different decision to that originally taken being made. The decision will be binding on the organisation.
12. Consideration of representations has to be processed as soon as possible and within a maximum of 20 working days. During this period we will review our previous decision and provide any further information required if the representation outcome requires this.

## Our Timescale

<b>Event</b>	<b>Action</b>	<b>Day</b>
(a) On receipt of a representation.	Send acknowledgement within two working days of receipt.	2
(b) Identify person who was handling request.	Download relevant information about request and response (including search log) from Datix.	2
(c) Notify person who was handling request that a representation has been received and provide a copy of statement in support from applicant and seek comments on rationale for decision.	Receive comments from request handler.	2-3
(d) Selection of Review Person.	Head of Board Administration to contact Non-Executive Director and invite him/her to undertake review with support from nominated FOI Practitioner who was not involved in the original decision.	4
(e) Supply all available information to Reviewer and FOI Specialist.	Head of Administration to check all information is to hand then issue.	5
(f) Undertake Review	Non-Executive Member in consultation with FOI Practitioner who was not involved in the original decision, calling for further information if required.	10
(g) Write up of decision and sign off by Non-Executive Member.	Provide final report to Head of Administration.	15
(h) Notification of decision	Head of Administration to notify outcome of the representation and right of further appeal.	20
(i) If appropriate, provide any additional information recommended by review process	Head of Administration with original handler to provide any appropriate additional information.	20

13. If at stage (h) above it is concluded that the applicant has been unfairly treated, an apology should be offered on behalf of the organisation:

## **RIGHT OF FURTHER APPEAL**

14. The applicant is to be advised of his/her right to raise the matter further with the Scottish Information Commissioner if he remains dissatisfied with the decision of the organisation. The right of appeal is to be exercised in writing (or some other permanent form) by the applicant who must provide an address for correspondence, specify the request for information to which the representation relates and the reason for dissatisfaction. An appeal to the Commissioner must be made within a period of 6 months from the date of any notice issued by us on the representation made or within 6 months from when a decision should have been notified by us.
15. In advising of this right, the applicant should be given details of the contact address and e-mail address of the Commissioner at:-

Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
ST ANDREWS  
Fife KY16 9DS

Tel: 01334 464610  
E-Mail: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

16. The applicant should also be advised of their right to make an appeal against any decision by the Scottish Information Commissioner <sup>3</sup> on a point of law to the Court of Session.

## **Assistance to Applicants**

17. Under the Environmental (Scotland) Regulations 2004<sup>4</sup>, the recipient of a representation should provide assistance, if required, to any applicant who seeks it. He should also ensure that the needs of persons with a disability within the terms of the Equalities Act 2010 are not unfairly disadvantaged as a consequence of the procedure described above and shall make appropriate adjustments to the procedure where appropriate under the terms of that Act.

## **Review of Representations and Decisions of the Scottish Information Commissioner**

18. Our internal procedures will provide for decisions on representations and decisions by the Scottish Information Commissioner are reviewed to ensure that processes follow best practice in dealing with requests for information under the legislation.

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<sup>3</sup> Under Section 56 of the Act.

<sup>4</sup> Regulation 9