



Dumfries and Galloway
Integration Joint Board

14th July 2016

This Report relates to
Item 13 on the Agenda

Draft Freedom of Information Policy and Publication Scheme

(Paper presented by Katy Lewis)

For Approval

Approved for Submission by	Katy Lewis, Chief Finance Officer
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List of Background Papers:	
Appendices:	Appendix 1 Guide to information available through the Model Publication Scheme Appendix 2 Integration Joint Board Freedom of Information Policy Appendix 3 Memorandum of Understanding – Handling Freedom of Information requests

SECTION 1: REPORT CONTENT

Title/Subject: Draft Freedom of Information Policy and Publication Scheme

Meeting: Integration Joint Board

Date: 14th July 2016

Submitted By: Laura Geddes, Corporate Business Manager - NHS

Action: For Approval

1. Introduction

1.1 This report provides the Integration Joint Board with a Freedom of Information Policy and “Guide to Information available through the Model Publication Scheme” for agreement, which meets the requirements within the Freedom of Information (Scotland) Act 2002 legislation.

2. Executive Summary

2.1 The Freedom of Information (Scotland) Act 2002, which sets out the legal requirements the Integration Joint Board must adhere to when handling Freedom of Information requests was considered as part of the production of the policy and guide to published information.

2.2 As the Integration Joint Board is a separate entity and a Memorandum of Understanding has been prepared to ensure a consistent approach to handling Freedom of Information requests meant for the Integration Joint Board, but submitted to NHS Dumfries and Galloway or Dumfries and Galloway Council.

2.3 Those charged with handling the Freedom of Information requests on behalf of the Integration Joint Board, has been delegated to the Freedom of Information Officer and Freedom of Information Lead for NHS Dumfries and Galloway.

2.4 Discussions on the legality around appointing either the Dumfries and Galloway Council or NHS Dumfries and Galloway organisations to work on behalf of the Integration Joint Board have been held with the Scottish Information Commissioner. The advice given by the Commissioner’s Officer was to ensure that a separate e-mail address for the Integration Joint Board and a clearly identified address for written requests be identified. With this in mind, a new e-mail address has been established as dq.ijbenquiries@nhs.net

3. Recommendations

3.1 The Integration Joint Board is asked to:

- Review and approve the adoption of the Model Publication Scheme produced by the Scottish Information Commissioner.
- Review and approve the implementation of the updated Guide to Information available through the Model Publication Scheme, across the Integration Joint Board (**Appendix 1**)
- Review and approve the Freedom of Information Policy for implementation across the Integration Joint Board (**Appendix 2**)
- Consider and agree the use of the Memorandum of Understanding between the Integration Joint Board, Dumfries and Galloway Council and NHS Dumfries and Galloway, which demonstrates a consistent approach to handling Freedom of Information requests across all three public bodies. (**Appendix 3**)

4. Background

- 4.1 As part of the legislation being enforced around information requests within the public sector, the Board are required to hold a current publication scheme detailing the location of specific evidence across a range of classifications. One of the pieces of evidence the Board is required to hold, as part of the Publication Scheme is a Freedom of Information Policy, which gives guidance on the interpretation of the Freedom of Information (Scotland) Act 2002 and how it is being implemented and enforced within the Board.

5. Main Body Of The Report

- 5.1 In January 2005, Scottish Parliament issued legislation, which would impact on the majority of public sector organisations, to allow a person to request information from a Scottish public authority. The legislation confirm that if the public body holds the information and it meets the criteria laid out in the Act the organisation must provide it for use within the public domain.
- 5.2 The Integration Joint Board (IJB) falls into the category covered by the Freedom of Information (Scotland) Act 2002 (FOISA) and has a legal requirement to comply with the legislation within the 20 days timeframe indicated within the document. FOISA was established to improve transparency where public money and activity is concerned, as well as promoting accountability within the Public Sector.
- 5.3 FOISA covers a range of public information and is split into three sections:
- Freedom of Information (FOI) – non-routine requests for information that will enable the public to have a greater understanding of the role of the public body, the decisions they make and how they spend public money.

- Environmental Information Requests (EIR) – non-routine requests for information that will provide public access to environmental information held by the public body.
 - Data Protection Act 1998 – Legislation that controls how personal information can be used and your right to ask for information about yourself.
- 5.4 The Scottish Information Commissioner has been designated with the authority to enforce and promote FOISA across the public sector. Ensuring that the legislation is being adhered to and that the appropriate exemptions are being applied in regard to person identifiable information and issuing the information deemed as suitable for publication within the public domain.
- 5.5 As part of the FOI law, public bodies are required to adopt a Publication Scheme approved by the Scottish Information Commissioner, which details the key pieces of information that the public body is committed to publishing, supporting the ethos of promoting transparency around information held.

6. Conclusions

- 6.1 In March 2016, the Scottish Information Commissioner issued an amendment to the Model Publication Scheme, which forms the template for public bodies to develop their own “Guide to Information Available through the Model Publication Scheme”. A full review has been undertaken of the Board’s Guide, with minor amendments being made to all of the existing classifications.
- 6.2 One of the key revisions to the existing Model Publication Scheme is the introduction of the Open Data category, under Class 9. This section has been applied following the issue of guidance from Scottish Government in February 2015, requiring all public bodies to publish all open data held by the organisation.
- 6.3 This has an implication on the information published by the IJB in relation to statistical data. Within NHS Dumfries and Galloway discussions have been taken through the Information Assurance Committee, with recommendations on the level of information the Board are able to publish without being able to identify a patient or member of the public. It is recommended that the IJB consider holding similar discussions to allow the Publication Plan for Open Data to be produced in the coming months.
- 6.4 Attached at **Appendix 1** is the revised “Guide to Information Available through the Model Publication Scheme” for IJB Board Members to review and consider for approval and implementation across the Board.
- 6.5 It is the responsibility of the NHS Corporate Business Manager, in her role as FOI Lead, to ensure that all information published within the guide is available on the dg-Change website, therefore, an annual review of the information will be undertaken or earlier if the Scottish Information Commissioner should

issue any significant updates, before being brought back to the IJB for approval.

- 6.6 As part of the suggested evidence within the Model Publication Scheme, it is recommended that the IJB produce a Freedom of Information Policy, which gives clear guidance on the legal requirements for compliance with FOISA and to confirm the process for handling requests from the initial submission, to the options for review of the responses issued and the option of applying to the Scottish Information Commission to undertake a further review of the response, should the requester not be content with the information provided.
- 6.7 With this in mind, a Freedom of Information Policy has been drafted for the IJB and is attached at **Appendix 2** for review. As this is a new Policy for the IJB, consultation has been undertaken with other Integration bodies to ensure all aspects of the interpretation of FOISA has been captured and a consistent approach adopted.
- 6.8 The policy looks at a number of key features, including the legal aspects of FOISA, Records Management, the Data Protection Act and the re-use of Public Sector Information Regulations, as well as giving an understanding of the handling of legislation and when the different stages of the review process should be adopted.

SECTION 2: COMPLIANCE WITH GOVERNANCE STANDARDS

7. Resource Implications

- 7.1. The content of this paper and appendices has no financial implications for the Integration Joint Board.

8. Impact on Integration Joint Board, Priorities and Policy

- 8.1. Through the development and approval of both the Freedom of Information Policy and the Guide to information available through the Model Publication Scheme, the Integration Joint Board will ensure compliancy with its legal requirements, therefore, will support all 9 national outcomes.

9. Legal & Risk Implications

- 9.1. The Freedom of Information (Scotland) Act 2002 is a legally binding piece of legislation, which the majority of Public Sector bodies are required to adhere to and enforce across their regions.
- 9.2. The risk implications in relation to this paper would mean non-compliance and investigation of the Integration Joint Board by the Scottish Information Commissioner, resulting in a legal risk as well as a reputational risk to the Integration Joint Board.

10. Consultation

- 10.1. The Health and Social Care Senior Management Team have been consulted on and are in agreement with the terms of the Report.
- 10.2. The Chief Finance Officer has been consulted and is in agreement with the terms of the report.

11. Equality and Human Rights Impact Assessment

- 11.1 An Impact Assessment was undertaken in relation to the development of the Freedom of Information Policy on 14 June 2016 and will be published in accordance with the Equality and Diversity guidance.

12. Glossary

- 12.1 The acronyms referred to within this paper are noted below:

IJB	-	Integration Joint Board
FOI	-	Freedom of Information
FOISA	-	Freedom of Information (Scotland) Act 2002
EIR	-	Environmental Information Request

13. Exempt reports

13.1. No exemptions are required to be applied to this report.