

Glasgow LMC Advice

Freedom of Information Act

What is it?

- The Freedom of Information Act 2000 is an Act to make provision for the disclosure of information held by public authorities or by persons providing services for them.
- It applies to most public authorities but specifically includes General Practice despite our independent contractor status.
- Since 1st January 2005 General Practices have been obliged to respond to requests about information that they hold and record in any format.
- The Act creates a right to access to that information. These rights are subject to some exemptions which have to be taken into consideration before deciding what information can be released.
- For a request to be valid under the Freedom of Information Act it must simply be in writing, state the name and address of the requestor and describe the information requested.
- As a general principle the Freedom of Information Act is applicant and motive blind. In other words it does not matter who the requestor is or why they want the information.
- If the request is not clear or can be interpreted in more than one way, you should ask the requestor for clarification. You do not have to comply with the request until you have received this clarification.

When do you have to respond?

You must respond to requests for information promptly and usually within twenty working days. **The first day of the twenty is the first working day after the request was received.**

- If you have asked the requestor to clarify the request, the twenty days start on the day when you receive the clarification.
- If you are withholding the information by applying an exemption for which you need to consider the public interest test, you may extend your time for considering release of the information but we recommend that this does not take more than forty working days in total.
- You must still inform the applicant that you are doing this before the initial twenty working days are up and give an estimated time for response.
- You can refuse a request if it would cost too much to comply, the request is vexatious or repeated or the information is exempt from disclosure under one of the exemptions in the Act.
- You can estimate the cost of providing the information. If that cost exceeds £450 you can refuse the request. You may also 'aggregate' the cost of related requests from the same person or campaign group within 60 days for the purpose of estimating the cost of compliance.
- You can refuse 'vexatious' requests. Note that it is the request that can be considered vexatious, not the requester. You may also refuse requests 'identical or substantially similar' to a previous request from the same person within a reasonable time period (repeated requests).

The exemptions

The Act also recognises that there may be valid reasons for withholding information by setting out a number of exemptions from the right to know, some of which are subject to a public interest test.

There are **23 exemptions** in the Freedom of Information Act:

Absolute Exemptions

Exemptions that are wholly exempt in their application include:

- Information accessible to the applicant by other means (s21)
- Information supplied by, or relating to, bodies dealing with security matters (s23)
- Information relating to Court records (s32)
- Parliamentary privilege (s34)
- Information provided in confidence (s41) and
- Information prohibited from disclosure by any other piece of legislation or enactment (s44)

Exemptions that are absolute only in part include:

- Information that would prejudice the effective conduct of public affairs (s36)
- Personal information (s40)

Conditional Exemptions

Exemptions requiring the application of a public interest test include:

- Information intended for future publication (s22)
- National Security (s24)
- Investigations and proceedings conducted by public authorities (s30)
- Formulation of Government Policy (s35)
- Communications with Her Majesty and honours (s37)
- Health and Safety (s38)
- Environmental information (s39)
- Legal professional privilege (s42)

Exemptions requiring the application of a public interest test and/or a prejudice test include:

- Defence (s26)
- International relations (s27)
- Relations within the United Kingdom (s28)
- The economy (s29)
- Law enforcement (s31)
- Audit Functions (s33)
- Commercial Interests (s43)

What is the “public interest”?

The public interest test applies to most exemptions.

- In effect something “in the public interest” is simply something which serves the interests of the public.
- When applying the test, the public authority is simply deciding whether in any particular case it serves the interests of the public better to withhold or to disclose information.
- There is a presumption running through FOIA that openness is, in itself, to be regarded as something which is in the public interest.
- When refusing a request for information, you cannot withhold an entire document because some of the information contained within it is exempt.
- You must provide a redacted version of the document along with a refusal notice stating why some of the information cannot be released
- There are no exemptions for embarrassment, incorrect or out of date information.
- When refusing you must send the requester a written refusal notice
- You may consider having a general information leaflet to answer many of the common queries under the act. The following is an example:

Frequently asked questions

I have received a letter asking for sight of a patient's own records under the Freedom of Information Act. Do I need to comply?

The Freedom of Information Act does not cover personal information. The Data Protection Act allows an individual to have sight of information held electronically. There is a nominal fee allowed of £10 for access. Paper held medical records can also be accessed under the Access to Medical Records Act. Medical records remain confidential and cannot provide information towards requests under the freedom of information act (FOIA).

I have been asked to provide details of my personal income under the Freedom of Information Act.

As a public body you are required to demonstrate the resources that you are allocated by the public purse and therefore must answer this query. However within General Practice this is generally thought to be the practice's gross income. More detailed personal allocation is thought to be exempt under Category 40- personal information.

I have had seven requests from one individual. Is this considered vexatious?

About 60% of requests come from the general public and a further 20% from journalists. Requests from journalists do make up the bulk of work undertaken by public bodies under the FOIA.

Only the request can be considered vexatious and not the requester. If each individual request is reasonable then the query must be answered. Reasons to refuse could include cost (Not more than £450 for the aggregated responses) or repetition.

An individual has asked to see copies of inter practice emails regarding their complaint. They contain inappropriate comments. Must I comply?

Electronic communication must be treated in the same way as written communication and electronic records. The information held within them is submissible under FOIA requests.

You may only redact (remove) information that is exempt under the act. This may include third party information. Rude or inappropriate comments can only be redacted if they are exempt, otherwise you will have to submit them.

An individual disputes that my information is exempt. What can they do?

If an individual is unhappy with the way that you have answered your request they may refer the case to the information commissioner. It would be considered good practice to advertise this right with your response.

Example of Practice Publication

Who we are

- *This practice is a limited liability partnership and part of the NHS.*
- *We operate within the area of Greater Glasgow & Clyde Health Board and provide medical services for patients living within certain areas.*
- *A map of our practice area is available in our Practice Booklet, which is available from reception and on our Practice website.*
- *A full list of the General Practices in this area and further details about how the Board fits into the NHS, a major part of the public sector, can be Found on the NHS GGC website or by writing to them at*

**Greater Glasgow and Clyde NHS Board
NHS Greater Glasgow and Clyde Corporate HQ
J B Russell House
Gartnavel Royal Hospital Campus
1055 Great Western Road
GLASGOW
G12 0XH**

- *Our practice is contracted to provide General Medical Services for our registered patients under contract to Greater Glasgow & Clyde Health Board in accordance with the National Statement of Fees and Allowances.*
- *Some information about our practice will be withheld, including personal, confidential information about individuals, which is protected by the Data Protection Act 1998.*

The current Partners are:

Name Qualifications Hours Date Registered

The following key personnel work within the practice and are employed by the practice, a full up to date list is available free of charge in our practice booklet from reception and on our Practice website:

Job Title Name Hours

Our Services.

A full list of the services we provide can be found in our practice booklet.

Our Doctors' clinical interests are as follows:

Doctor Clinical Interests

Surgery opening

The main surgery with the administration staff is at:

Insert Surgery address

Details of our opening hours are contained in surgery booklet available in reception:

Surgery Opening Times are Monday to Friday 08.30am to 18.00 pm

Financial and funding information.

We receive fees for providing medical services to our registered patients from Greater Glasgow & Clyde Health Board through the mechanism of the National Statement of Fees and Allowances.

*Total Income received from the NHS before expenses in **year towas £.....** From these fees the practice has to meet the costs of running the Practice this includes the following main expenses:*

- Paying Doctors and Nurses*
- Running costs and maintenance of the premises and equipment*
- Administrative costs including pay*
- IT support and maintenance*
- Communications support, maintenance and running costs*
- Infrastructure investment such as clinical equipment and the building*

*We have a scale of fees for work that comes outside of the **Statement of Fees and Allowances contract**. Details are displayed on the notice boards in the waiting areas and in free hand-outs on the reception desk or on our website.*

There may be circumstances where material cannot be released because it is:

- Confidential*
- Commercial information*
- The appropriate officer designated for these purposes under the Act has taken the view that it may be prejudicial to the conduct of the practice's affairs.*
- No longer available under NHS guidelines*

**Last Updated June 2014-06-24
Dr Georgina Brown
LMC Secretary**