



Moray Integration Joint Board Access to Information Policy

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Document Control Sheet

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1.0 Introduction and obligations

The Moray Integration Joint Board (IJB) is a partnership of Moray Council and NHS Grampian. The IJB has responsibility for the planning, delivery and resourcing of delegated health and social care services. The IJB is a separate public body to the council and the NHS, and as such is subject to Access to Information legislation.

1.1 Freedom of Information (Scotland) Act 2002 (FOISA)

Moray Integration Joint Board (IJB) being a Scottish public authority is subject to the provisions of the Freedom of Information (Scotland) Act 2002 (FOISA). FOISA gives a general right of access to the public to information recorded and held by the IJB.

FOISA imposes a number of additional obligations. These are to: -

1. Produce and maintain a Publication Scheme approved by the Scottish Information Commissioner (SIC). A Publication Scheme is a high level, strategic document in which a public authority makes a binding commitment to make information available to the public. The purpose of the Publication Scheme is to:
 - Ensure that the public can see what information has been published and can access this information without having to make a formal request for information;
 - Ensure Board Members and staff have clear guidance on what information should be provided to the public so that they can respond effectively to information requests;
 - Provide an easily accessible and easy to use system for the public to access information;
 - Reinforce leadership messages about accountability and openness at all levels;
 - Evidence to the public that the IJB is meeting its obligations under the FOISA
2. Respond to requests (where such requests are in writing or some other permanent form) made by anyone for information held by the IJB. Requests must be responded to as soon as possible and within 20 working days regardless of when it was created, by whom, or the format in which it is now recorded.
3. Advise an applicant if any requested information is not held.
4. Specify the exemption provisions in the FOISA under which the IJB refuses to release requested information.
5. Charge for providing the requested information in accordance with the regulations made under the FOISA, in accordance with the Council's agreed scale of charges, and to refuse to provide information where the costs of doing so would exceed a specified level. For the purposes of FOI requests, the IJB has agreed to adopt the scale of charges used by Moray Council.

6. Make applicants aware of their right to request a review of any decision on a request for information and the right to pursue an appeal to the Scottish Information Commissioner if dissatisfied with the IJB's decision.
7. Provide advice and assistance to applicants who are seeking information.

1.2 Environmental Information (Scotland) Regulations 2004 (EIRs)

The IJB being a Scottish public authority is also subject to the provisions of the Environmental Information (Scotland) Regulations 2004 (EIRs). Under EIRs the IJB must provide to the public a general right of access to environmental information.

"Environmental Information" covers a broad range of topics, such as:

- the environment itself, including air, water, earth, and the habitats of animals and plants;
- other things that affect the environment, such as emissions, radiation, noise and other forms of pollution;
- policies, plans and laws on the environment.

Examples of Environmental Information:

- levels of chlorine in swimming pools;
- water and air-quality test reports;
- genetically modified crops;
- air conditioning systems in public buildings.

EIRs and FOIs are not mutually exclusive, and a request that is made specifically under FOI can be answered as an FOI so long as it is also answered as an EIR as well; alternatively the request can be refused as an FOI under section 39(2)(a), so long as it is then fully answered under EIR, as this satisfies FOI and EIR. The FOI team can provide assistance.

The intention of both pieces of legislation is to allow the public access to information, yet there are some differences between the two;

- Requests for information can be made orally under EIRs.
- The 20 day time period for responding to requests can be extended to 40 days where the request is complex and voluminous and would involve a considerable amount of work.
- Provision for charging of fees is different: there is no upper or lower threshold and authorities can recover, in full, the cost of supplying the information.
- EIRs have exceptions rather than exemptions: all subject to the public interest test.
- Information relating to emissions has special status and will have to be supplied in most cases.

1.3 FOISA and the Data Protection Act

The difference between a request for information under FOISA and the Data Protection Act, 1998, (DPA):

- A request under FOISA will be for general information or information about a 3rd party and will not contain personal information. Information cannot be released if doing so would mean breaching any of the Data Protection principles.
- A DPA Subject Access Request will be from a living individual requesting personal information about himself/herself (the data subject). Due to the nature of the IJB it is highly unlikely to hold personal information about individuals, therefore it will be recommended that requests are directed to either the Council or the NHS, who both have set procedures for handling SARs.

A request may in part need to be handled as a Subject Access Request but also in part as a FOI. Both types of requests are handled by the FOI Team and they can provide specific guidance as required.

2.0 Scope of Policy

This policy outlines the arrangements that the IJB has put in place in order to comply with FOISA and EIRs. This policy applies to all IJB members and any employees of the IJB. Please note that at the time of publication the IJB does not have any employees as staff will continue to be employed by their current employer. There is however, provision in S11 of the Public Bodies (Joint Working) (Scotland) Act 2014 for the IJB to employ its own staff by Order of the Scottish Ministers.

IJB contractors, proposed contractors and others who are in communication with the IJB shall be informed of the IJB's obligations under freedom of information statutory provisions and that information they provide may require to be disclosed.

3.0 Roles and Responsibilities

The IJB has a statutory responsibility to make information available in accordance with freedom of information legislation. Operationally this role will be carried out by the Council on behalf of the IJB. The Chief Officer of the IJB is responsible for the IJB's compliance with the statutory provisions.

The Records and Heritage Manager has responsibility for advising the Chief Officer on the application of FOI legislation and for ensuring that the IJB meets its legislative obligations. To assist with this:

- Legal advice will be provided by the Council's Legal Team in respect of requests for information and reviews.
- Procedural advice will be provided by the Council's FOI team.

All IJB members must have a general understanding of FOI legislation and know where to refer any issues on which they require guidance.

Where an applicant sends a request to the IJB for information, which is not held by the IJB and relates to the Council or NHS Grampian concerns, the applicant will be directed to contact either the Council or NHS Grampian with the information request.

4.0 Policy Statement

The IJB is committed to meeting its obligations under the FOISA and EIRs. In doing so, the IJB shall ensure:

- Compliance with the relevant Scottish Ministers Codes of Practice and related guidance issued by SIC;
- Information about the IJB shall be routinely published through the IJB's Publication Scheme. The Scheme shall be reviewed and updated on a regular basis;
- Requests for information not available through the Publication Scheme shall be processed in accordance with statutory provisions;
- Guidance on how to make valid information requests is published on the Council's website and elsewhere;
- Advice and assistance will be offered to prospective applicants where this is required;
- Staff are aware of the requirement to demonstrate the steps they have taken to identify whether the IJB holds information sought by any individual or whether the request might more appropriately be directed to another organisation such as NHS Grampian or the Council;
- Charges for requested information may be made in accordance with statutory requirements and a fee notice shall be issued prior to any charge being levied;
- Due consideration is given as to whether or not information is covered by an exemption (FOISA) or exception (EIRs) and should not be released;
- Appropriate training is provided to members and staff within the organisation that informs them of their obligations and how they can receive help in meeting these obligations;
- Members and staff are made aware that it is a statutory offence to alter, deface, block, erase, destroy or conceal information with the intent of preventing disclosure;
- Personal data, as defined in DPA, is held securely and is not disclosed inappropriately in response to a request for information.

5.0 Monitoring

The IJB's monitoring of its FOISA and EIRs statutory responsibilities will include the routine collection of data, such as the:

- Number of requests received and whether they fall under FOISA or EIRs;
- Number of requests for review received;
- Number of times a fee has been charged;
- Outcomes of any reviews;
- Proportion of requests answered within and out with the statutory timescale;
- Number of requests refused (or partially refused) and the reasons for this;
- Number of cases appealed to the Commissioner and the outcomes.

A quarterly report on the Board's compliance with legislation will be submitted to SIC. This will be submitted as part of the Council's quarterly report on compliance to SIC.

6.0 How the Policy will operate in practice

The IJB has entered into agreement with the Council to the effect that the Council will administer FOISA and EIR requests on behalf of the IJB as follows:

1. Requests may be made in writing, including by e-mail. Any requests received directly by the IJB will be forwarded to the Council's FOI Team, info@moray.gov.uk.
2. Each request will be logged and processed using the Council's FOI and EIR processes. A new department will be added to the system to distinguish requests for the IJB.
3. Responses will be issued by the Council on behalf of the IJB, these will be published on the Council's FOI webpages.
4. Specialist advice in relation to FOI, EIR and SAR requests will be provided by the Council's FOI team.
5. Legal Advice will be provided by the Council's Legal Department.
6. Any person wishing for a review of their Response can request one; information on how this is done is provided along with the original response.
7. The Council will report quarterly on performance to SIC on behalf of the Council and the IJB. Copies of this report will be submitted to the IJB at the same time.
8. General guidance, including on FOISA exemptions and EIR exceptions, are publically available on the Council's webpages

7.0 References and Links

Moray Integration Joint Board webpages:

http://www.moray.gov.uk/moray_standard/page_100266.html

Moray Council's Website pages:

Information Management

http://www.moray.gov.uk/moray_standard/page_41220.html

Freedom of Information

http://www.moray.gov.uk/moray_standard/page_53728.html

Data Protection

http://www.moray.gov.uk/moray_standard/page_41179.html

All Council fees

http://www.moray.gov.uk/moray_standard/page_54971.html

Scottish Information Commissioner:

www.itspublicknowledge.info/index.htm

The Information Commissioner's Office:

<https://ico.org.uk/>

8.0 Contacts

FOI Team:

Information Co-ordinator

Elgin Library

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Tel 01343 563110

Records and Heritage Manager

Elgin Library

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