



GIG  
CYMRU  
NHS  
WALES

Bwrdd Iechyd  
Cwm Taf  
Health Board

## **Guidelines for the Reuse of Public Sector Information**

<b>INITIATED BY:</b>	Board Secretary / Corporate Director
<b>APPROVED BY:</b>	Board Secretary / Corporate Director
<b>DATE APPROVED:</b>	December 2011
<b>VERSION:</b>	1
<b>OPERATIONAL DATE:</b>	2 January 2012
<b>DATE FOR REVIEW:</b>	2 January 2015
<b>DISTRIBUTION:</b>	All Staff via Core Brief and Intranet Site
<b>FREEDOM OF INFORMATION STATUS:</b>	Open

## CONTENTS

		<b>Page</b>
1	Purpose	3
2	Objectives	3
3	Principles	3
4	Scope	4
5	Rights of Access	4
6	Risks	5
7	Charging	5
8	Legislative and NHS Requirement	6
9	Training	6
10	Review, Monitoring and Audit Arrangements	6
11	Managerial Responsibilities	7
12	Retention or Archiving	7
13	Non Conformance	7

## **1. Purpose**

This guidance states our commitment to meet the requirements of the Re-use of Public Sector Information Regulations and any associated guidance from the Lord Chancellor's and the Information Commissioner's Office and outlines mechanisms for ensuring this takes place.

## **2. Objectives**

To outline the requirements for Cwm Taf Local Health Board to provide or permit re-use of information held (in any particular media format) and to ensure that all requests for information received are processed in accordance with the provisions of the Re-use of Public Sector Information Regulations 2005 ('RPSI').

## **3. Principles**

The Health Board will comply with the requirements of the RPSI, and in particular will:

- Identify public sector information documents that are available for re-use
- Assess whether to charge for re-use of its documents
- Provide a licence, listing the conditions of re-use
- Provide information categories of published and unpublished material available for re-use, for example, databases, statistics and research. The Health Board's Freedom of Information Publication Scheme lists the broad categories of published materials
- Respond to written requests for information as quickly as possible, and in any event within the statutory timescales
- Follow the appeals procedures detailed within the Freedom of Information Act Policy
- In exceptional circumstances, where the Health Board cannot respond fully within the statutory timescale (for example, where the public interest test must be considered), the Health Board will:
  - Advise the requester, and give an estimated date by which the information will be provided; and
  - Provide as much of the information as possible within the earlier timescale
  - Apply exclusions appropriately and consistently
  - Provide training to users

#### **4. Scope**

This guidance applies to the following:

- Employees, including permanent, temporary, contractual and agency
- Independent Board members
- People, partner agencies, 3rd party suppliers and organisations contracted to work or process any information on behalf of the Health Board
- Volunteers, students or any other authorized people working with or for the Health Board

#### **5. Rights of Access**

Rights of access will apply to all types of information held by the Health Board regardless of the date of the information:

- Any person or organisation may apply. Access is not confined to UK citizens and permanent residents; foreign nationals may also apply.
- The request must be in writing.
- The requester must state their full name (pseudonyms are not valid) in writing.
- The requester must specify the document requested.
- The requester must state the purpose for which the document is to be re-used.
- The Health Board must acknowledge receipt of the request within two working days.
- A request for information must be answered within 20 working days of receipt of the request. This period may be extended where the request is extensive or complex; and the requester must be informed of this in writing.
- Information will be reusable subject to changes on a case-by-case basis, except where it is produced for statutory reasons. Each response will detail any conditions for re-use

Re-use can be refused if the information requested falls within one or more of the exclusions permitted by RPSI:

Where requests are refused, the applicant will be advised of the decision and has a right to ask for that decision to be reviewed under the Health Board's FOIA and Environmental Information Regulations (EIR) appeals procedures. If the information is still not released, the applicant will be advised of their right to ask the Office for Public Sector Information (OPSI) to review the decision.

## **6. Risks**

The Health Board recognises that there are risks associated with non-compliance with the law. This guidance aims to mitigate risks such as:

- Significant risk to the Health Board, its customers, partner agencies and stakeholders;
- Inappropriate use or disclosure of information, leading to major incidents;
- Breach of the Health Board's or other's copyright;
- Legislative or financial penalties;
- Loss of reputation and damage to the Health Board's corporate image.

## **7. Charging**

Although there is no obligation on the Health Board to make a charge it retains the right to charge, and where a charge is made it will be noted in the Publication Scheme. This will also apply where existing statutory charging arrangements apply

Where the requests are made through other regimes of access, such as EIR and FOI, charging mechanisms will apply, for obtaining this information as well as for disbursements (e.g. postage, printing and photocopying).

The Health Board will strive to work together and share information with other public sector bodies.

The Health Board will reserve the right to impose conditions on the re-use of information and levy a charge where this has involved a considerable amount of officer time in either the preparation or release of the information.

Where a number of other public sector organisations are interested in the work of the Health Board, officers would be encouraged to present seminars, chargeable at prices that are benchmarked in line with other Health Boards.

Where charges are made, the total income should not exceed the cost of collection, production, reproduction and dissemination of documents and a reasonable return on investment.

Users must ensure that any future contracts with external organisations clearly states which party owns copyright to information.

## **8. Legislative and NHS Requirement**

All policies and procedures must provide clarity to meet external legislative and NHS requirements such as Health and Safety, European legislation and Health Care Inspectorate Wales.

The following legislation and national guidance must be considered in the development and maintenance of this guidance and its supporting documents:-

- Data Protection Act 1998
- The Human Rights Act 1998
- The Common Law Duty of Confidentiality
- The Freedom of Information Act 2000
- NHS Wales Caldicott and its requirements
- Welsh Language Act 1993
- Equality Act 2010
- Environmental Information Regulations

## **9. Training**

To enable users to comply with this guidance and with the RPSI, the Health Board will:

- Establish and maintain an RPSI framework and promote compliance with the legislation;
- Provide adequate and appropriate training and guidance to all users;
- Maintain a register of requests;
- Ensure that audit trails of all written correspondence in relation to a request for information are maintained;
- Monitor application of guidance;
- Revise guidance and training as appropriate.

## **10. Review, Monitoring and Audit Arrangements**

This guidance will be continually monitored and will be subject to review at three yearly intervals.

An earlier review may be warranted if one or more of the following occurs:-

- As a result of regulatory / statutory changes or developments;
- Due to the results / effects of critical incidents;
- For any other relevant or compelling reason.

## **11. Managerial Responsibilities**

The Chief Executive has overall responsibility for RPSI within the Health Board. The Board Secretary / Corporate Director has delegated responsibility for the corporate implementation, co-ordination and monitoring of compliance with the legislation.

All users will:

- Understand and adhere to their responsibilities for handling RPSI requests in line with policy and procedures
- Respond to both written and verbal requests in line with the Health Board procedures and guidelines

The Board Secretary / Corporate Director is responsible for the strategic elements, taking into account all related legal and NHS requirements.

The Head of Corporate Services is the senior professional lead for the development and coordination of effective governance within the Health Board and with its partners.

Managers at all levels within the Health Board are responsible for continuing compliance within their areas, and ensuring that this guidance is built into local processes.

## **12. Retention or Archiving**

In cases of incidents, / complaints / claims and other legal processes it is often necessary to demonstrate the guidance in place at the time of the investigation. Therefore this guidance will be archived and stored in line with the Records Management Policy.

## **13. Non Conformance**

The Health Board views RPSI compliance seriously. Compliance is monitored by, but not limited to, regular quality checking and ad hoc audits of Directorates as required. The nature of non-compliance will dictate the course of action to be taken, for example:

- Employees may be subject to the disciplinary process;
- Issues involving Independent Board members will be referred to the Chairman;
- Third Party issues will be handled via contractual arrangements.