

## Freedom of Information Policy & Procedure

### 1. Background

From 1<sup>st</sup> January 2005 the **Freedom of Information Act (FOIA)** gave a legal right of access to information held by any publicly funded organisation. An FOIA request can be made by anyone and include a request for information that was held before the Act came into place. This policy is a statement of intent and will be implemented as a procedure (see publication scheme below).

### 2. Legal Framework

Local Healthwatch are listed under Schedule 1 of the FOIA and are subject to the requirements of FOIA1. Local Healthwatch are only subject to the Act in relation to their functions under section 221(1) of the **Local Government and Public Involvement in Health Act 2007**, which relates to the statutory activities.

FOIA is not the only law under which local Healthwatch may have to provide information to the public. The **Data Protection Act 1998** applies if the request is for personal information about the applicant, while the **Environmental Information Regulations 2004** allow access to environmental information held by public authorities.

### 3. Scope

The two main responsibilities for Healthwatch Kingston (hereafter HWK) are:

- To adopt and comply with a publication scheme approved by the **Information Commissioner's Office (ICO)**. This scheme must set out HWK's commitment to make certain classes of information routinely available, such as policies and procedures, minutes of meetings, annual reports and financial information. Appendix 1 sets out HWK's **Publication Scheme**.
- To respond to requests for information. FOIA requires all written requests for information to be responded to within 20 working days. Any person making a request is entitled to:
  - be informed in writing by HWK whether it holds information of the description specified in the request
  - if that is the case, to have that information communicated to them

The information which HWK 'holds' (even if it is not the owner or source of that information) must be communicated to the requester unless an exemption from disclosure under the Act is engaged. Where a request for information is refused (including if only part of the information is released), a notice must be provided to the requester, explaining the reasons for applying each exemption and advising of the right of appeal.

### 4. Exemptions

- 4.1 The Freedom of Information Act does not oblige a public authority to comply with a request for information if the cost of finding or copying the information would be disproportionately high. Similarly public authorities are not obliged to respond to

vexatious or repeated requests. Public authorities are not expected to comply with requests for information unless the person making the request gives enough of a description to allow the information required to be identified.

4.2 The Act also lists a number of exemptions to the right of access. Public authorities are not required to release information to which an exemption in the Act legitimately applies. However, they may be required to explain to the applicant why they are not releasing information and they may also have to justify this to the Information Commissioner. The exemptions include:

- Information already accessible elsewhere (if this is the case, HWK will direct to the authority which holds the information)
- Information provided to HWK in confidence
- Personal information (this is covered by the Data Protection Act and is only available to the individual concerned)
- Information which might endanger the physical or mental health or the personal safety of an individual or group of individuals
- Information intended for future publication (e.g. if HWK is planning to publish this information, the public may have to wait until it is published before it can be accessed)
- Information which would be likely to prejudice the commercial interests of a public authority
- Information which would prejudice the effective conduct of public affairs

4.3 Certain exemptions are subject to a public interest test, which means that public authorities may be required to release information if the public interest is deemed to outweigh any concerns that the public authority may have about making the information available. Further information about exempted information, including a full list of exemptions is available on the Information Commissioner's web pages ([www.ico.org.uk](http://www.ico.org.uk)).

## 5. References

The following publication was used to produce this document:

- Healthwatch England: Freedom of Information Act requests to local Healthwatch, 2015

## 6. Document Control

Title of Document: <b>Freedom of Information Policy &amp; Procedure</b>	
Board Approval Date: December 2015	Review Date: December 2016

## Appendix 1

### Publication Scheme

#### Introduction

The Freedom of Information Act 2000 (FOIA) gives rights of public access to recorded information held by public authorities. The FOIA is intended to promote a culture of openness and accountability amongst public sector bodies, and therefore facilitate a better understanding of how public authorities carry out their duties; make decisions and spend public money. One way in which the FOIA achieves this is by requiring public authorities to make information about itself and its activities routinely available to the public. The purpose of this guide is to describe the information that Healthwatch Kingston makes routinely available and how to find it.

Healthwatch Kingston has adopted the Information Commissioner's Office (ICO) 'Model Publication Scheme'. Under the scheme, Healthwatch Kingston is committed to:

- Proactively publish, or otherwise make available as a matter of routine, information that falls within the 'classes of information' listed below
- Specify the information that it holds, and which falls within those 'classes of information'
- Publish guidance on how this information is made available, so that it can be easily identified and accessed by members of the public
- Review and update, on a regular basis, the types of information it makes available
- Publish information on any fees that may be charged for this information, and
- Make this publication scheme available to the public

#### Publication of Information

Healthwatch Kingston uses its website as the principal means of disseminating information about itself and its activities. In most cases, this information can be located using the 'search' facility on the site.

We routinely publish information within the following classifications:

- Who we are and what we do (our organisational information, structures, locations and contacts)
- What we spend and how we spend (we publish annual financial statements in our Annual Reports)
- How we operate (our governance arrangements and operational procedures)
- What are our priorities and how are we doing (our strategy and work plans, performance indicators and progress reports)
- How we make decisions (decision making processes and records of decisions)
- Our policies and procedures (for delivering our services and responsibilities)
- Our lists and registers (information we are currently required to hold in publicly available registers)
- The services we offer (information about services we offer)

Information falling into the categories below will not, generally, be made routinely available:

- Information in draft form
- Information which would be impractical or resource intensive to prepare for routine release

- Information which is no longer readily available because it is archived or its retrieval would be difficult, impractical or resource intensive to prepare for routine release
- Information whose release is prohibited by law, or exempt under the FOIA or is otherwise considered to be protected from disclosure

### **Making a request under the Freedom of Information Act**

If the information you need is not in the publication scheme you can also contact us to request information under the Freedom of Information Act. Please email your requests to [info@healthwatchkingstonuponthames.org.uk](mailto:info@healthwatchkingstonuponthames.org.uk). You can also write to:

Healthwatch Kingston  
Kingston Quaker Centre  
Fairfield East  
Kingston upon Thames  
KT1 2PT

We will usually respond to your request within 20 working days following receipt of your request, however this deadline may be extended if we need to seek clarification of your request from you, or if (in very rare circumstances) we need to consider complex issues of public interest in deciding whether to provide certain information. We will tell you if we need to extend the deadline and will explain the reason why.

Some information might be exempt from disclosure under the FOIA; however we will usually tell you if we are withholding information. We will also explain why we feel that it is appropriate to apply the exemption. In some cases, the FOIA allows us to refuse to confirm or deny holding certain information.

For example, we can use exemptions under FOI to refuse to disclose confidential personal information, or to refuse to make disclosures that would make it difficult for us to carry out our role.

We may need to consult with other people or organisations before providing you with requested information. This usually happens where you have requested information that was provided to Healthwatch Kingston by another organisation.

### **Unhappy with our response?**

If you are unhappy with the response you received from us relating to your FOIA request please let us know, giving your reasons. We will respond to you in writing. If you remain dissatisfied following your appeal, you can contact the Information Commissioner at the address below:

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Tel: 01625 545 745

### **Keeping this Publication Scheme up to date**

The Commission's Information Rights Manager is responsible for ensuring that this Publication Scheme and Information Guide are kept up to date.

The Publication Scheme will be reviewed annually, or whenever there is a significant change to the way we work, the types of information we publish, or the way in which we make that information available.