FOR INFORMATION AND DECISION

GIG CYMRU NHS WALES | Bwrdd Iechyd Prifysgol Caerdydd a'r Fro | Cardiff and Vale University Health Board

AGENDA ITEM 3.1

26 April 2011

MEDICAL DIRECTORS REPORT AS CALDICOTT GUARDIAN

Report of	Medical Director
Paper prepared by	Committee Secretary
Executive Summary	This report provides an update to the Information Governance Committee in respect of the following items • Break Glass Incidents • Information Governance Policies • Map of Medicine • Partnership Group • Welsh Accord for Sharing Personal Information
Action/Decision required	To note and endorse the actions proposed in the reports
Link to other Board Committee (s) and sub-committees	Quality and Safety Committee, Performance Committee, Audit Committee
Link to Standards for Health Services in Wales	The initiative supports Healthcare Standards 4, 8, 14,
Link to Public Health Agenda	

Link to UHB Strategic Direction and Corporate Objectives / Legislative and Regulatory Framework	Directly linking with Cardiff and Vale UHB Governance Framework.
Link to relevant evidence base	Freedom of Information Act Environmental Information Regulations

MEDICAL DIRECTORS REPORT AS CALDICOTT GUARDIAN

3.1.1 Break Glass Incidents - Sensitive Reports Process

At the previous meeting January 2011 the Information Governance Committee requested a comparison report on the number of break glass incidents during for the previous 12 month period. A brief report which details the number of incidents, broken down on a quarterly basis from July 2008 is attached as Appendix 1.

Following review of these figures and the need to develop improved processes to ensure that satisfactory consideration of all breakglass incidents is completed, discussion is taking place with the audit department for a review and suggested changes to the process. A further update will be provided in the meeting.

3.1.2 Information Governance Policies

Scheme of Delegation for Control Documents
Attached at Appendix 2 is a list of all the control documents which were previously assigned to the Information Governance Committee to review and progress following the re-organisational change within the NHS and the creation of Cardiff and Vale UHB.

To date there have been several documents submitted for approval to the Information Governance Committee and these have been processed and actioned in accordance with the Cardiff and Vale UHB Policy for Policies. Further work is now required to

ensure that the remaining control documents are reviewed and appropriate actions taken to implement amended documents.

The attached proposes a schedule for assigning a lead group or committee for these documents to now be progressed.

Freedom of Information Act and Environmental Information Regulations Policy

Attached, at Appendix 3, is a revised Freedom of Information Act and Environmental Information Regulations Policy. This Policy has been reviewed following the re-organisation of the Health Board and it sets out how Cardiff and Vale UHB will continue to meet its legal obligations under the legislation.

3.1.3 Map of Medicine

A verbal update will be provided at the meeting

3.1.4. Partnership Group Update

A verbal update will be provided at the meeting

3.1.5 Wales Accord for Sharing Personal Information

The Wales Accord on the Sharing of Personal Information (WASPI) provides a framework for service-providing organisations directly concerned with the health, education, safety, crime prevention and social well being of people in Wales. In particular, it concerns those organisations that hold information about individuals and who may consider it appropriate or necessary to share that information with others in a lawful and intelligent way.

In 2010 WASPI received endorsement by the Welsh Assembly Government as the ‘single’ information sharing framework for Wales. Version 3 of the accord is now available for use by all service providing organisations, who wish to show their commitment in meeting agreed standards for the sharing of personal information and Cardiff and Vale UHB has signed its commitment to WASPI.

The current version of the WASPI is provided for information to the Information Governance Committee on the link detailed.

RECOMMENDATION

The Committee is asked to:

- **NOTE** the reports
- **AGREE** the proposals for delegation of the polices to the relevant appropriate Committees
- **APPROVE** the Freedom of Information Act and Environmental Information Policy

IMPACT ASSESSMENT

Health Improvement	Aims to deliver better outcomes with improved governance arrangements in place
Workforce	Benefit to staff and patients with improved governance arrangements in place
Education and Training	N/A
Financial	N/A
Legal	Reduces potential risks of litigation from claims ensuring compliance with all relevant legislation
Equality	Ensures equitable services for all.
Environmental	Ensures compliance with the EIR legislation

RISK ASSESSMENT

Clinical/Service	Ensures procedures are in place to support staff in achieving effective governance across the organisation
Financial	N/A
Reputational	Risks are associated with failure to ensure

	high standards of governance. By ensuring work is progressed through the Committee risks will be mitigated enhancing the reputation of the organisation as a centre of excellence
Acronyms and abbreviations	FoI – Freedom of Information DPA – Data Protection Act ICO – Information Commissioners Office

CONSULTATION AND ENGAGEMENT
WASPI

SOURCES OF INFORMATION
Freedom of Information Act
Environmental Information Regulations
Data Protection Act
Information Commissioner
WASPI

Sensitive Reports Receipt Response Summary

Quarter	Jul-Sep 08	Oct-Dec 08	Jan-Mar 09	Apr-Jun 09	Jul-Sep 09
Receipt Acknowledged	22	23	26	20	23
No Response	23	18	17	29	22
Total Depts/Practices	45	41	43	49	45
Percentage Acknowledged	49	56	60	41	51

APPENDIX 1

Oct-Dec 09	Jan-Mar 10	Apr-Jun 10	Jul-Sep 10	Oct-Dec 10
20	25	23	15	25
34	28	20	38	36
54	53	43	53	61
37	47	53	28	41

				APPENDIX 2	
Title	**Review Date**	**Present Executive Lead**	**Nominated Individual**	**Proposed Lead Group /Committee**	**Schedule for Review and approval**
Anti Virus Policy	01/03/2011	Director of Planning	Head of IT	Director of Innovation -IRG	
Apply for and subsequently use remote access software	01/08/2009	Director of Planning	Head of IT	IRG	
CCTV Data Protection Policy	01/05/2010	Not specified	Head of Patient Environment	Q&S	
Communication with Partner Services/Agencies regarding Vulnerable Adult Patient Transfer/Discharge from Hospital	01/01/2011	Director of Primary, Community and MH Services	CD Mental Health Services for Older Persons	Develop ISP in line with WASPI agreement	
Copying letters to Patients Policy	01/10/2009	Medical Director	Senior Staff Health Records	Q&S	
Data Protection Guidance for Researchers'	01/10/2009	Not specified	Data Protection Manger	Governance Committee/ Q&S	
Data Protection Policy	01/01/2010	Not specified	Data Protection Manger	Q&S	
Data Quality Policy	in draft since 2002	Not specified	Not specified	Patient Experience Team for Q&S	
Disclosure of personal information to the police	01/04/2008	Not specified	Data Protection Manger	Medical Director for Q&S	
'Email & Internet Monitoring, Administration & Investigation Protocol	Not specified	Not specified	IT Security Manager	Q&S	
Freedom of Information Act 2000	01/10/2005	Director of Corporate Management	Freedom of Information Manager	Medical Director for Q&S	
Health Records policy (ref 71)	13/04/2004	Medical Director	Senior Staff Health Records	Medical Director for Q&S	
Health Records policy (ref 28)	13/12/2003	Medical Director	Senior Staff Health Records	Duplicate document not required	
Identification Badge Policy	12/12/2003	Not specified	To be confirmed	WOD	

Internet and E-mail Policy	01/03/2011	Not specified	IT Security Manager	Director of Innovation	
IT Security Policy	01/04/2011	Not specified	IT Security Manager	Director of Innovation	
Keeping Medical Records A Complete Guide for Clinicians	01/12/2008	Medical Director	Senior Staff Health Records	Medical Director for Q&S	
Management of Therapies Health Records Procedure	01/06/2009	Not specified	CD for Therapies	To be agreed	
Off-site Mobile Computing Policy (previously ref isosp19 vers 2	01/01/2010	Not specified	Data Protection Manger	Director of Innovation for Q&S	
Patient Identification Policy	01/01/2008	Medical Director/Nurse Director	Senior Staff Health Records	Patient Experience Team for Q&S	
Production of Written information	01/10/2011	Director of Corporate Management	To be decided	Patient Experience Team for Q&S	
Records Management Policy and Strategy	01/03/2009	Director of Corporate Management	To be decided	To be decided	
Safe Use of Mobile Communications Devices	Draft document	Director of Primary, Community and MH Services	Risk Manager MH services	Q&S	
Software Licensing Policy	01/03/2011	Not specified	IT Security Manager	PGNC	

APPENDIX 3

GIG CYMRU NHS WALES | Bwrdd Iechyd Prifysgol Caerdydd a'r Fro | Cardiff and Vale University Health Board

FREEDOM OF INFORMATION ACT AND ENVIRONMENTAL INFORMATION REGULATIONS 2004 POLICY

Reference No:	UHB xxx	Version No:	UHB 1	Previous Trust / LHB Ref No:	151 version 2

Documents to read alongside this Policy , Procedure etc.	Data Protection Act Policy/ Records Management Policy/ Health Records Policy

Classification of document: Governance

Area for Circulation: UHB wide

Author Ann Morgan

Executive Lead Director of Governance

Group Consulted Via/ Committee: Medical Director/ Information Governance Committee

Ratified by: Information Governance Committee

Date Published: XXX

Version Number	Date of Review	Reviewer Name	Completed Action	Approved By	Date Approved	New Review Date
UHB 1						April 2014

FREEDOM OF INFORMATION ACT AND ENVIRONMENTAL INFORMATION REGULATIONS 2004 POLICY

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1. INTRODUCTION

The Freedom of Information Act 2000 came into force in January 2005 and gives individuals the legal right to request, and be given, information held by public authorities. The Ministry of Justice developed the framework for the Act to be enacted properly by public authorities, providing guidance and best practice.

In general, members of the public have a statutory right:

- to request, with some exceptions, any information held by Cardiff and Vale UHB, regardless of when it was created, by whom, or the form in which it is now recorded. This will include any information held under the confines of all previous predecessor organizations'.

- to request to re-use information which the UHB has copyright.

This Policy sets out how Cardiff and Vale UHB will meet its obligations under the Freedom of Information Act, Re-use of Public Sector Information and Environmental Information Regulations ensuring compliance with the legislation and the statutory Codes of Practice issued by the Department of Constitutional Affairs.

The Information Governance Committee has been given the delegated authority by the Board for the overall responsibility of this Policy and for ensuring it is complied with.

2. POLICY STATEMENT

The Freedom of Information Act, Re-use of Public Sector Information and Environmental Information Regulations are part of the Government's commitment to greater openness in the public sector. They give rights to the public to scrutinise the decisions of public authorities more closely.

The purpose of this policy is to ensure that the provisions of the Freedom of Information Act 2000 and the Environmental Information Regulation 2004 are adhered to.

This policy should not be read in isolation and consideration should be given to the Secretary of State's Code of Practise under Sections 45 and 46 on the practice to be followed in "Handling Requests for Information" and "Management of Records" respectively. The UHB further recognises that although these Codes are not legally binding, failure to comply with them may lead to a failure to comply with the Act.

This policy will be reviewed on a regular basis and also when any legislative changes are made which impact on this policy to ensure any changes are implemented immediately.

The main features of the Freedom of Information Act 2000 are: -

- Every public authority must maintain a Publication Scheme - The Publication Scheme is the organisations commitment to routinely and proactively provide information to the public. The scheme will provide full details of all the information it will make available without the need for a formal request being made.

- A general right of access from 1st January 2005 to request information held by public bodies.

Cardiff and Vale UHB is totally committed to being open and honest in the conduct of its operations and fully comply with the Freedom of Information Act 2000, the Re-use of Public Sector Information Regulations 2005, and the Environmental Information Regulations 2004. To this end the University Health Board will:

- Be entirely open with the public and will provide as much information about its activities as is practicable within the public domain, subject to the exemptions permitted under the Act and exclusions permitted under the Environmental Information Regulations, it will make all other information available on request subject to legislative restrictions

- Establish records management organisation, structures and procedures which will be underpinned by Welsh Health Circular 2000/071 “For the Record” and which will meet the requirements of the Lord Chancellors’ Code of Practice on the Management of Records.

- Deal with all requests for information in accordance with the Lord Chancellor’s Code of Practice on Discharge of Public Authorities’ Functions.

- Deal with requests to re-use information in accordance with the Office of Public Sector Information guidance.

- Deal with all requests for environmental information in accordance with the Secretary of State’s Code of Practice on the Discharge of the Obligations of Public Authorities under the Environmental Information Regulations 2004.

There will be occasions when the UHB will not be able to supply all the information requested. Information will only be withheld in accordance with the exemptions as set out in the Freedom of Information Act 2000 or exclusions laid down in the Environmental Information Regulations 2004.

- The UHB has a duty under the Data Protection Act 1998 to keep confidential, personal information about individual members of staff and patients;

- Other legal and contractual obligations; or

- Materials detrimental to the safe and efficient conduct of the UHB’s operations, or which is commercially sensitive.

On such occasions Cardiff and Vale UHB will always provide the reason for information being withheld.

This policy will apply to:
- All information recorded and held by the University Health Board
- All University Health Board employees and Independent Members of the University Health Board.

3. AIMS

The University Health Board supports the principle that openness should be the norm in public life and it will help and inform the public in relation to individuals’ statutory rights to know about the organisation by ensuring that we routinely publish appropriate information. The administrative processes outlined in this policy will not

obstruct the current process of providing help and information to the public whether that is orally, by telephone, through the web site, or through regular publications and the further development of the University Health Boards Publication Scheme.

The University Health Board accepts that individuals also have certain rights to privacy and confidentiality. The Freedom of Information Act 2000 clearly explains and defines the interface between Freedom of Information Act 2000 and the Data Protection Act 1998 (the DPA). This Policy does not overturn the common law duty of confidence or statutory provisions (including the Human Rights Act 1998 and the Data Protection Act 1998) that prevent disclosure of personal identifiable information. The right to release of personal information is covered by the subject access provisions of the Data Protection Act 1998 and is dealt with in relevant Cardiff and Vale University Health Board policies

3.1 PUBLICATION SCHEME

The University Health Board is required to publish information held, by setting up and maintaining a Publication Scheme. The Publication Scheme details all the information that the University Health Board will make routinely available to the public. The Information Commissioner has produced “Model Publication” Schemes and Cardiff and Vale UHB have adopted the model scheme as produced by the ICO. Cardiff and Vale UHB is obliged to ensure that the scheme is maintained and regularly updated.

The maintenance of an up-to-date and easy to understand Publication Scheme is an essential part of the UHB’s commitment to openness. The more information that is published routinely the fewer formal Freedom of Information Act requests will be received for processing. Furthermore, when information can be made available under the Publication Scheme, then the administrative process necessary under the Freedom of Information Act rights of access are avoided, for that information qualifies for an exemption.

The Publication Scheme is available through the University Health Board web site. The Freedom of Information Act Manager will manage the Publication Scheme contained within the University Health Board web site to ensure it is regularly reviewed and updated.

3.2 GENERAL RIGHTS OF ACCESS TO RECORDED INFORMATION

Subject to specified exemptions and certain conditions contained in the Freedom of Information Act 2000, Section 1 gives a general right of access to recorded information held by the Trust. This means that any person who makes a request in writing in accordance with the requirements of the Freedom of Information Act 2000 has the right to: -

a) Be informed in writing whether Cardiff and Vale UHB holds the information of the description as specified in the request (this is referred to as the “duty to confirm or deny”); and

b) Have it communicated to them, if it is held by the UHB,

There is no requirement for the applicant to specify that a request for information is being made in accordance with the provisions of the Freedom of Information Act

2000. Nevertheless the provisions of the Freedom of Information Act 2000 will apply to all requests that are submitted to the University Health Board seeking information.

The Act states that all requests submitted to the University Health Board must be in a written format (this includes e-mail) and must detail:

- The name of the individual requesting the information
- An address for correspondence
- A description or details of the information requested.

The only exception to this requirement relates to requests for information which will be eligible to be issued under the Environmental Information Regulations 2004, such requests do not have the same requirement to be submitted in writing. Requests for information that would be covered within the confines of Environmental Information Regulations 2004 can be made in writing, by E-mail, verbally over the telephone or by other means of communication for example such as by sign language.

When a request is for environmental information is received by the UHB it will be handled in accordance with the requirements of the Environmental Information Regulations 2004 and not the Freedom of Information Act 2000. There is no requirement to specify or provide a reason or purpose for requesting information, however, the UHB maintains a right to request further details and information about the information that is required in order to narrow down what might otherwise be a vague or broad request.

The Freedom of Information Act 2000 is fully retrospective and will apply to all information held by Cardiff and Vale UHB at the time the request is made. The importance of effective systems of records management within the UHB cannot be emphasised or stressed strongly enough and all staff must ensure that information is maintained and destroyed in line with the Records Management Strategy and Policy and also guidance as contained in WHC (2000) 71 “For the Record: Managing Records in NHS Trusts and Health Authorities”

However the provision of advice and assistance to members of the public about every aspect of the health services which the University Health Board provides is part of the day to day business process of the UHB. A key element of the University Health Board Freedom of Information Act Policy is that the release of information does not become cumbersome, time consuming or resource intensive. The University Health Board therefore expects that written requests for information which are part of the day to day business of the University Health Board will continue to be handled in the normal way.

3.3 PROCESSING A REQUEST

A flowchart outlining the procedure for processing requests is attached as appendix I. This flowchart also provides information on how requests in respect of organised campaigns are to be handled.

Should at any time a dispute arise, in relation to requests submitted or the way in which they are handled, the University Health Boards Complaints Procedure will come into force. If after following this prescribed process there is no satisfactory conclusion, the matter can then be referred to the Office of the Information Commissioner who will act as an arbitrator in reviewing individual cases.

3.4 CONDITIONS AND EXEMPTIONS

The Freedom of Information Act contains 23 exemptions to the right of access. The exemptions listed in part 2 of the Act set the boundaries to the rights of access: if information is exempt then individuals do not have a right of access to it under the Act. The exemptions ensure a proper balance is achieved between the right to know, the right to personal privacy and the delivery of effective governance.

In determining whether an exemption may apply, the UHB will ensure that it will provide any and all other information which is eligible for disclosure. The UHB procedures provide for the redaction of any material which cannot be disclosed when it appears within the content of an otherwise disclosable document.

It is a requirement of the Freedom of Information Act 2000 that requests are time limited for responses to be issued. The Act stipulates that all requests must be completed and responded to within 20 working days from the date of receiving the request within the organisation. Where the Trust applies a conditional postponement, or exercises an exemption to withhold the information, the applicant must again be notified of this and informed within the required 20 working days deadline. It is good practise to inform applicants of any decision as soon as this detail is know, as opposed to waiting for the 20 day deadline, and where ever possible this good practise will be implemented.

The Freedom of Information Act 2000 details two categories of exemption, absolute and non-absolute. An absolute exemption means that the UHB does not i need to confirm or deny that it holds the requested information. A non-absolute exemption means that the UHB has to consider the public interest test prior to making a decision. The UHB committed to using these exemptions responsibly.

If the UHB decides to refuse a request for information under any of the exemptions, the applicant will be informed of the reasons for this decision as soon as possible as best practice dictates and at the very latest within the 20 working days deadline. As set out in section 17(7) of the Freedom of Information Act 2000 all applicants will also be informed of the standard UHB set procedures for making a complaint about the discharge of its duties under the Freedom of Information Act 2000 and of the right to complain to the Information Commissioner.

3.5 PUBLIC SECTOR CONTRACTS

The UHB procurement processes will be compliant with any applicable EC procurement regulations and also with the Freedom of Information Act 2000. This Policy should be read in conjunction with the UHB Procurement Policy. Partnership agencies and commercial suppliers of goods and services should be made aware of the obligations under the Freedom of Information Act 2000 and under the Section 45 Code. In deciding whether any information may be exempt from disclosure, because it may involve a breach of confidentiality, imposed by a third party, or it may breach a trade secret or it may prejudice the commercial interest of any party, the UHB will take into account current guidance issued by the office of the Information Commissioner or the Department of Constitutional Affairs.

3.6 TRANSFERRING REQUESTS FOR INFORMATION

A request can only be transferred to another public body where a request is received for information which is not held within the meaning of section 3(2) of the Freedom of

Information Act 2000, but which is held by another public authority. If such a request is received, a transfer may be made.

All transfers of requests will take place as soon as is practicable, and the applicant will be informed as soon as possible once this has been done. Where the UHB is unable either to advise the applicant which other public authority holds, or may hold, the requested information or to facilitate the transfer of the request to another authority (or considers it inappropriate to do so) it will consider what advice, if any, it can provide to the applicant to enable him or her to pursue his or her request.

3.7 CONSULTATION WITH THIRD PARTIES

It is recognised that in some cases the decision to disclose information to an applicant may affect the legal rights of a third party, for example where information is subject to the common law duty of confidence or where it constitutes "personal data" within the meaning of the Data Protection Act 1998. Unless an exemption provided for in the Freedom of Information Act 2000 applies in relation to any particular information, the UHB will be obliged to disclose that information in response to a request.

3.8 ACCEPTING INFORMATION IN CONFIDENCE FROM THIRD PARTIES

Cardiff and Vale University Health Board

- will only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the authority's functions and it would not be otherwise provided.

- will not agree to hold information received from third parties "in confidence" which is not confidential in nature. Acceptance of any confidentiality provisions must be for good reasons, and capable of being justified to the Information Commissioner.

Internal University Health Board documents/correspondence cannot be classed as 'in confidence' for the purposes of Freedom of Information Act 2000. Prior to the release of any documents/correspondence they will be reviewed and where necessary redaction will be undertaken as necessary in line with Freedom of Information Act 2000 principles.

3.9 COMPLAINTS

Any complaints about the handling of a request for information under the Freedom of Information Act 2000 may be addressed to the Director of Governance. As soon as a decision is made in relation to the complaint the complainant will be informed of the outcome of the process in writing immediately. The outcome communication that needs to be issued must include details of the individuals right to take their complaint to the Office of the Information Commissioner and the communication issued to the requestor must detail the contact information for the Office of the Information Commissioner. All complaints will be registered on the central complaints database.

3.10 CHARGES AND FEES

Generally, the UHB will not charge for information that it has chosen to publish within the Publication Scheme as contained within the web site. However, charges may be levied for hard copies, multiple copies or copying onto media such as CD-ROM. The Publication Scheme will provide further information and guidance on charges.

The UHB will follow the statutory Fees Regulations for general rights of access made under the Freedom of Information Act 2000. In all cases where there is a choice made to charge for information published through the Publication Scheme or levy a fee arising from an information request under general rights of access, a fees notice will be issued to the applicant as required by section 9 of the Freedom of Information Act 2000. Applicants will be required to pay any fees within a period of three months beginning with the day on which the fees notice is given to them.

3.11 LEGAL ADVICE

Occasions will arise when there is a need for legal advice to be sought, and this process will be co-ordinated through the Director of Governance.

4. ROLES AND RESPONSIBILITIES

4.1 Chief Executive

The Chief Executive must ensure that the University Health Board complies with its statutory obligations under the Freedom of Information Act 2000 and is ultimately responsible for all processes and procedures put in place to continue to support the provisions of the Act

4.2 Director of Governance

The Director of Governance will be the champion for Freedom of Information (FOI). She will undertake board level responsibility for the Freedom of Information Act. She will ensure that there are effective arrangements in place within the UHB to ensure compliance with the provisions of the Act. She will ensure regular reports are produced to assurance to the Board that compliance is met.

4.3 Freedom of Information Governance Manager

A Freedom of Information Governance Manager will be the University Health Board's Freedom of Information Act 2000 Lead and will be accountable for the administration of this policy, ensuring that all FOI matters are co-ordinated centrally. The Freedom of Information Governance Manager will have operational responsibility for implementing the policy and for monitoring and reviewing its effectiveness.
Section 16 of the Act imposes a duty to provide advice and assistance to applicants and would-be applicants. The UHB will do this taking into account other statutory duties, e.g. the Disability Discrimination Act 1995. The Freedom of Information Governance Manager will co-ordinate the effective discharge of this duty.

4.4 Divisional Managers, Directors and Directorate Managers

All Divisional Managers, Directors and Directorate Managers will be responsible for ensuring that this policy, and any associated procedures are communicated and implemented within their area or responsibility.

4.5 Staff

All staff have a responsibility to ensure they process information in accordance with the Freedom of Information Act 2000 (FoIA), Re-Use of Public Sector Information Regulations 2005 (PSI) and the Environmental Information Regulations 2004 (EIR) and the policies, standards, procedures and guidance agreed by Cardiff and Vale UHB. All UHB staff must be made aware of the implications of this policy and their obligations to adhere to it.

5. RESOURCES

There will be no additional resources available for the required processes and procedures needed to continue to support the maintenance of the Act. All costs will be absorbed within existing budgets. The volume of requests received will be monitored on a regular basis to ensure the UHB has sufficient resources in place to effectively respond within the required timescales. If excess workloads occur that can not be sustained a Business Case for future funding will be initiated.

6. RECORDS MANAGEMENT

The University Health Board will develop a separate policy with supporting systems and procedures to ensure compliance with Lord Chancellor's Code of Practice on the Management of Records under Section 46 of the Freedom of Information Act 2000 and the Welsh Health Circular 2000/071.

7. TRAINING

Training will be aimed at raising awareness of the Act and its provision amongst staff. All staff will complete the e-learning exercise and understanding questionnaire on the Freedom of Information Act 2000 and Records Management as available within the electronic staff induction package. The importance of a timely response to requests for information must be emphasised. The overall co-ordinating of the Governance Directorate in responding to requests is made clear in this Policy and appended flowcharts. Staff will be made aware that this is a resource they should draw upon.

8. IMPLEMENTATION

The Cardiff and Vale NHS Trust Policy was originally implemented in November 2004 to ensure compliance with the Freedom of Information Act 2000. This update includes the latest associated legislation that has an impact on openness within Cardiff and Vale University Health Board and has taken account of the re-organisation of the NHS within Wales

9. EQUALITY

In accordance with the UHB's Equality Policy this policy will not discriminate, either directly or indirectly, on the grounds of gender, race, colour, ethnic or national origin, sexual orientation, marital status, religion or belief, age, union membership, disability, offending background or any other personal characteristic.

This policy has had an equality impact assessment completed and this has shown there will be no adverse effect or discrimination made on any particular individual or group.

10. AUDIT

The UHB will maintain a Freedom of Information Disclosure Log which will be published on the web site. Performance in dealing with Freedom of Information Act request will be monitored by the Freedom of Information Lead and regular reports will be submitted to the Information Governance Committee to provide assurance to the UHB of full compliance with the Act.

The UHB will maintain a register of all complaints received in relation to the way in which the Freedom of Information Act is dealt with and will ensure any learning points

that arise from such complaints are used to improve related policies, standards, procedures and guidance. This policy will be reviewed regularly to ensure that it remains up to date, effective and takes account of emerging good practices. Where new legal directions come into force, the policy will be reviewed in line with the commencement date of that legislation.

11. DISTRIBUTION

All Directors and Managers are responsible for ensuring that this policy, and any associated procedures, are communicated and implemented within their area of responsibility. Any advice or assistance regarding this policy or the Act can be obtained from the Freedom of Information Governance Manager

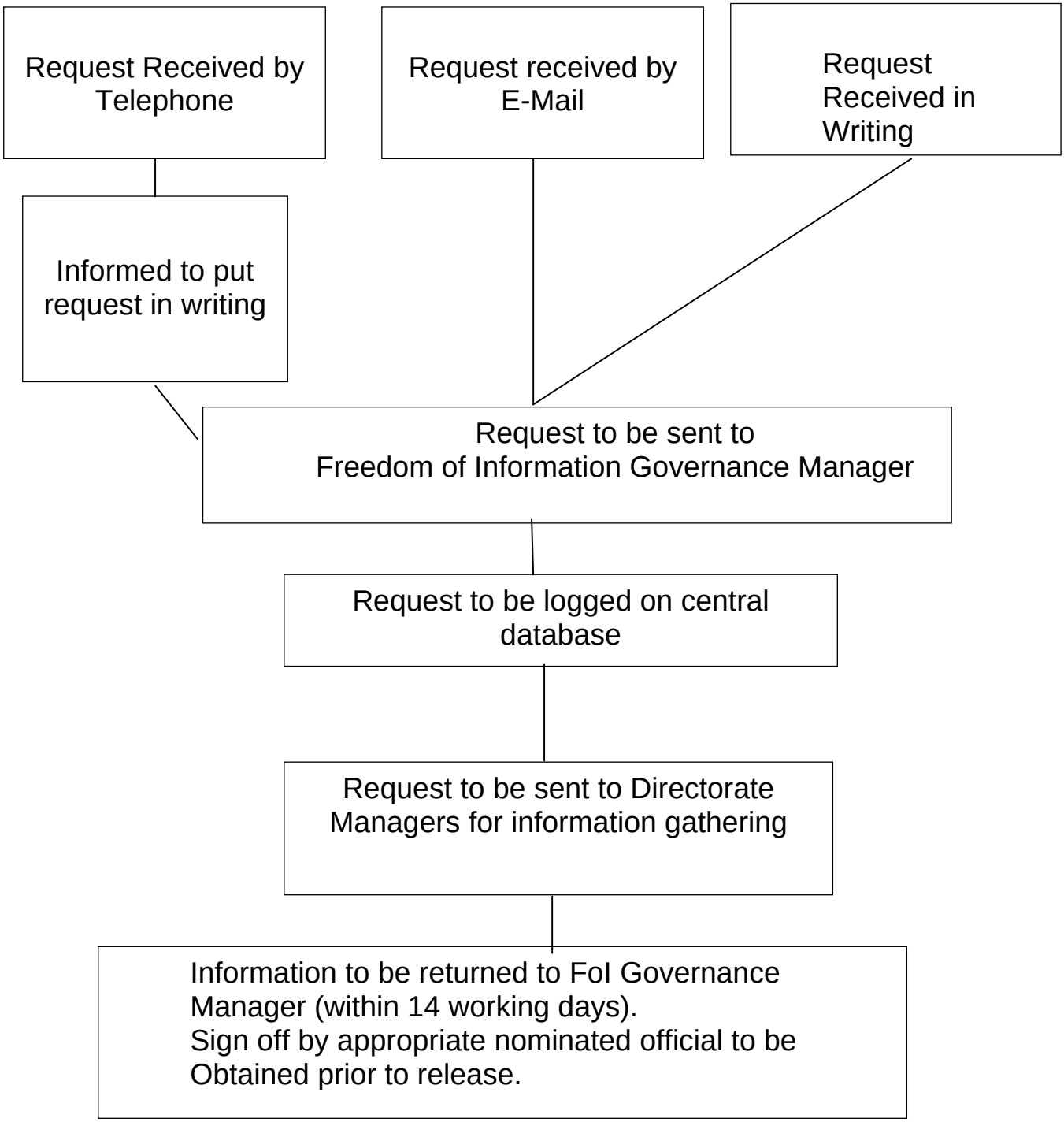
12. REFERENCE DOCUMENTS AND RELATED POLICIES

The following documents are relevant to this policy: -

- Freedom of Information Act 2000
- Data Protection Act 1998
- Environmental Information Regulations 2004
- Re-Use of Public Sector Information Regulations 2005
- WHC (2000)71 – For the Record: Managing Records in NHS Trusts and Health Authorities
- Secretary of State for Constitutional Affairs Code of Practice on the discharge of public authorities' functions under Part 1 of the Freedom of Information Act 2000 Issued under section 45 of the Act November 2004 sets out good practice in handling requests for information. It also includes a section on Freedom of Information and public sector contracts.
- Lord Chancellor's Code of Practice on the Management of Records under section 46 of the Freedom of Information Act 2000 (July 2009) Part I sets out good practice in records management and applies to all FOI authorities and other bodies subject to the Public Records Act 1958 or the Public Records Act (Northern Ireland) 1923.
- Ministry of Justice web site (previously Department of Constitutional Affairs)
- Information Commissioners web site
- National Archives web site
- Cardiff and Vale NHS Trust Records Management Policy, Strategy and Action Plan
- Cardiff and Vale NHS Trust Complaints Procedure
- Welsh Language Act
- Cardiff and Vale NHS Trust Welsh Language Scheme
- Cardiff Local Health Board
- The Vale of Glamorgan Local Health Board

APPENDIX I

FLOWCHART TO PROCESS REQUESTS UNDER FREEDOM OF INFORMATION



Part A: Preparation and Assessment of Relevance and Priority

Part A is a three step process which will help you to prioritise work and prepare for EqIA.

Step 1 - Preparation:
identify the title of the Policy/function/strategy, the main aims and the key contributors
(see **Form 1**)

↓

Step 2 - Gather Evidence:
collect, but do not analyse information at this stage - just see what evidence is available
(see **Form 2**)

↓

Step 3 - Assessment of Relevance and Priority:
determine whether or not the evidence demonstrates high, medium, low, or no relevance and priority across the core dimensions of the equality duties, by each of the equality strands
(see **Form 3**)

Form 1: Preparation

Part A must be completed at the beginning of a Policy/function/strategy development or review, and for every such occurrence. (Refer to the Step-by-Step Guide for additional information).

Step 1 - Preparation		
1.	**Title of Policy** - what are you equality impact assessing?	Freedom of Information Act and Environmental Information Regulations Policy
2.	**Policy Aims and Brief Description** - what are its aims? Give a brief description of the Policy (The What, Why and How?)	The aim of the policy is to ensure that Cardiff and Vale UHB fully meets the legislative requirements in respect of the Freedom of Information Act and Environmental Information Regulations
3.	**Who Owns/Defines the Policy?** - who is responsible for the Policy/work?	Freedom of Information Governance Manager under the Direction of the Director of Governance and The Medical Director as Caldicott Guardian
4.	**Who is Involved in undertaking this EqIA? -** who are the key contributors to the EqIA and what are their roles in the process?	Freedom of Information Governance Manager
5.	**Other Policies** - Describe where this Policy/work fits in a wider context. Is it related to any other policies/activities that could be included in this EqIA?	Linked in to the Data Protection Act Policy

Step 1 - Preparation		
6.	**Stakeholders** – Who is involved with or affected by this Policy?	• Staff who require knowledge and understanding of the legislation • Members of the general public who have rights of information under the legislation
7.	**What factors may contribute to the outcomes of the Policy? What factors may detract from the outcomes?** These could be internal or external factors.	• Limited staff resources

Form 2: Evidence Gathering

Equality Strand	Evidence Gathered	Does the evidence apply to the following with regard to this Policy/work? Tick as appropriate.					
		Eliminating Discrimination and Eliminating	Promoting Equality of Opportunity	Promoting Good Relations and Positive Attitudes	Encouraging participation in Public Life	Take account of difference even if it involves treating some individuals more favourably*	
Race	No evidence of any issues affecting outcome of policy.						
Disability	No evidence of any issues affecting outcome of policy.						
Gender	No evidence of any issues affecting outcome of policy.						
Sexual Orientation	No evidence of any issues affecting outcome of policy.						
Age	No evidence of any issues affecting outcome of policy.						
Religion or Belief	No evidence of any issues affecting outcome of policy.						
Welsh Language	No evidence of any issues affecting outcome of policy.						
People have a human right to: life; not to be tortured or treated in a degrading way; to be free from slavery or forced labour; to liberty; to a fair trial; not to be punished without legal authority; to respect for private and family life, home and correspondence; to freedom of thought, conscience and religion; to freedom of expression and of assembly; to marry and found a family and to not be discriminated against in relation to any of the rights contained in the European Convention.							
Human Rights	No evidence of any issues affecting outcome of policy.						

*** This column relates only to Disability due to the specific requirement in the DDA 2005 to treat disabled people more favourably to achieve equal outcomes. This is not applicable to the other equality strands.**

Form 3: Assessment of Relevance and Priority

Equality Strand	Evidence: Existing evidence to suggest some groups affected. Gathered from Step 2. (See Scoring Chart A)	Potential Impact: Nature, profile, scale, cost, numbers affected, significance. Insert one overall score (See Scoring Chart B)	Decision: Multiply 'evidence' score by 'potential impact' score. (See Scoring Chart C)
Race		**0**	
Disability		**0**	
Gender		**0**	
Sexual Orientation		**0**	
Age		**0**	
Religion or Belief		**0**	**No impact**
Welsh Language		**0**	**No impact**
Human Rights		**0**	**No impact**

Scoring Chart A: Evidence Available

3	Existing data/research
2	Anecdotal/awareness data only
1	No evidence or suggestion

Scoring Chart B: Potential Impact

-3	High negative
-2	Medium negative
-1	Low negative
0	No impact
+1	Low positive
+2	Medium positive
+3	High positive

Scoring Chart C: Impact Decision

-6 to -9	High Impact (H)
-3 to -5	Medium Impact (M)
-1 to -2	Low Impact (L)
0	No Impact (N)
1 to 9	Positive Impact (P)

FORM 4: (Part A) Outcome Report

Policy Title:	Freedom of Information Act and Environmental Information Regulations Policy
Organisation:	Cardiff and Vale UHB
Name: **Title:** **Department:**	Ann Morgan Freedom of Information Governance Manager Corporate Governance
Summary of Assessment:	• An FoI Policy is required to ensure that Cardiff and Vale UHB fully complies with all the set requirements of the relevant legislation.
Decision to Proceed to Part B Equality Impact Assessment:	**~~Yes~~/No** **Please record reason(s) for decision** • There have not been any risks identified risks

Action Plan

You are advised to use the template below to detail any actions that are planned following the completion of Part A or Part B of the EqIA Toolkit. You should include any remedial changes that have been made to reduce or eliminate the effects of potential or actual adverse impact, as well as any arrangements to collect data or undertake further research.

	Action(s) proposed or taken	**Reasons for action(s)**	**Who will benefit?**	**Who is responsible for this action(s)?**	**Timescale**
1. What **changes** have been made as a result of the EqIA?	• Identified that awareness raising needs to be completed to all staff • Audit • information leaflet to be updated	• To ensure staff are conversant with the legislation • To ensure compliance with legislation already in place • To promote openness with the public	• Staff and organisation • Organisation. • Organisation and public	• FoI lead • FoI lead • FoI lead	• All to be complete d by end of 2011
2. Where a Policy may have differential impact on certain groups,	N/A	N/A	N/A	N/A	N/A

state what arrangements are in place or are proposed to **mitigate** these impacts?					
3. **Justification**: For when a policy may have adverse impact on certain groups, but there is good reason not to mitigate.	N/A	N/A	N/A	N/A	N/A
4. Describe any **mitigating actions** taken?	N/A	N/A	N/A	N/A	N/A
5. Provide details of any actions planned or taken to **promote equality**.					

Date:	21.06.09
Monitoring Arrangements:	The policy will be monitored by the Freedom of Information Governance Manager under the Quality and Safety Committee.
Review Date:	2014
Signature of all Parties:	Ann Morgan Freedom of Information Governance Manager

Part B: Equality Impact Assessment

Part B has three steps:

Step 4 - Assemble evidence: explore existing evidence, obtain/consider need to get new evidence (see **Form 5**)

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Step 5 - Judge/assess the impact of the Policy across the equality strands (see **Form 5**)

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Step 6 - consider alternatives (see **Form 5**)

Form 5: Equality Impact Assessment

Step 4 - Assemble evidence		
1.	Do you have adequate information? Refer to **Form 2** (Part A, Step 2: *Evidence Gathering*) If not, can the Policy go ahead during this process?	
2.	Does the evidence relate to all strands? (please explain)	
3.	What additional information is required?	
4.	State which representative bodies of relevant groups you will liaise with for support. Is the information representative?	

Step 5 - Judge/assess the impact of the policy across the equality strands					
Detail below whether you have identified any positive, adverse or differential effect for any of the following strands:					
EQUALITY STRAND/GROUP					
		Adverse	**Differential**	**Positive**	**Comments**
Age					
Disability					
Gender					
Race					
Religion or Belief					
Sexual Orientation					
Welsh Language					
Human Rights					

Step 6 - Consider Alternatives					
6.	Describe any mitigating actions taken to reduce adverse impact.				
7.	Is there a handling strategy for any unavoidable but not unlawful negative impacts that cannot be mitigated?				
8.	Describe actions taken to maximise the opportunity to promote equality i.e. changes to the Policy, regulation, guidance, communication, monitoring or review				
9.	What changes have been made as a result of the equality impact assessment?				

Part C: Outcome, Monitoring, Publication and Review

Part C is a four step process as follows:

Step 7 - Outcome:
determine whether or not to adopt the Policy
(see Form 6)

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Step 8 - Monitoring Arrangements:
identify how, when and by whom the Policy will be monitored
(see Form 6)

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Step 9 - Publish: publish the results of the assessment
(see Form 6**)**

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Step 10 - Review: EqIA complete. Schedule review
(see Form 6)

Form 6: Outcome, Monitoring, Publication and Review

Step 7 - Outcome: determine whether to adopt the policy or not		
1.	Will the policy be adopted?	
2.	If **No** please give reasons and any alternative action(s) agreed: (If the policy is **not** to be adopted please proceed to step 9).	
Step 8 - Monitoring arrangements: identify how, when and by whom the policy will be monitored.		
3.	How will the policy be monitored?	
4.	What monitoring data will be collected?	

5.	How will this data be collected?	
6.	When will the monitoring data be analysed?	
7.	Who will analyse the data?	
Step 9 - Publish the results of the assessment		
8.	What changes have been made?	
9.	Describe any mitigating actions taken Provide details of any actions taken to promote equality	

10.	Describe the arrangements for publishing the EQIA Outcome Report	
Step 10 - Schedule review		
11.	When will the policy be subject to a further review?	