

Freedom of Information Policy

Policy Number	Policy Developed by	Date Developed
40 – Other Policies	Áine Forde	18.02.2022
Version	Amendments	
1	Development of SPC policy	
Reviewed by		Review completed
CEO signature (Interim)		Next Review Date
		18.02.2024

Mission Statement

Utilising our resources and skills to provide intentional supports for the people we support; enabling them to live full and inclusive lives by contributing to and enriching the fabric of their local communities.

SPC partners with external agencies and community services to facilitate '*ordinary lives in ordinary places*'

Vision Statement

People supported will live a good life, in their own home, with supports and opportunities to become active, valued and inclusive members of their local communities.

Contents

1.0	Policy Statement.....	3
2.0	Purpose.....	3
3.0	Scope	3
4.0	FREEDOM OF INFORMATION LEGISLATION:	3
5.0	DEFINITIONS	4
6.0	ROLES AND RESPONSIBILITIES:	5
7.0	FREEDOM OF INFORMATION REQUEST PROCEDURE	7
8.0	AUDITS AND MONITORING:	11
9.0	PENALTIES.....	12
10.0	REFERENCES.....	12
11.0	REVIEW	12
12.0	FURTHER INFORMATION	12

1.0 Policy Statement

St Patrick's Centre, Kilkenny (SPC) collects personal and sensitive information to effectively carry out its everyday business functions and activities for the person we support. In the course of our work, we are also required to collect and use certain information on current, past and prospective employees, volunteers, families, advocates, suppliers and others with whom employees communicate with, with regard to continuity of service delivery. In all the work we undertake, we are committed to operating within required legislation and the core values of the organisation which underpin our approach in all that we do. Inherent in this policy is the dignity, respect and privacy that SPC affords to those who avail of services, employees and third parties with regard to the integrity of their personal and non- personal information.

The Freedom of Information Policy sets out how SPC facilitates individuals to exercise their rights to access personal and non-personal records within the scope of the FOI Act 2014. SPC must comply with Freedom of Information Legislation and seeks to ensure that the appropriate governance structures, systems, policies and practices are in place to fully meet the services obligations under the Freedom of Information Acts.

2.0 Purpose

The purpose of this policy is to ensure that SPC meets its legal, statutory and regulatory requirements under the Freedom of Information Act when processing all personal and sensitive information.

SPC seeks to have comprehensive and effective governance structures, systems, policies and supporting procedures and guidelines in place to meet these provisions of the Freedom of Information Act 2014.

3.0 Scope

This policy applies to all employees within SPC (meaning permanent, fixed term and temporary employees, any third-party representatives or sub-contractors, agency workers, students, volunteers, interns and agents engaged with SPC. This Policy supplements other SPC policies that all employees need to be aware of relating to Freedom of Information and includes:

- SPC Data Retention & Destruction Policy.
- SPC Data Protection Policy.

4.0 FREEDOM OF INFORMATION LEGISLATION:

The Freedom of Information Act 1997 (FOI Act) as amended by the Freedom of Information (Amendment) Act 2003, obliged Government Departments, the Health Service Executive (HSE), Local Authorities and a range of other Public Bodies to publish information on their activities and to make the information that they held, including personal information, available to citizens.

The Freedom of Information Act 2014 came into effect in October 2014 and repealed the 1997 and 2003 Acts. The 2014 Act introduced a number of changes to the Freedom of Information system and widened the range of bodies to which the FOI legislation applies. It now applies to all public bodies,

unless they are specifically exempt. It also allows for the Government to prescribe (or designate) other bodies receiving significant public funds, so that the FOI legislation applies to them also.

SPC is a Section 38 Voluntary Organisation, funded by the HSE and therefore operates under the Freedom of Information Legislation. The old legislation continues to apply to any FOI Request that was made before the 2014 Act came into effect. It also applies to any subsequent review or appeal.

4.1 Why was the Freedom of Information Act introduced? The Freedom of Information Act 2014 was introduced:

- To increase openness.
- To improve accountability.
- To increase public appreciation of issues involved in Policy decisions.
- To give stronger public ownership and acceptance of decisions made.
- To permit people to have access to their records and allow them to amend records if incorrect or inaccurate.

The legal rights are subject to exemptions with regard to public interest and the right to privacy.

4.2 Rights under Freedom of Information:

The Freedom of Information Act 2014 provides the following statutory rights:

- A legal right for each person to access information held by public bodies (SPC is seen as a public body).
- A legal right for each person to have official information relating to himself/herself amended where it is incomplete, incorrect or misleading.
- A legal right for each person to obtain reasons for decisions affecting himself/herself.

5.0 DEFINITIONS

What is a Record as defined under Freedom of Information?

The Freedom of Information Act gives broad definition to the term "Record". The definition covers all document types and does not distinguish formats, being equally applicable to documents created, maintained and stored manually and/or electronically. The Act includes "...any memorandum, book plan, map drawing, diagram, pictorial or graphic work or other document, any photograph, film or recording (whether of sound or images or both), any form in which data (within the meaning of the Freedom of Information Act 2014) are held, any other form or system in which information is held or stored manually, mechanically or electronically and anything that is part or a copy, in any form, of any of the foregoing or in a combination of two or more of the foregoing ... "

Examples of records include personal records on Staff, people who use the service, or third parties, HR records, Financial records, Tenders, Service-related records. This is not an exhaustive list.

6.0 ROLES AND RESPONSIBILITIES:

It is important that SPC has a strong framework in place in relation to delivering on its commitment in meeting its obligations under the Freedom of Information Act 2014.

6.1 Chief Executive Officer:

The Chief Executive Officer has overall responsibility for ensuring that the Service is upholding its legal responsibility to comply with the Freedom of Information legislation.

6.2 Compliance & Governance Manager (FOI Officer):

The Compliance & Governance Manager (FOI Officer) is responsible for Freedom of Information reporting to the Finance Manager on the Senior Management Team. The Compliance & Governance Manager oversees the set up and operation of required Freedom of Information governance structures, systems, policy and practice that seek to ensure that the Service meets all requirements as set out in the Freedom of Information Legislation.

6.3 Freedom of Information Officer (FOI):

The Freedom of Information Officer is the first point of contact for the Service with regard to all Freedom of Information issues. The FOI Officer is accountable to the Office of the Information Commissioner (OIC) on all matters FOI related.

The FOI Officer is responsible for:

- In consultation with Senior Management and all stakeholders of the Service, will develop the processes and governance structures to meet its Freedom of Information obligations, and to ensure continued compliance with the legal and regulatory requirements of the Freedom of Information Act 2014.
- Seeks to ensure that the rights of individuals with regard to the processing of personal information through data management practices are upheld. This will be undertaken through the development and implementation of the required Freedom of Information governance structures, systems with the supporting Policies and Procedures in place.
- Develops Freedom of Information Policies and Procedures and associated Data Management Guidelines, and leads the implementation and roll out of these systems, seeking to ensure that all staff understand and implement such Policies, Procedures and Guidelines.
- Supports business practice, function and processes carried out by the Service, to ensure compliance with the Freedom of Information laws and its principles.
- Ensures that personal and non-personal information is only processed where the Service has verified and met the lawfulness of processing requirements.
- Ensure that all employees are competent and knowledgeable about their Freedom of Information obligations, and are provided with training in the Freedom of Information Act 2014, and how the Act applies to their specific role and the Service.

- Ensure that individuals feel secure when providing the Service with personal information and know that it will be handled in accordance with their rights under the Freedom of Information laws.
- Maintain a continuous programme of monitoring, review and compliance with the Freedom of Information laws and to identify gaps and non-compliance before they become a risk, affecting mitigating actions, where necessary, to maintain compliance.
- Have robust and documented complaint handling process in place for identifying, investigating, reviewing and reporting any complaints with regard to Freedom of Information.
- Have a dedicated audit and monitoring programme in place to perform regular checks and assessments on how the personal data the Service processes is obtained, used, stored and shared. The audit programme is reviewed against the Service's Freedom of Information policies, procedures and the relevant regulations to ensure continued compliance.
- Ensure that Data Retention Schedules are adhered to in accordance with SPC Data Retention and Destruction Policy, legal regulations and statutory regulations.
- Process all requests for information in relation to personal and non-personal information held or used about them, that will be provided in a concise, transparent, intelligible and easily accessible form, using clear and plain language. Provide advice on exemptions that may be applied to the request, review schedule of records to be released, draft decision letter.
- Will review all records including electronic records that are relevant to the request, and that all staff engaged in the search and retrieval process have a clear understanding of the records required for review
- Has a role in supporting the evidence-base for policy-making and should ensure FOI statistics for the Service are collated and made available on a timely basis to the Federation of Voluntary Bodies, or the FOI Central Policy Unit at the Department of Public Expenditure and Reform.
- Maintain efficient relationships with the Internal Reviewers to ensure effective processing of FOI requests for information. Be available to provide advice and guidance in line with the FOI Act 2014 to these designated staff in the Service.
- In the event of an Appeal of the FOI decision to the OIC, the FO Officer will be the primary contact for the Service to prepare reports, rationale on decision making, and any other information sought by the OIC Office.
- Will engage with the requester if of the opinion the FOI request is not valid or is not related to the Service, and will work with the requester to clarify the request and/or advise that the request will be transferred to the appropriate Service.
- Will refer to any exemptions from the Freedom of Information Act 2014 that have been applied to the Freedom of Information request.
- Will ensure that the Internal Reviewers have access to Freedom of Information training relevant to their role and responsibility, and are briefed on any changes and developments relating to Freedom of Information.

- Will engage with the requester to ensure requests are appropriately focused and targeted, are not voluminous, do not give rise to excessive administrative demands on the Service, and that there is a clear understanding by both parties on what information is being sought.

The FOI Officer can be contacted at:

Áine Forde, Freedom of Information Officer, SPC, Unit 11/12 Danville Business Park, Kilkenny, R95 KD32, Tel 056 772 2170, email aine.forde@stpatrickskilkenny.ie

6.5 Internal Review:

- Where an internal review is received, Internal Reviewers should review the decisions made on the request by the FOI Officer. Following their review, they may affirm, vary, or annul the decision in relation to the matter as he/she deems appropriate.
- The Internal Reviewer must consider each case afresh (de novo) in terms of evaluating the evidence, and in terms of any new arguments put forward by the requester, and must adhere to the timeframes as set out within the Act. The review process is completely independent of the original decision.
- The Internal Reviewer should refer queries to the FOI Officer to assist, or for the FOI Officer to raise queries with the Central Policy Unit at the Department of Public Expenditure and Reform when and if required.
- The timeframe for processing an internal review is 3 weeks from the date of the receipt of the letter seeking an internal review.

The Service Internal Reviewer is:

Practice Development Manager

7.0 FREEDOM OF INFORMATION REQUEST PROCEDURE

7.1 Introduction:

SPC operates a fair and transparent approach in facilitating an individual to access their personal and/or non-personal information. When submitting a Freedom of Information request, it is the Service practice to seek validation of the requester to protect the safety of all personal data. This validation can take the format of Photo ID, e.g. Passport or Driving Licence. If records are being requested on behalf of a third party, it is expected that the requester will submit evidence of consent of the third party to seek the records, and evidence of relationship to the third party, be it a family member, advocate or legal representative.

7.1.1 Employees, people who use the service and family members are encouraged to engage with the relevant Line Manager in the Service, who may be able to respond to the information and records that are being requested.

7.1.2 If this option does not satisfy request requirements, the requester can make a request in writing to the Freedom of Information Officer

7.2 How can a request be made to SPC?

An FOI request for information can be made to the FOI Office as follows: -

- In writing to the FOI Officer below
- Via Email to the FOI Officer Below
Áine Forde
FOI Officer
SPC
Unit 11/12
Danville Business Park
Tel 056 772 2170
Email aine.forde@stpatrickskillkenny.ie

7.3 Can a Requester have access to any information that they seek?

A person may request access to any information held by SPC. However, exemptions can be applied in certain circumstances depending on the nature of information requested. This includes:

- Personal information, where the information does not relate to the person making the request.
- Information provided to SPC in confidence.
- Information relating to commercial business that is deemed commercially sensitive.

If, for any reason, it is wished that information provided to the organisation should not be disclosed because of its sensitive nature, the person should, when supplying the information, make clear this wish and specify the reasons for the sensitivity of the information. The organisation will consult with any individual or body before making a decision on a Freedom of Information request received that pertains to this condition.

7.4 How are requests processed by SPC?

There are strict time-limits to adhere to in processing a request to include:

- The FOI Officer will issue a search and retrieval for the required records to the relevant departments on receipt of an FOI request. It is of paramount importance that the responder provides two copies of the records that they hold pertaining to the request within one working week from date of notification from the FOI Officer. This is to afford the FOI Officer adequate time to process the request.
- Requests will be acknowledged within two weeks of receipt of a request by the FOI Officer. The letter will include the expected date of the Letter of Decision.
- Requests will be processed within four working weeks of receipt of a request. The four working weeks exclude weekends and public holidays.

- However, SPC may extend the four-week time limit for replying to requests if:
 - The request relates to a large number of records.
 - A large number of requests have been received from different applicants for the same records.

Should any of these situations occur, the requester will receive notification before the end of the four-week period from the FOI Officer, who will provide the requester with the reason for the delay in processing the request, under the Freedom of Information Act 2014. The FOI Officer will also provide the requester with the new date for release of the information/records requested.

7.4.1 Request Granted:

Where a request is granted, the applicant will be informed in writing by the Decision Maker/FOI Officer:

- That the request has been granted.
- The name of the person who granted the request (Decision Maker).
- The day on which the decision was made.
- The format in which the records will be released.
- The fee for searches, where applicable.
- A schedule of the records released, relevant to the FOI Request. This is referred to as the Letter of Decision.

7.4.2 Request Part-Granted:

Where a request is part-granted, the applicant will be informed by the FOI Officer/Decision Maker in writing:

- That the request has been part-granted.
- The day on which the decision was made.
- The format in which the records will be released.
- The fee for searches, where applicable.
- It will outline the schedule of records released, to include those part-granted. The schedule will also indicate the exemption(s) from the FOI Act that have been applied. Part-granted records will be highlighted as Third-Party Access Denied.

This is referred to as the Letter of Decision.

7.4.3 Request Refused:

Where a request is refused, the applicant will be informed in writing by the FOI Officer/Decision Maker:

- That the request has been refused and the reasons for the refusal, to include the exemptions applied under the FOI Act 2014 i.e voluminous etc
- It will outline the schedule of records that have been refused.
- Such records are highlighted as Third-Party Access Denied.

- Details of the rights of review and appeal of the decision to the SPC Internal Reviewer.

This is referred to as the Letter of Decision.

7.5 Internal Review:

If the requester is dissatisfied with the initial decision, they may make an appeal to the organisation's Internal Reviewer (who is independent of the FOI Officer/Decision Maker) for an Internal Review.

- A request for an Internal Review should be submitted in writing or by email within four weeks of the initial decision (or on the date the decision was due in the case of non-reply from the Organisation).
- The FOI officer will search, retrieve and forward data to the internal reviewer and is available for advice regarding exemptions/public interest considerations.
- The Internal Reviewer must complete the Internal Review within three weeks and notify the applicant of the outcome in writing.
- The outcome of the Internal Review will be communicated to the requester by the Internal Reviewer. The Internal Reviewer may uphold the original decision, annul the original decision and issue a completely new decision.
- The Letter of Decision will detail the outcome of the Internal Reviewers decision, to include records released/withheld, exemptions applied and the right to appeal to the Office of the Information Commissioner.

Requests for Internal Review should be sent to:

Áine Forde
Freedom of Information Officer
SPC
Unit 11/12
Phone: 056 772 2170
Email: aine.forde@stpatrickskilkenny.ie

7.6 Review/Appeal by the Information Commissioner:

If a Requester is unhappy with the Internal Reviewer's decision, they may appeal directly to the Information Commissioner where an independent review will be carried out. The Information Commissioner will correspond directly with the applicant.

Appeals in writing are sent to:

Office of the Information Commissioner
18 Lower Leeson Street
Dublin 2
Email: foi@ombudsman.irlgov.ie

7.6.1 Appeals to the High Court:

A person affected by a decision of the Information Commissioner may appeal to the High Court on a point of Law only.

7.7 Fee Structure under the FOi Act 2014

7.7.1 There are no fees charged for personal information.

7.7.2 Fees may be charged as follows:

- For non-paying personal information, fees may be charged for the time spent in efficiently locating and copying records. No fee may be levied for the cost of the time involved in considering an application under the Act, once the records are retrieved.
- There is a minimum threshold of €101 below which no search, retrieval and copying fees can be charged. Once the charge reaches €101, full fees apply.
- There is a cap on the amount of search, retrieval and copying fees that can be charged of €500.
- There is a further upper limit on estimated search, retrieval and copying fees at €700, above which the FOI body can refuse to process a request. The requester will be offered the opportunity to refine the request to reduce the fees that could be applied.
- The fee for internal review under Section 21 is now €30, and €10 for those with a medical card and their dependents.
- The fee for appeal to the Information Commissioner under Section 22 is €50, and €15 for those with a medical card and their dependents.

7.7.3 Charges may be waived in the following circumstances:

- Where the administrative cost of collecting the fee exceeds the amount to be charged.
- Where the information requested would be of particular assistance to the understanding of an issue of national importance.

7.7.4 The FOI Officer will engage with the requester as required, in relation to processing the FOI request.

8.0 AUDITS AND MONITORING:

The FOI Officer has overall responsibility for ensuring the appropriate governance systems are in place on all data management practices in relation to the Freedom of Information Act 2014.

The FOI Officer will undertake annual audits of the following processes:

Audits of FOI requests, the process, internal reviews, appeals as appropriate.

Quality of data in term of accuracy, legibility, duplication of records, storage and retention and data minimization. It is important to note that all records are subject to release upon an FOI request, to include 'Post-It' Notes, emails, draft documents, unsigned reports. Accurate informed records reflect

the integrity of Service records, and emphasises the Service's expectations on the quality of records produced across all departments.

Audit of the Model Publication Scheme to ensure it reflects compliance with FOI, Department of Public Expenditure and Reform and the Service responsibilities therein. The Model Publication Scheme can be the subject of external audit by Department of Public Expenditure and Reform.

The FOI Officer will provide reports to departments and feedback on audits to ensure remedial actions are taken, where recommended, and to provide support to staff.

9.0 PENALTIES

The Service understands its obligations and responsibilities under the FOI Legislation and recognises the severity of breaching any aspect of the Legislation.

- Such penalties may arise from complaints made to the Service or the OIC, or poor governance systems in place for processing of requests.
- Lack of Service transparency, in the spirit of implementation of the FOI Act 2014.

10.0 REFERENCES

- Freedom of Information Acts 1997, 2003 and 2014.
- Data Protection Act 2018.
- eTenders.
- General Data Protection Regulation [EU Regulation 679 (2016)].
- Department of Public Expenditure and Reform, Central Policy Unit.

11.0 REVIEW

The Freedom of Information Policy will be reviewed in accordance with changes to Legislation, Regulations and the Freedom of Information Acts.

12.0 FURTHER INFORMATION

Further Information on Freedom of Information can be accessed on the Department of Public Expenditure and Reform at www.foi.gov.ie