

## 1.0 Policy Statement

The Children's Sunshine Home, operating as LauraLynn, Ireland's Children's Hospice (the Service) is committed to meeting its legal obligations under the Freedom of Information Acts (FOI) of 1997, 2003 and 2014, openness, transparency and accountability in the way its services are managed and delivered. As a matter of routine, the Service aims to provide maximum access to information subject only to considerations of individual privacy and confidentiality

## 2.0 Scope

2.1 This policy applies to all staff, volunteers, service users and families.

## 3.0 Definitions

3.1 *Personal Information*: information about an identifiable individual that, either:

- would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or
- is held by an FOI body on the understanding that it would be treated by that body as confidential, And, without prejudice to the generality of the foregoing, includes:
  - information relating to the educational, medical, psychiatric or psychological history of the individual,
  - information relating to the financial affairs of the individual,
  - information relating to the employment or employment history of the individual,
  - information relating to the individual's membership or former membership of a trade union,
  - information relating to the individual in a record falling within section 11 (6)(a),
  - information relating to any criminal history of, or the commission or alleged commission of any offence by, the individual,
  - information relating to any proceedings for an offence committed, or alleged to have been committed, by the individual, the disposal of such proceedings or the sentence imposed by any court in such proceedings,
  - information relating to the religion, age, racial or ethnic origin, sexual orientation or civil status (within the meaning of section 2 (1) of the Civil Registration Act 2004 ) of, any disability of, or the political opinions or the religious or philosophical beliefs of, the individual,
  - a number, letter, symbol, word, mark or other thing assigned to the individual by an FOI body for the purpose of identification or any mark or other thing used for that purpose,
  - information relating to the entitlements of the individual under the Social Welfare Acts as a beneficiary (within the meaning of the Social Welfare Acts) or required for the purpose of establishing whether the individual, being a claimant (within the meaning of those Acts), is such a beneficiary,
  - information required for the purpose of assessing the liability of the individual in respect of a tax or duty or other payment owed or payable to the State or to a local authority, the Health Service Executive or other FOI body, or for the purpose of collecting an amount due from the individual in respect of such a tax or duty or other payment,

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- the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name would, or would be likely to, establish that any personal information held by the FOI body concerned relates to the individual,
- information relating to property of the individual (including the nature of the individual's title to any property), and
- the views or opinions of another person about the individual,

3.2 *Record:* The following are classified as records:

- a book or other written or printed material in any form (including in any electronic device or in machine readable form),
- a map, plan or drawing,
- a disc, tape or other mechanical or electronic device in which data other than visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the disc, tape or other device,
- a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the film, disc, tape or other device, and
- a copy or part of any thing which falls within the above; and
- a copy, in any form, of a record shall be deemed, for the purposes of this Act, to have been created at the same time as the record;

#### 4.0 Responsibilities

- 4.1 *The Chief Executive Officer (CEO) (Provider Nominee):* Overall responsibility for ensuring that the service is meeting its legal obligations and ensuring this policy and structures are implemented.

The CEO is also responsible for reviewing any FOI requests that are received in writing and decide whether to grant or refuse to grant the request or to grant it in part

- 4.2 *DPO Officer.* Shall act as the gatekeeper for the services FOI requests, and ensure when received they are immediately forwarded to the CEO. The DPO Officer shall also act as a focal point for advice and guidance within the service with matters relating to Freedom of Information.

- 4.3 *All staff shall:* Shall ensure they adhere to the policy and forward any FOI requests or queries to the DPO Officer. It is also the responsibility of all staff to ensure good record management and data protection to comply with the requirements of the FOI Acts.

#### 5.0 Key Principles

- 5.1 The Freedom Of Information Act 2014 is to enable individuals to obtain access, to the greatest extent possible consistent with the public interest and the right to privacy, to information in the possession of public bodies, other bodies in receipt of funding from the State and certain other bodies and to enable persons to have personal information relating to them (Freedom Of Information Act, 2014)

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- 5.2 Under the Freedom Of information Act 2014 each individual has the right:
- To access information relating to themselves personally held by the service,
  - To have information relating to themselves amended where incomplete, incorrect or misleading,
  - To obtain reasons for decisions taken by the service that affects them.
- 5.3 A parent or guardian may also request to access records in respect of a minor or a person with disabilities. These requests should be forwarded to the DPO Officer.
- 5.4 The Next of Kin or a personal representative of a deceased person can also request records and should be forwarded to the DPO Officer.
- 5.5 A member of the public has the right to request information regarding acts of the service affecting them.
- 5.6 A member of the public can request:
- Any records relating to them personally held by the Service, regardless of when they were created.
  - All other records created after a certain date:
    - 21 October 1998 for the HSE and local authorities
    - 21 April 1998 for public bodies that were covered by the old FOI legislation
    - 21 April 2008 for public bodies that were not covered by the old FOI legislation
- 5.7 Some records may contain information of a sensitive nature i.e. medical, psychiatric or social work records. In certain circumstances the CEO of the service may be of the opinion that its disclosure may be harmful to the individual requesting the records, health or emotional wellbeing.
- In such cases the records can be released to an appropriate health professional nominated by the individual.
- 5.8 Personnel records held by the service may be accessed by employees or former employees concerned.
- 5.9 Under the FOI Act 2014 there are records that would be exempt or excluded, which include:
- Information obtained in confidence
  - Commercially sensitive information
  - Personal information requested by third parties.
- 5.10 The FOI Acts provides for the disclosure of such information in certain circumstances
- 5.11 Consultation procedures must be followed if the service proposes to release such information.

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## 6.0 Procedure

6.1 A person who wishes to exercise the right of access to the records concerned shall make a request, in writing using the Freedom Of Information Request form (see appendix 1) which shall be addressed to the Freedom of Information Officer.

6.2 Where the services form (appendix 1) has not been used the request must:

- Specify that the request is made under the FOI Act 2014.
- Set out sufficient particulars to enable the record to be identified.
- Specify the preferred form of access.
- State whether the request is for personal or non-personal information.
- Supply proof of identity if requesting personal information.

6.3 Once the FOI request is forwarded to the CEO, the CEO shall:

- decide whether to grant or refuse to grant the request or to grant it in part,
- if the CEO decides to grant the request, whether wholly or in part, determine the form and manner in which the right of access will be exercised, and;
- Inform the person, in writing or in such other form as may be determined, of the decision and determination to be given.

6.4 The CEO may refuse to grant the request where:

- The record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken.
- The FOI request does not contain sufficient information to identify the records.
- In the opinion of the CEO granting the request would, by reason of the number or nature of the records concerned would cause a substantial and unreasonable interference with or disruption of work of the service.
- The information is already in the public domain.
- Publication of the record is required by law and is intended to be published not later than 12 weeks after the receipt of the request.
- The service intends to publish the record and such publication is intended to be effected not later than 6 weeks after the receipt of request.
- The request is, in the opinion of the CEO frivolous or vexatious or forms part of a pattern of manifestly unreasonable requests from the same requester or from different requesters who, in the opinion of the CEO appear to have made the request acting in concert.
- If the request relates to records already released, either to the same or previous requester where:
  - The records are available to the requester concerned, or
  - It appears to the CEO that the requester is acting in concert with a previous requester.

## 7.0 Personal Information Requests

7.1 The CEO can grant access to release personal information:

- Where the information concerned relates to the requester concerned.

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- Where the public interest in disclosure outweighs the individual's right to privacy.
- Where the person to whom the information relates to has consented to the release.
- Release in certain circumstances to a parent/guardian of personal information relating to a minor or a person with a disability which renders him/her capable of exercising his/her rights under the Act.
- Release in certain circumstances of personal information relating to a deceased person and where disclosure would benefit the person to whom the information relates to.

**8.0 Time Limits for Freedom Of Information Requests**

- 8.1 A FOI Request shall be acknowledged within 2 weeks / 10 working days of receipt of the request. The Acknowledgment should set out the rights of the requester in relation to a review i.e. time limits and procedure.
- 8.2 The CEO shall notify the requester of the decision within 4 weeks / 20 working days of receipt of the request.
- 8.3 Non reply to a request within 20 working days is deemed to be a refusal to access and allows the requester to proceed to an internal review.
- 8.4 Time to make a decision may be extended within 4 weeks / 20 working days of receipt of the request by a maximum of a further 4 weeks / 20 working days in limited circumstances. These circumstances include:
- Where the CEO is of the opinion there is such a volume of records requested it would not be possible to comply with the time limits.
  - Where there are number of outstanding FOI requests relating to the same records which would make it impossible to comply with the time limits.
- 8.5 Where a time line has been extended the requester shall be notified of the following:
- An extension has been approved,
  - How long the extension will be for; and
  - The reasons why the time has been extended.

**9.0 Third Party Consultation – Personal Information**

- 9.1 Section 38 of the FOI Act deals with procedures in where a decision to release certain information in a record has potential to affect the interests of a third party.
- 9.2 If third party consultation is required the public interest in releasing the information must be considered.
- 9.3 They must be satisfied that on balance the public interest is better served by refusing rather than granting the request.

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- 9.4 The section 38 notification mechanism should be invoked only where release in the public interest is contemplated.
- 9.5 The balancing test shall be applied when the CEO has decided that access may be refused on the grounds that release will cause some harm or may reasonably expected to cause harm.
- 9.6 The CEO must then consider whether the public interest would, on balance be better served by release.
- 9.7 The “balancing” involves a presumption that a harm of some kind has already been identified and is weighing against release.
- 9.8 When a public interest test is applied to requests for information, details as to the examination of the public interest, how the test was applied and all relevant factors taken into account should be provided in the letter of response.

**10.0 Evaluation & Audit**

This policy and associated procedure will be amended as necessary to reflect any changes to best practice, law or substantial organisation changes. It is reviewed and evaluated for appropriateness and effectiveness every two years at a minimum/according to expiry and unless otherwise stated.

**11.0 References**

*Freedom Of Information Act, 2014.* Government of Ireland, Houses of the Oireachtas, Dublin, <http://www.irishstatutebook.ie/eli/2014/act/30/enacted/en/print>

**12.0 Appendices**

- 12.1 Appendix 1: Freedom of Information Request Form

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12.1 Appendix 1: Freedom Of Information Request Form.

Application Ref No:

LauraLynn Ireland's Children's Hospice
REQUEST FOR ACCESS TO RECORDS
Under the Freedom of Information Acts, 1997, 2003 & 2014.

1. Details of the Requester (PLEASE USE BLOCK CAPITALS)

Surname
Maiden Name:
First Name: Date of Birth:
Address:
Postcode: Tel: Mob:
Email:

2. Information Request (Please tick the appropriate box)

A) The records requested is personal information.....
B) The records requested are non-personal information.....

3. Personal Information (If ticked 2B please go to Q4.)

A) Before access to your personal information can be granted, you will need to provide photo proof of your identify. A copy of the identifying document accompanies this form: [ ] Yes [ ] No
The document used is (e.g. passport, driving licence)
B) If you are requesting personal information in respect of another person, the consent of that person is also required. A copy of this consent accompanies this form: [ ] Yes [ ] No
The name(s) of the person(s) whose the record(s) belong to is/are:

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