

## 1.0 Policy Statement

The Children's Sunshine Home, CSH Childcare Services and The Children's Sunshine Home Trust operating as LauraLynn Ireland's Children's Hospice (the Service) is committed to meeting its legal obligations under the Freedom of Information (FOI) Act 2014, of 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, families and member of the public.

## 3.0 Definitions

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

- a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or
- b) is held by an FOI body on the understanding that it would be treated by that body as confidential (Full further details please refer to Appendix A - Personal Information defined under the FOI Act Section 37)

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
- a film, disc, tape or other mechanical or electronic device in which visual images are embodied
- 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 appropriate 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 Data Protection Officer (DPO): Shall act as the gatekeeper for the services FOI requests and ensure when received they are reviewed and actioned as appropriate. The DPO shall also act as a focal point for advice and guidance within the service with matters relating to FOI.

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4.3 All staff: Shall ensure they adhere to the policy and forward any FOI requests or queries to the DPO. It is also the responsibility of all staff to ensure good record management and data protection to comply with the requirements of the FOI & Data Protection Acts and General Data Protection Regulations (GDPR).

## 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, 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).

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 were 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 made in writing using the FOI request Form (Appendix 2) and forwarded to the DPO.

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, these requests are pursuant to additional requirements.

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.

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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:

- Personal information requested by third parties
- Information supplied in confidence
- Commercially sensitive information
- Law enforcement and public safety

5.10 While the service will seek to protect the privacy of individuals and information supplied in confidence, in certain circumstances under the provisions of the Act it may be in the public interest to release such information. Consultation procedures will be followed if the service proposes to release such information.

### 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 2) which shall be addressed to the Data Protection 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 has been received by the DPO the DPO shall:

- decide whether to grant or refuse to grant the request or to grant it in part,
- if the DPO 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.
- Forward the FOI request to the CEO where the DPO may be of the opinion that its disclosure may be harmful to the individual requesting the records, health or emotional wellbeing.

6.4 The DPO or 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.

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- 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 4 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 DPO or CEO that the requester is acting in concert with a previous requester.

## 7.0 Personal Information Requests

7.1 The DPO can grant access to release personal information:

- Where the information concerned relates to the requester concerned.
- 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 DPO 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 DPO or CEO is of the opinion there is such a volume of records requested it would not be possible to comply with the time limits.

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- 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.

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 Right to Appeal

If the requester is not happy with the decision from the FOI body then can request an internal review of the decision. This request must normally be made within 4 weeks of issuing the decision.

(See [Section 21\(7\) of the Act](#))

If the requester remains unhappy after the decision of the review has been communicated they can appeal the decision by the FOI body to the Information Commissioner’s Office.

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The following is a list of decision types made by an FOI Body that the Commissioner can review following an 'internal review' of a decision:

1. refusal to give a statement of reasons for a decision which materially affects a person or the adequacy of a statement given
2. refusal to provide access to a record
3. refusal to provide access to part of a record
4. refusal to provide access to a record in the manner sought by the requester
5. deferral of access to a record sought by the requester under section 16(1)(a) only, i.e. deferral relating to certain records due to be laid before or published to either or both Houses of the Oireachtas or an Oireachtas committee
6. decisions related to a request to amend personal information
7. decisions related to fees or a deposit for 'search and retrieval' fees in excess of €25 or for 'up-front' fee

Please find contact details for The Office of the Information Commissioner below:

Earlsfort Terrace, Dublin 2, D02 W773.  
 Phone: +353-1-639 5689  
 Email: [info@oic.ie](mailto:info@oic.ie)  
 Twitter: @OICireland

### 11.0 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 three years at a minimum/according to expiry and unless otherwise stated.

### 12.0 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>

### 13.0 Appendices

- 13.1 Appendix 1: Personal Information as defined by the Act
- 13.2 Appendix 2 Freedom of Information Request Form

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### 13.1 Appendix 1 – Personal Information Defined

What the Act states: 2. ... “personal information” means information about an identifiable individual that, either— (a) would, in the ordinary course of events, be known only to the individual or members of the family, or friends, of the individual, or (b) 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—

- (i) information relating to the educational, medical, psychiatric or psychological history of the individual,
- (ii) (ii) information relating to the financial affairs of the individual,
- (iii) (iii) information relating to the employment or employment history of the individual,
- (iv) (iv) information relating to the individual’s membership or former membership of a trade union,
- (v) (v) information relating to the individual in a record falling within section 11(6)(a),
- (vi) (vi) information relating to any criminal history of, or the commission or alleged commission of any offence by, the individual,
- (vii) (vii) 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,
- (viii) (viii) 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,
- (ix) (ix) 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,
- (x) (x) 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,
- (xi) (xi) 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,
- (xii) (xii) 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,
- (xiii) (xiii) information relating to property of the individual (including the nature of the individual's title to any property), and
- (xiv) the views or opinions of another person about the individual,

but does not include—

(I) in a case where the individual holds or held—

- (A) office as a director of,
- (B) a position as a member of the staff of, or
- (C) any other office, or any other position, remunerated from public funds in, an FOI body, the name of the individual or information relating to the office or position or its functions or the terms upon and subject to which the individual holds or held that office or occupies or occupied that position or anything written or recorded in any form by the individual in the course of and for the purpose of the performance of the functions aforesaid,

(II) in a case where the individual is or was a service provider, the name of the individual or information relating to the service or the terms of the contract or anything written or recorded in any form by the individual in the course of and for the purposes of the provision of the service, or

(III) the views or opinions of the individual in relation to an FOI body, the staff of an FOI body or the business or the performance of the functions of an FOI body;

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**13.2 Appendix 2 - Freedom of Information Request Form**

**LauraLynn Ireland's Children's Hospice  
REQUEST FOR ACCESS TO RECORDS  
Under the Freedom of Information Act, 2014.**

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

Surname: \_\_\_\_\_ First Name: \_\_\_\_\_ DOB: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_

**2. Details of Request (Please tick the appropriate box - If ticked 2B please go to Q4)**

In accordance with Section 12 of the Freedom of Information Act, I request access to records which are:

A. The records requested are personal information.....

B. The records requested are non-personal information.....

**3. Personal Information**

A. To gain access to your personal information, you are required to provide proof of identity. This is requested to ensure that information is released to the correct person and sent to the correct postal or email address. Items of identification required are:

- a copy of identification showing your full name and photograph (for example, your passport, driver's licence, etc.)
- proof of your address to which the materials will be sent (for example, the top of a utility bill showing both your name and your address) – this must be **less** than six months old

**A copy of the identifying documents accompanies this form:** Yes [ ] No [ ]

B. If requesting records as a next of kin please provide one of the following as proof of relationship.

- Parent / Child (birth certificate)
- Spouse / Former spouse (marriage certificate)
- Next of kin (affidavit by solicitor or peace commissioner)
- Partner / former Partner
- Executor (please provide copy of same)

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Date Acknowledged				
Identity Confirmed	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Consent Verified	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Access Granted	<input type="checkbox"/> Yes	<input type="checkbox"/> No		
Extension Required	<input type="checkbox"/> Yes	<input type="checkbox"/> No		