

The Mental Welfare Commission for Scotland

A GUIDE TO INFORMATION AVAILABLE THROUGH THE COMMISSION'S PUBLICATION SCHEME 2015 updated December 2020

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Section 1: Introduction

The Freedom of Information (Scotland) Act 2002 (the Act) requires Scottish public authorities to adopt and maintain a publication scheme which has the approval of the Scottish Information Commissioner, and publish information in accordance with that scheme. The publication scheme must:

- publish the classes of information that the authority makes routinely available
- tell the public how to access the information and whether information is available free of charge or on payment

The Commission has adopted the [Model Publication Scheme 2015](#) which has been produced by the Scottish Information Commissioner. [Our Publication Scheme](#) has been approved until 31 May 2022.

You can see details of this scheme in the FOISA section of our website at: <https://www.mwcscot.org.uk/about-us/freedom-information>

You can also contact us at the address provided in Section 3 of this Guide if you prefer a copy of our publication scheme, or this Guide to Information, to be provided in a different format.

The purpose of the Guide to Information is to:

- allow you to see what information is available (and what is not available) in relation to each class
- state what charges may be applied
- explain how you can find the information easily
- provide contact details for enquiries and to get help with accessing the information
- explain how to request information we hold that has not been published

Section 2: About the Mental Welfare Commission for Scotland

The Commission was originally set up in 1960 under the Mental Health Act. Our duties are set out in current mental health and incapacity law. We are accountable to Ministers at the Scottish Government for our statutory duties and how we spend public money. We carry out our work and produce reports independently from the Scottish Government.

Introducing the Mental Welfare Commission for Scotland

Our purpose:

We protect and promote the human rights of people with mental health problems, learning disabilities, dementia and related conditions.

We do this by

- checking if individual care and treatment are lawful and in line with good practice
- empowering individuals and their carers through advice, guidance and information
- promoting best practice in applying mental health and incapacity law
- influencing legislation, policy and service development

Individuals may be vulnerable because they are less able at times to safeguard their own interests. They can have restrictions placed on them in order to receive care and treatment. When this happens, we make sure it is legal and ethical.

We carry out our statutory duties by focusing on five main areas of work. They are:

- Visiting - We carry out visits to check that individuals care and treatment meets their needs and respects their rights
- Monitoring the Acts – We monitor the Acts to ensure individual care and treatment is lawful, safe and in line with good practice.
- Investigations - We investigate when we think someone is not getting the right care and treatment.
- Information and advice – We can help answer queries about mental health care and treatment and produce good practice guidance.
- Influencing and challenging - We work with stakeholders to help develop services that safeguard people’s rights and improve their care and treatment.

Section 3: Accessing Information under this scheme

Availability and formats

The information published through this “Guide to Information” is, wherever possible, available on our website. We offer alternative arrangements for people who do not want to, or cannot, access the information online. For example, we can usually arrange to send information to you in paper copy.

Information in our "[Guide to Information](#)" will normally be available through the routes described in Section 10 of this Guide – Classes of Information". Section 10 provides more details on the information available under the Guide, along with additional guidance on how the information falling within each "class" may be accessed. Please note the Commission does not charge for any of its publication and so Class 8, "Commercial Publications" is not included under Section 10 of this guide.

Online:

In many cases a link within Section 10: Classes of Information will direct you to the relevant page or document on our website. If you are having trouble finding any document listed in our guide please contact us for assistance;

By email:

If the information you seek is listed in our Guide to Information but is not published on our website, we will send it to you by email, wherever possible.

When requesting information from us, please provide your contact details so that we can telephone you to clarify details if necessary. You can make a request or ask for assistance by e-mailing mwc.enquiries@nhs.scot

By phone:

Information in the guide may also be available in hard copy format for example, some of our reports. Hard copies of information can be requested from us over the telephone.

Please call to request information available under this scheme. 0131 313 8777

By post:

*The Information Governance Manager
Mental Welfare Commission for Scotland
Thistle House, 91 Haymarket Terrace
Edinburgh, EH12 5HE*

When writing to us to request information, please include your name and address, full details of the information or documents you would like to receive. Please also include a telephone number so we can telephone you to clarify any details, if necessary.

Personal visits:

If you wish to visit us to inspect the information or where the volume of information you have requested makes it impractical for us to copy and send it, then you can contact us to make an appointment to view the information.

Advice and assistance:

If you have any difficulty identifying the information you want to access, then please contact us to help you.

Exempt information

We will publish all the information we hold that falls within the classes of information in our Publication Scheme 2015. If a document contains information that is exempt under Scotland's freedom of information laws (for example personal information or commercial interests), we will remove or redact (black out) the information before publication and explain why.

Section 4: Information that we may withhold

All information covered by our Guide to Information can either be accessed through our website, or will be provided promptly following our receipt of your request.

Our aim in adopting the Commissioner's Model Publication Scheme 2015 and in maintaining this Guide to Information is to be as open as possible. You should note, however, that there may be limited circumstances where information will be withheld from one of the classes of information listed in "Section 10 – Classes of Information". Information will only be withheld, however, where the Act (or, in the case of environmental information, the EIRs) expressly permits it.

Information may be withheld, for example, where its disclosure would, for example, breach the law of confidentiality or harm an organisation's commercial interests. Information may also be withheld if it is another person's personal information, and its release would breach the data protection legislation.

Whenever information is withheld we will inform you of this, and will set out why that information cannot be released. Even where information is withheld it will, in many cases, be possible to provide copies with the withheld information edited out. If you wish to complain about any information which has been withheld from you, please refer to “Section 8 – Contact details for enquiries, feedback and complaints”.

Section 5: Our Charging Policy

The Commission does not charge for its publications. There is no charge to view information on our website, at our premises or where it can be sent to you electronically by email. We do not charge for providing information to you, for example photocopying and postage.

Section 6: Copyright

Where The Mental Welfare Commission for Scotland holds the copyright to its published information, the information may be copied or reproduced without formal permission, provided that:

- it is copied or reproduced accurately
- it is not used in a misleading context, and
- the source of the material is identified

Where The Mental Welfare Commission for Scotland does not hold the copyright in information we publish, we will make this clear. Please contact the Commission at mwc.enquiries@nhs.scot if you have any queries relating to copyright at the Commission.

Section 7: Records Management Policy

The Commission regards its records as a major asset of the organisation. It confirms that its records are one of the essential resources which support management in the efficient and effective fulfilment of its governance, business and legal responsibilities. A link to The Commission’s Records Management Policy and other information about records management at the Commission can be found under Section 10 of this guide which provides a link under Class 5 to some of our key records management documents.

Section 8: Contact details for enquiries, feedback and complaints

The Act requires that we review our publication scheme from time to time and, as we have adopted the Model Publication Scheme 2015, we will endeavour to review what we publish on at least an annual basis but hope to make updates as and when documents are updated or newer versions become available.

We welcome feedback on how we can develop our guide further. If you would like to comment on any aspect of this Guide to Information, then please contact us.

You may, for example wish to tell us about:

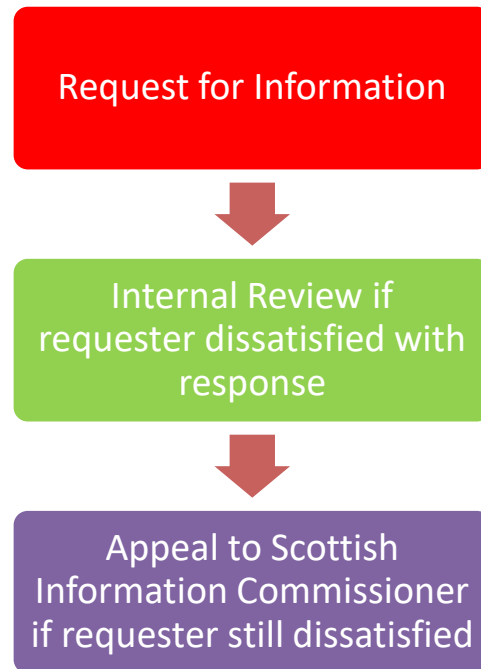
- other information that you would like to see included in the guide;
- whether you found the guide easy to use;
- whether you found the guide to information useful;
- whether our staff were helpful;
- other ways in which our guide to information can be improved.

Our aim is to make our guide to information as user-friendly as possible, and we hope that you can access all the information we publish with ease. If you do wish to complain about any aspect of the Guide then please contact us and we will try and resolve your complaint as quickly as possible.

Any complaint will be acknowledged within 5 working days of receipt and we will respond in full within twenty working days.

You have legal rights to access information under our publication and a right of appeal to the Scottish Information Commissioner if you are dissatisfied with our response.

These rights apply only to information requests made in writing or another recordable format. If you are unhappy with our responses to your request you can ask us to review it and if you are still unhappy, you can make an appeal to the Scottish Information Commissioner.



The Commissioner's website has a guide to this three step process, and she operates an enquiry service on Monday to Friday from 9:00am to 5:00pm.

Her office can be contacted as follows:

Scottish Information Commissioner

Kinburn Castle

Doubledykes Road

St Andrews

Fife

KY16 9DS

Tel: 01334 464610

Email: enquiries@itspublicknowledge.info

Website: www.itspublicknowledge.info/YourRights

All enquiries, feedback and complaints relating to this Guide to Information, or any other aspect of Freedom of Information, Data Protection and the EIRs should be directed to *The Information Governance Manager* using the contact details available under section 3 of this guide.

Section 9: How to Access Information which is not available in the Guide to Information

If the information you are seeking is not available through our publication scheme (as described in this Guide) then you may wish to request it from us.

The Act provides you with a right of access to the information we hold, subject to certain exemptions. The EIRs separately provide a right of access to the environmental information we hold, while the Data Protection Act 1998 (DPA) provides a right of access to any personal information about you that we hold.

Again, these rights are subject to certain exceptions or exemptions. Should you wish to request a copy of any information that we hold that is not available under our scheme (and described in this Guide), please write to The Information Governance Manager using the contact details provided in Section 3 of this guide.

Charges for information which is not available under the scheme:

Commission currently makes no charge for information under FOISA.

If you submit a request to us for information which is not available in this Guide, our current policy is that we will provide it at no cost to you. Please bear in mind that the Commission is not obliged to respond to requests which cost over £600 to process.

In calculating any fee, staff time will be calculated at actual cost per staff member hourly salary rate to a maximum of £15 per person per hour. We do not charge for the time to determine whether we hold the information requested, nor for the time it takes to decide whether the information can be released. Charges may be made for locating, retrieving and providing information to you.

Charges for environmental information:

Environmental information is provided under the EIRs rather than the Act. The rules for charging for environmental information are slightly different. More information about EIRs can be found at; http://www.itspublicknowledge.info/Law/EIRs/EIRs_Introduction.aspx

Charge for request for your own personal data

Where you want to access the data the Commission holds about you or if you have legal rights to access personal data about someone else, we will process this as a Subject Access Request (SAR) under the Data Protection Act, 1998 and not under FOISA.

The Commission does not charge for processing SAR requests. More information about how the Commission handles your personal information and how to make a request can be found on our website at;

<https://www.mwcscot.org.uk/about-us/about-your-personal-information/>

Section 10: Classes of Information

CLASS 1: ABOUT THE COMMISSION

Class description:

Information about The Commission, who we are, where to find us, how to contact us, how we are managed and our external relations.

[Class 1](#) - Use this link to access the information we publish under this class

The Mental Welfare Commission for Scotland

Thistle House,

91 Haymarket Terrace,

Edinburgh,

EH12 5HE

Tel: 0131 313 8777 / Fax: 0131 313 8778

CLASS 2: HOW WE DELIVER OUR FUNCTIONS AND SERVICES

Class description:

Information about our work, our strategy and policies for delivering functions and services and information for our service users.

[Class 2](#) - Use this link to access the information we publish under this class

CLASS 3: HOW WE MAKE DECISIONS

Class description:

Information about the decisions we take how we make decisions and how we involve others.

[Class 3](#) - Use this link to access the information we publish under this class

CLASS 4: WHAT WE SPEND AND HOW WE SPEND IT

Class description:

Information about our strategy for, and management of, financial resources (in sufficient detail to explain how we plan to spend public money and what has actually been spent).

[Class 4](#) - Use this link to access the information we publish under this class

CLASS 5: HOW WE MANAGE OUR HUMAN, PHYSICAL AND INFORMATION RESOURCES

Class description:

Information about how we manage the human, physical and information resources of the authority.

[Class 5](#) - Use this link to access the information we publish under this class

CLASS 6: HOW WE PURCHASE GOODS AND SERVICES FROM EXTERNAL PROVIDERS

Class description:

Information about how we procure goods and services, and our contracts with external providers

[Class 6](#) - Use this link to access the information we publish under this class

CLASS 7: HOW WE ARE PERFORMING

Class description:

Information about how we perform as an organisation, and how well we deliver our functions and services.

[Class 7](#) - Use this link to access the information we publish under this class

CLASS 8: OUR COMMERCIAL PUBLICATIONS

Class description:

Information packaged and made available for sale on a commercial basis and sold at market value through a retail outlet.

[Class 8](#) - Use this link to access the information we publish under this class

CLASS 9: OUR OPEN DATA

Class description:

Open data made available by the authority as described by the Scottish Government's Open Data Resource Pack and available under an open licence.

[Class 9](#) - Use this link to access the information we publish under this class

THE RE-USE OF PUBLIC SECTOR INFORMATION REGULATIONS

Description:

As a public sector organisation, the Commission is subject to the RPSI regulations. In order to comply, we have adopted the Open Government Licence (OGL).

Read more about how the Commission complies with the regulations - [THE RE-USE OF PUBLIC SECTOR INFORMATION REGULATIONS](#)