

● Medico-legal advice

Freedom of information legislation: a basic guide



Elaine Healy of Beauchamps Solicitors takes a look at the terms and conditions of the Freedom of Information Acts and lists some of the healthcare bodies covered under the legislation

Under the Freedom of Information Act 1997 and the Freedom of Information (Amendment) Act 2003 (FOI Acts), public bodies are required to publish certain information about themselves and to make available details of their internal rules, procedures, interpretations and so on used in decision making. The objective of the legislation is to make Government more transparent by giving the public a right to find out more about Government policies and decisions.

As well as the Department of Health and Children and bodies under their aegis such as Health Information and Quality Authority, the Health Insurance Authority, the Irish Medicines Board, the



The FOI Acts cover a large number of healthcare service providers

Medical Council and An Board Altranais.

Other healthcare bodies covered by the FOI Acts are: the Health Service Executive,

voluntary hospitals, major providers of services to people with intellectual disabilities and major providers of services to people with physi-

cal disabilities. Therefore, the FOI Acts cover a large number of healthcare service providers and bodies, but not private hospitals.

This can be contrasted with data protection legislation, which requires that data held must be accurate and up to date and gives an individual a right to find out if there is information about himself held on record, to access those records and to have them corrected if necessary, no matter who holds the record.

What types of records can be sought?

The public may ask to see any record held by the public authorities covered by the FOI Acts and it must be disclosed unless an exemption applies, or it is a

specifically excluded record (for example, records held by courts or tribunals). This is called a FOI request. It must be made in writing and is usually subject to a nominal fee.

The following records may be sought:

- Records created from April 21, 1998 or October 21, 1998 depending on the body;
- All personal records and records relating to personal information of a requester irrespective of when created;
- Any other records necessary to the understanding of a current record;
- Personnel records of staff in public bodies from April 21, 1995. Earlier records may be accessed if they are not liable to be used in a way that might affect adversely the interests of the staff member in question.

A record is widely defined and includes any papers, books, memorandum, text or other document, any photograph, film or recording, or any form in which data are held (manual, mechanical or electronic) and anything that is a part, or a copy or a combination of these.

Medical records held by public bodies subject to the FOI Acts are therefore covered. The FOI Acts also apply to medical records held by GPs in relation to patients who are medical card holders but does

not apply to private patients' records.

Parents or guardians can access personal information about a minor or an adult who is incapable of exercising his rights under the Acts because of mental incapacity or severe physical disability. The access in both cases will only be granted if the head of the public body concerned considers it would be in the best interests of the person in question.

Exemptions

Information relating to key areas of Government activity, parliamentary and court matters as well as third-party information of a personal, commercial or confidential nature are exempted from FOI requests.

Interestingly, the Commission on Patient Safety and Quality Assurance, in its report on patient safety (July 2008), recommends the introduction of an exemption from the FOI Acts and the granting of legal protection from disclosure to data related to patient safety and quality improvement that are collected and analysed by healthcare organisations for internal use or shared with others solely for purposes of improving safety and quality.

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● Investing in patients

Patients get more advice on OTCs

A new Irish website aims to provide patients with information and advice on over-the-counter medicines and a special 'Find a Pharmacist' service

Increasingly, the general public are accessing the web to investigate and manage their own health. The internet can be a wonderful educational tool, if used correctly, and can empower patients to take ownership of their own healthcare. However, patients should not be fooled into thinking that it equips them with the ability to self-diagnose.

Obviously, when it comes to medical diagnosis, nothing can replace the one-on-one contact with a GP. But what about those everyday complaints like the coughs and colds, indigestion, hay fever or thrush? These are all minor illnesses, treatments for which are readily available over the counter (OTC) at one's local pharmacy.

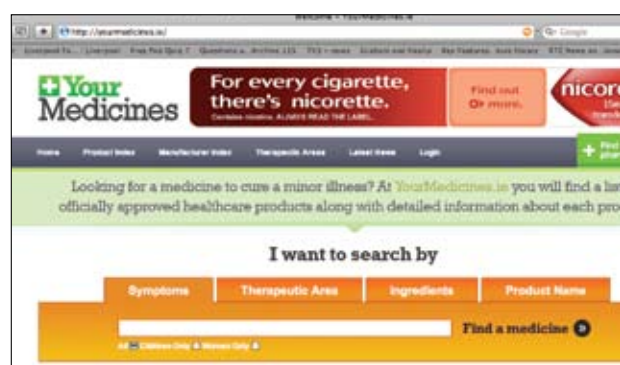
The benefits of appropriate self-care have long been recognised. Coupled with feeling better quicker, patients benefit

from being more informed and empowered to take responsibility for their own health. A more proactive and preventive approach to minor illnesses through the use of first-line OTC treatments may also result in fewer GP visits and may even mean fewer trips to the emergency department.

The pandemic flu

With GPs facing into yet another busy winter season – this year predicted to be even worse due to the pandemic flu – patients should be encouraged, whenever appropriate, to visit their pharmacist as a first port of call, as pharmacists can be the most accessible healthcare professional available.

A new website – www.yourmedicines.ie – is intended to help users to make an informed choice when it comes to using OTC medication. This is a com-



Website is intended to help users to make an informed choice about OTC medication

prehensive reference of over-the-counter products available in Ireland. Its aim is to help foster the growing trend towards self-care and to act as a useful tool in helping people inform themselves about the various medicines that are available to treat minor ailments.

However, it is not just aimed at the general public, but can also act as a handy reference

for GPs, practice nurses, pharmacists and pharmacy assistants.

Users can search by symptoms, ingredients, product name, manufacturer or therapeutic area. These therapeutic areas include everything from baby/infant care and coughs and colds, to travel sickness and pain relief/analgesia. If a patient knows that he or she

has an allergy to a certain ingredient, then the site can also identify products containing that ingredient and can thus avoid them. As well as listing products, their indications and ingredients, the online facility also contains a wealth of information on minor illnesses and how best to treat them.

Up-to-date information

The site will also act as a news source about new OTC products, their indications, active ingredients and presentation. It gives information on products that have been recalled or about which warnings have been issued by the Irish Medicines Board.

This information can all be uploaded as soon as it comes on stream. Equally, changes to presentations or packaging can be signalled immediately.

Dr Martin Henman, Medical Editor of yourmedicines.ie and Head of the Practice of Pharmacy at the School of Pharmacy and Pharmaceutical Sciences, Trinity College Dublin, said that OTC medi-

cines were valuable in treating simple illnesses. "The variety of over-the-counter medicines on sale today can be confusing, even for health service professionals. This site has been compiled to offer guidance and advice, which will help you to find a way through the OTC maze.

"Its unique feature is that it provides detailed information on many of the medicines available in pharmacies and other shops, including a description of their active ingredients and their instructions for use," Dr Henman explained.

The website also includes a new search option called 'Find a Pharmacist', which is designed to encourage the public to visit their local pharmacy first.

Although in its early development, this service has been described by the site's creators, GreenCross Publishing, as a 'natural add-on' for a website solely devoted to self-care and which encourages the public to take more advantage of the free professional advice provided by their local pharmacist.