

Freedom of Information Policy 2023



The Freedom of Information Act 2000 (**FOIA**) enables individuals and organisations to access information from public authorities. It does this by requiring public authorities to publish certain information about their activities and providing a mechanism for requesting information from public authorities, i.e., freedom of information requests (**FOI requests**).

'Public authorities' are defined in FOIA and include government departments, local authorities and other government-funded bodies such as the NHS, police, armed forces and The Big Lottery Fund. Charities are not 'public authorities' and so are not directly subject to FOIA's requirements (save in the case of a corporate charity wholly owned by one or more public authorities. Sturge Weber UK does not belong in this category).

Despite this, Sturge Weber UK may nonetheless be affected by FOIA, for example:

- an individual may contact charity staff claiming a right to information under FOIA.
- the charity may provide information to a public authority that becomes disclosable under FOIA in the hands of the public authority.
- in some circumstances, the charity may be required to hand over information following a FOIA request to a public authority, on account of their relationship with the authority.

Furthermore, there is an ongoing debate about extending FOIA to private organisations (including charities) delivering public services and a recent report from the Information Commissioner's Office (**ICO**) supports this.

FOI requests

Although Sturge Weber UK is not FOIA, FOI requests may still be received. Such requests may quote the legislation and look official, so there is some risk of trustees responding in the belief that they are required to do so. This may result in the inadvertent disclosure of confidential information or personal data, which may be unlawful.

FOI requests are only one type of request that may be received; individuals may, for example, submit a subject access request (**SAR**) or request information that is routinely provided to beneficiaries or available via the charity's website. The request may not always correctly identify what it actually is, e.g., a SAR may be described as a FOI request, or vice versa.

When dealing with requests for information, trustees should be trained to recognise the different types of requests and respond appropriately. A trustee who may be contacted should refer any requests seeking information to the Data Protection Policy and supporting policies.

If Sturge Weber UK receives a genuine FOI request, the enquirer will be informed that the charity is not obliged to provide the information, but the enquirer will be directed to any

Based on www.russell-cooke.co.uk/insight/briefings/2020/charities-and-the-freedom-of-information-act/

April 2022 / Next review: April 2023

publicly available sources or a public authority that may have access to it. For SARs, the enquirer will be referred to GDPR and the Data Protection policies.

Information 'held' by public authorities.

In some circumstances, information belonging or relating to Sturge Weber UK may be disclosable under FOIA because it is considered to be held by or on behalf of a public authority.

This might occur where Sturge Weber UK applies for or enters into an agreement with a public authority and either hands over information to the authority, or information relating to the arrangement can be accessed or is required by the authority.

For example:

- the charity bids for a public services contract from a public authority to deliver education, housing or health services and submits information to the authority as part of the tender process. This information may be disclosable under FOIA.
- the charity enters a grant agreement with a public authority, which requires the charity to provide reports on performance of the agreement. This information may be disclosable under FOIA.
- the charity enters a public services contract with a public authority and generates significant internal information relating to performance of the contract. It is possible that some of this information may be disclosable under FOIA.

The Charity Commission

The Charity Commission holds information on Sturge Weber UK, including information submitted by them, and may be asked to disclose this via a FOI request.

When communicating with the Charity Commission, for example in relation to serious incidents, Sturge Weber UK will only submit information that is necessary, will avoid including personal data and will clearly state where the charity considers the information to be confidential or attract any other FOIA exemption.

Exemptions

Even if information is within the scope of FOIA, there are exemptions that may prevent information from being disclosed. These include where disclosure would constitute an actionable breach of confidence, where information would prejudice commercial interests or where information constitutes personal data.

Therefore, it is sometimes possible to prevent information being disclosed where it is particularly sensitive. However, simply marking something 'confidential' or 'personal data' will not in itself prevent disclosure; it will depend on the nature of the information.