



**Freedom of Information Act Policy and Procedure  
V1.1**

**INTERNAL USE ONLY**



# DOCUMENT CONTROL

## Document Information

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## Distribution

Name	Position	Organisation

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# Freedom of Information Act Policy and Procedure

## 1. Introduction

The Freedom of Information Act (FOIA) gives rights of public access to information held by public authorities.

It does this in two ways:

- Public authorities are obliged to publish certain information about their activities
- Members of the public are entitled to request information from public authorities.

The Act covers any recorded information that is held by a public authority in England, Wales, Northern Ireland and by UK wide public authorities based in Scotland. Information held by Scottish public authorities is covered by Scotland's own Freedom of Information (Scotland) Act.

The Act does not give people access to their own personal data (information about themselves) such as their health records. If a member of the public wants to see information that a public authority holds about them, they have to make a subject access request under the Data Protection Act.

Compliance with the Act is a legal duty and is overseen by the Information Commissioner's Office (ICO). This policy and procedure sets out the principles which will guide the Trust's response to requests under the Freedom of Information Act (FOIA) and the approach to be taken to ensure requests are handled appropriately.

## 2. Purpose and scope of the policy

The purpose of this policy and procedure is to ensure the Trust complies fully with its legal duties and adheres to its stated commitment to being an open and transparent organisation.

The procedure aims to ensure that requests for information are well coordinated and minimise the risk of people being provided with conflicting or inaccurate information from different sources.

## 3. Freedom of Information Act Policy

The Trust is committed to openness and transparency in its dealings with the public.

The Trust makes a wealth of information available on its website and signposts people to this to support understanding of the Trust and its services. The website



includes an FOIA Publication Scheme, which includes information the Trust makes routinely available, for example, policies and procedures, agenda, papers and minutes of public Trust Board meetings, statistical and performance information.

FOIA applies also to information held in datasets. A dataset is a collection of factual raw data, in electronic form, that a public authority gathers in the course of providing services and delivering its functions. Information requested in dataset form must be made available in re-usable form so far as reasonable practicable.

The Trust maintains a proactive relationship with the media and aims to respond positively and openly to requests for information from the media.

Requests for information from any source will be dealt with promptly and in accordance with the requirements of the Act. The Act states that requests should be acknowledged within 2 working days and responded to within 20 working days. Where the cost of compliance with the Act exceeds the appropriate limits as set out by the Information Commissioner, a charge *may* be made for collating and copying materials.

This policy applies to written requests for specific information which is not routinely available via the Trust's website. Written requests include requests received via email.

## **4. Duties**

### **Executive Management Team**

The Executive Management Team is responsible for approving the policy and for ensuring there are adequate arrangements in place to ensure compliance with Freedom of Information Act requirements.

### **Directors**

The Director of Corporate Development is the lead director for Freedom of Information and is accountable for ensuring an effective system to facilitate compliance. Other directors are responsible for making sure that information within their area of responsibility is provided in a timely manner to enable the Customer Services Team to respond within the 20 working day timeframe.

### **Deputy Director of Corporate Development**

The Deputy Director of Corporate Development is responsible for managing the system for responding to FOI requests and for ensuring staff responsible for dealing with requests have been appropriately trained. The Deputy Director of Corporate Development is responsible for ensuring a publication scheme is maintained and that information is available on the Trust's website.



## **Customer Services Team**

The Customer Services Team is responsible for handling requests made under the FOI Act in accordance with the procedure documented in this policy. The team will work with information owners to collate the necessary information to enable a response to requests for information.

## **Staff throughout the trust**

Staff throughout the Trust must maintain records in accordance with Trust policy on information governance and retention and disposal of records.

Staff should refer requests which are (or appear to be) made under FOIA legislation to the Customer Services Team in a timely manner.

## **5. Dissemination and implementation arrangements**

This policy and procedure will be accessible to staff via the Document Store on the Trust's intranet and website.

This policy is supported by a documented procedure for processing FOI requests, which is integral to this policy.

Implementation of the policy will be the responsibility of staff at all levels, and supported by all managers and directors.

## **6. Document control and archiving**

This policy will be accessible via the Trust's intranet in read only format.

This policy will be retained in accordance with requirements for retention of non-clinical records.

Revisions / updates to this policy will be stored by the Integrated Governance Manager with previous iterations archived.

## **7. Associated documents**

This policy should be read in conjunction with Trust policies on confidentiality, data protection and accessible information and the Trust policy on retention and disposal of corporate records.

This policy is supported by guidance available on the Information Commissioner's website at [www.ico.gov.uk](http://www.ico.gov.uk)



Should other statutory requirements be created that impact on information sharing, including restrictions on same, this policy will be revised and Trust procedure amended.

## Appendix 1

### **Freedom of Information Act - Procedure for dealing with requests which may be covered by the Act**

- The Trust maintains a publication scheme which makes a range of information about the organisation routinely available via the Trust's website.
- All requests for information under the Freedom of Information Act are dealt with by the Trust's Customer Services Team.
- All written requests for information made to the Trust should be dealt with under the Freedom of Information Act.
- Requests for information under the general right of access must be made in writing; requests received by email are valid.
- All requests received by the Trust must be referred to the Customer Services Team.
- Customer Services will maintain an electronic record of all requests and all subsequent transactions involved in facilitating a response.
- Requests for information received from the media will be notified to the Marketing, Communications and Engagement Team and the Deputy Director of Corporate Development on the day of receipt.
- Requests for information where Department of Health or other guidance exists, will be processed in accordance with that guidance, for e.g. requests that relate to matters concerning Prevent and Extremism.
- Requests for information will be escalated on receipt by Customer Services as appropriate, dependent on assessment of requestor and / or request.
- The Customer Services Team will acknowledge requests within 2 working days to notify the applicant that their request is being dealt with and the date by which information will be provided in compliance with the 20 working day requirement.
- Where insufficient information is provided, the Customer Services Team will contact the requester to clarify the information requested. The time limit for responding to requests will commence from the date when clarification is received.
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- If information is readily available, for example, via the Trust website, the applicant will be directed to the website. Paper copies of information will be provided for people who choose not to access information via the web (within reason).
- Where it is estimated that the cost of compliance with the request for information exceeds the appropriate limit set by the ICO fees regulations, requests can be refused. If information is to be provided, Customer Services will notify the applicant in writing of the estimated cost and, where possible, suggest alternative ways of providing the information more cost effectively.
- Where information requested is exempt from disclosure under the FOIA; that information will be refused in line with the process set out in this policy. This may apply to only part of the request and the remainder of the information will be provided within the timeframe.

### **Accessing information**

- Customer Services will identify the information owner in the organisation who is best placed to provide the information. The request will be passed to that person within 2 working days
- Information should be provided to the Customer Services Team within the specified timeframe, routinely within 5 working days. If the information cannot be obtained within 5 days, the Customer Services Manager should be notified. Negotiated timeframes are permissible provided the overarching response time to the requestor can be met.
- Staff providing information are responsible for ensuring appropriate 'sign off' / authority to release information about their service (in relation to both accuracy and context) before submission to Customer Services.
- Customer Services will collate the information.
- If no exemptions apply, the information will be sent to the person making the request within 20 working days of the request being received.
- Requests will be responded to by a Customer Services case worker, using the template contained within the Customer Services handbook.

### **Exemptions and refusal to provide information**

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- The decision to refuse access to information requested under the Freedom of Information Act will be made by the Deputy Director of Corporate Development, or a Director of the Trust. Decisions must be made in accordance with the Act and independent legal advice may be sought if required. All or part of a request for information may be refused if:
  - The information is exempt under the Act. Exemptions are listed and detailed on the ICO website.
  - The cost of compliance exceeds the appropriate limit
  - There is evidence that the request is demonstrably vexatious or repeated (as defined by the Act).
- Exemptions may be absolute (where the ICO has ruled that in no circumstances would a public body be obliged to disclose such information) or qualified (where the public interest in withholding the information outweighs the public interest which would be served by disclosing the information – see detail below).
- In some circumstances where it is deemed to be in the public interest to refuse to disclose information, the Trust is obliged to disclose whether it holds the information unless doing so would not be in the public interest.
- Where information belongs to another organisation, the Trust may refer the request to that organisation or, if the Trust holds a copy of the information, may obtain permission from the other organisation to disclose.
- Where a request for information is refused, the applicant will be informed in writing within 20 working days giving the reason for refusal. Where applicable, this will include an explanation of the exemption relied upon and the reason why the exemption applies. This is described in the Act as a ‘refusal notice’. All decisions to refuse to disclose information will be included in the electronic FOIA record.
- The applicant will be informed of the Trust’s appeals procedure and their rights to refer to the Information Commissioner.
- Where a decision to release information cannot be reached within 20 days, Customer Services will write to the applicant giving an estimate of when a decision will be reached.

### **The Public Interest Test**

The public interest test is applied where the Trust believes the information requested may be covered by a qualified exemption under the FOI Act. This differs from an absolute exemption where there is no right of access, for example information



relating to security matters, information covered by parliamentary privilege or personal information which cannot be accessed via the FOI Act, but may be obtained through access to records procedures under the Data Protection Act.

In deciding whether to disclose information which may be exempt, the Trust has to consider whether the public interest is better served by disclosing the information or by using the exemption as a reason for withholding it. This might apply, for example, where disclosure of information could compromise the Trust's ability to provide a safe environment for staff or patients. The Trust cannot withhold information solely on the grounds that it does not serve the organisation's interest, for example, if disclosure would show the Trust in a negative light.

### **Consultation with third parties**

In some cases disclosure of information would compromise the rights of a third party. This might arise where the information constitutes personal data within the meaning of the Data Protection Act. In this case the Data Protection Act and Trust policy on confidentiality should be used.

In some cases, disclosure of information may prejudice the commercial interests of a third party. In other cases, information might have been provided by a third party and disclosure could constitute a breach of confidence. In such circumstances, the Trust should seek the view of the third party and not assume prejudice or breach of confidence. The Trust should take the decision on disclosure taking account of the third party view.

If it is not practical or cost effective to consult the third party or if the third party refuses consent or does not respond within the 20 working day time limit, the Deputy Director of Corporate Development will determine whether it is reasonable to disclose the information. Refusal of consent does not always mean that the Trust has the right to withhold information. Advice will be sought from the ICO or Trust legal advisors in these circumstances.

### **'Round Robin' requests**

It is not unusual that the same request to access information is made to a number of NHS organisations at the same time. Where this is known, a consistent line to take will be followed where possible.

### **Transferring a request to a different organisation**

In some circumstances it may be appropriate for the Trust to transfer a request for information to another organisation. This would apply if:

- The Trust does not hold the information
- The Trust has a copy of the information but is not the owner/author of the information. In this case, permission can be sought from the other

- organisation to disclose it and this would usually be the most pragmatic course of action if it forms part of a 'bundle' of information which is being disclosed. The Trust is obliged to disclose whether it holds the information even if it is not the owner.

In circumstances where requests are transferred, this will only be done following Customer Services contact with the organisation which holds the information requested.

### **Reporting**

Freedom of Information activity will form part of quarterly Customer Services reporting to Trust Board.

Training will be offered in compliance with the Act, in line with the requirements in the Information Governance Toolkit.

## Appendix 2 - Equality Impact Assessment Tool

		Yes/No	Comments
1.	<b>Does the policy/guidance affect one group less or more favourably than another on the basis of:</b>		
	• Race	NO	
	• Ethnic origins (including gypsies and travellers)	NO	
	• Nationality	NO	
	• Gender	NO	
	• Culture	NO	
	• Religion or belief	NO	
	• Sexual orientation including lesbian, gay and bisexual people	NO	
	• Age	NO	
	• Disability - learning disabilities, physical disability, sensory impairment and mental health problems	NO	
2.	<b>Is there any evidence that some groups are affected differently?</b>	NO	
3.	<b>If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?</b>	NO	
4.	<b>Is the impact of the policy/guidance likely to be negative?</b>	NO	
5.	<b>If so can the impact be avoided?</b>	N/A	
6.	<b>What alternatives are there to achieving the policy/guidance without the impact?</b>	N/A	
7.	<b>Can we reduce the impact by taking different action?</b>	N/A	

*If you have identified a potential discriminatory impact of this policy, please refer it to the Director of Corporate Development or Equality and Inclusion Development Manager, together with any suggestions as to the action required to avoid/reduce this impact.*

*For advice in respect of answering the above questions, please contact the Equality and Inclusion Development Manager.*

### Appendix 3 - Checklist for the Review and Approval of Procedural Document

To be completed and attached to any policy document when submitted to EMT for consideration and approval.

	Title of document being reviewed:	Yes/No/Unsure	Comments
<b>1.</b>	<b>Title</b>		
	Is the title clear and unambiguous?	YES	
	Is it clear whether the document is a guideline, policy, protocol or standard?	YES	
<b>2.</b>	<b>Rationale</b>		
	Are reasons for development of the document stated?	YES	
<b>3.</b>	<b>Development Process</b>		
	Is the method described in brief?	YES	
	Are people involved in the development identified?	YES	
	Do you feel a reasonable attempt has been made to ensure relevant expertise has been used?	YES	
	Is there evidence of consultation with stakeholders and users?	YES	The Executive Management Team was consulted on the original development of the policy. The Customer Services Team has also been consulted.
<b>4.</b>	<b>Content</b>		
	Is the objective of the document clear?	YES	
	Is the target population clear and unambiguous?	YES	
	Are the intended outcomes described?	YES	This policy aims to ensure a consistent and appropriate approach to compliance with FOIA.  It aims to ensure information is readily available whilst ensuring compliance with good information governance and protecting the confidentiality of people who use Trust services and of staff.
	Are the statements clear and unambiguous?	YES	

	Title of document being reviewed:	Yes/No/Unsure	Comments
<b>5.</b>			
	Is the type of evidence to support the document identified explicitly?	YES	
	Are key references cited?	YES	
	Are the references cited in full?	N/A	
	Are supporting documents referenced?	YES	
<b>6.</b>	<b>Approval</b>		
	Does the document identify which committee/group will approve it?	YES	
	If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document?	N/A	
<b>7.</b>	<b>Dissemination and Implementation</b>		
	Is there an outline/plan to identify how this will be done?	YES	
	Does the plan include the necessary training/support to ensure compliance?	YES	
<b>8.</b>	<b>Document Control</b>		
	Does the document identify where it will be held?	YES	
	Have archiving arrangements for superseded documents been addressed?	N/A	
<b>9.</b>	<b>Process to Monitor Compliance and Effectiveness</b>		
	Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document?	YES	
	Is there a plan to review or audit compliance with the document?	YES	Monthly KPI in performance report – response timeframes Quarterly Customer Services Report – number, subject matter, exemptions, timeframes
<b>10.</b>	<b>Review Date</b>		
	Is the review date identified?	YES	
	Is the frequency of review identified? If so is it acceptable?	YES	
<b>11.</b>	<b>Overall Responsibility for the Document</b>		
	Is it clear who will be responsible	YES	



	Title of document being reviewed:	Yes/No/ Unsure	Comments
	implementation and review of the document?		