

FREEDOM OF INFORMATION POLICY

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History

Issue	Date Issued	Brief Summary of Change	Approved by
1	January 2014	Policy redrafted	Information Governance Steering Group
2	February 2017	Changes to section 6, "Re-use" based on RPSI 2015	Information Governance Steering Group

For comments on this document, please contact:	Jane Townsend, Information Governance Manager
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1. INTRODUCTION

- 1.1 The Freedom of Information (“**FOI**”) Act 2000 provides a general right of access to the public in regard of all information held by the Trust.¹ Subject to certain specific exemptions, the Trust is legally obliged to provide information within 20 working days of a request.
- 1.2 The Environmental Information Regulations (“**EIR**”) 2004 provide a right of access in regard of environmental information held by the Trust.
- 1.3 The Trust has committed² to manage non-confidential information so as to be readily available to staff and the public, and will release such information under an open licence, in order to operate transparently and in the public interest.

Aim

- 1.4 The aim of this policy is:
- (a) To identify and detail the roles and responsibilities associated with Freedom of Information throughout the Trust.
 - (b) To provide a framework, compliant with HMG codes of practice,³ within which the Trust will comply with the law and ensure that its non-confidential information is readily available to the public.

Scope

- 1.5 This policy applies to:
- (a) All employees of the Trust, including but not limited to permanent, temporary, bank, contract, honorary and volunteer staff, and all other persons and organisations carrying out any function or work for or on behalf of the Trust.
 - (b) All data held by the Trust, whether electronic or on paper.
- 1.6 For the purposes of this policy, “FOI” shall be read to apply equally to FOI and EIR, unless otherwise stated.

2. ROLES & RESPONSIBILITIES

- 2.1 **Senior Information Risk Owner.** The Director of Finance and Information is appointed as the SIRO, whose duties in respect of Freedom of Information are:
- (a) Ensure that the Trust is compliant with the Freedom of Information Act 2000.
 - (b) Make risk decisions in regard to contentious FOI requests, and direct Trust responses.
 - (c) Report FOI activity and risks to the Board.
- 2.2 **Information Governance Lead.** The Head of Informatics Programme

¹ Freedom of Information Act 2000; <http://www.legislation.gov.uk/ukpga/2000/36/contents>

² ASPH Information Governance Policy.

³ Ministry of Justice “Freedom of Information code of practice”; <http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/code-of-practice>

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Management is appointed as the Information Governance Lead, whose duties in respect of Freedom of Information are:

- (a) Ensure that there is senior management awareness and support for FOI requirements as laid down by law and this policy.
- (b) Ensure that appropriate training is made available to staff and completed as necessary.
- (c) Direct internal reviews in the event of an appeal against a Trust FOI response.

2.3 **Information Governance Manager.** The Information Governance Manager acts as the Freedom of Information Lead for the Trust, whose duties are:⁴

- (a) Formulate and maintain policies, procedures and guidance materials as may be necessary.
- (b) Provide specialist advice and guidance to any staff on request.
- (c) Coordinate internal reviews in the event of an appeal against a Trust FOI response.

2.4 **Freedom of Information Administrator.** The Freedom of Information Administrator will:

- (a) Act as the day-to-day focal point for the coordination and management of FOI requests and responses.
- (b) Ensure that all FOI responses are approved by a Director or equivalent senior manager before being released.
- (c) Maintain a record of all FOI requests and responses, and provide reports as required.
- (d) Monitor compliance with FOI time limits and escalate to senior management in the event of a breach or anticipated breach.

2.5 **Information Content Manager.** The Information Content Manager will:

- (a) Maintain on the Trust's website the information published under the Publication Scheme.
- (b) Publish on the Trust's website all FOI requests and responses, within a reasonable time from the Trust's response.

2.6 **Directors.** All Directors and Associate Directors will:

- (a) Promote this policy, and in particular the principles of FOI readiness, within their directorates.
- (b) Ensure appropriate resource is available within their directorates to comply with FOI requests in a timely manner.
- (c) Review and approve FOI responses originating from within their directorates.

⁴ ASPH Information Governance Manager job description.

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- 2.7 **Service, Department and Line Managers.** All managers will:
- (a) Have due regard to FOI requirements when implementing working processes within their service areas and departments.
 - (b) Ensure that contracts and other corporate records are created with FOI principles in mind.
 - (c) Provide support and guidance to their staff, escalating to senior managers and specialist information governance roles where appropriate.
- 2.8 **All staff.** All staff will:
- (a) Comply with this and other related policies and procedures.
 - (b) Promptly provide information to respond to FOI requests, and other requests for information covered by the scope of this policy.
 - (c) Be accountable for their individual actions and decisions in accordance with the law.

3. PUBLICATION SCHEME

- 3.1 The Trust shall adopt the model publication scheme for public authorities developed by the Information Commissioner's Office.⁵
- 3.2 In order to meet the requirements of the Publication Scheme, the Trust shall maintain a Guide to Information, based on the ICO definition document for health bodies in England.⁶
- 3.3 **Extent of publishing.** The Trust shall at a minimum include in the Guide to Information and thereafter publish all information detailed in the definition document, except for any information which is:
- (a) Not held by the Trust.
 - (b) Exempt or prohibited from disclosure under FOI, EIR or other statute.
 - (c) Archived, out of date or otherwise inaccessible.
 - (d) Impractical or resource-intensive to publish routinely.
- 3.4 **Formats and charges.** The Trust shall make available all such published information:
- (a) On the Trust website in an open standard format, as detailed in the 'Re-use' section of this policy, free of charge.
 - (b) For inspection, free of charge.
 - (c) In printed hard copy, for reasonable charges based solely on costs incurred.

⁵ ICO "Model Publication Scheme", v1.2 Oct 2015;
http://www.ico.org.uk/for_organisations/freedom_of_information/guide/publication_scheme

⁶ ICO "Definition document for Health Bodies in England", v2.0 – 23 Oct 08;
http://www.ico.org.uk/for_organisations/freedom_of_information/definition_documents

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- (d) By such other reasonably practicable means as may be applicable to the particular information and the applicant's circumstances.

4. FOI READINESS

- 4.1 The Trust will, as far as practicable in accordance with other business requirements, maintain information in an "FOI-ready" state by separating or clearly marking personal data and other exempt information.
- 4.2 Contract signatories are responsible for ensuring that contracts are created with due regard to FOI requirements:
 - (a) Contracts must not classify as "confidential", or otherwise exempt from disclosure, any information which does not fall within a valid exemption of the Freedom of Information Act 2000.
 - (b) Contracts should, as far as practicable, clearly and reasonably define the information which would be likely to fall within an FOI exemption, and under what conditions.
 - (c) Contracting parties should be given the opportunity to justify their reasons for not disclosing given information under FOI, but the Trust retains ultimate responsibility for determining whether such information falls within a valid exemption and, consequently, whether it should be disclosed or withheld.
- 4.3 The use of national standard NHS terms & conditions⁷, as may be updated from time to time, is strongly recommended.

5. RESPONDING TO REQUESTS

- 5.1 The Trust will respond fully to all FOI requests within the legal deadline of 20 working days.⁸
- 5.2 The Trust will not assume or interpret a requestor's intentions or motivations, and will reply to requests honestly and without prejudice.
- 5.3 Where the Trust does not hold part or all of the information requested:
 - (a) This fact shall be communicated to the applicant promptly and in any event within 20 working days, unless doing so would itself fall within an exemption of the Act.
 - (b) The Trust shall not normally transfer requests directly to other public bodies, but shall instead inform the applicant of the likely body which holds the information, if known.
- 5.4 Where a request is known to have been circulated to many public bodies, affects services owned jointly with other organisations, or which may otherwise be deemed

⁷ <https://www.gov.uk/government/publications/nhs-standard-terms-and-conditions-of-contract-for-the-purchase-of-goods-and-supply-of-services>

⁸ Or later deadline as may be made under consideration of the public interest in particular cases, as detailed in Information Governance Standard Operating Procedure No 2, "Freedom of Information Requests".

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to have significant implications at a regional or national level:

- (a) The Trust may consult with other public bodies to identify any efficiencies which may be created by sharing information in regard to responses.
 - (b) The Trust's duty to respond to the request cannot be shared with or discharged by other organisations, and the Trust will respond to each request within its own powers.
- 5.6 Where the Trust decides to apply or not to apply any exemption, such decision will be justified and recorded. For qualified exemptions this shall include an assessment of the public interests in disclosure or non-disclosure.
- 5.7 In all cases, the Trust shall make all reasonable efforts to assist the applicant in obtaining requested information.
- 5.8 The procedure for responding to FOI requests is laid down in Information Governance Standard Operating Procedure No. 2, "Freedom of Information Requests".

6. RE-USE

- 6.1 As far as practicable, all information published under the Publication Scheme or as part of an FOI response will be provided in a free and open form, in order to encourage re-use.
- 6.2 Except as otherwise defined by Trust policy, free and open means:
- (a) **Free.** Both:
 - (i) Free of charge, or where necessary charged solely on the basis of costs incurred; and
 - (ii) Licensed under the Open Government Licence⁹ v2.0 (or any later version), or alternative free licence as may be agreed with the Information Governance Manager as appropriate to the particular information or circumstances of release.
 - (b) **Open.** Provided in an open standard¹⁰ file format.
- 6.3 Unless stated otherwise in the particular circumstances, these principles shall be adopted as the Trust's stated policy on all requests for re-use under the Re-use of Public Sector Information Regulations 2015.¹¹

7. APPEALS

- 7.1 The Trust will allow FOI applicants to appeal against a decision by the Trust in regard of a particular FOI request, and on receipt of such an appeal will conduct an internal review of the decision, to be conducted in accordance with HMG code of practice.¹²

⁹ HMSO "Open Government Licence for public sector information", Version 2.0;

<http://www.nationalarchives.gov.uk/doc/open-government-licence/version/2/>

¹⁰ HMG Cabinet Office "Open Standards Principles" – Apr 2013 (as updated);

<https://www.gov.uk/government/publications/open-standards-principles>

¹¹ http://www.legislation.gov.uk/ukxi/2015/1415/pdfs/ukxi_20151415_en.pdf

¹² Ministry of Justice "Freedom of Information Section 45 code of practice" (Part VI) – Nov 2004;

<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/code-of-practice>

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- 7.2 Such internal reviews will:
- (a) Make a new decision based on the available evidence relevant to the date of the original request.
 - (b) Provide a response to the applicant normally within 20 working days of the complaint, and in any event within 40 working days.
 - (c) Detail to the applicant the right of further appeal to the Information Commissioner's Office.
- 7.3 The Information Governance Manager shall appoint a lead officer for the review, who shall normally be a senior manager who had no direct involvement in the original request.
- 7.4 All staff are to cooperate with the appointed officer, and promptly provide any information which may be requested in relation to the review.
- 7.5 The Trust shall fully cooperate with the Information Commissioner's Office in any further appeal.
- 7.6 The findings of all reviews shall be used by the Information Governance Manager to determine any applicable lessons and changes that may be required to be incorporated in Trust policy and procedure.

8. POLICY MANAGEMENT

Publication

- 8.1 This policy will be published on the Trust website and intranet.

Monitoring

- 8.2 The Information Governance Steering Group shall monitor delivery of and compliance to this policy.

Review

- 8.3 This policy will be reviewed every three years, or more frequently as may be required.

Archiving

- 8.4 This is a Trust-wide policy. Current and archive versions will be managed in accordance with current Trust processes.

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APPENDIX 1

EQUALITY IMPACT ASSESSMENT SUMMARY

Background

- *Description of the aims of the policy*
- *Context in which the policy operates*
- *Who was involved in the Equality Impact Assessment*

Policy describes aim and context.

Policy author conducted equality assessment.

Methodology

- *A brief account of how the likely effects of the policy was assessed (to include race and ethnic origin, disability, gender, culture, religion or belief, sexual orientation, age)*
- *The data sources and any other information used*
- *The consultation that was carried out (who, why and how?)*

Conducted by policy author by means of the template provided in the "Policies Procedures and Guidelines: Writing and Ratification" policy, Dec 2010.

Key Findings

- *Describe the results of the assessment*
- *Identify if there is adverse or a potentially adverse impacts for any equalities groups*

No discrimination.

Conclusion

- *Provide a summary of the overall conclusions*

No discrimination.

Recommendations

- *State recommended changes to the proposed policy as a result of the impact assessment*
- *Where it has not been possible to amend the policy, provide the detail of any actions that have been identified*
- *Describe the plans for reviewing the assessment*

N/A