

Freedom of Information Policy

For use in:	All Trust Areas
For use by:	All Trust Staff
For use for:	Response to Freedom of Information Act
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Purpose of this Document

The Freedom of Information Policy sets out what the Trust intends to do to ensure compliance with the Freedom of Information Act 2000, which enables members of the public to question the decisions of public authorities more closely and to ensure that services are provided efficiently and properly delivered.

This policy will also serve to deal with the EIR. Although requests for information under EIR differ from FOI, it will serve the Trust to deal with the requests under FOI.

Any requests for information under EIR will be registered as a request and distributed to the appropriate department:

INTRODUCTION

The Freedom of Information Act 2000 provides individuals and organisations with the right to request information held by public authorities. All requests must be made in writing and the information must be provided to the requestor within 20 working days, subject to exemptions.

Scope

The Freedom of Information Policy will:

- Apply to all Trust employees and non-Executive Directors
- Provide a framework within which the Trust will ensure compliance with the requirements of the Act
- Underpin the operational procedures and activities required to implement the Act
- The policy covers all requests for information except requests from individuals for their own personal data and normal 'business as usual' type requests.

Principles

The Trust:

- Supports the principle that openness should be the norm in public life and wants to create a climate of openness and dialogue with all stakeholders
- Believes that individuals also have a right to privacy and confidentiality. This Policy does not overturn the common law duties of confidence or statutory provisions within the Data Protection Act 2018 as covered in other Trust policies
- Will apply exemptions where it considers that these support effective discharge of its functions and will balance them against the public right of disclosure
- Believes that staff should have access to expert knowledge to assist and support them in understanding the implications of the Act. The Policy sets out a framework to provide this knowledge
- Believes that common standards are required to ensure that the organisation is compliant with the Act. The Policy outlines the areas in which common standards will be established through other Trust policies and procedures.

Definitions

'Information' is defined as each item of material held by the Trust in paper or electronic form. This includes but not limited to, all draft documents, agendas, minutes, emails, handwritten notes, and all recorded information.

FOI- Freedom of Information

EIR- Environmental Information Regulations

PECR- Privacy and Electronic Communications Regulations

Exemption- Information is not able to be disclosed

FREEDOM OF INFORMATION ACT 2000 POLICY

Roles and responsibilities

The ultimate responsibility for Freedom of Information rests with the Chief Executive of the Trust, but all staff members who record information also have responsibilities under the Act.

The Trust

- Will ensure all appropriate and necessary means to ensure that it complies with the Freedom of Information Act 2000 and associated Codes of Practice
- Will always ensure there is one person with overall responsibility for FOI requests available within standard business hours
- The Trust will ensure that systems and procedures are in place to meet the duty of a public authority to provide advice and assistance to people who have made requests for information.
- The Trust will conform to the Code of Practice issued under Section 45 of the Act.
- Maintain and update a Publication scheme

Information Governance Manager

- Oversee the implementation of this Policy
- Ensure staff are provided relevant FOI training
- Check the accuracy and approve the content of the FOI response
- Provide assistance to the FOI team with investigations into appeals and complaints

Communication Manager

- Review all FOI requests and confirm which request needs oversight by them and their team
- Review and approve requests which they need oversight of.

IG Support Officer

- Acknowledge FOI requests within 2 working days
- Request and collate information to enable the response for the FOI from relevant departments
- Ensure FOI requests are completed within 20 working days
- Keep accurate records of FOI requests
- Monitor progress of the request and sends timely reminders to managers where information has not been received within the initial timescale
- Prepare final drafts
- Following approval send out final response

All staff

All members of staff have individual responsibility for:

- Ensuring information is recorded correctly and accurately.
- Provide the FOI team full and accurate information to complete the request within the given time frame.
- If requested, to provide staff names who are band 6 and above.

Implementation

The Trust has a single point of contact to receive all requests for information- FOI@wsh.nhs.uk. This function will routinely contact relevant Directorates for assistance with a response.

Valid FOI request

As defined in Section 8 of the FOI Act, to make a valid request for information the request must

- Be in writing - either by letter or email
- Include the requester's title and surname and an address for correspondence
- Describe the information requested

The requestor can be an individual, a company or organisation. Any request made under a pseudonym will be invalid.

Any person making a written request for information will be entitled to:

- Written confirmation as to whether the Trust holds the information as described in the request
- Have the information communicated to them within 20 working days.

Time limits

The Trust will establish systems and procedures to:

- Ensure compliance with the duty to confirm or deny and to provide the information requested within 20 working days of receipt of the request.
- Inform the applicant where it arises of the Trust's decision to apply an exemption to information request or to refuse a request on grounds of vexation or excessive costs within 20 working days.
- Ensure dispatch of the requested information within 20 working days.

Exemptions

The duty to confirm or deny is subject to certain conditions and exemptions. A full list of exemptions is contained within the Act. In summary the duty does not arise where the Trust

- a. Reasonably requires further information in order to find the information and informs the applicant accordingly
- b. Estimates that the cost of compliance with the request would exceed the appropriate limit that will be established in national Fees regulations. The Trust will work with applicants but reserves the right to refuse.
- c. Considers that a request for information is vexatious, for instance an identical or similar request to one already satisfied.
- d. Is entitled to an absolute or qualified exemption under the Act. The Trust will seek to use the qualified exemptions sparingly and will justify the use of such exemptions.

Refusal of a request

When a request is refused the applicant will be informed of the reasons for this decision within twenty working days. At the same time, they will be provided information on making a complaint about the refusal.

Means by which information will be conveyed

Information will be provided to applicants in the format requested wherever possible and reasonable.

Excel spreadsheets will be copied into a blank document to remove any hidden formulas, where possible this will be saved and sent as a PDF

Consultation with Third Parties

The Trust recognises that in some cases disclosure of information may affect the legal rights of another party eg where it constitutes “personal data” within the meaning of the Data Protection Act. Where a lawful disclosure cannot be made without the consent of a third party the Trust will seek the consent and/or undertake consultation where the views of the third party may assist in determining:

- Whether there is an exemption or not
- Where the public interest lies under Section 2 of the Act.

In accordance with the Act there may be some cases where consultation is not appropriate eg the cost of consulting is disproportionate, or exemption is being sought on other grounds.

Where consultation is appropriate and the third party has a representative organisation, the Trust will consider if consultation with the representative organisation is sufficient to meet the needs of the case or in some cases a representative sample of the third parties in question.

The Trust recognises that if the third party does not respond to consultation this does not relieve the Trust of its duty to disclose information under the Act within the specified time set out under the Act.

Public Sector Contracts

When entering into contracts the Trust will refuse to include contractual terms which restrict the disclosure of information held by the Trust and will ensure that this provision is included in contract documentation. Unless an exemption provided for under the Act is applicable the Trust will be obliged to disclose information relating to a request regardless of the terms of any contract.

As recommended by the Lord Chancellor’s Department the Trust will reject non-disclosure clauses.

Complaints about Discharge of Duties under the Act

The Trust has a procedure for dealing with complaints about how we have handled an FOI request. Applicants can apply to the Information Commissioner if they remain dissatisfied with the conduct of the Trust following attempts at local resolution of their complaint.

Publication Scheme

The Trust will maintain and update a Publication Scheme in line with NHS requirements. The Scheme will detail information that the Trust publishes at this point in time and intends to publish in the future. It will describe the format in which the information is available and whether or not a charge will be made for the information. The Publication Scheme will be available in hard copy or through the Trust web site. It will be subject to regular review in terms of content and will be formally reviewed by the Information Commissioner.

Applications for information listed in the Publication Scheme must be received in writing

Training and support

The Head of Information Governance will work Trust-wide with all staff groups to carry out training, awareness, compliance and reporting. FOI information is included in the mandatory annual IG training package.

Monitoring

The Trust will monitor compliance with deadlines and report quarterly to Information Governance Steering Group.

Reporting

Quarterly reports to Information Governance Steering Group.

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