

Freedom of Information (FOI) Policy

Subject	Freedom of Information Act (2000)
Policy number	Tbc
Approved by	Trust Executive Group
Date approved	March 2015
Version	2
Policy owner	Director of Communications & Corporate Affairs
Name of Assurance Committee	Quality Committee
Date Issued	April 2015
Review Date	February 2016
Target Audience	Whittington Health Staff

1. Introduction

The Freedom of Information (Fol) Act (2000) gives the public the right of access, in law, to most information about how public authorities are managed and includes a

- General right of access from 1 January 2005 to recorded information held by public authorities, subject to certain conditions and exemptions.
- Duty on all public authorities (including the NHS) to adopt and maintain a Publication Scheme from 31 October 2003.
- New office of Information Commissioner with wide powers to enforce the rights created by the Act and to promote good practice, and a new Information Tribunal.

This policy aligns with Whittington Health's five year clinical strategy and mission to **'help local people live longer healthier lives'** and it supports the implementation of our strategic goal **'to support our patients to be active partners in their care'**.

2. Scope

- This policy applies to all information relating to the trust.
- Patients' medical records and staff personnel records are exempted from disclosure under the Freedom of Information Act (2000). Patients' medical records are available for patients to request under 'Access to Health Records' and are covered by a separate trust policy. The Data Protection Act (1998) still applies where 'person-identifiable' information is concerned.
- Other information may be exempted from disclosure on the grounds of commercial confidence and public interest.

2. Purpose

- The purpose of the Fol policy is to set out the responsibilities of the trust under the Freedom of Information Act (2000). The trust will
- Accept requests for information from the public and respond to them.
- A target of 20 days is stipulated for either providing the information or providing a justification for withholding it.
- Be honest, open and transparent with its responses.
- Assist members of the public to find information about the trust.
- Process complaints as quickly as possible about the trust's decisions regarding requests for information.
- Maintain an up-to-date publication scheme showing information the trust regularly publishes.

3. Accountability

Who	Tasks	Roles & Responsibilities
Chief Executive	<ul style="list-style-type: none"> Reviews complaint investigations and recommendations 	Authorises and signs off FOI complaint responses
Directors	<ul style="list-style-type: none"> Delegates responsibility to a senior manager in their respective team for swift responses to FOI lead requests for information 	Approves FOI responses relevant to portfolio of responsibility
Director of Communication & Corporate Affairs	<ul style="list-style-type: none"> Approve any exemption decisions Approve any requests for legal advice Approve the final communication to the applicant Meet all targets and adhere to all guidance with respect to FOI Manage FOI complaints system Accountable for reporting to Trust Management Group, Executive Group, Quality Committee and the Trust Board 	<p>Operation of FOI process</p> <p>Protecting the trust from inappropriate disclosures or exemptions</p>
FOI Officer	<ul style="list-style-type: none"> Receive and log requests Assist requestors with requests Distribute requests to relevant directorates/divisions Collate information on costs and exemptions Determine overall cost and advise on requirement to fulfil or deny request Initiate information retrieval Collate and send information Meet all targets and adhere to all guidance with respect to FOI Maintain information relating to FOI performance Maintain publication scheme 	<p>Day to day operation of FOI process</p> <p>Good record keeping and maintaining an accurate audit trail</p> <p>Exemptions decisions</p>
All Staff	<ul style="list-style-type: none"> Re-direct members of the public immediately to the FOI officer to ensure compliance with target response times 	Be aware of, understand and adhere to the policy.

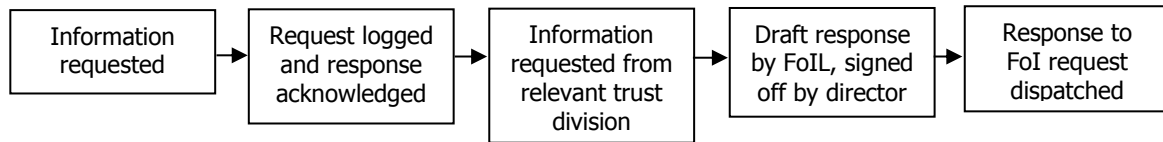
4. Approval of the policy

- The Trust Executive Group which is chaired by the Chief Executive.

5. Procedure for managing FoI requests

Any written request for information will be considered a request under the FOI Act (2000). All trust staff will be aware of this process and be able to direct requests to the FoI officer or those responsible for overseeing the policy.

The following sets out the operational process for managing an FOI request.



6. Charging

The law¹ states that authorities should estimate the time a request would take to fulfil and use a rate of £25 per person per hour. Estimation of time will include retrieving, editing and collating the information.

- Requests estimated to cost £450 or less will be free of charge.
- Requests estimated to cost more than £450 will be refused unless approved by a trust director who will set an appropriate charge.

The trust will charge the full cost of 'disbursements' (photocopying and postage) associated with a request. The Finance department will process the collection of charges.

7. Legal Advice

It may be necessary to take legal advice associated with a request. Approval to engage a lawyer will be authorised by the Chief Executive. The charges incurred for legal advice will be borne by the directorate requiring the advice.

8. Complaints

The Lord Chancellor's Code of Practice issued under Section 45 of the Act stipulates that Public Authorities must have a complaints procedure which may be used by members of the public when they believe that the public authority is not complying with its obligations under the Act.

The trust's complaint procedures will be invoked when a requestor challenges decisions made in connection with a request for information. Typically, this will be a challenge to decisions to withhold information from disclosure under one of the exemptions provided for by the Act.

The complaints procedure will

- Ensure the correct procedure was followed in dealing with a request and that the most appropriate people were consulted.

¹ Statutory Instrument 2004 No 3244 'The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

- Review any decisions to withhold disclosure by reviewing the evidence used to make the decisions and the decision making process.
- Recommend a course of action to the Chief Executive which may be to uphold the original decision or to change it.

9. Publication Scheme

Under, of the FOI Act 2000 Whittington Health has a legal duty to adopt and maintain a publication scheme for the publication of Whittington Health information. The purpose of the Act is to promote a greater openness by public authorities.

The trust will make as much information available as is practicable via the publication scheme in order to minimise the number of requests. The publication scheme will be published on the trust's web site and updated on a regular basis.

10. Roles and Responsibilities

It will be the responsibility of the

- FOI officer to manage the content of the website.
- Director of each directorate / division to nominate a senior records manager to provide up-to-date, timely, accurate and relevant information for the web site.
- Director of each directorate /division to approve the confirmation of accuracy of information for responses or denial of any request for information on the grounds of exemptions as specified in The Act.
- Chief Executive to approve any exemptions claimed under Section 36 of the Act (prejudice to effective conduct of public affairs).
- Board to receive FOI reports with target compliance rates.

11. Training and Communication

All staff will be made aware of the procedure for handling requests for information via corporate induction training, information awareness raising of the policy and via well internal communication channels such as the all staff weekly bulletin and intranet.

An FOI leaflet will be published on the trust website.

12 Appendices

Appendix 1 Equality Impact Assessment

Appendix 2 References

Appendix 3 FOI leaflet

Appendix 1 - Equality Impact Assessment

Under the Race Relation (Amendment) Act 2000 the trust is required to undertake equality impact assessments on all policies/guidelines and practices. This obligation has been expanded to include equality and human rights with regard to disability, age, gender and religion. The Equality Impact Assessment has been completed in order to consider the needs and assess the impact of the Freedom of information Policy.

		Yes/No
1.	Does the procedural document affect one group less or more favourably than another on the basis of:	
	• 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.	Is there any evidence that some groups are affected differently?	No
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	No
4.	Is the impact of the procedural document likely to be negative?	No
5.	If so can the impact be avoided?	N/A
6.	What alternatives are there to achieving the procedural document without the impact?	N/A
7.	Can we reduce the impact by taking different action?	N/A

Appendix 2 - References

Requirement	Description
Statutory	Data Protection Act (1998) Computer Misuse Act (1990) Freedom of Information Act (2000) NHS Constitution 2010
NHS policy and guidance	NHS Information Governance : Guidance on Legal and Professional Obligations (2007) Information Security Management : NHS Code of Practice (2007) Confidentiality : NHS Code of Practice (2003) Records Management : NHS Code of Practice Part 1 (2006) Records Management : NHS Code of Practice Part 2 (2006) Caldicott Guidance (2006) Information Governance Toolkit Information Governance Training Tool BMA\CfH Joint Guidance on Protecting Electronic Patient Information (2008)
Whittington Health policy	Information Security policy Confidentiality policy Privacy policy Records Management policy E-mail and Internet Acceptable Use policy Information Sharing policy