

Management of Freedom of Information (FOI) Requests

Issue Date	Review Date	Version
February 2019	February 2024	2.0

Purpose

To ensure a Trust wide understanding of the Freedom of Information (FOI) Act 2000 ('the Act') in order to for the Trust to meets its statutory obligations under the Act.

Who should read this document?

All members of staff, in particular those asked to provide information under the Act.

Key Messages

- FOI requests are managed by the Trust's Information Governance (IG) Team.
- The Act provides public access to information held by public authorities. University Hospitals Plymouth NHS Trust ('the Trust') complies by:
 - Publishing certain information about its activities.
 - Responding to FOI requests from the public.
- Under the Act, any person has the right to request recorded information held by the Trust and they are entitled:
 - To be informed if the Trust holds the information.
 - To have the information provided unless an exemption applies, the information is already published or other particular circumstances apply.
- The Act is regulated by the Information Commissioners Office (ICO).
- The Trust must supply the information for most requests within 20 working days, (Full Process in Appendix A). Summary of process;
 - Day 1** Request for Information received and acknowledged.
 - Day 2** IG team send "Finding Information" requests to appropriate staff.
 - Day 3 – 9** Staff provide information to IG team.
 - Day 10 – 14** Information compiled, local approval and executive approval sought.
 - Day 15 – 19** Communications team quality check.
 - Day 20** FOI reply sent to applicant.
- A request for environmental information should be dealt with under the Environmental Information Regulations 2004, and a request for a person's own personal data should be dealt with under the subject access provisions of the Data Protection Act 2018.

Core accountabilities		
Owner	Head of Information Governance	
Review	Caldicott and Information Governance Assurance Committee	
Ratification	Director of Corporate Business	
Dissemination	Freedom of Information Manager	
Compliance	Caldicott and Information Governance Assurance Committee	
Links to other policies and procedures		
Information Governance Policy		
Local Freedom of Information Standard Operating Procedures (SOPs) used by IG team		
Version History		
V1	October 2012	Initial Document
V1.1	January 2015	Amended titles and responsibilities
V1.2	August 2017	Transferred in to New Trust Template and extended by Lee Budge – Director of Corporate Business
V2.0	February 2019	Updated in line with Freedom of Information Code of Practice , Cabinet Office July 2018

The Trust is committed to creating a fully inclusive and accessible service. Making equality and diversity an integral part of the business will enable us to enhance the services we deliver and better meet the needs of patients and staff. We will treat people with dignity and respect, promote equality and diversity and eliminate all forms of discrimination, regardless of (but not limited to) age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage/civil partnership and pregnancy/maternity.

An electronic version of this document is available on Trust Documents. Larger text, Braille and Audio versions can be made available upon request.

Standard Operating Procedures are designed to promote consistency in delivery, to the required quality standards, across the Trust. They should be regarded as a key element of the training provision for staff to help them to deliver their roles and responsibilities.

Section	Description	Pages
1	Introduction	4
2	Regulatory Background	5
3	Key Duties	5
4	Procedure to Follow	6
5	Publication Scheme	8
6	Refusing a request	8
7	Document Ratification Process	9
8	Dissemination and Implementation	9
9	Monitoring and Assurance	9
10	Reference Material	9
Appendices		
	Appendix A Procedure	10
	Appendix B Exemptions	11

Standard Operating Procedure (SOP)

Management of Freedom of Information Requests

1 Introduction

The purpose of the Act is to promote greater openness by public authorities, including NHS organisations. Under the Act, any person who requests information from the Trust is entitled:

- To be informed in writing if the Trust holds the information
- To have the information communicated to them OR
- To be informed if an exemption applies to part or all of the information,
- To be informed if the information gathering will exceed the statutory limit,
- To be informed if the request is considered vexatious.

This document sets out the Trust's overall FOI procedure. It is a high level document to guide staff members across the Trust who may be involved in dealing with part of the FOI process. The IG team maintain separate FOI Standard Operating Procedures (SOP's) which document each aspect of the process in more detail.

2 Regulatory Background

The Freedom of Information Act 2000

"The Act provides individuals with a right of access to recorded information held by public authorities. Public authorities spend money collected from taxpayers, and make decisions that can significantly affect many people's lives. Access to information helps the public make public authorities accountable for their actions and allows public debate to be better informed and more productive"; ICO website

The ICO provide guidance regarding best practice www.ico.org.uk for complying with the Act. This advice is supplemented by the Cabinet Office's *Freedom of Information Code of Practice* 2018; [Cabinet Office FOI COP](#)

Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.

The main principle behind freedom of information legislation is that people have a right to know about the activities of public authorities, unless there is a good reason for them not to. This is sometimes described as a presumption or assumption in favour of disclosure.

The Act is also sometimes described as purpose and applicant blind. This means that everybody has a right to access Trust information. Disclosure of information should be the default, information should be kept private only when there is a good reason and it is permitted by the Act. An applicant does not need to give the Trust a reason for requesting the information. All requests must be treated equally, except under some circumstances relating to vexatious requests and personal data.

Exemptions

An applicant may ask for any information held by the Trust however this does not mean the Trust has to release the information. In some cases there will be good reason why the Trust should not make some or all of the information public. There are 23 exemptions under the Act, some of which are 'absolute' and some 'qualified'. Detailed guidance on the application of these exemptions is set out on the ICO website. A list of the absolute and qualified exemptions can be found at Appendix B.

Related Legislation

The Environmental Information Regulations 2004 provide public access to environmental information held by public authorities. This type of information should not be released under the Freedom of Information Act.

The Data Protection Act 2018 gives members of the public the right to see information that a public authority holds about them, they should make a subject access request under the DPA and not the Freedom of Information Act.

Re-use of Public Sector Information Regulations 2015 allows the public to reuse information supplied under the Act in compliance with the open Government Licence terms.

3 Key Duties

Executive Director of Corporate Business, Senior Information Risk Owner (SIRO) ensures the Trust meets its statutory FOI duties and reports compliance to the Board.

Executive Directors and their nominated deputies are responsible for the type of information being disclosed and authorise each individual disclosure. Other directors/associate directors may have the delegated authority for this task.

Communications Team provides a quality assurance check to the final FOI responses and will advise on additional context.

Head of Information Governance is responsible for the operational running of the FOI function. Carries out internal reviews and acts as the point of contact for the ICO.

Information Governance Support Manager deputises for the above and manages the IG team who support FOI.

Freedom of Information Manager manages the day to day processing of FOI requests and is the main FOI point of contact for staff across the Trust. Will consider any exemptions and other factors which affect how requests are processed.

IG Team provide administrative support to the FOI process and maintain the disclosure log.

Local FOI Leads across the Trust are responsible for finding the information requested and help in compiling the response. They should ensure local approvals where required. It is also important to ensure that information about their areas is proactively published on the Trust website.

All Trust Staff should recognise an FOI request if received and redirect to the IG team. They should assist with finding information to help with the preparation of responses.

4 Procedure to Follow

4.1 Process

See Appendix (A) for a flowchart of the Trust FOI process. Detailed local SOP's for each stage of the process are held by the IG team.

The Trust must respond to 85% of requests within 20 working days.

4.2 The Initial Application for Information

Details of how to make a request are on the trust website under the Information Governance link which can be found on the home page; <http://www.plymouthhospitals.nhs.uk/>

The majority of applications for information under the Act will be sent directly to the IG team by email plh-tr.Fol-requests@nhs.net or by post to;

Freedom of Information Team
University Hospitals Plymouth NHS Trust
Bircham House
William Prance Road
Plymouth
PL6 5WR

However, there may be occasions when an application for information will be sent directly to other departments. All members of Trust staff have a responsibility to ensure that the request is forwarded to the IG Team as soon as possible. Paper requests should be scanned and emailed with the original being sent in internal mail.

Any members of staff who receive a verbal request must advise applicants to make their request in writing.

All requests must include the applicant's name, a correspondence address and a description of the information requested.

The IG team will send the request to the appropriate area to find the information.

4.3 Collating a Response

The IG team will send requests to the appropriate FOI lead(s) who will be asked to find the relevant information if it is held. The lead(s) will be requested to locate the information and compile a response to the request within the next seven working days.

The leads must inform the IG team at the earliest opportunity if;

- Clarification is needed from the applicant
- They estimate the information will take longer than eighteen hours to collate
- Exemptions may need to be applied
- They don't hold the information and the request needs to be redirected
- More than seven days will be needed to collate the information
- There is concern the request is vexatious
- Any other help is needed

It may be important to include background information as once released the information will be effectively published to the world and may be misinterpreted without the relevant context.

A request for information in isolation may seem insignificant, but if it has been sent out to all NHS Trusts, it may be used as part of a league table and therefore it is vital that statistics are double-checked and an explanation is provided if required.

4.4 Signing Off the Response

Preparing Final Response

If appropriate to apply an exemption to the disclosure, the FOI Manager will add the relevant legal text to the response letter at this stage. It may be that an exemption applies to only part of the information and that the Trust will make a partial disclosure.

The IG team will prepare the final response ready for approval.

Executive Director Approval

Once the IG team have compiled a full response it is sent to the relevant Executive Director or their deputy for approval.

The Communications Team

Once a week, the Communications Team check all approved FOI's. The Information is being published to the world and it is important that the team are aware. They can also offer their expertise on how the response reads.

4.5 Disclosure of Information

With all relevant permission gained, the IG team send the response to applicant.

4.6 Internal Review

If an applicant is not satisfied with the Trust's response then they can ask for an "internal review". Where ever possible this will be undertaken by someone other than the person who oversaw the original disclosure. Internal reviews will usually be undertaken by the Head of Information Governance. However where this person has been involved in the disclosure the review will be undertaken by the SIRO.

5 Publication Scheme

5.1 Transparency

The Act requires the Trust to adopt and maintain a publication scheme. This is useful information for members of the public to see how the Trust functions. It is published on the Trust's website and is in line with the ICO's approved model publication scheme.

The aim is to promote greater openness and transparency by ensuring that information about the Trust is readily available and accessible to the public. The Trust is actively encouraging departments to publish information about their area on the website.

5.2 FOI Disclosure log

The Trust publishes FOI disclosures on the Trust's website.

5.3 Annual / Quarterly Compliance Statistics

In line with the *Cabinet Office's Freedom of Information Code of Practice (2018)*, the Trust publishes details of its quarterly and annual performance on handling requests. This is publicly available on the Trust website.

6 Refusing a request for information

There are 23 exemptions in the Act (Appendix B) that allow the Trust to withhold some or all of the information. In some cases it will allow you to refuse to confirm or deny whether you hold information.

The Trust can refuse an entire request if;

- It would take more than 18 hours to find the information.
- The request is vexatious.
- The request repeats a previous request from the same person.

7 Document Ratification Process

The design and process of review and revision of this procedural document will comply with The Development and Management of Formal Documents.

The review period for this document is set as default of five years from the date it was last ratified, or earlier if developments within or external to the Trust indicate the need for a significant revision to the procedures described.

This document will be reviewed by the Caldicott and Information Governance Assurance Committee and ratified by the Director of Corporate Business.

Non-significant amendments to this document may be made, under delegated authority from the Director of Corporate Business, by the nominated author. These must be ratified by the Director of Corporate Business and should be reported, retrospectively, to the Director of Corporate Business.

Significant reviews and revisions to this document will include a consultation with named groups, or grades across the Trust. For non-significant amendments, informal consultation will be restricted to named groups, or grades who are directly affected by the proposed changes.

8 Dissemination and Implementation

Following approval and ratification, this procedural document will be published in the Trust's formal documents library and all staff will be notified through the Trust's normal notification process, currently the 'Vital Signs' electronic newsletter.

Document control arrangements will be in accordance with The Development and Management of Trust Wide Documents.

The document author(s) will be responsible for agreeing the training requirements associated with the newly ratified document with the Director of Corporate Business and for working with the Trust's training function, if required, to arrange for the required training to be delivered.

9 Monitoring and Assurance

The Head of Information Governance will be responsible for monitoring compliance and a report will be submitted to the Caldicott and Information Governance Assurance Committee on a regular basis. The SIRO will include figures in updates to the Board.

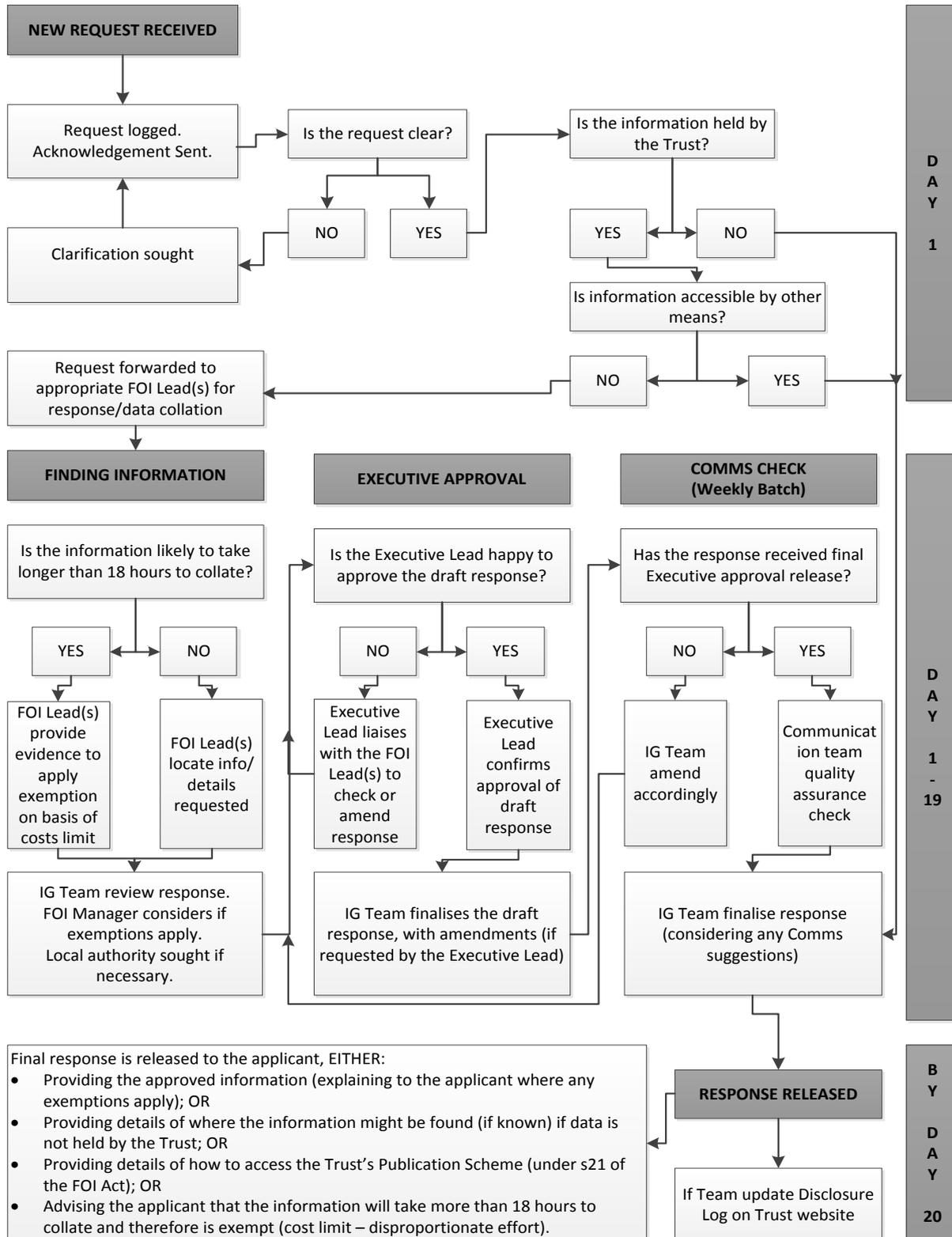
10 Reference Material

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

Cabinet Office Freedom of Information Code of Practice (2018), [Cabinet Office FOI COP](#)

Information Commissioner's Office: <http://www.ico.gov.uk/>

Acknowledgement to Poole Hospital NHS Foundation Trust; process flowchart.



Exemptions

The table below lists exemptions that can be used to refuse part or all of a request under the Act. Qualified exemptions require a public interest test which will be carried out by the IG team.

If the Trust decides not to disclose the information, the applicant will be informed specifying the exemption/s in question and why the Trust felt it applied in the circumstances.

Absolute Exemptions

- Section 21 Information accessible to applicant by other means
- Section 23 Information supplied by, or relating to, bodies dealing with security matters
- Section 32 Information contained in Court Records
- Section 34 Information that may infringe Parliamentary Privilege
- Section 36 Prejudicial to effective conduct of public affairs (so far as relating to information held by the House of Commons or the House of Lords)
- Section 40 Personal Information
- Section 41 Information provided in confidence (Duty of Confidence test required)
- Section 44 Prohibitions on disclosure (where disclosure is prohibited by either an Act of Parliament, a European Community obligation or where disclosure would constitute or be punishable as a contempt of court)

Qualified Exemptions

- Section 22 Information intended for future publication
- Section 24 Information for safeguarding National Security
- Section 26 Information that may prejudice the Defence of the realm
- Section 27 Information that may prejudice International Relations
- Section 28 Information that may prejudice relations between administrations within the United Kingdom
- Section 29 Information that may prejudice the Economic interests of the UK
- Section 30 Investigations and proceedings conducted by public authorities
- Section 31 Information that may prejudice Law Enforcement
- Section 33 Information that may prejudice the exercise of audit functions
- Section 35 Formulation of Government Policy
- Section 36 Prejudicial to effective conduct of public affairs (for all public authorities except the House of Commons and the House of Lords)
- Section 37 Communications for Her Majesty etc. and honours
- Section 38 Information that may be likely to endanger health and safety
- Section 39 Information relating to Environmental Information
- Section 42 Information covered by Legal Professional Privilege
- Section 43 Information that may prejudice commercial interests