

Freedom of Information Policy (CG007)

Approval

Approval Group	Job Title, Chair of Committee	Date
Policy Approval Group	Chair, Policy Approval Group	October 2016

Change History

Version	Date	Author, job title	Reason
Version 4.0	January 2010	Caroline Lynch	Review and minor amendments
Version 4.1	January 2011	Caroline Lynch	Review and minor amendments
Version 4.2	September 2011	Caroline Lynch	Annual Review. No amendments
Version 4.3	September 2012	Caroline Lynch	Review and policy streamlined.
Version 4.4	November 2014	Emma Sampson	Review and minor amendments
Version 4.5	September 2016	Matthew Wall, IG Manager	Review and minor amendments

Owner:	Caroline Lynch	Date:	October 2016
Job Title:	Trust Secretary	Review Date:	October 2018
Policy Lead:	Chief Executive	Version:	Version 4.5
Location:	Corporate Governance Shared Drive – CG007		

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Other relevant corporate or procedural documents:

This Policy should be read in conjunction with the following:

- Data Protection Policy – CG002
- Information Governance Framework – CG004
- Health Records Management Policy – CG059
- Information Security Policy – CG099
- Corporate Records and Information Lifecycle Management Policy – CG026

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1.0 Purpose

The Freedom of Information Act Policy is a statement of what the Trust does to ensure compliance with the Freedom of Information Act 2000 (FOIA). It is not a statement of how compliance will be achieved; this will be a matter for operational procedures.

The Trust recognises the importance of the Freedom of Information Act 2000 and to assist organisational compliance with the Act the Trust will endeavour to ensure that:

- Frequently requested information is made available through the Trust's Publication Scheme;
- Other information is readily available on request; and
- If the information requested is subject to an exemption, the Trust will implement the public interest test, where applicable, to determine whether the information can be released.

2.0 Scope

The Freedom of Information Act Policy applies to all Trust employees & Volunteers.

This Policy is intended to cover all information created and held in the course of the business of the Trust, i.e., corporate records. This includes email messages and other electronic records.

The policy outlines good practice and identifies the responsibilities of Trust's staff in terms of Freedom of Information and should be read alongside the Trust's Health Records Management Policy, Corporate records policy, professional codes of conduct and Data protection policy.

3.0 Management & Responsibilities

Ultimate responsibility for Freedom of Information rests with the Chief Executive of the Trust but all staff members who record information, whether on paper or by electronic means, also have responsibilities under the Act and under this policy.

The Trust Secretary has delegated responsibility for the Act from the Chief Executive.

The Freedom of Information Co-ordinator will:-

- Act as the day to day point of contact for FOI requests;
- Ensure all requests are entered on to the system, tracked and managed;
- Prepare correspondence with requestors;
- Interface with key links – internet and intranet, communications etc.;
- Maintain the currency of this policy;
- Ensure relevant information is made available via the Publication Scheme; and
- Ensure that the Publication Scheme is regularly reviewed and content is up to date.

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All members of staff are responsible for ensuring that:

- Information is supplied promptly to the FOI Co-ordinator when requested for inclusion within the Publication Scheme or for individual requests;
- Information not included within the Scheme is created and stored in accordance with Trust procedures and processes to enable easy location when required;
- Staff undertake relevant training and awareness sessions;
- The creation of their own records and for adhering to the Trusts Records Management procedures and processes; and
- Informing their Departmental or line managers of the creation of any new categories of document.

4.0 Freedom of Information Act 2000 Policy

Policy Statement

The Trust will comply with the Freedom of Information Act.

Publication Scheme

The Trust has adopted the new model Publication Scheme which is available on the Trust's website. This is permissible under section 20 of the Act and ensures compliance with section 19 of the legislation. The Publication Scheme sets out the following:

- The classes of information published, or intended to be published
- The manner in which publication is, or is intended to be made
- Whether the information is available free of charge or if payment is required

The Publication Scheme is reviewed and updated to ensure the information contained within it is current. The Trust has established systems and procedures to process applications arising from the Publication Scheme.

Requests for a copy of the Publication Scheme and requests for information contained within the Scheme may be made to the Freedom of Information Co-ordinator.

General Rights of Access

Section 1 of the Act gives a general right of access to recorded information held by the Trust, subject to certain conditions and exemptions contained in the Act. Simply, any person making a request for information to the Trust is entitled:

- a. To be informed in writing whether the Trust holds the information of the description specified in the request; and
- b. If the Trust holds the information to have that information communicated to them.

This is referred to as the 'duty to confirm or deny'. If the Trust holds the information it must provide it, subject to the certain conditions and exemptions. The Trust has procedures and systems to facilitate access by the public to recorded information from this date.

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A request for information under the general rights of access must be:

- received in writing
- state the name of the applicant and an address for correspondence
- clearly describe the information requested.

A request can also be made electronically via email. The Trust has a dedicated email address for the public to use – foi@royalberkshire.nhs.uk. Requests for information can also be made in writing to:

Freedom of Information Office
Corporate and Information Governance Department
Royal Berkshire Hospital
London Road
Reading
RG1 5AN

Exemptions

The rights within the Act may be limited by applying certain exemptions. Several sections of the Act confer an absolute exemption on information. There are 23 exemptions from the rights of access under the Act. These exemptions mark out the limits of the right of access to information under the Act.

An interpretation of these exemptions is carried out in accordance with ICO guidelines and by the Trust's FOI Co-ordinator. All FOI responses are approved by the Chief Executive prior to release to the requester.

The key areas where the Trust may not need to provide data or information in response to an FOI request are:

- Information or data which comes under the Data Protection Act, the rules for Data Protection and confidentiality still apply. This may be:
 - Medical Records including any data, image or metadata that could identify a patient; or
 - Individual staff details.
- Material that is already available and provided through another route e.g. patient information leaflet or copies of medical records made available under the Data Protection Act;
- Material that is commercially sensitive e.g. information relating to contract negotiations or tenders;
- Information relating to medical research that is underway and in the pre-publication phase; and
- Material that, in order to identify or produce, would exceed the cost limit laid out by the Act (Section 12(1)).

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The Trust will make reasonable efforts to contact the applicant for additional information related to their request should further information be required.

Other sections of the FOI Act direct the Trust to weigh up whether the public interest in maintaining the bar on confirmation/denial or in maintaining the exemption is greater than the public interest in disclosing whether the public authority holds the information, or in disclosing the information at all. In some cases if an exemption applies the Trust may be obliged to disclose the information if the public interest test outweighs the exemption.

Charges and Fees

The Trust will not charge for information that it has chosen to publish in its Publication Scheme. For requests which do not exceed the cost limit (information which takes less than 18 hours/£450 to retrieve and collate), there will be no charge.

The Trust follows the national Fees Regulations for general rights of access under the Act. These set an appropriate limit on costs of compliance, a manner in which an appropriate fee may be calculated and circumstances in which no fee should be levied.

In all cases where the Trust applies a charge for information a fees notice will be issued to the applicant. Applicants will be required to pay any fees within a period of three months beginning with the day on which the fees notice is given to them.

Time Limits for compliance with requests

The Trust has a statutory obligation to comply with the Freedom of Information Act and has established systems and procedures to ensure that the organisation complies with the Act and to provide the information requested within **20 working days** of a request. Compliance with the 20 day time limit arising from FOI requests is also monitored.

All staff will be required to comply with the requirements of these procedures.

If the Trust chooses to apply an exemption to any information, or it exceeds the appropriate limit for costs of compliance, a notice shall be issued within twenty working days informing the applicant of this decision.

Refusal of Requests

If the Trust chooses to refuse a request for information the applicant will be informed of the reasons for this decision and of the procedure for requesting an internal review in respect of how the Trust has handled the FOI request.

The Trust will keep a record of all notices issued to refuse requests for information.

Duty to Provide Advice and Assistance

The Trust will ensure that systems and procedures are in place to meet the duty to provide advice and assistance to the public, so far as it would be reasonable to expect the Trust to do so, to persons who propose to make, or have made, requests for information.

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Transferring of requests for Information

If the Trust receives a request for information and the information is not held by the Trust the requester is advised accordingly to submit their request to the relevant third party.

Consultation with Third Parties

The Trust recognises that in some cases the disclosure of information by a member of the public may affect the legal rights of a third party, for example where information is subject to the common law duty of confidence or where it constitutes "personal data" within the meaning of the Data Protection Act 1998 ("the DPA"). Unless an exemption provided for in the Act applies in relation to any particular information, the Trust will be obliged to disclose that information in response to a request.

Where a disclosure of information cannot be made without the consent of a third party (for example, where information has been obtained from a third party and in the circumstances the disclosure of the information without their consent would constitute an actionable breach of confidence), the Trust will consult that third party to seek their consent to the disclosure, unless such a consultation is not practicable, for example because the third party cannot be located or because the costs of consulting them would be disproportionate.

Where the interests of the third party may be affected by a disclosure do not give rise to legal rights, consultation may still be appropriate.

The Trust will undertake consultation where:

- a. The views of the third party may assist the authority to determine whether an exemption under the Act applies to the information requested; or
- b. The views of the third party may assist the authority to determine where the public interest lies under section 2 of the Act.

Any consultation with third parties will take place as soon as is practicable, and the applicant will be informed as soon as possible once this has been done.

Appeals and Complaints

The Trust has a procedure for dealing with requests for an internal review about the discharge of the duties of the Trust under the Act, including the handling of requests for information.

In the first instance complaints about the Trust's Freedom of Information procedures and appeals against decisions not to supply exempt information should be made to:

Freedom of Information Office
Corporate and Information Governance Department
Royal Berkshire NHS Foundation Trust
London Road
Reading
RG1 5AN
Tel: 0118 322 6743

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Email: foi@royalberkshire.nhs.uk

Requests for internal reviews are undertaken by an Executive Director.

If requesters remain dissatisfied with the Trust's internal review decision they can refer any concerns direct to the Information Commissioner's Office

5.0 Training

The Freedom of Information Co-ordinator will ensure that training and advice on the Act is available to all staff. The FOI Act is incorporated into the mandatory Information Governance training via E-learning, Core Induction and Combined Mandatory Training Sessions. Awareness of this Policy will be raised through training sessions, the Trust's Intranet, round-up articles and at the security awareness week.

There is a Freedom of Information intranet page available on the Corporate Governance page of the Intranet. This is regularly updated with any guidance, related policies and staff will also be able to access E-Learning from the site.

6.0 Monitoring and Evaluation

The Trust will ensure that monitoring and evaluation of the implementation of FOI takes place on a regular basis. The FOI Co-ordinator will report progress to the Trust Secretary as appropriate on the following:

- FOI requests;
- Number of requests;
- Breaches in response times;
- Types of requests (in order to consider incorporation in Publication Scheme); and
- Complaints

Compliance with the Act in terms of the number of requests received and the percentage of breaches is monitored by the Information Governance Group.

7.0 What to do if you receive a request for information

If you or a member of staff receives a request, it must be passed to the FOI Co-ordinator immediately. Failure to do this may result in a delay in processing the request and complying with the Law. Staff must ensure that all requests are sent to:

The Freedom of Information Office
Corporate and Information Governance Department
Royal Berkshire NHS Foundation Trust
London Road
Reading
RG1 5AN
Tel: 0118 322 6743
Email: foi@royalberkshire.nhs.uk

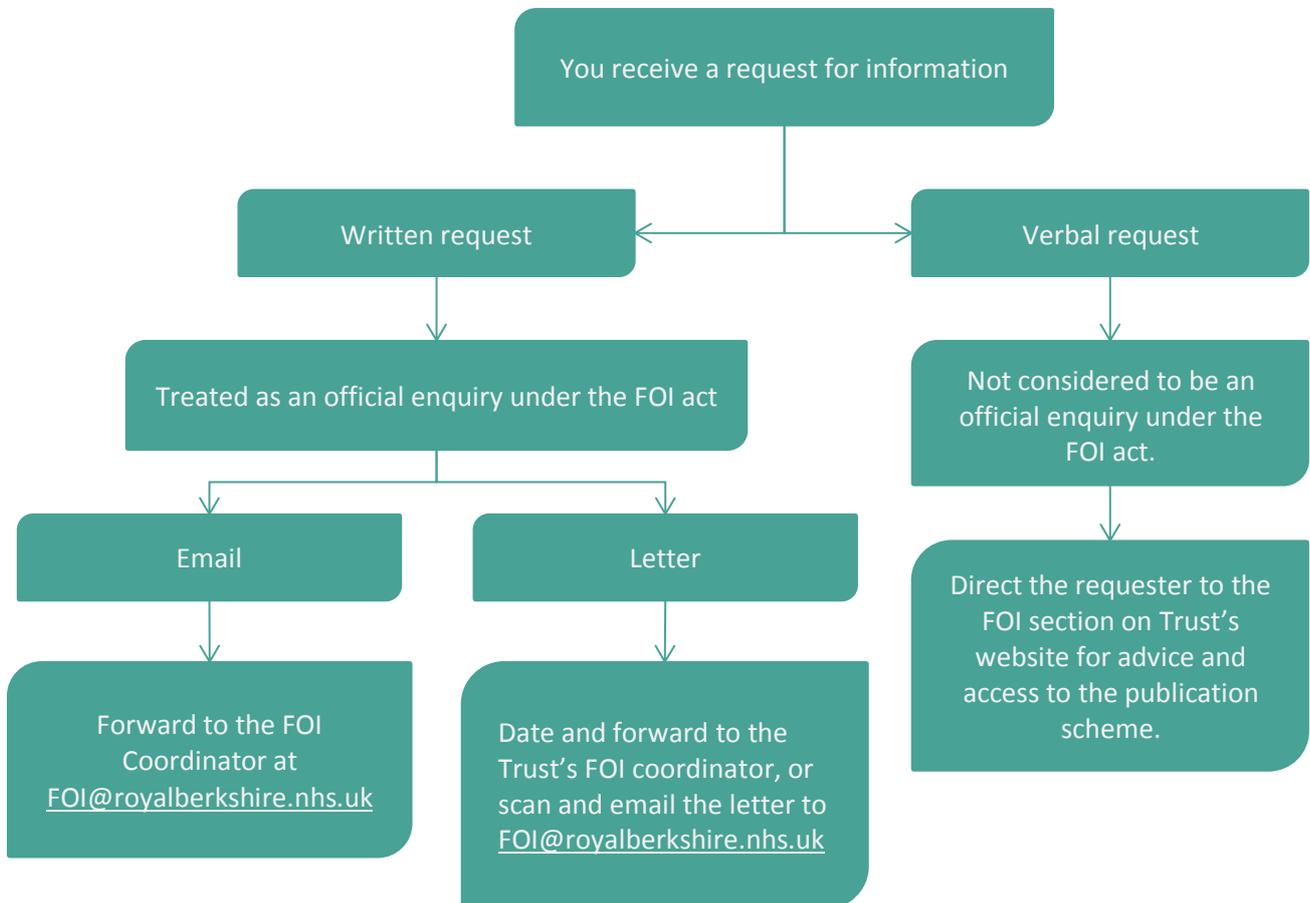
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Staff must direct members of the public to the Publication Scheme to obtain information about the Trust in the first instance or to the FOI co-ordinator.

Guidance for staff

Staff should follow the flowchart below in dealing with any Requests for Information



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Appendix 1 – Equality Impact Assessment

Stage 1: Screening

Part 1: Initial Scoping

For each of the nine protected groups identified in the table below, respond to the identified questions with a Yes (Y); No (N); or Unclear (U)

	Age	Sex	Disability	Race	Gender Reassignment	Religion or Belief	Sexual Orientation	Marriage and Civil Partnership	Pregnancy and Maternity
Do different groups have different needs, experiences, issues and priorities in relation to the proposed policy/change proposal?	N	N	N	N	N	N	N	N	N
Is there potential for or evidence that the proposed policy/change will not promote equality of opportunity for all and promote good relations between different groups?	N	N	N	N	N	N	N	N	N
Is there potential for or evidence that the proposed policy will affect different population groups differently (including unintended discrimination against certain groups)?	N	N	N	N	N	N	N	N	N
Is there public concern (including media, academic, voluntary or sector specific interest) in potential discrimination against a particular population group or groups?	N	N	N	N	N	N	N	N	N

Part 2: Evidence and Feedback that has informed your analysis

Please identify below the data, information or feedback that you have drawn on to reach the conclusions above. This will be information that has enabled you to assess the actual or potential impacts in the context of the key needs to **eliminate unlawful discrimination**, **advance equality of opportunity** and **foster good relations** with respect to the characteristics protected by equality law. These sources could include:

- Equalities monitoring information of staff/service users affected by the identified provision/policy etc.
- Engagement (internal/external or both) with or feedback from relevant stakeholders e.g. staff; patient groups, commissioners, external agencies.

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- Staff Survey Data; Patient Survey Data etc.
- Research or information available relative to the identified protected group.
- Project leads professional knowledge of the issues the policy/change is seeking to enact.

There has been no negative feedback received from previous publications, this policy is drawn from Legislation.

If the analysis under Part 1 has concluded that there are equality impacts or that the impacts are unclear (i.e. you responded 'Yes' or 'Unclear' in Part 1), **please move on to Part 4 of the assessment.** If no equality impacts are identified, **please move on to Part 3 below** to conclude the assessment

Part 3: Narrative

If you have concluded there are no equality impacts related to the policy/provision, please provide a brief narrative to explain why you have come to this conclusion:

The Policy is drawn from legislation and is considered to have no adverse effect on any protected characteristic.

If no equality impacts have been identified, this concludes the equality impact assessment. Please complete the declaration below:

Based on the information set out above I have decided that a full equality impact assessment is (please delete as appropriate):

Not necessary

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