

Trust-wide Policy For Freedom of Information

A document recommended for use

In: All areas

By: All staff

For: Ensuring compliance with the Freedom of Information Act and associated legislation and to ensure that the Trust remains open and accountable to the public.

Key Words: Freedom of Information, FOI, Information Request, Data Protection, Disclosure, Confidentiality, GDPR

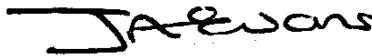
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Trust Ratification:



J. Evans
09th February 2016

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To be reviewed by: Company Secretary

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Version	Date	Comment
1	December 2004	Reviewed and approved by the Board
2	July 2010	Reviewed
3	March 2012	Scheduled review
4	January 2013	Scheduled review
5	February 2016	Scheduled review
5.1	May 2018	Updated in relation to General Data Protection Regulation only – full review to take place by end of 2018.

Equality Impact Assessment

This document has been reviewed in line with the Trust's Equality Impact Assessment guidance and no detriment was identified. This policy applies to all regardless of protected characteristic - age, sex, disability, gender-re-assignment, race, religion/belief, sexual orientation, marriage/civil partnership and pregnancy and maternity.

Dissemination and Access

This document can only be considered valid when viewed via the East & North Hertfordshire NHS Trust Knowledge Centre. If this document is printed in hard copy, or saved at another location, you must check that it matches the version on the Knowledge Centre.

Associated Documentation

None

Review

This document will be reviewed within three years of issue, or sooner in light of new evidence.

Key Messages

- As a public body we are accountable as a Trust and as individuals to the public
- We value being open
- We must respond promptly to Freedom of Information requests
- There may be some occasions where the FOI Officer believes that some or all of the information requested is exempt from disclosure and that to release it would be prejudicial to the Trust and / or public interest.

1. INTRODUCTION

The Freedom of Information Act 2000 (FOIA) came into force at the beginning of 2005 and deals with access to all information held by public authorities. The Act gives people the right to request information from public authorities and is intended to support a culture of openness and transparency across the public sector.

Members of the public can make requests for information held by the Trust recorded in any form. Requests must be made in writing (including by email) and give the requestors name. The Trust must respond to all requests within 20 working days.

As well as requiring public bodies to respond to requests for information the Act also requires all public authorities to have an approved publication scheme signposting people to information that is proactively published and shared with the public. Finally the Act places a duty on the Trust and all public authorities to help members of the public to make a Freedom of Information request.

2. SCOPE

This policy applies to all Freedom of Information requests made to East and North Hertfordshire NHS Trust

3. PURPOSE

The policy aims to ensure full compliance with the Freedom of Information Act 2000 and to promote a culture of openness and transparency in line with our values.

4. DEFINITIONS

Freedom of Information Act: The Act that gave members of the public the right to ask for and receive information about public bodies.

Freedom of Information Request: A request made for information about the Trust, the request does not have to state that it is making a Freedom of Information request.

Requestor: The person making a request. This may be an interested member of the public, a commercial body, journalist or MP. We are obliged to disclose information regardless of who has requested it.

5. DUTIES

The Chief Executive has the ultimate responsibility for the Trust's compliance with the Act and has delegated responsibility for this to the Company Secretary who acts as the Freedom of Information Lead. The Chief Executive will act as the qualified person when the Trust considers making information exempt under section 36 (prejudice to effective conduct of public affairs).

Freedom of Information Lead: The Company Secretary acts as the Freedom of Information Lead and ensures that organisational procedures and processes are in place to comply with the Act and to report this to the Board via the Risk and Quality Committee.

The Freedom of Information Officer role is carried out by the Deputy Company Secretary who manages the FOI processes and supports staff with the support from the FOI co-ordinator (currently the Corporate Governance Officer).

Directors and Heads of Service need to all be aware that any information created may be requested under the Freedom of Information Act and should ensure that all staff in their teams are aware of their duties to comply with this act. The FOI Officer and FOI co-ordinator will be pleased to meet with all departmental leads to offer support and guidance and if required will attend divisional meetings to raise awareness of Freedom of Information.

All Trust staff need to familiarise themselves with this policy and to comply with requests for information from the FOI team. Divisions and departments are advised to identify a lead who will co-ordinate their FOI responses.

Further details of the roles and oversight arrangements are set out in **appendix 1**.

6. PUBLICATION SCHEME

The Trust proactively makes certain types of information available to the public. A publication scheme based on the Information Commissioner's Office's model scheme is regularly updated by the FOI Officer and FOI Co-ordinator. The publication scheme is shown as **appendix 2**.

7. PROCEDURE FOR RESPONDING TO A FOI REQUEST.

Members of the public are invited to direct FOI requests to foi.enh-tr@nhs.net or via post to

Freedom of Information Officer (L70)
East and North Hertfordshire NHS Trust
Lister Hospital
Coreys Mill Lane
Stevenage
Herts
SG1 4AB

Once a response has been received it must be answered within 20 working days. As some FOI requests may be directed elsewhere in the organisation it is vital that all staff forward FOI requests to the Corporate Governance team immediately.

The FOI Co-ordinator (Corporate Governance Officer) logs all requests and directs them to the most appropriate division or department to obtain the required information. Once this information has been received the FOI Co-ordinator will draft a response and consider whether any exemptions apply. The response and rationale for applying any exemptions will be reviewed by the FOI Officer (Deputy Company Secretary) and the response will be sent to the requestor within 20 working days.

The information provided may need to be clarified or set into context before the response is sent so it is important that all Divisions and departments respond promptly and within the deadline set by the FOI co-ordinator.

Section 102 of the Protection of Freedoms Act 2012 amended sections 11 and 12 of the FOIA giving rights to receive data in a reusable format (such as an excel spreadsheet), often referred to as datasets. The Trust will comply with this where possible and will publish the requested datasets where appropriate. This does not give additional rights to information but does allow members of the public to re-use information.

A diagram showing the process followed is set out as **appendix 3**.

8. EXEMPT INFORMATION

The starting point for all responses is to respond fully and openly. However, there are some types of information that the FOIA considers to be exempt from disclosure. There are 23 exemptions which all fall into two categories

Qualified exemptions: Even if the information qualifies for one of these forms of exemption (such as commercial interests) then once it has been shown that it falls into that category of exemption the Trust must consider whether it would be more in the public interests to disclose the information than to withhold it.

Absolute exemptions: If the information qualifies for one of these forms of exemption (such as court records) then it will not be released and does not need to be subject to the public interest test.

In many cases some of the information requested will be suitable for disclosure so Divisions and departments are asked to answer the request in full, the FOI Co-ordinator and FOI Officer will consider whether exemptions apply and will apply the public interests test. If a Division or Department believes that an exemption applies they are welcome to make the FOI co-ordinator aware of this while continuing to respond to the full request.

Please note that only the FOI Officer or FOI Lead may determine whether an exemption applies so it is important to respond in full to the request as soon as possible to allow time for them to consider the exemptions.

9. VEXATIOUS AND MANIFESTLY UNREASONABLE REQUESTS

In exceptional circumstances if the Trust believes that it has received a vexatious or manifestly unreasonable request then the FOI Officer and FOI co-ordinator will consider the Information Commissioner's Office guidance on these and will act accordingly. Divisions and Departments are asked to continue gathering the information to meet any requests that they feel may fall into this category unless they are advised not to by the FOI Co-ordinator or FOI Officer.

Circular (Round Robin) requests will be considered in line with the Information Commissioners latest guidance on circular requests and if required guidance on vexatious requests and manifestly unreasonable requests.

10. COSTS AND STAFF TIME IN RESPONDING TO A REQUEST

The Trust does not need to respond to a request where to do so would cost more than £450 (the appropriate limit set by the FOIA). Staff time is calculated as £25 per hour (regardless of actual salary), this equates to 18 hours of staff time. The costs that can be taken into account are limited to those that an authority reasonably expects to incur in

- Determining whether it holds the information requested
- Locating the information or documents containing the information
- Retrieving the information or documents
- Extracting the information (including time spent redacting the information).

No other costs or staff time can be taken into account (such as time spent considering exemptions or taking legal advice)

Where the cost of responding in full would exceed £450 the Trust has a duty to help the public make FOI requests and will identify the aspects of the request that can be responded to within the time limit or will ask the requestor which aspect they would like to have responded to.

Where the estimated cost of complying will cost less than £450 but more than £10 the Trust may charge the requestor for disbursements. Printing and photocopying will be charged at 10p per page and would not apply unless the requestor has asked for the response to be sent in hard copy.

11. COMPLAINTS AND APPEALS

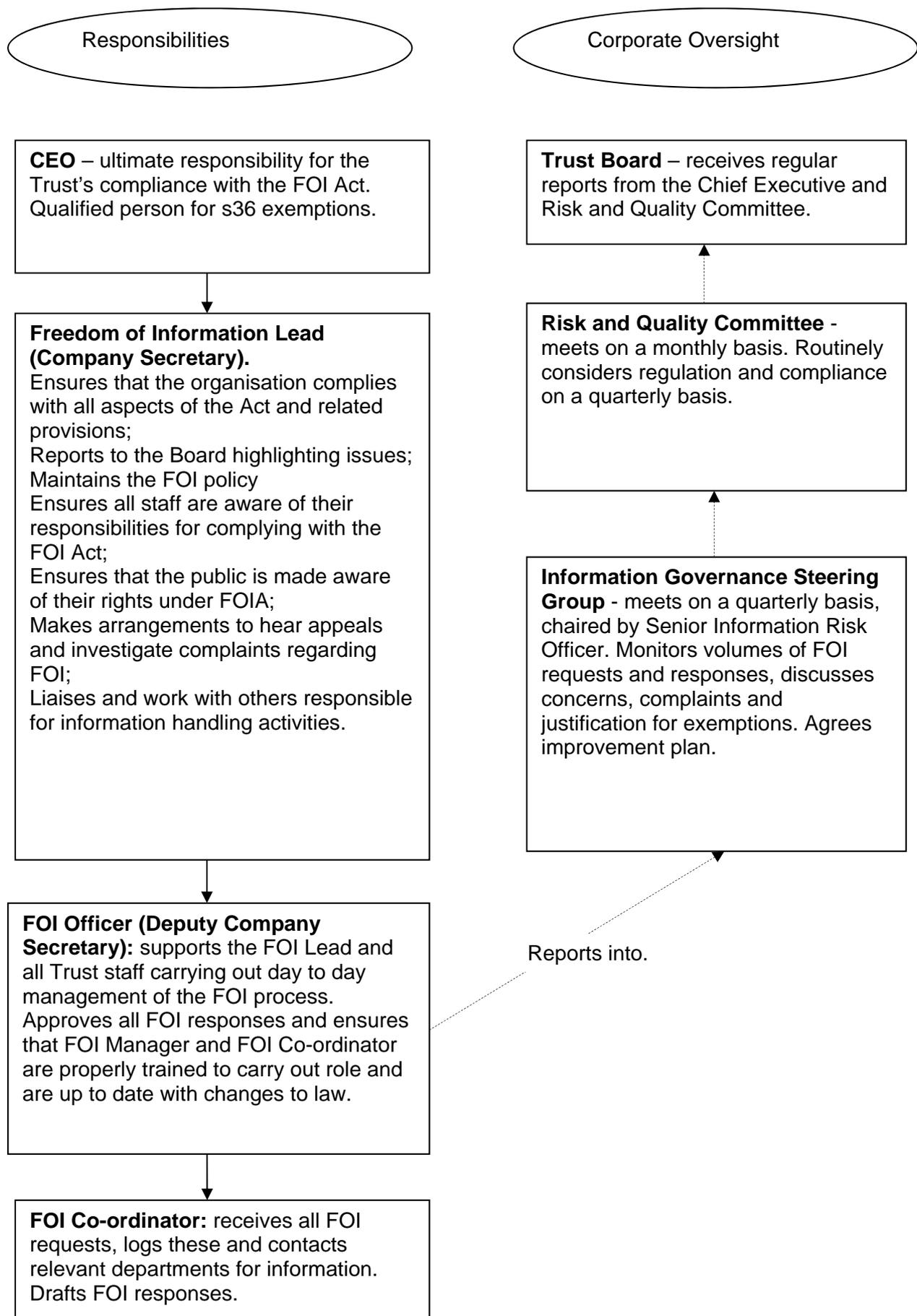
If a requestor is not satisfied with the Trust's response they can ask for an internal review. The FOI Lead (Company Secretary) will arrange for the review to be carried out and will communicate the outcome of this to the requestor. Internal Reviews will usually be carried out by the FOI Lead and the Serious Information Risk Officer. The Information Commissioner's Office can also consider whether the Trust has complied with the FOIA and can publish decision or enforcement notices and order the Trust to pay costs.

12. MONITORING COMPLIANCE

The FOI Officer will carry out an annual review of the number of requests received, timeliness etc... and will report this to the Information Governance Steering Group and updates will be given throughout the year to make the group aware of any concerns or cases that have been internally reviewed. Any improvement action plans will be approved by the group.

Compliance will also be monitored as part of the Information Governance Toolkit submissions and a decrease in compliance will be discussed with the Information Governance Steering Group. The Information Governance Steering Group reports to the Risk and Quality Committee and will highlight any concerns to the Board through the Risk and Quality Committee.

Appendix 1 Roles and Responsibilities



Appendix 2 Proposed Publication Scheme

Freedom of Information Publication Scheme

Introduction

Under the Freedom of Information Act 2000, every public authority has a duty to specify what information they publish, how the information is made available, and whether it is available for free or if there is a charge. East and North Hertfordshire NHS Trust's Publication Scheme explains what information the Trust makes available to the public. Wherever possible, we aim to make it easy for information to be obtained. We review the scheme at regular intervals and monitor how it is operating.

If the information you want is not available through our publication scheme or if you are unable to find it elsewhere on our website, you can send a request to our **Freedom of Information** team (contact details below).

This model publication scheme, which complies with the **Information Commissioner's Office** (ICO) requirements, provides the following classes of information:

1. Who we are and what we do

The Trust Board

The Trust Board is responsible for setting the overall strategy for the organisation and ensuring that it meets the necessary performance targets; it is supported in this work by a number of committees. The composition of the Board is as follows:

- Chairman
- Five non-executive directors
- Chief Executive
- Director of Finance
- Director of Nursing and Patient Experience
- Director of Operations
- Medical Director

More information on the Board and its members, including expenses claimed, can be found on the Trust's website at:

<http://www.enherts-tr.nhs.uk/about-the-trust/trust-board/>

or in the Trust's Annual Report, which can also be found on the Trust's website at:

<http://www.enherts-tr.nhs.uk/about-the-trust/our-publications/>

Structure of our organisation

We publish a number of organisation charts on our website on the 'FOI – Frequently Asked Questions' page, which can be accessed through www.enherts-tr.nhs.uk/

If the organisation chart that you are looking for is not currently on our website, please submit a Freedom of Information Act request (contact details below).

Our location and services

Information on our location and our services is published on our website at:

<http://www.enherts-tr.nhs.uk/patients-visitors/>

Appendix 2 Proposed Publication Scheme

Contacting us

Contact details can be found on the Trust's website at:

<http://www.enherts-tr.nhs.uk/contact-us/>

The key contact details are:

Telephone 01438 314333

Email generalenquiries.enh-tr@nhs.net

Constitutional / Legal Governance

NHS Trusts are required by law to make Standing Orders (SOs), which regulate the way in which the proceedings and business of the Trust will be conducted. High standards of corporate and personal conduct are essential in the NHS. These "extended" Standing Orders, incorporating the Standing Financial Instructions (SFIs), Schedule of Reservations of Powers (SRP) and Scheme of Delegated Authorities (SoDA) identify who in the Trust is authorised to do what. These are reviewed annually by the Trust Board and can be accessed via the relevant Trust Board agenda on the Trust's website, here:

<http://www.enherts-tr.nhs.uk/about-the-trust/board-meetings/>

2. What we spend and how we spend it

Information relating to our projected and actual income and expenditure can be found in our Annual report and Accounts, published on our website at:

<http://www.enherts-tr.nhs.uk/about-the-trust/our-publications/>

The Trust's financial plan and capital programme for the year can be found in the Board papers at:

http://www.enherts-tr.nhs.uk/about-the-trust/board-meetings

The Annual Audit Letter can be found at:

<http://www.enherts-tr.nhs.uk/about-the-trust/our-publications>

Tendering and procurement is carried out through Hertfordshire NHS Procurement (<http://www.hertsprocurement.nhs.uk/joomla/>).

Contracts and expenditure over £25,000 are published on the Trust's website at:

<http://www.enherts-tr.nhs.uk/about-the-trust/trust-board>

Please see the 'FOI - Frequently Asked Questions' webpage for information regarding some of the Trust's contracts:

If the information you are looking for is not currently on our website, please submit a Freedom of Information Act request (contact details below).

Appendix 2 Proposed Publication Scheme

3. What our priorities are and how we are doing

Each year the Trust publishes its annual plan, covering all aspects of its business, which can be found on the website at:

<http://www.enherts-tr.nhs.uk/about-the-trust/our-publications/>

Information on our clinical priorities for the year can also be found in the Trust's annual Quality Account, which can be found on the same page of our website, and in the Annual Report.

Some of our key strategies are published on the same page.

Information on

- our key strategies and how we are delivering them
- our performance against national standards and targets, as well as our own internal targets

is published routinely in our monthly Board papers at:

<http://www.enherts-tr.nhs.uk/about-the-trust/board-meetings/>

Our CQC inspection report, once published, will be available from the CQC's own website, at:

<https://www.cqc.org.uk/>

4. How we make decisions

The Trust Board takes all the key decisions affecting the Trust and evidence of its decision-making processes can be found in the Board minutes, which are published routinely each month as part of the Board papers. These can be found at:

<http://www.enherts-tr.nhs.uk/about-the-trust/board-meetings/>

5. Our policies and procedures

For specific policies or procedures please submit a Freedom of Information Act request:

foi.enh-tr@nhs.net

or

Freedom of Information Officer L70
East and North Hertfordshire NHS Trust
Lister Hospital L70
Coreys Mill Lane
Stevenage
SG1 4AB

Appendix 2 Proposed Publication Scheme

6. Lists and Registers

The Corporate Governance team maintains a register of interests of directors and other senior staff, and a register of hospitality, which are published at:

<http://www.enherts-tr.nhs.uk/about-the-trust/trust-board>

7. The Services we Offer

Information on our location and our services is published on our website at:

<http://www.enherts-tr.nhs.uk/patients-visitors/>

The Trust's clinical services are organised under five Divisions – Medicine, Surgery, Women's and Children's, Cancer Services and Clinical Support Services. Each of these is led by a Divisional Chair, who is a senior consultant, and a Divisional Director who is a senior manager. Each Division is also supported by its own clinical and non-clinical management structure, including matrons, senior nurses, and finance and human resources specialists.

8. The classes of information we provide will not generally include:

- Information the disclosure of which is prevented by law, or exempt under the Freedom of Information Act, or is otherwise properly considered to be protected from disclosure.
- Information in draft form.
- Information that is no longer readily available as it is contained in files that have been placed in archive storage, or is difficult to access for similar reasons.

9. Accessing your own information

If you would like to see information that the Trust holds about you please contact our medical records team on 01438 28690, or 020 3826 2020 for patients treated at the Mount Vernon Cancer Centre. Further information and contact details can be accessed via the following webpage:

<http://www.enherts-tr.nhs.uk/patients-visitors/our-services/medical-records/>

This information cannot be released under the Freedom of Information Act but will be considered for release under the General Data Protection Regulation.

10. Charges which may be made for information published under this scheme

Material which is published and accessed through the website will be provided free of charge.

Charges may be made for actual disbursements incurred such as:

- photocopying
- postage and packaging
- the costs directly incurred as a result of viewing information

but for any request where the cost of disbursements is less than £10 the charge will be waived. If a charge is to be made, confirmation of the payment due will be given before the information is provided and payment will be requested prior to provision of the information.

Appendix 2 Proposed Publication Scheme

11. Written Requests

Information that is not published under this scheme can be requested in writing, either by email to foi.enh-tr@nhs.net or by letter to

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SG1 4AB

When its provision will be considered in accordance with the provisions of the Freedom of Information Act.

Appendix 3 FOI process

