

Freedom of Information and Environmental Information Regulations Policy

Policy Number	IG/Pol/002
Target Audience	All staff including temporary and contractual
Lead Executive Director	Director of Finance
Recommending Committee/Group	DIGIT
Approving Committee(s)	Corporate Clinical Policy Group
Date First Ratified	October 2011
Last Full Review Date	March 2023
Next Full Review Date	March 2026
Extension approved until	N/a
Lead Author(s)	Senior Information Governance Officer
Version Number	5.0

Applicable Statutory, Legal or National Best Practice Requirements	Freedom of Information Act 2000 Environmental Information Regulations (2004) Data Protection Act (2018) Department of Health (2003) Confidentiality: NHS Code of Practice Department of Health (2008) Common Law Duty of Confidentiality. Human Rights Act (1998) Reuse of Public Sector Information Regulations (2015)
---	---

The Trust is committed to an environment that promotes equality, embraces diversity, and respects human rights both within our workforce and in service delivery. This document should be implemented with due regard to this commitment.

This document can only be considered valid when viewed via the Trust's intranet. If this document is printed into hard copy or saved to another location, you must check that the version number on your copy matches that of the one online.

Version Control Sheet

Version	Date	Reviewed By	Comment
1.0	7th Oct 2011 24th Oct 2011		Approved by IG Subgroup Integrated Governance Committee
2.0	Dec 2015 January 2016 January 2016	Head of IG Policy Approval Group Jan McCartney	Reviewed and updated, minor changes made Approved subject to amendments Amendments completed
3.0	Dec 2017 January 2018 February 2018 February 2018	Jan McCartney Policy Approval Group Jan McCartney S. Arkwright	Full review completed Approved subject to minor amendments and reference review Amendments completed; references updated Approved by chair action
4.0	April 2021 April 2021 April 2021 April 2021	Jackie McKay M. Corkery Jackie McKay Corporate Clinical Policy Group	Full Review, references updated Comments Consultation undertaken – signed-off by DIGIT Approved
4.1	December 22	L. Brierley	Minor amendment to S. 7.7
4.2	February 23	S. Mackie	Minor amendments approved by chair action
4.3	February 23	Jackie McKay	Full Review
4.4	February 23	Jackie McKay	Consultation – Signed off by DIGIT
4.5	February 23	M. Corkery	Reviewed – comments made
4.6	February 23	Jackie McKay	Updated following comments
5.0	March 2023	Corporate Clinical Policy Group	Approved

<p>Equality impact assessment</p> <p>Consider if this document impacts/potentially impacts:</p> <ul style="list-style-type: none"> • Staff • Patients • Family members • Carers • Communities 	
<p>Yes <input checked="" type="checkbox"/> complete box A</p>	<p>No <input type="checkbox"/> complete box B</p>
<p>Box A</p> <p>Contact the Trust's equality & inclusion manager at:</p> <p>Email: ruth.besford@nhs.net Date contacted: 14th February 2023</p>	<p>Box B</p> <p>Complete details below:</p> <p>Name: Email: Date:</p>

Education & professional development (EPD) question

To ensure that any training requirements are discussed, and resources planned and allocated to meet the needs of the service, you must consider whether this document has additional training requirements. Please answer the following question by entering a cross in the Yes or No box below:

	Yes	No
Does this document have any additional training requirements or implications?		X

If you have answered **YES** you must forward a copy of this document to EPD **before** submitting to the policy officer.

Date submitted to EPD:

No further action is required if you have answered NO.

This table below must be completed in full for audit and governance purposes. Please note documents will be returned if section 1 in the table below is not completed fully. This will result in a delay in listing the document for approval.

Name of document	Freedom of Information and Environmental Regulation Policy
Document number	IG/Pol/002
Document author	Jackie McKay

Section 1 - actions required by author	Authors response
Date proposal form submitted to policy officer (new documents)	N/A
Date proposal form presented to CCPG (new documents)	N/A
Date proposal approved by CCPG (new documents)	N/A
Date literature search/reference review requested	14 th February 2023
Date EqIA considered	16 th February 23
Date additional training requirements considered	N/A
Date fraud-proofed by the Anti-Fraud Specialist (AFS) if applicable	14 th February 2023
Date template accessed on the Hub Add 'OFFICIALSENSITIVE: COMMERCIAL' to front cover if the document can be shared on the internet Add 'OFFICIALSENSITIVE: PERSONAL' to appendices if they include or will include personally identifiable information (PID)	February 2023
Date literature review completed (check references are formatted correctly, and hyperlinks working)	21/2/23
Date first draft submitted to policy officer for initial review	27 th February 2023
Date returned by policy officer following initial review	28 th February 2023
Date submitted to key individuals/groups/subject matter experts for comments (add names and designations of responders to consultation table)	14/2/23
For clinical documents, date document submitted to consultation group for sign-off i.e., IPC, Medicines Management (this applies if the document contains medication or medical gases - update version control sheet to confirm sign-off)	8/3/23
Name of Recommending Committee/group	DIGIT
Date sent to Recommending Committee/group for sign-off	15/2/23
Date signed-off by the Recommending Committee/group (update version control sheet once signed-off)	15/2/23
Date submitted to policy officer for listing at CCPG	27/2/23
Section 2 – for completion by the policy officer	
Date approved by CCPG	20/03/23
The following policies require Board approval and must be submitted to Board following CCPG approval: <ul style="list-style-type: none"> • Risk Management Framework Policy • Health & Safety Policy • Policy and procedure for the production, approval and ratification of Trust-wide policies and procedures (“Policy for Policies”) Date submitted for Board approval: Date approved by Board:	n/a

Contents

1	Introduction	6
1.1	Objective	7
1.2	Scope	7
2	Definitions	7
3	Abbreviations	8
4	Other relevant procedural documents	9
5	Roles and responsibilities	10
6	Equipment	11
7	Complying with the Act	11
7.1	Public interest test	12
7.2	Confirm or deny	13
7.3	Publication scheme	13
7.4	General rights of access	13
7.5	Conditions and exemptions	14
7.6	Charges and fees	14
7.7	Compliance	15
7.8	Third party information	15
7.9	When anonymised information can identify an individual	16
7.10	Contracts	16
7.11	Service operational data	17
7.12	Internal review	17
7.13	Records management	17
7.14	Media enquiries	18
8	Consultation	18
9	Dissemination and implementation	19
10	Process for monitoring compliance and effectiveness	19
11	Standards/key performance indicators	20
12	References	20

Appendix 1 [Freedom of Information Act 2000 - Public Interest Form](#)

Appendix 2 [FOI exemptions: characteristics](#)

Issue Date: March 2023	Page 5 of 23	Document Name: Freedom of Information and Environmental Information Regulations Policy	Version No: 5
---------------------------	--------------	---	---------------

1 Introduction

The Freedom of Information Act (FOIA) 2000 and the Environmental Information Regulations (EIR) 2004 are legislation which supports the Government's commitment to greater transparency in the public sector, a commitment supported by Bridgewater Community Healthcare NHS Foundation Trust (hereafter the Trust).

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. We have 20 working days to provide the information.

The FOIA (2000) enables members of the public to access information held by public authorities to ensure they are publicly accountable for decisions and open to challenge.

The FOIA (2000) also requires public authorities to have an approved publication scheme which is a means of providing access to information that an authority proactively publishes.

The EIR (2004) provides access to environmental information held by public authorities and requires public authorities to proactively make environmental information available to the public.

The Freedom of Information and Environmental Information Regulations Policy applies to all recorded information held by the Trust. The Act and Regulations place the following requirements on the Trust:

- Staff should know that all FOIs must be processed using the central FOI function bchft.foi@nhs.net to ensure that requests for information are quality checked for consistency and accuracy
- Staff should email any FOI requests directly received into a service or department to the central function bchft.foi@nhs.net
- Information which is routinely published by the Trust is made available in accordance with the Trust publication scheme
- Information which is not covered in the Publication Scheme is made available to enquirers on request, which is 20 working days, unless a valid exemption applies
- A fair and efficient internal appeal system is administered
- A properly structured approach to managing records is in place to ensure the essential records are maintained
- Staff must understand the difference between an FOI request and a [Subject Access Request](#). A Subject Access Request is when an individual asks to see the information we hold about them.

Issue Date: March 2023	Page 6 of 23	Document Name: Freedom of Information and Environmental Information Regulations Policy	Version No: 5
---------------------------	--------------	---	---------------

1.1 Objective

The aim of this policy is to demonstrate how the trust will achieve compliance with the Act and Regulations and to raise awareness of the responsibilities of the Trust and individual members of staff.

1.2 Scope

This policy applies to Trust staff, including temporary and contractual staff.

2 Definitions

The definitions applicable to this policy are as follows:

Absolute Exemption	Applied to information that does not have to be released to the applicant either through a Publication Scheme or through the general right of access under the FOIA. Information to which an absolute exemption applies does not require a public authority to take a test of prejudice or for the balance of public interest to be in favour of non-disclosure.
Applicant	The individual(s), group or organisation requesting access to information under the FOIA or the EIR.
Duty to Confirm or Deny	Duty to confirm if information is held and provide to the applicant (unless subject to exemption). Right to deny information held if it would impede lawful application.
Environmental Information Regulations (EIR)	The Regulations give people a right of access to information about the activities of public authorities that relate to or affect the environment, unless there is good reason for them not to have the information. This is sometimes referred to as a presumption in favour of disclosure
Fees Notice	A written notification issued to an applicant stating that a fee is payable. The public authority is exempt from disclosing the information unless payment is received within three months from the date of notification.
Fees Regulations	National regulations that prohibit a fee with regard to certain types of requests, set an upper limit on amounts that may be charged and prescribe the manner in which fees are to be calculated.
General Right of Access	An applicant's right to access information from a public authority subject to certain exemptions.

Media	Journalists often request information via FOI for broadcasting and publishing information, for example, television, in a newspaper and on a website.
Information Commissioner	The Information Commissioner enforces and oversees the Data Protection Act (2018), the Freedom of Information Act (2000) and other related legislation. The Commissioner is a United Kingdom (UK) independent supervisory authority reporting directly to the UK Parliament.
Public Authority	As defined in the FOIA (2000), this includes organisations such as; NHS, Education, Police, Local Government etc.
Publication Scheme	A scheme provided for within the FOIA specifying and providing the information which the Trust routinely publishes or intends to publish. This would be normally published on the trust website.
Qualified Exemption	A qualified exemption requires a public authority to take a test of prejudice or to demonstrate that the balance of public interest is in favour of non-disclosure. For example, when the information is believed to be commercially exempt.
Reuse of Public Sector Information	Re-use means using the information for a purpose other than the purpose for which the document was originally produced where a fee may be charged.
Vexatious Requests	Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.
Public Interest Test (PIT)	If an absolute exemption applies, you do not have to release the information. If the exemption is qualified, you must weigh the public interest in maintaining the exemption against the public interest in disclosure. This is the public interest test. The public interest test enables decisions to be made on a case-by-case basis on where the balance between disclosing or withholding information lies.

3 Abbreviations

The abbreviations applicable to this policy are as follows:

DIGIT Digital and Information Governance and Information Technology Group

Issue Date: March 2023	Page 8 of 23	Document Name: Freedom of Information and Environmental Information Regulations Policy	Version No: 5
---------------------------	--------------	--	---------------

DPA	Data Protection Act
DPO	Data Protection Officer
EIR	Environment Information Regulations
FOI	Freedom of Information
FOIA	Freedom of Information Act
ICB	Integrated Care Board
ICO	Information Commissioners Office
PIT	Public Interest Test
UK	United Kingdom
SIRO	Senior Information Risk Owner
<	Below

4 Other relevant procedural documents

This policy should be read in conjunction with the following documents:

Access to Health Records Policy

Data Protection and Confidentiality Policy

Information Governance Policy

Corporate Records Management Policy

Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy

Language Interpretation Policy

Reasonable Adjustments for Patients Policy

Social Media Policy

Incident Reporting Policy

Risk Management Framework

Subject Access/Access to Records Policy

Third-Party Supplier Policy

Anti Fraud, Bribery and Corruption Policy

Issue Date: March 2023	Page 9 of 23	Document Name: Freedom of Information and Environmental Information Regulations Policy	Version No: 5
---------------------------	--------------	---	---------------

5 Roles and responsibilities

5.1 Chief Executive

The Chief Executive, as the Accountable Officer, of the Trust has overall responsibility for ensuring compliance with the FOIA and the EIR.

Ultimate responsibility for monitoring the implementation of this policy belongs to the Trust Board.

5.2 Senior Information Risk Owner

The Senior Information Risk Owner (SIRO) is currently the Director of Finance who is responsible for information risk throughout the organisation and has overall responsibility for implementing records management within the Trust.

5.3 Data Protection Officer

The Data Protection Officer (DPO) role within the Trust has responsibility to ensure that the company or organisation is correctly protecting individuals' personal data according to current legislation.

5.4 Chief Operating Officer

The Chief Operating Officer must have oversight of all requests which asks for service operation data.

5.5 Information Governance and Records Manager

The Information Governance and Records Manager will advise the Trust on the application of the FOIA policy, and related FOI and EIR Operational Procedures, and will provide a source of expertise on the application of exemptions and exceptions.

The Information Governance and Records Manager will ensure that written reports are presented to Digital and Information Governance and Information Technology Group (DIGIT) to provide assurance to the Trust Board of compliance with the FOIA and EIR.

The Information Governance and Records Manager will support the administrative function for processing requests.

5.6 Communications team

The Communications team is responsible and will:

- Deal with any media attention following an FOI response from the Trust.

5.7 Associate Directors, Heads of Departments, Managers and Service Managers

Associate Directors, Heads of Services, Managers and Service Managers will comply with this policy and the associated FOI and EIR operational procedures.

Issue Date: March 2023	Page 10 of 23	Document Name: Freedom of Information and Environmental Information Regulations Policy	Version No: 5
---------------------------	---------------	---	---------------

They are responsible for:

- Disseminating this policy and associated procedures in their department
- Monitoring compliance and for informing divisional staff of updates or changes to procedures
- Ensuring the information provided by their service/department is accurate
- Completing a public interest test (appendix 1) if they believe a qualified exemption should be applied.

5.8 Staff

All Trust staff, including temporary or contractual, will be governed by the should be processed through the appropriate channel to comply with the related procedures. principles in this policy and must understand that any FOIs they receive.

All staff are responsible for:

- Adhering to this policy
- Escalating to their Manager/Team Leader any part of the document that is identified to be no longer relevant, requires revision or may present as a risk to patient or staff safety
- Accessing the most up to date document on the intranet
- Identifying and making any specific requirements for the patient/family/carer, taking into consideration disability, language and cultural needs are identified.

6 Equipment

Not applicable.

7 Complying with the Freedom of Information Act and Environmental Information Regulations

A requester can ask for any information that is held by a public authority. However, this does not mean a public authority is obliged to provide the information. In some cases, there will be a good reason why some or all the information requested should not be made public.

An entire or partial request can be refused by using one of the 23 FOI exemptions. For example:

- It would cost too much or take too much staff time to deal with the request
- The request is vexatious
- The information is deemed commercially sensitive
- Is personal identifiable information
- Could make the Trust vulnerable to a crime.

7.1 Public interest test

17 of the 23 exemptions are ‘qualified’ exemptions. If we are looking at applying a qualified exemption, we must undertake a public interest test (appendix 1). A public interest test should outline the reasons why the Trust believes the information should not be disclosed, and why it believes withholding the information outweighs the argument for disclosing the information. A public interest test can apply for the entire request or part of the request. Further advice can be sought from the FOI Officer bchft.foi@nhs.net A full list of exemptions can be found in appendix 2.

We do not need to undertake a Public Interest Test if the exemption is ‘absolute’. For example, Section 21 where the information is accessible by other means. (Already in the public domain) or Section 40 which relates to personal information. Further advice can be sought from the FOI Officer bchft.foi@nhs.net

The Trust will use all appropriate and necessary means to ensure that it complies with the FOIA (2000).

The Trust will use all appropriate means to ensure that it complies with the EIR (2004) and the associated section 16 code of practice.

This policy supports the principle that as a designated public authority, the Trust culture should be one of openness and transparency.

This policy recognises the Common Law Duty of Confidentiality and the statutory provisions that prevent the disclosure of person identifiable information. The release of such information is subject to the access provisions of the Data Protection Act (2018) and is detailed in other Trust policies. This policy does not conflict with these duties.

The Trust believes that common standards are required to ensure that the organisation is compliant with the FOIA and the EIR. These will be established through Trust policies and procedures and will be regularly communicated to all staff. The Trust will consider applying an exemption to the FOIA (2000) following completion of a public interest form and where it is deemed necessary. The public interest test will be undertaken by the service who is asking for an exemption.

The Trust will consider any exception within the EIR (2004) and will consider whether the public interest in applying the exception outweighs the public interest in disclosing the requested information. The public interest test will be undertaken by the service who is asking for an exception.

A record of all FOI and EIR requests and associated processes will be kept to appropriate record retention periods.

The Trust will provide staff with access to expert knowledge to assist and support them in the application of the FOIA (2000) and the EIR (2004) and will ensure that appropriate training is provided.

The Trust will publish an FOI log on the Trust website for the public to access.

Issue Date: March 2023	Page 12 of 23	Document Name: Freedom of Information and Environmental Information Regulations Policy	Version No: 5
---------------------------	---------------	---	---------------

7.2 Confirm or deny

When the Trust receives a request for information, we normally have a duty under FOIA section 1(1)(a) to tell the requester whether we hold the information. This is called “the duty to confirm or deny”. However, in certain circumstances, this duty does not apply, and we are not obliged to say whether or not we hold the information. Instead, we can give a “neither confirm nor deny” response.

We need to consider whether confirming or denying that we hold the requested information would disclose personal data which relates either to the requester or another person. If it would, we should consider whether an exemption can be applied. If we issue a refusal notice because we are relying on one of these exemptions, we must consider the public interest test where this is required. We should also avoid implying that we do or do not hold the information.

Note that this exemption is not about the content of the requested information. Instead, it concerns whether confirming or denying that you hold the requested information would, in itself, disclose personal data. It is important that we also consider this exemption in situations where we do not hold the requested information as (in some circumstances) confirming or denying that we don't hold information can also disclose personal data about an individual. Advice can be sought from the FOI Office bchft.foi@nhs.net

7.3 Publication scheme

The Trust will make accessible information available to the public in the form of a Publication Scheme to comply with section 19 of the FOIA (2000).

The Trust's Publication Scheme will be a prospective document, detailing the information that the Trust readily makes available to the public. The [Publication Scheme](#) will be available in electronic format on the Trusts website or hard copy on request.

The Trust will monitor and review the content of the Publication Scheme and will maintain and make available a disclosure log of all information requests.

The Trust will review the Publication Scheme following changes to guidance or recommendations issued by the Information Commissioner.

The Trust will establish and maintain systems and procedures to process requests for information arising from the Publication Scheme.

7.4 General rights of access

The Trust will give a general right of access to the accessible information it holds, subject to any exemptions or exceptions that apply.

The Trust will process all written or electronic transmitted requests for information under the FOIA (2000) and verbal or written requests under the EIR (2004).

The Trust has established systems and procedures to process all FOI and EIR requests received and publish them on the Trust's internet.

7.5 Conditions and exemptions

The Trust will conform to the duty to confirm or deny subject to the conditions and exemptions in the FOIA (2000) and the EIR (2004).

Where a request for information concerns both FOI and EIR information, each aspect of the request will be reviewed under the relevant legislation.

Reasonable effort will be made to contact the applicant for additional information if the request is unclear.

The Trust will apply the public interest test in the application of qualified FOI exemptions or EIR exceptions.

The Trust will work with applicants to keep compliance costs for FOI requests to a minimum but reserves the right to either refuse or charge for the communication of information which exceeds the appropriate limit as detailed in the FOIA (2000).

If the Trust chooses to refuse a request for information under any of the clauses in the FOIA 2000 or the EIR (2004), the applicant will be informed in writing within 20 days of the reasons for the decision by way of a refusal notice.

The applicant will be informed of the right to request an internal review and of the right to further appeal to the Information Commissioners Office (ICO).

If the Trust requires an extension to the designated 20 working day period in consideration of an exemption, the applicant will be informed of the reason(s) in writing.

Requests including those where an exemption is applied will be logged for monitoring and reporting purposes.

7.6 Charges and fees

The Trust will generally not charge for information available in the Publication Scheme unless specified, or where it is subject to the EU Directive for re-use of Public Sector Information. The Publication Scheme will contain guidance on any charges that may apply.

The Trust will provide documented estimates where the cost of compliance with the FOI request would exceed the appropriate limit in determining if the information is held, and locating, retrieving and extracting the information as described in the Freedom of Information Fees Regulations.

The Trust will apply the Freedom of Information Fees Regulations, subject to any change to or new guidance.

The appropriate limit under the FOIA (2000) will not be applied to EIR requests

Issue Date: March 2023	Page 14 of 23	Document Name: Freedom of Information and Environmental Information Regulations Policy	Version No: 5
---------------------------	---------------	---	---------------

7.7 Compliance

The Trust has established systems and procedures to comply with the prescribed time limitations in the FOIA 2000 and the EIR.

Where an applicant gives an expressed preference for communication the Trust will so far as reasonably practicable comply with that preference after due consideration to the cost and circumstances.

The Trust will provide the applicant with a written explanation as to why any request for information is refused and will log and record these instances.

FOI procedures account for the duty to provide advice and assistance to applicants insofar as it would be reasonable to expect the Trust and employees to do so.

The Trust will advise an applicant if it does not hold all or part of the information requested, assist the applicant where some or all of the information requested is held by another public authority and considers transferring any such request, where practicable.

7.8 Third party information

The Trust recognises that in some cases the disclosure of requested information may affect a third party and ensures that procedures reflect this.

The Trust will only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of its functions. The Trust will not agree to hold information received from a third party in confidence which is not confidential in nature.

The acceptance of any confidentiality provisions will be justified to the Information Commissioner in the case of a complaint.

Where information constitutes "personal data" within the Data Protection Act (DPA) (2018), the Trust will have regard to section 40 of the FOIA (2000).

Where a disclosure cannot be made without the consent of a third party, the Trust will consult that third party with a view to seeking their consent to the disclosure, unless such a consultation is not practicable.

Where a third party has not responded to a request for consultation, the Trust will comply with the duty to disclose information under the FOIA (2000) and to reply within the specified time frame of 20 days.

Consideration will be made when considering the disclosure of information under the EIR to copyright protection. The Trust will consider requests for information that may be copyrighted within the guidance issued by the Office of the Public Sector Information guidance.

Occasionally, the Trust will be asked to contribute to a third party request, for example an Integrated Care Board (ICB) may receive an FOI request and ask the Trust for some of the information. The Trust should ask the third party to direct the requester to the Trust for the information, in order that it can be dealt with via the Trust procedure.

7.9 When anonymised information can identify an individual

Anonymisation is a valuable tool that allows data to be shared, whilst preserving privacy. The process of anonymising data requires that identifiers are changed in some way such as being removed, substituted, distorted, generalised or aggregated.

A person's identity can be disclosed from indirect identifiers which, when linked with other available information, could identify someone, for example information on workplace, occupation, salary ethnicity or age.

Under section 40, the Trust does not provide personal information, as to do so, would breach the DPA (2018). Therefore, when responding to a request which asks for indirect identifiers (see above) along with numbers, even if no name is provided a good journalist could work out an identity. The Trust does not provide data below 5. The answer is always <5.

The Trust believes that it is acceptable to disclose the names of directors and senior service leads. However, these individuals are likely to be in the public domain already which means section 21 can be applied. Following a request for contact details or organisation structures, Leads can provide a generic email address for the team/service if preferred.

The Trust believes that it is acceptable to disclose the names of directors and names of senior service leads in an FOI request. This information is likely to already be in the public domain. However, when asked for an email address a generic email address is acceptable. If the Trust receives a request for contact details or a department, service or organisation structure, no names will be provided other than those roles mentioned above, and a generic email address can be provided.

7.10 Contracts

The Trust will not agree to hold information in confidence which is not deemed confidential to Public Sector Contracts.

When entering into new contracts, the Trust should review any contractual terms which restrict the disclosure of information relating to the contract within the provisions of the FOIA (2000) or the EIR (2004).

The Trust will consider confidentiality clauses with reference to the official guidance from the Information Commissioner.

Unless an exemption to disclose, as defined in the FOIA (2000), or exception under the EIR (2004) is applicable to any part of a contract, the Trust will be obliged to provide information in response to a request.

Issue Date: March 2023	Page 16 of 23	Document Name: Freedom of Information and Environmental Information Regulations Policy	Version No: 5
---------------------------	---------------	---	---------------

Where it is considered necessary to include non-disclosure provisions in a contract to all or part of the information, the Trust will take steps to agree with the contractor a schedule of the contract which clearly identifies information which should not be disclosed.

The Trust retains the right to make appropriate contractual terms with a third party organisation to restrict the disclosure of Trust information by a third party or contractor where it is the responsibility of the Trust to disclose such information.

7.11 Service operational data

On occasions the Trust will receive a request for information from the services. This could entail just one service or multiple services. It is important that the response from each service is consistent and that the information provided is accurate and can easily be understood by the requester. Where a request asks for a service operational data, the response should be approved by the Chief Operating Officer

7.12 Internal review

The Trust will implement procedures, regarding any requests for an internal review about the discharge of its duties under the FOIA (2000) and the EIR (2004) and will make them available to the public.

When the Trust responds to a request, the requester is advised, that if they are not happy with our response, they can request an internal review. Requesters are likely to ask for an internal review if the response has gone over the due date (20 working days from receipt) or if they do not agree with any exemptions applied.

The internal review, which is undertaken by an impartial member of the IG team other than the FOI Officer, will look at why the response was delayed or why an exemption was applied and provide the requester with a comprehensive written review. For qualified exemption when we have undertaken a Public Interest Test, we must be able to call on this for evidence. We have 20 working days to respond to an Internal Review.

Operational procedures will refer applicants to their rights, under section 50 of the FOIA (2000), to apply to the Information Commissioner if they remain dissatisfied with the conduct of the Trust following a failed attempt to provide a local resolution to FOI internal reviews.

The right of appeal will be considered under regulation 18 of the EIR (2004).

7.13 Records management

Good records management allows for a speedy and accurate response to an FOI request. Where a service/department can, they should look at publishing information they hold and that can be disclosed on the Trust website.

The Trust will have a separate policy with supporting systems and procedures that will ensure compliance with the Lord Chancellor's Code of Practice on the Management of Records under section 46 of the FOIA (2000) and the Department of Health (2003) Confidentiality: NHS Code of Practice.

Issue Date: March 2023	Page 17 of 23	Document Name: Freedom of Information and Environmental Information Regulations Policy	Version No: 5
---------------------------	---------------	---	---------------

The section 46 Code of Practice under the FOIA (2000) will also apply to the EIR.

The Trust's Corporate Records Management Policy and associated procedures address the issues of active records management – see section 4.

7.14 Media enquiries

The Trusts communications Team are made aware of FOIs submitted by the media and can prepare a statement should the media ask for comments.

Requests for information from the media are already dealt with by the Trusts established process that attempts to be as open as possible and aims to meet response targets that are much shorter than those for FOIA 2000. Where possible, this type of enquiry will continue to be met in this way.

7.15 When a response can make the Trust vulnerable

When the Trust receives an FOI for information that may expose a vulnerability to a crime, section 31 Law Enforcement will be applied. This will include requests for information relating to our cyber security functions and stolen drugs.

The FOI officer will determine if this section applied.

8 Consultation

Key individuals/groups involved in the development of the policy to ensure it is fit for purpose once approved:

Name	Designation
Phillip Leong	Anti-Fraud Specialist
DIGIT	
Razia Nazir	Knowledge and Library Services Manager
Karen Worthington Sarah Haworth Jilly Wallis Barry Hutton	Associate Directors
Tania Strong	Head of Human Resources
Susan Burton	Deputy Chief Nurse
Adam Britton	Communications
Sarah Brennan	Chief Operational Officer

Name	Designation
Jan McCartney	Data Protection Officer
Kristina Brayford-West	Director for Safeguarding Services
Jim Eatwell	Head of Safeguarding
Sharon Ormesher	Information Governance and Records Manager
Sue Mackie	Director of Quality Governance
Ruth Besford	Equality & Inclusion Manager
Mary Corkery	Policy Officer
Corporate Clinical Policy Group	

9 Dissemination and implementation

9.1 Dissemination

The Senior Information Governance Officer will disseminate this policy to team leaders for cascading to all staff using global email and team brief. The policy will be made available on the Trust intranet (the Hub) and published in the bulletin.

9.2 Implementation

All Trust staff will be made aware of their personal and organisational responsibilities to respond to freedom of information requests through generic and specific training programmes and guidance materials, which will be annually reviewed and updated.

The Senior Information Governance Officer will support staff in compliance with freedom of information procedures.

10 Process for monitoring compliance and effectiveness

Process for reviewing compliance and effectiveness i.e., audit, review, survey, incident reporting	Responsible	Frequency of monitoring	Assurance group
Data security spot check	IG team	Annually	DIGIT
Mandatory data security awareness training	All staff	Annually	DIGIT

11 Standards/key performance indicators

FOI requests should be responded to within 20 working days. Response times are monitored and reported quarterly through the DIGIT group.

12 References

Data Protection Act 2018, c.12 [online]. Available at:
<https://www.legislation.gov.uk/ukpga/2018/12/contents>

Department of Health 2003 Confidentiality: NHS Code of Practice [online]. Available at:
<https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice>

Department of Health 2008 Common Law Duty of Confidentiality. [online], Available at:
http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/browsable/DH_5803173

Accessed on 10/03/21

Environmental Information Regulations 2004, SI 2004/3391 [online]. Available at:
<http://www.legislation.gov.uk/uksi/2004/3391/contents/made>

Freedom of Information Act 2000, c.36. [online]. Available at:
<http://www.legislation.gov.uk/ukpga/2000/36/contents>

Human Rights Act 1998, c.42. [online]. Available at:
<http://www.legislation.gov.uk/ukpga/1998/42/contents>

Reuse of Public Sector Information Regulations 2015, SI 2015/1415. [online].
Available at: http://www.legislation.gov.uk/uksi/2015/1415/pdfs/uksi_20151415_en.pdf

The following appendix can be accessed electronically by clicking on the link below:

Appendix 1 [Freedom of Information Act 2000 - Public Interest Form](#)

Appendix 2

FOI exemptions: characteristics

		Absolute	Qualified	Class	Prejudice
12	Where it is estimated that it would exceed the appropriate time limit (18hours), we can exempt or ask the requester to pay a fee over and above 18hrs x £25. A breakdown of the cost to collect the information should be provided to the FOI Officer				
16	We have a duty to provide advice and assistance to anyone who has made or is thinking of making a request for information				
21	Reasonably Accessible by other means	✓		✓	
22	Intended for Future Publication		✓	✓	
22A	Research Data		✓		
23	Security Matters	✓		✓	
24	National Security		✓	✓	
26	Defence		✓		✓
27	International relations		✓		✓
28	Relations within the UK		✓		✓
29	The Economy		✓		✓
30	Investigations and Proceedings		✓	✓	
31	Law Enforcement		✓		✓
32	Court Records	✓		✓	
33	Audit Functions		✓		✓
34	Parliamentary privilege	✓			✓

35	Formulation of Government Policy		✓	✓	
36	Effective Conduct of Public Affairs		✓		✓
37	Royal Household – communications and Honours		✓	✓	
38	Health & Safety		✓		✓
39	Environmental Information		✓	✓	
40	Personal Information	✓		✓	✓
41	Provided in Confidence	✓			✓
42	Legal Professional Privilege		✓	✓	
43	Commercial Interests		✓		✓
44	Prohibition of Disclosure	✓		✓	