

Directorate of Performance Assurance

FREEDOM OF INFORMATION INDIVIDUAL ACCESS POLICY

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Northern Lincolnshire and Goole NHS Foundation Trust actively seeks to promote equality of opportunity. The Trust seeks to ensure that no employee, service user, or member of the public is unlawfully discriminated against for any reason, including the "protected characteristics" as defined in the Equality Act 2010. These principles will be expected to be upheld by all who act on behalf of the Trust, with respect to all aspects of Equality.

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1.0 Purpose

- 1.1 The Government is committed to greater openness in the public sector, shifting the culture from one of confidentiality to one of openness.
- 1.2 There is a recognised need to balance:
- The right to information
 - The right to confidentiality
 - The right to effective public administration
- 1.3 Freedom of Information legislation gives the right of access to all types of information held by the NHS and its partners – subject to certain conditions and exceptions.
- 1.4 The Freedom of Information Act, which came into force in January 2005, gives individuals the right of access to non-personal information held by the Trust.
- 1.5 The Trust has endeavoured to make as much of its information as possible available through the publication scheme. The purpose of this document is to outline the policy and procedure for dealing with requests for information that is not available through the publication scheme.

2.0 Area

This policy and procedure is relevant Trustwide and applies to requests for non-personal information held by the Trust.

3.0 Duties

- 3.1 All staff have a legal duty to comply with the Freedom of Information Act. This policy sets out the procedure should an individual request information. Members of the public need not cite the act in order for the Trust and all staff to comply with it.
- 3.2 All staff who receive requests for non-personal information are required to forward the request to the FOI Co-ordinators.
- 3.3 Head of Communications and Marketing department to approve responses to any requests for information from the Media.
- 3.4 The Director of Performance Assurance, as the organisations designated Caldicott Guardian will ensure training and written procedures are available to ensure that all staff are aware of their personal responsibilities.
- 3.5 The Head of Quality Assurance as the designated Information Governance (IG) Operational Lead has designated responsibilities for ensuring this Policy is reviewed and implemented throughout the organisation.

4.0 Actions

4.1 General

- 4.1.1 The Trust's procedure for dealing with Freedom of Information Act requests (i.e. this document) is made available on the publication scheme.
- 4.1.2 In the event an individual wishes to access information not available on the publication scheme the procedure to be followed is referenced at Appendix A.

4.2 Initial receipt of requests

- 4.2.1 All requests should be referred in the first instance to the Freedom of Information Inbox, managed by the office of the Director of Performance Assurance.
Nlg-tr.foi@nhs.net
- 4.2.2 All requests have to be responded to within 20 working days; therefore it is important that written requests are sent to the Directorate of Performance Assurance's office as quickly as possible.
- 4.2.3 Members of the public who make requests for information should be advised to make this in a permanent form (i.e. in writing or e-mail) with enough information to enable the Trust to locate the information.
- 4.2.4 All requests should have the name and ideally the address of the person requesting the information. If possible include their telephone number so any queries or clarifications can be dealt with quickly.
- 4.2.5 When required the Trust will attempt to help individuals making requests to help clarify their information requirements.
- 4.2.6 The Directorate of Performance Assurance Department will keep and update a log of queries received and track progress towards completion.
- 4.2.7 Vexatious or repeated requests from the same individual will not be routinely addressed, in line with the Information Commissioners guide to Freedom of Information on dealing with Vexatious Requests.

4.3 Management of requests

- 4.3.1 Upon receipt of requests the Director of Performance Assurance nominated deputy the FOI Co-ordinator will contact the directorate concerned to assist in the location and collation of the information requested.
- 4.3.2 The response will be in the format requested by the applicant.
- 4.3.3 Where the Trust is unable to comply with a request because it does not hold the information, it will confirm to the applicant that the information is not held and will offer help in transferring the request to the appropriate public body where the information is held.
- 4.3.4 When requests relate to or affect individual persons other than the applicant or the Trust, consideration will be given to determine whether an exemption applies.

4.3.5 Where third parties supply information to the Trust they will be informed of the Trust's duty to comply with the Freedom of Information Act and that the information, if requested, will be released unless an exemption applies.

4.3.6 A log of requests with outcomes will be maintained by the Directorate of Performance Assurance Department.

4.4 Fees

4.4.1 If the retrieval of the information requested costs more than £450 (or 18 hours of work) the applicant must be informed and allowed to modify their request so it falls under this amount. If it costs more than this amount the Trust may allow the applicant to be charged the fee in order to access the information.

4.4.2 Where a fee is applicable the 20-day period may be extended by up to three months until the fee is paid.

4.5 Withholding of information

4.5.1 The decision to withhold information cannot be made by individual departments or directorates. It can only be decided by the Caldicott Guardian.

4.5.2 Where the Trust decides not to release information, it will give its reasons and inform the applicant of the right to request a formal review of the decision by an executive director together with a non-executive director, prior to the right to complain to the Information Commissioner.

4.5.3 Formal reviews of any request where information is withheld will be treated as a complaint and will be dealt with in accordance with the Trust's complaints procedure.

4.5.4 In the event that the Trust receives an enforcement notice from the Information Commissioner it will either:

4.5.5 Accept the enforcement notice and release the information within 20 working days.

4.5.6 Obtain a signed certificate from the Cabinet Minister/Lord Chancellor's Office overriding the Information Commissioner notice within 20 working days.

4.5.7 The decision to escalate or release the information will be made by the Chief Executive and Chairman together with those identified in 4.5.2. Therefore the Chairman and Chief Executive should not be one of the directors used in 4.5.2.

5.0 Monitoring Compliance and Effectiveness

5.1 A log of requests will be kept on Datix, from which quarterly reports will be compiled and submitted to the Information Governance Steering Group (a sub-group of the Trust Governance & Assurance Committee) who will monitor compliance with this policy. The content of the quarterly reports will include the following as a minimum:

- No of FOI requests
- Number not responded to in 20 working days
- Reasons for exceeding statutory deadlines
- Justification for applications of any exemptions
- Any requests escalated to ICO by the applicant

5.2 If the trust fails to comply it will breach its' legal duties of a public body, therefore should performance drop below 90% compliance the Trust will investigate and rectify the performance issues.

5.3 An annual FOI report will also be submitted to the Trust Board, this will include resource, performance and compliance issues.

6.0 Associated Documents

Policy and Procedure for the Management of Complaints, Concerns, Comments and Compliments.

7.0 References

7.1 Freedom of Information Act 2000. HMSO.

7.2 The Guide to Freedom of Information, Information Commissioner's Office (ICO). October 2014.

8.0 Definitions

None.

9.0 Consultation

Trust Governance & Assurance Committee.

10.0 Equality Act (2010)

- 10.1** In accordance with the Equality Act (2010), the Trust will make reasonable adjustments to the workplace so that an employee with a disability, as covered under the Act, should not be at any substantial disadvantage. The Trust will endeavour to develop an environment within which individuals feel able to disclose any disability or condition which may have a long term and substantial effect on their ability to carry out their normal day to day activities.
- 10.2** The Trust will wherever practical make adjustments as deemed reasonable in light of an employee's specific circumstances and the Trust's available resources paying particular attention to the Disability Discrimination requirements and the Equality Act (2010).

**The electronic master copy of this document is held by Document Control,
Directorate of Performance Assurance, NL&G NHS Foundation Trust.**

Appendix A

Freedom of Information – Administration Process

