



## FREEDOM OF INFORMATION POLICY

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Policy Owner	Company Secretary		
Author	Company Secretary		
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Staff/Groups Consulted	Information Governance Steering Group Company Secretary		
Draft agreed by Policy Owner	28 March 2011		
Discussed by Policy Group	Amended version agreed by Chair of Policy Group in accordance with Policy on Procedural Documents – 29 March 2011		
Approved by Information Governance Steering Group	April 2017		
Next Review Due	January 2020		
Policy Audited			
Equality Impact Assessment Completed	Yes		

## **1. RATIONALE**

Yeovil District Hospital NHS Foundation Trust regards the Freedom of Information Act 2000 as an important mechanism in achieving an honest and safe relationship with the Public in accordance with the Government's commitment to greater openness in the public sector. In certain circumstances, failure to comply with the Act becomes a criminal offence.

## **2. AIM**

This policy relates to records held by the Trust and applies to all Trust staff who must adhere to this policy. Managers must ensure that employees, locums, bank nurses, agency nurses, volunteers and other contractual staff are made aware of this document. Patient records are not covered by this Act and remain confidential under the Data Protection Act 1998.

Section 1 of the Freedom of Information Act gives a general right of access from 1 January 2005 to recorded information held by the Trust, subject to certain conditions and exemptions contained in the Act. Any applicant making a request in writing (including email and fax) is entitled:

- I. To be informed in writing whether the Trust holds the information described in the request
- II. If the Trust holds the information to have that information communicated to them.

The Freedom of Information Act does not change the right of patients to protection of their patient confidentiality in accordance with Article 8 of the Human Rights Convention, the Data Protection Act and at common law. Maintaining the legal right to patient confidentiality continues to be an important commitment on our part.

## **3. DEFINITIONS**

This is known as the "duty to confirm or deny" and is fully retrospective in that if the Trust holds the information it must, subject to certain terms and conditions, provide it.

## **4. ROLES AND RESPONSIBILITIES**

To assist the Trust in fulfilling its statutory obligations:

### **4.1 Company Secretary**

The Company Secretary is accountable for the administration of this policy. They will have overall responsibility for the implementation of this policy and for monitoring and reviewing its effectiveness. They will:

- i) Ensure that senior managers and consultants fulfil their responsibility in ensuring that this policy is adhered to.
- ii) Ensure that full commitment and support is provided and maintained in relation to the administration of this policy.
- iii) Ensure an organisation Freedom of Information (FOI) Lead is appointed as a point of contact for all FOI matters. The FOI Lead will be the Assistant Company Secretary.
- iv) To deal with complaints under the FOI Act (Section 4.8)

## **4.2 Executive directors**

Executive Directors are managerially responsible for ensuring that this policy/procedure is followed within their area of responsibility. They will:

- i) Provide support to all staff that may be faced with difficulty in implementing this policy.
- ii) Ensure service managers are aware of the identity of the FOI Lead.

## **4.3 Business managers**

Business managers are managerially accountable for all staff in their area of responsibility. They will:

- i) Ensure their department provides the information for the FOI lead within the timescale required
- ii) Ensure all their staff are aware of and adhere to this policy.
- iii) Ensure their staff are aware of whom to go to for day-to-day advice.
- iv) Identify the systems or databases used to record information in their service area.
- v) Maintain a database of records kept within their areas.

## **4.4 All staff**

All staff are obliged to adhere to this policy. A failure to adhere to this policy and its associated procedures may result in disciplinary action.

# **5. GUIDELINES**

## **5.1 Receiving applications**

Applications must be made in writing; this includes e-mails. The application must include the name of the applicant and an address for correspondence. It must fully describe the information requested. Applications received by any member of staff must be forwarded to the FOI Lead immediately.

## **5.2 Administering a copying fee**

Charges will be levied for hard copies amounting to more than ten pages, multiple copies or copying onto media. These are published on the Trust website.

## **5.3 Charges for staff resources**

The Act provides guidance on charging for staff time taken to extract the information. The Trust reserves the right to make a charge for providing information which takes longer than the recommended time to extract. The FOI lead will exercise discretion in applying any charges. If a charge is made, the FOI lead will inform the applicant in writing before proceeding.

## **5.4 Timetable for requests**

Requests will be responded to within the 20 day limit set by the Act, provided that all of the criteria set for the request, sufficient information, name, address, fee, etc. have been satisfied.

## **5.5 Supplying information**

When responding to a request for information consideration must be given to any preferences expressed in the request for method of communication of the reply. The Trust will so far as is reasonably practicable give effect to that preference in accordance with Section 11 of the Act.

## **5.6 Signing off requests**

The Company Secretary has delegated responsibility to sign off FOI requests. When appropriate, at the Company Secretary's discretion, requests will be referred to the relevant Executive Director or the Chief Executive for final approval. All media requests will require sign off by the Associate Director of Communications.

## **5.7 Refusal of applications**

The Trust may refuse an application for information for a number of valid reasons, some examples are:

- Exemptions
- Data Protection Act 1998
- Publications Scheme

Where an application for information has been refused, the Applicant must be informed of the refusal and reason why, in writing, within the time defined in the Act.

The Act provides for exemptions to be made in the provision of information. These include:

- Information reasonably accessible by the applicant elsewhere.
- Information intended for future publication.
- Personal Data (as defined by the Data Protection Act 1998).
- Information likely to prejudice the commercial interests of the Trust.
- Information relating to security.

Where there is a decision to rely on an exemption from the obligation to disclose the information, the applicant must be informed within 20 working days. This notice must state which exemption is being applied and the reason why.

The FOI Lead will provide guidance on these exemptions as required.

## **5.8 Complaints procedure**

The Trust shall set in place a system for dealing with any complaint from an applicant. A formal process for complaints shall address the most common issues, such as non-disclosure of information or undue delay in responding.

The Company Secretary will, on receipt of a complaint, refer the complaint to the Trust's Risk and Patient Safety Manager to consider the complaint and response from the Trust. The complainant must be informed in writing of the outcome of the complaint. If the requestor is still dissatisfied with the response provided by the Trust, the requestor has the right to refer the matter to the Information Commissioner and must be informed of this right.

## **5.9 Advice and assistance**

The Trust has a duty to provide advice and assistance to applicants and would-be applicants - it will do this taking into account other statutory duties, e.g. the Disability Discrimination Act 1995. The FOI Lead will co-ordinate the discharge of this duty.

## **5.10 Publication of responses**

Responses will be published on the Trust website as part of the Publication Scheme

## **6 RAISING STAFF AWARENESS**

All staff need to be aware that any information which they write down, either by hand or on a computer, could be subject to a FOI request. Staff are made aware of this in the YDH Staff Handbook which is handed out at induction.

## **7 PUBLICATION SCHEME**

The Freedom of Information Act will support the Trust Publication Scheme which is a complete guide to the information routinely published by Yeovil District Hospital NHS Foundation Trust. It is a description of the information about our Trust, which we make publicly available.

## **8 IMPLEMENTATION, MONITORING AND EVALUATION**

Responsibility for implementation, monitoring and evaluation is identified in the Trust's Policy on Procedural Documents. The FOI Lead will review the policy to see if it is working effectively by the analysis of responses made from FOI requestors. These will be reported to the Information Governance Steering Group.

## ANNEX A – EQUALITY IMPACT ASSESSMENT TOOL

To be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

		Yes / No / N/A	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	• Race	No	
	• Ethnic origins (including gypsies and travellers)	No	
	• Nationality	No	
	• Gender	No	
	• Culture	No	
	• Religion or belief	No	
	• Sexual orientation including lesbian, gay and bisexual people	No	
	• Age	No	
	• Disability	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	N/A	
4.	Is the impact of the policy/guidance likely to be negative?	No	
5.	If so can the impact be avoided?	N/A	
6.	What alternatives are there to achieving the policy/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	N/A	

If you have identified a potential discriminatory impact of this procedural document, please refer it to the Trust's lead for Equality & Diversity, together with any suggestions as to the action required to avoid / reduce this impact.

For advice in respect of answering the above questions, please contact the Trust's lead for Equality & Diversity.

**Signed** – Ben Edgar-Attwell, Company Secretary

**Date** – January 2017