

SHORT GUIDE FOR STAFF

MANAGING REQUESTS FOR INFORMATION

If a member of the public asks (verbally or in writing) for a readily available standard ward, department or Trust public leaflet or document – provide it to them if you have a copy, or direct them to the appropriate office.

If a member of the public asks (verbally or in writing) for a readily available standard ward or Trust policy or guideline, please check on the Trust INTERNET site -<http://www.newcastle-hospitals.org.uk/>, on the Freedom of Information pages (please note that this is not the internal INTRANET that automatically opens on your PC). If it is published there, you should direct the inquirer to the Trust INTERNET site at: <http://www.newcastle-hospitals.org.uk/>.

If a member of the public asks (verbally) for Trust information which you cannot immediately provide you, or your line or department manager, may assist them in drafting a written information request, which should be addressed to the Patient Relations Department, Freeman Hospital NE 7 7DN. Tel: 0191 223 1454 who will assist them or by email to patient.relations@nuth.northy.nhs.uk.

If a member of the public makes a request in writing for information not readily available to your ward or department you should immediately pass the request to the Patient Relations Department, Freeman Hospital NE7 7DN.

Please note that all written responses to public enquiries must be issued through the office of the Trust Secretary on behalf of the Chief Executive.

1. Introduction

The Newcastle upon Tyne Hospitals NHS Trust recognises the importance of the Freedom of Information Act 2000 (FOI). The FOI Act is intended to promote a culture of greater openness and accountability among public sector bodies and facilitate better public understanding of how public authorities carry out their duties, why they make the decisions they do and how they spend public money.

The FOI gives members of the public the right to access almost all corporate information; including policies, procedures and documents relating to decision-making held by the Trust. The Trust supports this culture of openness. The Trust will ensure it complies with the Act by:

- Making as much information available as possible through the Trust Publication Scheme
- Making the provision of information a priority and to comply with the 20 working day deadline for responding to written requests
- The Trust will use the exemptions in the Act (the reasons not to supply information) as a last resort. If a member of the public asks for information, which is subject to an exemption, the Trust will implement the test of “public interest” (see Section 6) to decide whether the information can be released.

From 1 January 2005 any member of the public can ask for information in which they are interested. They do not have to explain why they want the information. The Act gives people the right to be told if the information exists and to receive it in a suitable and reasonable format.

The FOI Act is retrospective, i.e. it covers information, which existed prior to 1 January 2005 and covers all documents, data and materials held on file, including manual, computer or other materials. This applies to documents and data obtained from or relating to other organisations.

2. Scope of the Policy

This policy is intended to cover all records created in the course of the business of The Newcastle upon Tyne Hospitals NHS Trust, i.e. corporate records that are also public records under the terms of the Public Records Acts 1958 and 1967. This includes email messages and other electronic records.

The Trust Board has determined that the policy would be applied to the records of the Newcastle upon Tyne Hospitals NHS Charities.

The policy outlines good practice and identifies the responsibilities of Trust staff in terms of Freedom of Information and should be read alongside the Trust’s Records Management Policy and professional codes of conduct.

3. Responsibilities for Freedom of Information

Ultimate responsibility for the administration and compliance with the Freedom of Information Act 2000 rests with the Chief Executive of the Trust.

All staff members who record information, whether on paper or by electronic or other means, also have responsibilities under the Act and under this policy.

All members of staff have a duty, under the Act, to assist members of the public in answering requests for information. This includes helping members of the public to formulate requests or to direct them to an appropriate source.

3.1 The Organisation

It is the Trust's responsibility to:

- Ensure that all written requests for information are processed in accordance with the statutory requirements set out by the FOI Act
- Maintain a register of all requests made for information under the Act, and record what action was taken for each application
- Ensure procedures are in place to systematically review the Trust's arrangements for administering and managing requests for information
- Include systems that comply with the audit requirements of the Act
- Maintain a register of complaints received under the Act

3.2 The Trust Executive

3.2.1 The Chief Executive's Office will manage the communication and publication of all requests for non-standard information. The day-to day management of the response process will be through the office of the Trust Secretary.

3.2.2 Where a request is complex or crosses departmental boundaries it shall be referred to the Patient Relations Department.

3.2.3 The Trust Secretary is responsible for ensuring compliance with the Freedom of Information Act in The Newcastle upon Tyne Hospitals NHS Trust.

3.2.4 Any complaints arising from the decisions not to release information will be dealt with through the Trust's complaints procedures, administered through the Patient Relations Department.

3.3 The Freedom of Information Lead

The Freedom of Information Lead for The Newcastle upon Tyne Hospitals NHS Trust is responsible for:

- Facilitating organisational policy and procedural compliance with the FOI Act
- Maintaining this policy and the Publication Scheme
- Promoting FOI awareness throughout the organisation.
- Ensuring the general public has access to information about their rights under the FOI Act
- Assisting with investigations into complaints and appeals
- Encouraging the setting up of a FOI group to support the implementation and on-going development and monitoring of policies and procedures, taking advice as required from existing bodies such as the Personnel Policy Review Group
- Liaising and working with other employees responsible for information handling activities, e.g. Caldicott Guardian, Data Protection Officer

The FOI Lead is responsible for ensuring that:

- Requests for information are handled efficiently and effectively
- Staff are aware of and use established communication paths to channel information requests to managers
- Information that a Department wishes to add to the Publication Scheme is included in the Scheme appropriately
- Information is supplied to the FOI Lead when requested for inclusion within the Publication Scheme
- Information not included within the Scheme is created and stored in accordance with Trust procedures and processes to enable easy location and retrieval when required
- A departmental register of all FOI requests and responses is maintained and reported bi-annually
- Complex requests are forwarded to the Patient Relations Department
- All responses to requests for non-standard information are responded to through the Chief Executive's Office.

3.4 FOI Group

The FOI Group is responsible for:

- Reviewing progress on the Trusts compliance with the Act
- Reporting on FOI issues to the Trust Secretary
- Monitoring and developing policies and procedures to support the implementation of the FOI Act in the Trust

This group will meet on a quarterly basis, or as and when required.

Membership of the group includes:

Clinical Governance and Risk	Mrs K Lapworth
FOI Lead	Mr R Oliver (Chair)
Information Management	Mr J Butler
Medical Records	Mrs K Jaques
Patient Relations	Mr P Anderson

3.5 Clinical Governance and Risk Department

The Clinical Governance and Risk Department is responsible for ensuring that the policies listed on the Publication Scheme displayed on the Trust's Internet website are regularly reviewed to ensure it is up to date and that any hyper-links continue to work.

3.6 Other members of staff

All staff are responsible for:

- Creating their own records and adhering to the Trust's records management procedures and processes
- Informing their departmental or line managers of the creation of any new categories of document
- Informing their departmental or line managers of any written requests upon receipt.
- Supporting members of the public in formulating or expressing requests for information
- Directing members of the public to line managers capable of answering or further assisting members of the public

4. Publication Scheme

To comply with the Freedom of Information Act 2000, the Trust has a Publication Scheme, which sets out the following:

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

The aim of the Publication Scheme is to make information readily available to the public.

The Newcastle upon Tyne Hospitals NHS Trust has completed its scheme and made it available on-line on the Trust web site and in hard copy, on request. The Publication Scheme will be regularly reviewed and updated.

Where the Trust receives three or more requests for substantially similar information it will be published on the Publication Scheme.

Requests for a copy of the Publication Scheme and requests for information contained within the Scheme may be made to: the Patient Relations Department, Freeman Hospital NE 7 7DN. Tel: 0191 223 1454 who will assist them or by email to patient.relations@nuth.nhs.uk.

4.1 Rights to request information

The Freedom of Information Act confers two statutory rights on applicants, a right to:

- be informed whether a public body holds certain information, if so
- to have that information communicated to them.

A request for information not included within the Publication Scheme must be made in writing, which can include email or fax. Wherever possible the information will be supplied in the format requested by

the applicant. However, requests can be met by providing a copy of the original document, as a summary of the original or even by allowing the applicant to visit the Trust to read the document(s).

Requests for information can be made from anywhere in the world. The Trust is not required to provide translations, other than for those documents that are already translated i.e. minority language patient leaflets.

4.2 Managing Requests for Information

Requests for information can fall into one or more of three categories; Freedom of Information (FOI) Act 2000, Environmental Information Regulations (EIR) 2004 and Data Protection Act 1998.

4.2.1 **Freedom of Information Act 2000** regulations applies to corporate information. That is any documents that present or discuss the business of the Trust. These will include reports, policies, procedures, minutes and notes of meetings; including any other correspondence or communication (written or verbal) that supports or reports decision making processes.

4.2.2 **Environmental Information Requests 2004** covers information if it is environmentally related and in an accessible form, i.e. “any available information in written, visual, aural or database form on the state of water, air, soil, fauna, flora, land... natural sites... and on activities adversely affecting, or likely so to affect these. This includes administrative measures and environmental management programmes.”

4.2.3 **Data Protection Act 1998** regulations apply to personal records relating to living individuals. These include patient records, in all forms; staff, personnel and other records; complaints and other files relating to or containing material that identifies living individuals.

4.2.4 In responding to FOI and EIR requests staff must review the response to take account of the levels of confidentiality applicable to named or identifiable individuals under the Data Protection Act 1998.

4.3 Answering an Inquiry (See Appendix A)

4.3.1 Timescales for responding to Freedom of Information Act requests

Legislation	Required Form of Request	Maximum Response Period
Freedom of Information	Written (including email or fax)	20 working days
Environmental Information Regulation Request	Written (including email or fax) or verbal	20 working days (up to 40 for complex requests)
Data Protection Act	Written (including email or fax)	40 calendar days

The Act requires the Trust to respond to any written request for information within 20 working days.

Departments should seek to address requests locally; all communication of non-standard information should be processed through the Chief Executive's Office. Where a request is complex or crosses departmental boundaries it should be referred to the Patient Relations Department (see 3.2 above).

It has been established by the Trust that the Patient Relations Department will co-ordinate all complex FOI requests requiring correspondence. These requests may be received directly through the Trust Internet portal or be passed from departments for co-ordination and response. The department will also monitor requests and the Trust's performance in responding, as required under the DoH Information Governance programme.

Therefore staff must respond to request in a timely manner and assist their colleagues in compiling responses to requests.

5. Fees

- 5.1 In accordance with the guidance from the Department of Constitutional Affairs there will be no charge for information that costs public bodies less than £450 to produce. This is seen to be the equivalent of three days work at £25 per hour. Photocopying and other permitted charges may be applied.
- 5.2 Requests that are estimated to cost over £450 to respond to should be referred to the Patient Relations Department for consideration.

For those requests that would cost over £450 to respond to the Trust will comply with section 13 of the Act. This allows for the recovery of costs (calculated at £25 per hour) in relation to:

- Determining whether it holds the information
- Locating the information or a document which may contain the information
- Retrieving the information or a document which may contain the information
- Extracting the information from it.
- The cost of photocopying and postage or delivery

If the request requires disproportionate effort the Trust may decline to provide the materials requested.

6. Exemptions

There are exemptions in the Act. Some of the exemptions are absolute, such as

- court records; and
- parliamentary privilege,

whilst others are subject to a “public interest” test, such as

- national security; and
- commercial interests.

The public interest test involves considering the circumstances of each particular case and the exemption that covers the information. The information may only be withheld if the public interest in withholding it is greater than the public interest in releasing it. Further guidance on apply exemptions can be found at: <http://www.hmsso.gov.uk/acts/acts2000/20000036.htm>

Repeated requests from the same person, or a group acting in party, for information that has already been supplied to them will not be met unless there has been a reasonable interval between the requests. Reasonableness will be determined by the FOI Project Group.

7. Appeals and Complaints

In the first instance complaints about The Newcastle upon Tyne Hospitals NHS Trust’s Freedom of Information procedures and appeals against decisions not to supply exempt information should be made to the Patient Relations Department, Freeman Hospital, NE7 7DN.

Individuals are also free to contact the Information Commissioner directly:

Post: Information Commissioner's Office
 Wycliffe House
 Water Lane
 Wilmslow
 Cheshire
 SK9 5AF

Fax: 01625 524 510

Tel: 01625 545 700

Email: mail@ico.gsi.gov.uk

8. Other relevant Trust documents

FOI Publication Scheme	Records Management policy
Records Management Strategy	Data Protection Act 1998
Caldicott Guidance	

Guidance for staff on responding to requests for information.

1. Introduction:

The public are entitled to request access to personal or corporate information under three pieces of legislation; the Freedom of Information Act 2000, the Environmental Information Regulations and the Data Protection Act 1998.

2. Guidance on responding to requests for Personal Information

Requests for access to personal health or employment records must be made in writing.

2.1. Members of the public may request information relating to their medical records

- Access to Medical Records is governed by the Data Protection Act 1998. Please refer to the Trust policy on the intranet. Enquiries and requests should be directed to the Medical Records Department.
- Patient's relatives may request access to deceased patients records; this is governed by the Access to Health Records Act 1990. Please refer to the Trust policy on the intranet. Enquiries and requests should be directed to the Medical Records Department.

2.2. Staff requesting access to their own (or their children's or dependants) records are to be accorded the courtesy and support as any other members of the public. Staff members do not have any additional rights to access clinical records other than those of the general public.

- Further guidance of access to medical records is available from the Medical Records Departments.

2.3. Staff may request access to their own Personnel Records, including those held by the Personnel Department or departmental or ward managers.

- Further guidance on how to access Personnel Records is available from the Personnel Department
- Access to Personnel Records is governed by the Data Protection Act 1998.

3. Guidance on responding to requests for corporate, business or operational information under the Freedom of Information Act

3.1. If a member of the public asks (verbally or in writing) for a readily

- available standard ward, department or Trust public leaflet or document provide it to them if you have a copy, or direct them to the appropriate office.
- 3.2. If a member of the public asks (verbally or in writing) for a readily available standard ward or Trust policy or guideline, please check on the Trust Internet site. If it is published there, you should direct the inquirer to the Trust INTERNET site on: <http://www.newcastle-hospitals.org.uk/>.
 - 3.3. If a member of the public asks (verbally) for Trust information which you cannot immediately provide to them, you, or your line or department manager, may assist them in drafting a written information request, which should be addressed to the Patient Relations Department, Freeman Hospital NE7 7DN. Tel: 0191 223 1454 or by email to patient.relations@nuth.northy.nhs.uk.
 - 3.4. If a member of the public makes a request in writing for information not readily available to your ward or department you should immediately pass the request to the Patient Relations Department, Freeman Hospital NE7 7DN. – Please note that all written responses to public enquiries must be issued through the office of the Trust Secretary.
 - 3.5. Complex requests that span a range of departments will be co-ordinated by the Patient Relations Department.
 - 3.6. All staff are required to co-operate fully with the Patient Relations Department in collating replies to public enquiries.
 - 3.7. All written responses to public enquiries must be issued through the office of the Trust Secretary.

4. Procedure for responding to requests for environmental information under the Environmental Information Regulations

- 4.1. Members of the public may make these types of request either verbally or in writing to any member of the Trust staff.
- 4.2. Staff should direct any member of the public making a verbal enquiry to their line manager. This is to allow a formal note of the request to be made and agreed.
- 4.3. The Trust has 40 days to respond to a written or verbal request for information.
- 4.4. If a member of the public asks (verbally) for Trust information which you cannot immediately provide then you, or your line or department manager, should direct them to the Patient Relations Department, Freeman Hospital NE7 7DN, Tel: 0191 223 1454 who will assist them.

- 4.5. If a member of the public makes a request in writing for information not readily available to your ward or department you should immediately pass the request to the Patient Relations Department, Freeman Hospital NE7 7DN.
- 4.6. Complex requests that span a range of departments will be co-ordinated by the Patient Relations Department.
- 4.7. All staff are required to co-operate fully with the Patient Relations Department in collating replies to public enquiries.
- 4.8. All written responses to public enquiries must be issued through the office of the Trust Secretary.

5. Members of the Public

All members of the public requesting information have a right to raise a Complaints should be directed through the Patient Relations Department, Freeman Hospital, NE7 7DN.

Author: IM and T Security Manager

**THE NEWCASTLE UPON TYNE HOSPITALS NHS FOUNDATION TRUST
IMPACT ASSESSMENT – SCREENING FORM A**

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

Policy Title:	Freedom of Information Act & Environmental Information Regulations Policy	Policy Author:	Richard Oliver
		Yes/No?	You must provide evidence to support your response:
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	• Race	No	Review of existing policy.
	• 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 – learning difficulties, physical disability, sensory impairment and mental health problems.	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?		
4(a).	Is the impact of the policy/guidance likely to be negative? <i>(If “yes”, please answer sections 4(b) to 4(d)).</i>		
4(b).	If so can the impact be avoided?		
4(c).	What alternatives are there to achieving the policy/guidance without the impact?		
4(d)	Can we reduce the impact by taking different action?		

Comments: No changes to existing policy other than names of responsible officers and removal of flow diagram.	Action Plan due (or Not Applicable):
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Name and Designation of Person responsible for completion of this form: Richard Oliver IM&T Security Manager Date: 17th May 2010.....

Names & Designations of those involved in the impact assessment screening process: Andy Jardine IT director -- Lorraine Gray Head of clinical informatics Jim Butler Head of Information Services.....

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(If any reader of this procedural document identifies a potential discriminatory impact that has not been identified on this form, please refer to the Policy Author identified above, together with any suggestions for the actions required to avoid/reduce this impact.)