

Title:  
FOI

Reference Number: RDF1062

Date of Response: 30/11/2022

Further to your Freedom of Information Act request, please find the Trust's response(s) below:

Under the Freedom of Information Act 2000, please provide me with the following information:

1. How many FOI Officer/s does your Trust have? If there is more than 1, please specify bandings.

Answer: The Trust hold this information.

The Trust has 2 Band 5 Whole Time Equivalent staff working on FOI's, with additional support from a Band 2.

2. Do you have software for monitoring requests? If you use Excel only, please confirm.

Answer: The Trust holds this Information.

To confirm, the Trust uses Excel software for monitoring FOI requests.

3. What was the total number of requests received in the last 3 FY years? 2019/2020, 2020/21, 2021/22.

Answer: The Trust holds this information.

Please note that the Northern Devon Healthcare NHS Trust merged on the 1 April 2022 with the Royal Devon & Exeter NHS Foundation Trust to become The Royal Devon University Healthcare NHS Foundation Trust. The financial year figures below are the total requests received by the Northern Devon Healthcare NHS Trust and the Royal Devon and Exeter NHS Foundation Trust before the Trusts merged.

Trust	2019/20	2020/21	2021/2022
The Royal Devon University Healthcare NHS Foundation Trust	554	475	689
Northern Devon Healthcare NHS Trust	520	387	474

4. Can I obtain a (redacted if necessary) copy of your Trust FOI Policy?

Answer: The Trust holds this Information.

Please find attached Policies.

5. Please explain any steps you have taken to reduce the number of requests needed? For example, publishing more data online

Answer: This information is not recorded by the Trust.

<b>Freedom of Information Act 2000 and Environmental Information Regulations Policy</b>	
Post holder responsible for Policy	Kelly Prince, Head of Information Governance
Author of Policy	Kelly Prince, Head of Information Governance
Division/ Department responsible for Procedural Document	Information Management & Technology Services, Information Governance
Contact details	x4627
Date of original policy	31/01/2008
Impact Assessment performed	<u>Yes</u> /No
Ratifying body and date ratified	Information Governance Steering Group: 28 January 2019
Review date	July 2023 (every 4 ½ years)
Expiry date	January 2024
Date document becomes live	4 March 2019

Please *specify* standard/criterion numbers and tick  other boxes as appropriate

<b>Monitoring Information</b>		<b>Strategic Directions – Key Milestones</b>	
Patient Experience		Maintain Operational Service Delivery	
Assurance Framework		<input checked="" type="checkbox"/> Integrated Community Pathways	
Monitor/Finance/Performance		Develop Acute services	
CQC Regulations/Outcomes: <b>21</b>		Infection Control	
Other ( <i>please specify</i> ):			
<b>Note:</b> This document has been assessed for any equality, diversity or human rights implications			

**Controlled document**

This document has been created following the Royal Devon and Exeter NHS Foundation Trust Policy for Procedural Documents. It should not be altered in any way without the express permission of the author or their representative.

Full History		Status: Final	
Version	Date	Author	Reason
1.0	31/ 01/ 2008	Health & Information Governance Manager	To comply with Freedom of Information Act and IGT requirements
2.0	31/ 01/ 2011	Health & Information Governance Manager	Routine revision
3.0	31/ 01/ 2014	Information Governance Manager	Routine revision
4.0	23/03/2016	Information Governance Manager	Review of Policy and amendment to Internal Review Procedure
5.0	05/12/2018	Head of Information Governance	Reviewed and amended to incorporate current practice. This includes the new Data Protection Act 2018 and an update to the new enforcement powers for the ICO. There has also been amendments to hyperlinks and formatting.

<b>Associated Policies:</b>	<a href="#">Health Records Policy</a> <a href="#">Information Governance Policy</a> <a href="#">Records Management Policy</a> <a href="#">Freedom of Information Procedures</a>
<b>Key Words:</b>	FOI, Freedom of Information, Requests for information, EIR
<b>In consultation with and date:</b> Record Management Group (December 2018), Information Governance Steering Group-28 January 2019 Quality Assurance- 7 February 2019 Equality and Diversity Manager (February 2019)	
<b>Contact for Review:</b>	Head of Information Governance
<b>Executive Lead Signature:</b>	 Adrian Harris, Medical Director

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## KEY POINTS OF THIS POLICY

1. [How to identify a Freedom of Information Request](#)
2. [How to deal with a Freedom of Information Request](#)
3. [Timescales for dealing with a Freedom of Information Request](#)
4. [Exemptions under the Freedom of Information Act](#)
5. [Dealing with requests for internal reviews of Freedom of Information responses](#)

## 1. INTRODUCTION

- 1.1 This document is the Freedom of Information Policy of the Royal Devon and Exeter NHS Foundation Trust (hereafter referred to as “the Trust”). Since 1st January 2005, all requests for recorded information (other than personal data) received by a public authority (which includes the Trust) have had to be answered in accordance with the [Freedom of Information Act 2000](#) (referred to as FOIA) or the [Environmental Information Regulations 2004](#) (referred to as EIR).
- 1.2 The legislation gives a right of access to recorded information held by public authorities; anyone can make a request for information. All recorded information held by, or on behalf of, a public authority is within the scope of the legislation. The legislation applies regardless of the age, format, origin or classification of information. The Act is also purpose and applicant blind, meaning that the right to access information does not depend on the purpose for which it is requested, or on the characteristics of the person requesting it
- 1.3 This policy should be read in conjunction with the [Freedom of Information Act 2000 and Environmental Information Regulations Procedure](#)
- 1.4 **Failure to comply with this policy could result in disciplinary action.**

## 2. PURPOSE

- 2.1 To ensure the Trust complies with the obligations placed upon it by the FOIA and the EIR.
- 2.2 To ensure all Trust staff are aware of their responsibilities under the FOIA and EIR.
- 2.3 To outline the Trust policy for responding to FOIA and EIR information requests.

## 3 DEFINITIONS

- 3.1 [Freedom of Information Act 2000 \(FOIA\)](#): This is an Act of Parliament which sets out the legal right of individuals to make requests for information from public authorities. It defines what a request is and the duties of the public authority when responding.
- 3.2 [Environmental Information Regulations 2004 \(EIR\)](#): This is a statutory instrument, which has the same legal force as an Act of Parliament. It governs the legal right of Individuals to make requests for environmental information from public authorities and the duties of those authorities when responding.
- 3.3 **Information Commissioner’s Office (ICO)**: The ICO is the UK’s independent authority set up by an Act of Parliament to uphold information rights in the public interest. It promotes openness by public bodies. The ICO oversees the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. It is headed by the Information Commissioner who has the power to investigate data breaches and can impose Civil Monetary Penalties (in effect, fines) of up to £18,000,000.
- 3.4 **Information Tribunal**: This is an independent appeal body to which members of the public can appeal against the Trust’s decisions under the FOIA and EIR. There are appeals from it to the Information Appeal Tribunal.

- 3.5 **Environmental information:** includes information about air; water; soil; land; flora and fauna; energy; noise; waste and emissions; and any information about decisions, policies and activities that affect the environment. For example, proposed building works at the Trust, waste disposal or Health and Safety.
- 3.6 **Public authorities:** These are defined in FOIA and EIR. They include central government (such as the Department of Health) and local authorities, bodies like schools and the police and the NHS. It includes NHS bodies and therefore the Trust is a public authority.
- 3.7 **Publication Scheme:** This is a guide to the information that the public authority makes routinely available. It helps the public to locate information published by the Trust and is a legal requirement of FOIA. The Information Commissioner's Office (ICO) lays down the information that it would expect NHS bodies to publish in their Publication Scheme. The Trust's publication scheme is on the Trust's public website: <http://www.rdehospital.nhs.uk/trust/information-governance/accessing-information/freedom-of-information/publication-scheme.html>
- 3.8 **Recorded Information:** FOIA and EIR give anyone a right of access to what is called "recorded information" held by public authorities. Recorded information may be recorded on paper, electronically or on tape. Pictures, images, video and voice recording are all examples of information subject to disclosure under the FOIA and EIR. All recorded information held by, or on behalf of, the Trust is within the scope of the legislation. Certain types of recorded information are exempted.
- 3.9 **Personal Data:** is information relating to a living person who can be identified from that information. It is exempt from disclosure under FOIA.
- 3.10 **Requests for Information (RFI):** This is the umbrella term used to describe all requests under FOIA and EIR.

#### 4. DUTIES AND RESPONSIBILITIES OF STAFF

- 4.1 **The Chief Executive** of the Trust is responsible for ensuring compliance with the FOIA and EIR. The Chief Executive will provide final authorisation for all replies to FOIA and EIR requests.
- 4.2 **Divisional Managers and Departmental Managers** will ensure that
- All information requested from their area is provided in good time.
  - Draft replies to FOIA requests relevant to their area are reviewed to ensure that the information provided is appropriate and accurate.
- 4.3 **Head of Information Governance (HIGM):** The HIGM will be responsible for managing the Information Governance Office (IGO) and FOIA procedures, providing guidance where necessary and initiating and managing any internal reviews requested. The HIGM will also monitor and report on the compliance with this policy.

4.4 **Senior Information Governance Officer:** will oversee the day to day administration of the FOI process and co-ordinate the Trust's response to FOIA requests, ensuring an efficient and effective service is provided within the guidelines of the FOIA.

4.5 **Information Governance Office (IGO):** The IGO handles all FOIA and EIR requests for information. All FOIA requests will be dealt with by the IGO.

4.6 **All Staff:**

- Must send any freedom of information requests to the IGO immediately. The IGO is the sole point of contact authorised to handle FOIA and EIR requests.
- Staff must assist with retrieving and collating the data required in order to answer a FOIA request within the necessary timeframes when requested to do so by the IGO.
- All staff have a duty to provide advice and assistance to individuals seeking information.

4.7 **Information Governance Steering Group (IGSG):** The IGSG is the senior committee in the Trust responsible for ensuring Trust compliance with Information Governance. This includes legal and NHS policy requirements. The IGSG oversees the operation and development of Freedom of Information matters and monitors monthly FOIA Key Performance Indicators (KPIs). It reports to the Safety and Risk Committee and ultimately to the Board of Directors.

## 5. OVERVIEW OF THE LEGISLATION

5.1 Both FOIA and EIR legislation provides individuals with two rights:

- The right to be informed whether certain information is held by the public body;
- The right to request access to that information.

5.2 FOIA and EIR give anyone a right of access to what is called "recorded information" held by public authorities. Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings. All are examples of information subject to disclosure under the Act. All recorded information held by or on behalf of the Trust is within the scope of the legislation.

5.3 Anyone may make a request and it could be received by anyone in the Trust. FOIA requests **MUST** be made in writing, typically by letter, email. Requests do not have to specify that they are being made under the FOIA or make reference to the Act. The person making the request is not required to provide a reason for wanting the information.



- 5.4 The FOIA requires the Trust to supply a wide range of information on request. This can be as diverse as a copy of a policy, financial details, and enquiries relating to medicines, staffing details or equipment inventories. Therefore, an FOIA request is not always obvious. Staff must refer all potential FOIA requests to the IGO immediately.
- 5.5 EIR requests do not need to be in writing. They can be made by telephone or face to face. Requests do not have to specify they are made under the EIR or make reference to the regulations. No reason for the request is required. All potential EIR requests are to be referred to the IGO.
- 5.6 EIR requests are mainly identifiable when they are concerned with pollution, energy production or waste management.
- 5.7 There is a strict time limit for responses of 20 working days under both FOIA and EIR. Responses should be acknowledged within 2 working days. Both pieces of legislation allow information to be exempted from disclosure if certain conditions are met. Examples of exemptions likely to be encountered in the Trust include, Health and Safety, Commercial Interests and Personal Data. The exemptions allowed within FOIA and EIR differ slightly. An exemption under FOIA may be a “qualified” or “absolute”. Qualified exemptions require a “public interest test” to be undertaken. This is a process which considers whether the public interest in disclosing the information outweighs the public interest in maintaining the exemption. An absolute exemption needs no such test.
- 5.8 Sometimes requests under the [Data Protection Act 2018](#) are made quoting FOIA in error. While individuals do have a right to access information about themselves, this is not handled under FOIA. Requests from individuals for personal information about themselves (e.g. a patient asking for access to their records or a member of staff asking for their personal file) must be handled under the Data Protection Act 2018 and passed to the Data Access Team which is based in the IGO.
- 5.9 The Trust will publicise the way in which the public may gain access to information covered by the FOI Act, via the [Trust website](#) and leaflets.

## **6. HANDLING REQUESTS FOR INFORMATION UNDER FOIA AND EIR**

- 6.1 All potential FOIA or EIR requests received by the Trust must be passed immediately to the IGO, either via email ([rde-tr.FreedomofInformation@nhs.net](mailto:rde-tr.FreedomofInformation@nhs.net)) or through the internal post, for processing with a note of the date and time received.
- 6.2 All staff should be aware of their responsibilities in supporting and advising someone

how to make a request and if staff member is in doubt, they should contact the IGO (telephone extension 2623).

- 6.3 Detailed procedures for handling FOIA and EIR requests for information are included in the [Freedom of Information Act 2000 and Environmental Regulations 2004 Procedures](#).

## 7. PUBLICATION SCHEME

- 7.1 The Trust will maintain an up to date [Publication Scheme](#) which is reviewed by the IGO and any changes to this will be reported to the IGSG. The IGO will ensure that any agreed changes to the Publication Scheme are updated as and when necessary.
- 7.2 The IGO will ensure the Publication Scheme meets the requirements set out by the FOIA Act and as required by the ICO.
- 7.3 Where practical and possible, the Trust will publish on its website, any information and /or guidance issued by the ICO which should be available via the Publication Scheme. Where this is not the case, the information must be readily available upon request. Responsibility for this rests with the Trust IGO.

## 8. TRAINING

- 8.1 All staff must undertake Information Governance training, which includes FOIA at Corporate Induction, and annual Information Governance refresher training through the [Electronic Staff Record](#) or, for those with limited or no access to computers there are paper assessments available. As part of this training staff are informed of their responsibilities and how requests for information are dealt with at the Trust.
- 8.2 The Trust will ensure that staff who work in the IGO are provided with additional training to deal with FOIA and EIR requests.

## 9. EXEMPTIONS

- 9.1 The FOIA allows for exemptions of information i.e. it will not have to be provided in response to a request. Exemptions include national security, law enforcement, health and safety, commercial interests and personal data. Details can be found on the [ICO site](#).

These fall into 2 main categories:

- **Absolute** - No Public Interest test is required.
  - **Qualified** -The Trust has to assess if there is a greater public interest in withholding or disclosing the requested information. The IGO will make the initial assessment.
- 9.2 Where a request is received the IGO will consult with the owners of the information in the Trust over whether an exemption may be required and on what grounds. If a public interest test is required, then the IGO will carry this out, consulting the relevant Division within the Trust.
- 9.3 Where an exemption is used, the relevant section of FOIA or the relevant regulation under EIR must be quoted in the reply. Where a “Public Interest Test” is performed the

fact that a test has been performed must be stated, and a summary of it must be given in the reply.

- 9.4 Where a request is received for disclosure of basic staff details (e.g. names, job titles), names will be released only for those staff at director level.

## **10. THE EXEMPTION FOR DISPROPORTIONATE COST**

- 10.1 FOIA (but not EIR) allows for exemption of information if the cost of meeting the request would exceed the appropriate limit, currently £450 for FOIA. An hourly rate of £25 per person per hour must be used to estimate these costs. Therefore if it would take more than 18 hours of staff time to find the information then the Trust can decline to provide the information. If a Division wishes to enact this exemption then they must provide to the IGO a written estimate of the costs confirming that it would take more than 18 hours to answer the request. The limit is first applied to the organisation's duty to confirm or deny if it holds the information and then its duty to supply the information. The following costs can be taken into account:

- Working out where the information is held.
- Finding and retrieving the information.
- Extracting the information required (for example from a bigger document or computer file).

- 10.2 Time taken to consider whether any of the requested information is exempt is not permitted to be included in the costs, nor is the time it is likely to take to edit or redact any information that is exempt relevant to these costs. Where a reasonable estimate has been made that the appropriate limit would be exceeded to answer a request, there is no requirement for the Trust to undertake work up to the limit. When replying the IGO will give the requester the opportunity to limit or refine their request.

- 10.3 EIR allows information to be exempt from disclosure if the costs would be "manifestly unreasonable". Any proposal to rely on this exemption must be sent to the IGO.

## **11. CHARGING FOR COSTS INCURRED IN ANSWERING REQUESTS**

- 11.1 The Trust does not routinely charge for responding to requests made under FOIA or EIR, but is allowed to charge for some costs of providing information in accordance with the fees regulations within the FOIA. The fee can include:

- Photocopying and printing costs.
- The cost of converting information into the requests preferred format, e.g. CD, audio tape.
- Postage and other transmission costs.

- 11.2 The charge is set by the FOIA as £25 per hour, per person. It is not permitted to take into account any other staff time required to respond to the request. The Trust must not charge for converting the information into another format if it is already under a duty to make information accessible under other legislation, e.g. [Equality Act 2010](#). Any decision to do so rests with the Head of Information Governance.

**12. REQUESTS FOR RE-USE OF INFORMATION**

12.1 Under the [Re-use of Public Sector Information Regulations 2005](#), individuals can request to re-use information held by the Trust. This means they can apply to use a document for a purpose other than for which it was created. Applicants must state in writing the reason for re-use. All requests for re-use will be considered on an individual basis by the IGO. All reply letters to requests under FOIA and EIR will inform the applicant of the Regulations and that information provided by the Trust cannot be re-used unless otherwise agreed.

**13. INTERNAL REVIEWS**

13.1 All replies will advise the requester that complaints may be made in writing to the Head of Information Governance. Replies will explain how to request an internal review and outline the right of appeal to the ICO for those who remain dissatisfied after the internal review. This applies to both FOIA and EIR. Internal reviews will be undertaken by the Head of Information Governance.

13.2 Upon receipt of any requests for an Internal Review following an FOIA response the IGO will inform the Head of Information Governance.

**14. ARCHIVING ARRANGEMENTS**

14.1 The original of this policy will remain with the author, the Head of Information Governance in the Health Records Department of the Information Governance Department, IMT services. An electronic copy will be maintained on the Trust intranet (HUB), P – Policies – F – Freedom of Information. Archived electronic copies will be stored on the Trust's "archived policies" shared drive, and will be held for 10 years.

**15. PROCESS FOR MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THE POLICY**

15.1 In order to monitor compliance with this policy, the auditable standards will be monitored as follows:

<b>What areas need to be monitored</b>	<b>How will this be evidenced?</b>	<b>Where will this be reported and by whom?</b>
Compliance with DSP Toolkit	DSP Toolkit action plan and Internal Audit report	Records Management Group and Information Governance Steering Group
Number of FOIA requests received	Monthly FOI KPIs	Records Management Group and Information Governance Steering Group
Number of FOIA requests completed	Monthly FOI KPIs	Records Management Group and Information Governance Steering Group

## 16. REFERENCES

Data Protection Act 2018 (DPA18): London: Stationery Office. Available at:  
<http://www.legislation.gov.uk/ukpga/2018/12/contents>

Environmental Information Regulations 2004 (Statutory Instrument 2004/No 3391) (EIR). London: Stationery Office. Available at:  
<http://www.legislation.gov.uk/uksi/2004/3391/contents/made>

Freedom of Information Act 2000 (FOIA). London: Stationery Office. Available at:  
<http://www.legislation.gov.uk/ukpga/2000/36/contents>

Disability Discrimination Act 1995. London: Stationery Office. Available at:  
<http://www.legislation.gov.uk/ukpga/1995/50/contents>

Re-use of Public Sector Information Regulations 2005. London: Stationery Office. Available at: <http://www.legislation.gov.uk/uksi/2005/1515/contents/made>

Equality Act 2000. London: Stationery Office. Available at:  
<http://www.legislation.gov.uk/ukpga/2010/15/contents>

### 16.1 Further Reading

Details of the ICO and its role may be found at: [http://www.ico.gov.uk/about\\_us.aspx](http://www.ico.gov.uk/about_us.aspx)

## APPENDIX 1: COMMUNICATION PLAN

### COMMUNICATION PLAN

The following action plan will be enacted once the document has gone live.

<b>Staff groups that need to have knowledge of the strategy/policy</b>	All staff
<b>The key changes if a revised policy</b>	Reviewed and amended to incorporate current practice. This includes the new Data Protection Act 2018 and an update to the new enforcement powers for the ICO. There has also been amendments to hyperlinks and formatting.
<b>The key objectives</b>	This document sets out the appropriate policy, which must be followed to comply with the Freedom of Information Act 2000 and Environmental Information Regulation 2004 by the Royal Devon and Exeter NHS Foundation Trust.
<b>How new staff will be made aware of the policy and manager action</b>	Cascade by email from manager, induction process
<b>Specific Issues to be raised with staff</b>	Particular attention should be drawn to the changes as follows: 3.3 – update to new enforcement powers by the ICO 5.8 – updated Data Protection Act 2018
<b>Training available to staff</b>	Trust wide information governance training. Further support and guidance available from the Information Governance team.
<b>Any other requirements</b>	None
<b>Issues following Equality Impact Assessment (if any)</b>	No negative impacts.
<b>Location of hard / electronic copy of the document etc.</b>	Department shared drive (Information Governance). The original of this policy will remain with the author, the Head of Information Governance in the Health Records Department of the Information Governance Department, IMT services. An electronic copy will be maintained on the Trust intranet (HUB), P – Policies – F – Freedom of Information. Archived electronic copies will be stored on the Trust's "archived policies" shared drive, and will be held for 10 years.

## APPENDIX 2: EQUALITY IMPACT ASSESSMENT TOOL

<b>Name of document</b>	Freedom of Information Act 2000 and Environmental Information Regulation 2004 Policy
<b>Division/Directorate and service area</b>	IM&T
<b>Name, job title and contact details of person completing the assessment</b>	Andrew Aitken, Deputy Information Governance Manager Ext 2623
<b>Date completed:</b>	30 <sup>th</sup> December 2018

**The purpose of this tool is to:**

- **identify** the equality issues related to a policy, procedure or strategy
- **summarise the work done** during the development of the document to reduce negative impacts or to maximise benefit
- **highlight unresolved issues** with the policy/procedure/strategy which cannot be removed but which will be monitored, and set out how this will be done.

**1. What is the main purpose of this document?**

This document sets out the appropriate policy, which must be followed to comply with the Freedom of Information Act 2000 and Environmental Information Regulation 2004 by the Royal Devon and Exeter NHS Foundation Trust.

**2. Who does it mainly affect? (Please insert an “x” as appropriate:)**

Carers  Staff  Patients  Other (please specify) Members of the Public

**3. Who might the policy have a ‘differential’ effect on, considering the “protected characteristics” below? (By *differential* we mean, for example that a policy may have a noticeably more positive or negative impact on a particular group e.g. it may be more beneficial for women than for men)**

**Please insert an “x” in the appropriate box (x)**

Protected characteristic	Relevant	Not relevant
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Disability	x	
Sex - including: Transgender, and Pregnancy / Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Religion / belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sexual orientation – including: Marriage / Civil Partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>



4. **Apart from those with protected characteristics, which other groups in society might this document be particularly relevant to** (e.g. those affected by homelessness, bariatric patients, end of life patients, those with carers etc.)?

None

5. **Do you think the document meets our human rights obligations?**

*Feel free to expand on any human rights considerations in question 6 below.*

**A quick guide to human rights:**

- **Fairness** – how have you made sure it treat everyone justly?
- **Respect** – how have you made sure it respects everyone as a person?
- **Equality** – how does it give everyone an equal chance to get whatever it is offering?
- **Dignity** – have you made sure it treats everyone with dignity?
- **Autonomy** – Does it enable people to make decisions for themselves?

6. **Looking back at questions 3, 4 and 5, can you summarise what has been done during the production of this document and your consultation process to support our equality / human rights / inclusion commitments?**

Please give a brief summary- identifying:

1.) Human rights Act – right to Privacy – the Policy meets all national guidance and legislation to protect the right to privacy.

2.) Divisional Directors, Information Governance Managers, General Managers - Associate Medical Directors, Assistant Directors of Nursing, Senior Nurses, Service Manager Operations, Equality & Diversity Manager, On Call Managers, Site Practitioners, Governance Managers, Policy Expert Panel and Health and Safety Group.

3.) Reflects current practice and is now Trust wide.

4.) It is an absolute requirement of the legislation that an application under the Freedom of Information Act has to be made in writing. This puts a number of potential requesters at a disadvantage because they may have learning disabilities, visual impairments, physical impairments etc. The Trust will therefore support these disadvantaged requesters by assisting them to put their requests in writing. This will entail assisting in the writing of the request and making sure that the request is checked before being sent to be answered.

7. **If you have noted any ‘missed opportunities’, or perhaps noted that there remains some concern about a potentially negative impact** please note this below and how this will be monitored/addressed.

<b>“Protected characteristic”:</b>	
<b>Issue:</b>	



<b>How is this going to be monitored/ addressed in the future:</b>	
<b>Group that will be responsible for ensuring this carried out:</b>	

## Document Control

<b>Title</b>			
<b>Freedom of Information Policy</b>			
<b>Author</b> Information Governance Lead		<b>Author's job title</b> Information Governance Lead	
<b>Directorate</b> Digital Services		<b>Department</b> Information Governance	
<b>Version</b>	<b>Date Issued</b>	<b>Status</b>	<b>Comment / Changes / Approval</b>
1.0	Nov 2004	Final	Approved by Trust Board.
2.0	Apr 2007	Final	Reviewed by the Trust Board.
2.1	Nov 2008	Revision	Amended in response to Publication Scheme changes.
3.0	Mar 2012	Final	Harmonised as a result of the merging of NDHT and NDCS. Approved by the IG Steering Group.
3.1	Nov 2012	Revision	Amended following consultation.
3.2	Oct 2015	Draft	Draft revision and update using revised Trust template.
4.0	Dec 2015	Final	Approved by Chair of IM&T Steering Committee under delegated responsibility.
4.1	23 Mar 2018	Revision	Approved by IG & IM&T Steering Committee to support IG Toolkit compliance. Review date extended by one year to allow complete GDPR guidance to be incorporated.
4.2	June 2021	Revision	Housekeeping; reviewed policy submitted to Information Governance Steering Group for recommendation to approve
5.0	Aug 2021	Final	Approved by IG Steering Group
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<b>Lead Director</b> Chief Information Officer			
<b>Superseded Document</b>			
<b>Issue Date</b> August 2021	<b>Review Date</b> August 2023	<b>Review Cycle</b> Two year	

**Consulted with the following stakeholders:**

- Chief Medical Officer (SIRO)
- Caldicott Guardian
- Directors
- Information Governance Steering Group members
- Senior staff identified as FOI information providers
- Communications department

**Approval and Review Process**

- Information Governance Steering Group

**Local Archive Reference**

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**Policy categories for Trust's internal website (Bob)**

Information Governance / Digital Services

**Tags for Trust's internal website (Bob)** FOI, Requests for Information, Publication Scheme, Disclosure, Transparency

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## 1. Purpose

- 1.1. The purpose of this document is to detail the Trust's approach to complying with [the Freedom of Information Act 2000 \(FOIA\)](#). This Act gives a general right to any person to access recorded information held by our Trust, subject to exemptions and conditions laid down by law.
- 1.2. This Policy applies to all Trust staff that receive, hold, create or share information on behalf of the Trust or the NHS.
- 1.3. Implementation of this policy will ensure our Trust complies with the:
  - [FOIA and Environmental Information Regulations 2004 \(EIR\)](#)
  - [Code of Practice on discharge of functions FOIA](#)
  - [Code of Practice on the Management of Records FOIA](#)

## 2. Responsibilities

### 2.1. Role of the Chief Executive

The Chief Executive holds overall responsibility for ensuring the Trust adheres to the principles laid down in the Freedom of Information Act 2000.

### 2.2. Role of the Senior Information Risk Owner (SIRO)

The SIRO is jointly responsible for signing off Trust responses, ensuring the content is fair and accurate and that disclosure of information does not challenge Data Protection, other personal rights and organisation duties unless it is in the public interest.

### 2.3. Role of the Caldicott Guardian

The Caldicott Guardian is jointly responsible for signing off Trust responses, ensuring the content is fair and accurate and that disclosure of information does not challenge Data Protection, other personal rights and organisation duties unless it is in the public interest.

## 3. Freedom of Information policy

The Freedom of Information Act 2000 provides public access to all recorded information held by public authorities. It does this in two ways:

- Public authorities are required to publish certain information about their activities in a 'publication scheme'.

- Members of the public are entitled to request information from public authorities.
- 3.1.** Our Trust will comply with the FOI Act and sees this as an opportunity to:
- Enhance public trust and confidence.
  - Promote openness and dialogue with stakeholders.
  - Allow public debate to be better informed and more productive.
  - Increase accountability for decisions and actions taken.
- 3.2.** Our Trust will maintain a comprehensive [Publication Scheme](#) to provide information that is readily accessible without the need for a formal FOI request. The Publication Scheme, located on our website and adopted from the [model](#) produced by the Information Commissioner's Office, will make information available to the public as part of our normal business activities.
- 3.3.** Our Trust will seek to satisfy all FOI Act requests promptly and within 20 working days. If we do not expect to meet the deadline, we will inform the requester as soon as possible of the reasons for the delay and when we expect to be able to provide a response.
- 3.4.** The Information Governance team will record all FOI Act requests and coordinate responses.
- 3.5.** Our Trust will provide advice and assistance to requesters. We will publish our procedures and assist requesters to clarify their requests so that they can obtain the information they are seeking.
- 3.6.** Information released will be accurate and suitable checks will be made. Our Trust will apply, where reasonably justifiable, the exemptions provided in the FOI Act and, where qualified exemptions exist, our Trust will disclose the information unless the balance of public interest lies in withholding it.
- 3.7.** Our Trust will not enter into contracts that include terms restricting disclosure of information it holds.
- 3.8.** Our Trust will consult with third parties before disclosing information that could affect their rights and interests. However our Trust will take the final decision on disclosure (as per the FOI Act).
- 3.9.** Our Trust can charge for information requests in line with the national FOI Act Fees Regulations or other applicable regulations, including the [Data Protection Act 2018](#), however information requests are generally free.
- 3.10.** Our Trust will ensure that all staff are aware of their obligations under the FOI Act and will include FOI awareness in the induction of all new staff.

- 3.11.** This policy applies to all information held by the Trust.
- 3.12.** Where information requested by the applicant is environmental information, the information request will be processed by the IG team under the Environmental Information Regulations 2004 (EIR) rather than FOI Act.
- 3.13.** The FOI Act does not give people access to their own personal data (information about themselves) such as their health records. If a member of the public wants to see their own personal data it will be treated as a Subject Access Request under the [Data Protection Act 2018](#).

## 4. Monitoring Compliance with and the Effectiveness of the Policy

### 4.1. Standards/ Key Performance Indicators

Key performance indicators comprise:

- Completion of FOI requests within the statutory 20 working day response time.
- Data Protection Toolkit requirements

### 4.2. Process for Implementation and Monitoring Compliance and Effectiveness

The Information Governance Team will implement the recording and coordination of FOI requests, supported by appropriate Trust staff.

- 4.3.** The Information Governance Team will implement activities to support Data Protection Toolkit requirements.
- 4.4.** Monitoring process:
- Weekly FOI reporting to SIRO. FOI and DSP Toolkit performance reports are submitted monthly to the Information Governance Steering Committee.
  - The Information Governance Steering Committee will monitor compliance with this Policy.

## 5. Equality Impact Assessment

Group	Positive Impact	Negative Impact	No Impact	Comment
Age			<input checked="" type="checkbox"/>	
Disability			<input checked="" type="checkbox"/>	
Gender			<input checked="" type="checkbox"/>	

Gender Reassignment			<input checked="" type="checkbox"/>	
Human Rights (rights to privacy, dignity, liberty			<input checked="" type="checkbox"/>	
Group	Positive Impact	Negative Impact	No Impact	Comment
and non-degrading treatment), marriage and civil partnership				
Pregnancy			<input checked="" type="checkbox"/>	
Maternity and Breastfeeding			<input checked="" type="checkbox"/>	
Race (ethnic origin)			<input checked="" type="checkbox"/>	
Religion (or belief)			<input checked="" type="checkbox"/>	
Sexual Orientation			<input checked="" type="checkbox"/>	

## 6. Glossary

Abbreviation	Explanation
Caldicott	Caldicott Guardian (An Executive Director within the Trust)
EIR	Environmental Information Regulations 2004
FOI(A)	Freedom of Information (Act)
ICO	Information Commissioner's Office
IG	Information Governance
NDCS	North Devon Community Services
NDHT	Northern Devon Healthcare NHS Trust
SIRO	Senior Information Risk Owner

## 7. References

- [Data Protection Act 2018/GDPR](#)
- [Environmental Information Regulations 2004](#)
- [Freedom of Information Act 2000](#)
- [NHS Code of Practice: Records Management 2006](#)
- [Re-use of Public Sector Information Regulations 2015](#)

## 8. Associated Documentation

- [Access to Patient Records Procedure](#)
- [Disclosure of Staff Information Policy](#)
- [Data Protection Policy](#)
- [Freedom of Information Request Processing Procedure](#)



- [Information-Lifecycle-Management-Policy](#)
- [Trust Publication Scheme](#)