



Surrey & Sussex Healthcare NHS Trust

An Organisation-wide Policy for Freedom of Information

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Equality statement

This document demonstrates commitment to create a positive culture of respect for all individuals, including staff, patients, their families and carers as well as community partners. The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is also intended to use the Human Rights Act 1998 to promote positive practice and value the diversity of all individuals and communities. This document is available in different languages and formats upon request to the Trust Procedural Documents Coordinator and the Equality and Diversity Lead.

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1.0	01.02.07	A.Willams	
2.0	01.03.08	J.Lawton	<p>References included to:</p> <ul style="list-style-type: none"> • Environmental Information Regulations • Reuse of Public Sector Information Directive <p>Inclusion of Paragraphs:</p> <ul style="list-style-type: none"> • Information not in Publication Scheme • Transferring requests for information • Third parties • Public Sector contracts
3	27.03.13 (issued 16.08.13)	Sarah Azhashemi, Information Governance & Security Manager	Amended to reflect that the Communications team are responsible for managing FOI requests. Reformatted to comply with Trust template.
3.1	18.3.16	Tasha Gardner, communications manager	<p>Amended to:</p> <ul style="list-style-type: none"> • Include policy summary • clarify the charging process 5.3 • update the media process 5.8 • update the monitoring process • removed three appendices (repetition of information contained in the policy) • exemption details added – appendix 5

1. Policy Summary

The Freedom of Information Policy outlines the Trust's commitment to being an open and transparent organisation. The Policy promotes good practice and identifies the responsibilities of staff in terms of Freedom of Information Act (2000). All Trust staff, permanent and temporary, including contractors and non-executive directors must be aware of and adhere to this Policy which applies to all individuals engaged in the discharge of the duties of this Trust. A failure to adhere to this Policy and relevant procedures may result in the Information Commissioner's Office taking regulatory action against the Trust.

Details about Freedom of Information and the publication of responses are available on the Trust website via this link: <http://www.surreyandsussex.nhs.uk/about-us/freedom-of-information/>

All information requests under the Freedom of Information Act (2000) should be directed to the Freedom of Information officer who keeps records of all responses. The Trust will respond to all requests within 20 working days providing the information requested, unless the request falls under one of the exemptions of the Act.

All personal information, including Health Records, cannot be released under the FOI Act and falls under the Data Protection Act 1998. Requests for health records information must be sent to the Trust's Medical Records Manager. Any member of staff who receives a Freedom of Information request must forward it to the FOI officer who will acknowledge, review and respond to the request in liaison with the relevant Director/service. The contact details for the FOI lead are: foi@sash.nhs.uk

Compliance with the Freedom of Information Policy is monitored by the Freedom of Information Committee.

2. Introduction

The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) represent a government commitment to greater openness in the public sector.

The main features of the **Freedom of Information Act** are that:

- public authorities must produce and maintain a 'publication scheme'. This is a document that sets out the information that the authority routinely publishes, together with information on how to obtain it. Our publication scheme can be seen at <http://www.surreyandsussex.nhs.uk/>.
- it provides a 'general right of access' to all information recorded, in whatever form, by public authorities. This came into effect on 1st January 2005 and is fully retrospective in scope. This right has two components: a right to know if the information exists and a right to see the information, subject to some exemptions.

The FOIA makes it a criminal offence to alter, deface, block, erase, destroy or conceal any record held by the Trust, with the intention of preventing disclosure to all or part of the

information that an applicant is entitled to. Penalties can be imposed on both the Trust and staff for non compliance with the FOIA. Enforcement of the Act and promotion of good practice is the responsibility of the Information Commissioner's Office.

The Environmental Information Regulations (EIR) place a duty on public authorities to make available environmental information to the public wherever possible by electronic means. These regulations allow people to request environmental information from public authorities and those bodies carrying out a public function.

The **Re-use of Public Sector Information Directive (RoPSID)** enables the public sector to establish a framework that provides for:

- Identification of documents that are available for re-use
- Documents that are available for re-use at a marginal cost
- Dealing with applications for re-use in a timely, open and transparent manner
- Establishing a fair, consistent and non-discriminatory processes

The Trust will apply these regulations where it holds the intellectual property/copyright on the information and where re-use has been requested by a body that is not a public authority.

The Trust believes that individuals also have a right to privacy and confidentiality. This Policy does not overturn the common law duties of confidence or statutory provision that prevent disclosure of personal identifiable information. The release of such information is still covered by the subject access provisions of the Data Protection Act 1998 and is dealt with in Data Protection and Confidentiality Policy.

A request for access to the applicant's personal information is outside the scope of this policy. Subject access requests under the Data Protection Act 1998 are dealt with under separate procedures. A 'subject access request' is a request for personal information by the person to whom the information relates, such as their medical or staff records.

Requests for access to the medical records of deceased persons will also continue to be dealt with under existing Access to Health Records Act 1990 procedures.

The Trust also encourages staff to deal with straightforward requests for information of a non-personal nature as early as possible, regardless of whether they meet the requirements of an FOI request or not.

This policy and procedure applies to all Trust staff and Non-Executive Directors; and to staff of our partner organisations who process or store information that the Trust is responsible for holding.

3. Purpose

The Trust is committed to complying with the requirements of the FOIA and EIR and the general culture of openness that it is intended to promote. This policy has been developed to ensure that the Trust is able to comply with its legal obligations under FOIA, EIR and Re-Use of Public Sector Information Directive. It outlines staff responsibilities and includes procedures for handling requests for information.

We will:

- aim to recognise and respond to FOI requests within the required timeframe;
- support our staff in dealing with requests;
- support people making requests of us;
- keep individuals informed where we cannot comply with the time frame;
- meet requests for information as early as possible in the enquiry chain;
- avoid being unnecessarily strict in the application of the criteria used to define an FOI request;
- proactively publish information through our publication scheme and web site;
- publicise our informal and formal complaints procedures related to FOI, including details of the Office of the Information Commissioner;
- not charge for providing standard information to individuals;
- be honest and open when unable to provide information.

4. Definitions

- FOIA: Freedom of Information Act;
- DPA: The Data Protection Act 1998;
- The Trust: Surrey and Sussex Healthcare NHS Trust (SaSH);
- IG: Information Governance;
- ICO: Information Commissioner
- EIR: Environmental Information Regulations
- RoPSID: Reuse of Public Sector Information Directive
- IAO: Information Asset Owner - a senior member of staff responsible for managing the information held within their area of responsibility. This is normally a departmental manager.

5. Duties

The Trust Board: supports the principles of openness and active participation in dialogue with all stakeholders. The Trust has a commitment to help and inform the public and to improve access to information. All Board members will be required to adhere to the policy and associated procedures.

The chief executive: is the Accountable Officer for the Trust and has overall responsibility for ensuring the Trust has adequate resources and processes in place to fulfil its obligations

The Director of Corporate Affairs : is responsible for ensuring that the Trust has a Freedom of Information function that meets the Trusts statutory responsibilities in relation to FOI. The Head of Communications is responsible for managing the team that handle requests for information. This includes ensuring that:

- systems and procedures to support this policy are established and their effectiveness is monitored;
- requests for information are handled appropriately;
- the Trust's Publication Scheme is available and maintained;
- staff receive adequate training, advice and support on matters relating to FOIA/EIR
- compliance/exception reports are submitted to the Information Governance Steering Group

The **FOI officer** within the Communications Team will manage the requests for information. This will include:

- logging and acknowledging receipt of information requests;
- liaising with staff to establish whether the requested information is held;
- determining whether exemptions apply; and
- preparing and recording responses
- publishing responses on the Trust website

The **Information Governance & Security Manager** will provide expert advice to support staff handling information requests; and will work with senior management and Information Asset Owners (IAOs) to ensure that training and awareness concerning implementation of on the Act is available to all staff.

Executive Directors will ensure IAOs are assigned to a senior manager/FOI champion with departmental responsibilities and the authority to ensure compliance with legislation and policy. For clinical divisions this would normally be the division manager and for all other divisions an appropriate senior manager.

Information Asset Owners (IAOs) have responsibility for management of corporate and personal data held in the specified application system(s) and relevant manual records as covered by the Data Protection Act 1998 and any other relevant legislation.

They will ensure that all staff, including contract, bank, voluntary and other agency staff are:

- aware of the Freedom of Information Policy and associated procedures/guidelines and any updates;
- attend appropriate training
- have access to all systems and procedures to support the Policy,
- know how to deal with a request for information,
- know how to access and store information, both manual and electronic records.

Staff: all staff will be expected to:

- adhere to this policy and associated procedures and all related systems and processes to support the implementation of FOIA/EIR,
- attend training as appropriate;
- create and maintain records, that are accurate, appropriate and retrievable. This will include adherence to standards for referencing, titling, filing and authoring documents, both electronically and on paper
- ensure that requests for information and possible re-use are passed in a timely manner to staff who are responsible for responding

- ensure that disclosures are not made outside of the defined process, so that inappropriate disclosures are avoided
- ensure that documents within the classes of information of the Trust's publication scheme are provided for publication

A failure to adhere to this Policy and associated procedures may result in disciplinary action.

The Head of Procurement is able to give advice on the implications of the Act for contracts with other organisations.

6. The Policy and Procedure

6.1 Creation and management of information

The FOIA focuses on enabling access to information. There is an associated requirement to ensure that our records are of appropriate professional quality, are stored in a retrievable way and are only kept for as long as required. This requires effective records management processes, which are addressed in the Trust's Records Management Policy and Information Lifecycle Strategy to ensure compliance with the Lord Chancellor's Code of Practice on the Management of Records and the Department of Health's Records Management: the NHS Code of Practice (April 2006).

6.2 Our Publication Scheme

Section 19 of the FOIA requires every Public Authority to adopt and maintain a publication scheme and to review the scheme from time to time.

The scheme must specify the classes of information, the manner of publication and whether the material will be provided free of charge or on payment. The Publication Scheme details the information that the Trust makes routinely available to the general public. The Trust's publication scheme is available at:

<http://www.surreyandsussex.nhs.uk/>.

The seven headings of the scheme are:

1. Who we are and what we do
2. What we spend and how we spend it
3. What are our priorities and how are we doing
4. How we make our decisions
5. Our policies and procedures
6. List and registers
7. The services we offer

We will continue to develop the publication scheme, to make more information routinely available. Where possible, we will do this in a way consistent with our local NHS health economy partners.

6.3 Requests for information outside the publication scheme

The Head of Communications will ensure that the Trust has an effective process for managing requests for information.

To be considered as a request for information under the FOIA, an enquiry needs to:

- be in a permanent written form, this includes emails and facsimiles;
- include a name and correspondence address;
- give enough detail to identify the information being requested.

Requests can:

- be made to any member of staff;
- be from anywhere in the world.

The requestor:

- can make the request verbally
- **does not** need to know if the information exists;
- **is not** required to give a reason for the request.

The Trust:

- **must** supply the information provided within 20 working days (subject to exemptions – see 6.15 and appendix 5), or explain why they cannot;
- **cannot** ask for a reason for the request, although by agreement with the requestor they can ask for more detail to help provide the best quality of response;
- **can** charge for disbursements involved in providing the information (but not for the time taken to find it and decide whether or not release it);
- **must** provide help for those making requests to inform them of the Act and of how to make a request;
- **may** choose not to fulfil requests where the cost involved in locating and preparing the information exceeds a set limit (currently £450, charged at £25 per hour).

The Act:

- is fully retrospective;

- will be enforced by the Office of the Information Commissioner with the potential of jail sentences for responsible officers when information is not supplied (for effective contempt of court) and criminal conviction for those who deface, alter, destroy or conceal information with the intent to prevent its release.

6.4 Charges

It is the Trust's aim to make as much information as possible available free of charge. However, there will be occasions when the Trust will need to levy a charge for information, which will reflect the cost to the Trust of providing the information.

The Trust will not charge a fee for dealing with a request for information, in line with the National Fees regulations, where the cost of the work to respond to a request for information is estimated to be less than £450.

Where the cost is in excess of this amount, the Trust will correspond with the applicant either to reduce the request (and therefore the cost) below the threshold. If agreement cannot be reached in such circumstances the Trust is not obliged to provide the requested information.

In estimating the cost of complying with a request, the Trust may take into account the costs attributable to the time that staff are expected to spend on the following activities on behalf of the Trust at £25 per person per hour. All public authorities use the same hourly rate when estimating staff time costs, regardless of the actual costs. The rate equates to 18 hours of staff time.

The costs that can be taken into account are limited to those that an authority reasonably expects to incur in:

- determining whether it holds the information requested,
- locating the information or documents containing the information
- retrieving the information or documents, and
- extracting the information from the document containing it (including editing or redacting information)

No other costs can be taken into account, eg time to consider exemptions or external legal costs.

In circumstances whereby the scope of the request needs to be reduced to remain within the fees regulations, or where clarification is required, then the clock measuring the 20 days' response time can be paused, between the date the applicant is notified and the date the clarification is received. If this period is in excess of 3 months, then the request can be closed.

The Trust may also decide to waive or reduce chargeable fees for some groups, such as community groups. It is the responsibility of the IAO or their designated nominee to estimate the cost of the request, supported as necessary by the Communications Team.

6.5 Receipt of Request

Hard copy requests for information will be passed promptly to the FOI officer in Trust headquarters, or emailed to foi@sash.nhs.uk.

The FOI officer will log the request, allocate a unique reference number to it and acknowledge it within two working days.

6.6 Allocation of the request

The FOI officer will identify the IAO(s) who is likely to hold the requested information and pass a summary of the request to them. The IAO must inform the FOI officer promptly if they:

- 6.6.1** do not hold the information;
- 6.6.2** require clarification to enable them to identify the information requested;
- 6.6.3** consider that the request will exceed the Fees Limit; or
- 6.6.4** consider the information is exempt from disclosure.

6.7 Clarification, Advice and Assistance

The Trust has a duty to provide advice and assistance to a person making a request and will take all reasonable steps to advise anyone whose request is not clear; or is likely to exceed the Fees limit of what is required by the Trust to progress their request.

The FOI officer will contact the applicant and record the date that clarification was requested. This has the effect of pausing the 20 working day timeline for response. The 'clock' resumes once the applicant responds with appropriate information. Any communications to clarify a request, or narrow its scope to enable the Trust to deliver the information within the Fees limit, will be undertaken without unnecessary delay.

Where the Trust has not received a reply from the requester within 3 months, the Trust will close the request.

6.8 Responses to Requests

Where the Trust receives a request that it is able to manage without further clarification from the applicant, it will respond within 20 working days. Within this time, the Trust must:

- 6.8.1** Identify what information it holds and whether any exemption applies (in full or part) to the information
- 6.8.2** Advise the applicant of any exemption its believes applies (in full or part) to the information and inform them of their right to request an internal review, and then appeal to the Office of the Information Commissioner
- 6.8.3** Inform the applicant of any fee to be charged
- 6.8.4** Provide any information not covered by an exemption to the applicant in any manner specified by the applicant within 20 working days of receiving the request, provided any applicable fee has been received.

- 6.8.5** Otherwise advise the applicant if the request cannot be processed within 20 working days, giving an indication of the likely timescale for a decision to be reached and arrangement to ensure appropriate communication regarding this.

Appendices 1 and 2 show the procedures in flow-chart style.

Decisions on release may escalate to the executive level and legal advice may be required through the Trust's legal affairs arrangement.

6.9 Media enquiries

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

Enquires from the media should be directed to the Communications team on ext 6838/6199 or communications@sash.nhs.uk

6.10 Transferring Requests for Information

A request can only be transferred where the Trust receives a request for information which it does not hold, within the meaning of the FOIA, but which is held by another public authority e.g. Clinical Commissioning group. If the Trust is in receipt of a request and holds some of the information requested, a transfer can only be made in respect of the information it does not hold (but is held by another public authority). The Trust recognises that "holding" information includes holding a copy of a record produced or supplied by another person or body (but does not extend to holding a record on behalf of another person or body).

Upon receiving the initial request for information, the Trust will process it in accordance with the Act with regard to the information it holds. The Trust will also advise the applicant that it does not hold part of the requested information, or all of it, whichever applies.

If the Trust believes that some or all of the information requested is held by another public authority, the Trust will consider what would be the most helpful way of assisting the applicant with his or her request. In most cases this is likely to involve:

- contacting the applicant and informing him or her that the information requested may be held by another public authority;
- suggesting that the applicant re-applies to the authority which the original authority believes to hold the information;
- providing him or her with contact details for that authority.

If the Trust considers it to be more appropriate to transfer the relevant part of the request to another authority, consultation will take place with the other authority with a view to ascertaining whether it does hold the information and, if so, consider whether it should

transfer the request to it. A request (or part of a request) will not be transferred without confirmation by the second authority that it holds the information. Prior to transferring a request for information to another authority, the Trust will consider:

- whether a transfer is appropriate; and if so
- whether the applicant is likely to have any grounds to object to the transfer;

If the Trust reasonably concludes that the applicant is not likely to object, it may transfer the request without going back to the applicant, but will inform the applicant that it has done so.

Where there are reasonable grounds to believe an applicant is likely to object, the Trust will only transfer the request to another authority with the applicant's consent. If there is any doubt, the applicant will be contacted with a view to suggesting that he or she makes a new request to the other authority.

All transfers of requests will take place as soon as is practicable and the applicant will be informed as soon as possible once this has been done. Where the Trust is unable either to advise the applicant which organisation holds, or may hold, the requested information; or to facilitate the transfer of the request to another authority (or considers it inappropriate to do so) it will consider what advice, if any, it can provide to the applicant to enable him or her to pursue his or her request.

6.11 Consultation with Third Parties

The Trust recognises that in some cases the disclosure of information pursuant to a request may affect the legal rights of a third party, for example where information is subject to the common law duty of confidence or where it constitutes "personal data" within the meaning of the Data Protection Act 1998 ("the DPA"). Unless an exemption provided for in the Act applies in relation to any particular information, the Trust will be obliged to disclose that information in response to a request.

Where a disclosure of information cannot be made without the consent of a third party (for example, where information has been obtained from a third party and in the circumstances the disclosure of the information without their consent would constitute an actionable breach of confidence), the Trust will consult that third party with a view to seeking their consent to the disclosure, unless such a consultation is not practicable, for example because the third party cannot be located or because the costs of consulting them would be disproportionate. Where the interests of the third party who may be affected by a disclosure do not give rise to legal rights, consultation may still be appropriate.

Where information constitutes "personal data" within the meaning of the DPA, the Trust will have regard to section 40 of the Act which makes detailed provision for cases in which a request relates to such information and the interplay between the FOIA and the DPA in such cases.

The Trust will undertake consultation where:

- the views of the third party may assist the authority to determine whether an exemption under the Act applies to the information requested; or
- the views of the third party may assist the authority to determine where the public interest lies.

The Trust may consider that consultation is not appropriate where the cost of consulting with third parties would be disproportionate. In such cases, the Trust will consider the most reasonable course of action to take in light of the requirements of the FOIA and the individual circumstances of the request. Consultation will be unnecessary where:

- the public authority does not intend to disclose the information relying on some other legitimate ground under the terms of the FOIA;
- the views of the third party can have no effect on the decision of the authority, for example, where there is other legislation preventing or requiring the disclosure of this information;
- no exemption applies and so under the FOIA provisions, the information must be provided.

Where the interests of a number of third parties may be affected by a disclosure, and those parties have a representative organisation which can express views on behalf of those parties, the Trust will, if it considers consultation appropriate, consider that it would be sufficient to consult that representative organisation. If there is no representative organisation, the Trust may consider that it would be sufficient to consult a representative sample of the third parties in question.

The fact that the third party has not responded to consultation does not relieve the Trust of its duty to disclose information under FOIA, or its duty to reply within the time specified in the Act. In all cases, it is for the Trust, not the third party (or representative of the third party) to determine whether or not information should be disclosed under the Act. A refusal to consent to disclosure by a third party does not, in itself, mean information should be withheld.

6.12 Public Sector Contracts

When entering into contracts the Trust will refuse to include contractual terms which purport to restrict the disclosure of information held by the Trust and relating to the contract beyond the restrictions permitted by the Act. Unless an exemption provided for under the Act is applicable in relation to any particular information, the Trust will be obliged to disclose that information in response to a request, regardless of the terms of any contract.

When entering into contracts with non-public authority contractors, the Trust may be under pressure to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance will be exempt from disclosure. As recommended by the Lord Chancellor's Department, the Trust will reject such clauses wherever possible. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, the Trust will investigate the option of agreeing with the contractor a schedule of the contract which clearly identifies information which should not be disclosed. The Trust will take care when drawing up any such schedule, and be aware that any restrictions on disclosure provided for could potentially be overridden by obligations under the Act, as described in the paragraph above. Any acceptance of such confidentiality provisions must be for good reasons and capable of being justified to the Commissioner.

The Trust will not agree to hold information 'in confidence' which is not in fact confidential in nature. Advice from the Lord Chancellor's Department indicates that the exemption applies if information has been obtained by a public authority from another person and the disclosure of the information to the public, otherwise than under the Act would constitute a breach of confidence actionable by that, or any other person.

It is for the Trust to disclose information pursuant to the Act, and not the non-public authority contractor. The Trust will take steps to protect from disclosure by the contractor information which the authority has provided to the contractor which would clearly be exempt from disclosure under the Act, by appropriate contractual terms. In order to avoid unnecessary secrecy, any such constraints will be drawn as narrowly as possible and according to the individual circumstances of the case. Apart from such cases, the Trust will not impose terms of secrecy on contractors.

6.13 Accepting Information in Confidence from Third Parties

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 the authority's functions and it would not otherwise be provided.

The Trust will not agree to hold information received from third parties "in confidence" which is not confidential in nature. Again, acceptance of any confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

6.14 Means by which information will be conveyed

When an applicant, on making their request for information, expresses a preference for communication by any one or more of the following means, namely:

- 6.14.1 the provision to the applicant of a copy of the information in, permanent form or in another form acceptable to the applicant,
- 6.14.2 the provision to the applicant of a reasonable opportunity to inspect a record containing the information, and
- 6.14.3 the provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant,

the Trust shall, so far as reasonably practicable, give effect to that preference in accordance with the Act.

In determining whether it is reasonably practicable to communicate information by a particular means, the Trust will consider all the circumstances, including the cost of doing so. If the Trust determines that it is not reasonably practicable to comply with any preference expressed by the applicant in making their request, the Trust will notify the applicant of the reasons for its determination and will provide the information by such means as which it deems to be reasonable in the circumstances.

6.15 Exemptions

Although the FOIA covers all information held, it includes 23 exemptions that allow public authorities not to disclose certain types of information (Appendix 5).

6.15.1 Absolute exemptions remove both the right to know if information exists and the right to receive the information.

6.15.2 Qualified exemptions remove only the right to receive the information – the enquirer must still be told if the information exists.

Qualified exemptions are subject to a public interest test. Although the Act does not explicitly define 'the public interest' something 'in the public interest' is very simply that: something which serves the interests of the public. To apply the test, the public authority decides whether the public interest is better served by withholding or disclosing information. Where disagreements arise, the Office of the Information Commissioner will act as the final arbiter.

Exemptions likely to be most relevant to the Trust involve: personal information, information provided in confidence, commercial information, information already reasonably accessible (such as in our publication scheme, on our web site or in our annual reports) and information for intended future publication.

Wherever we refuse a request for information, we must give a reason that specifically relates to the appropriate exemption(s).

A list of exemptions can be found in Appendix 5.

The Act does not change our responsibilities in regard to confidentiality of personal information or other legislation covering information. A tabular summary of legislation and NHS guidelines related to information governance is at Appendix 3.

6.16 Reuse of Public Sector Information

Information routinely published by the Trust through the Publication Scheme and Web site may be re-used by any individual or organisation subject to the following conditions:

- Acknowledge the Trust as the source
- Acknowledge the document title
- Note that the document remains as Trust's copyright

All information supplied by the Trust in answering a request for information under FOIA/EIR will be subject to the Re-Use of Public Sector Information Regulations 2005.

6.17 Recording Requests and Records Retention

The FOI CO-ordinator will establish a system for recording FOI requests and associated correspondence, including any decisions not to supply information.

Details of information requests where the data was supplied will be held for three years after the closure of the enquiry (i.e. when the information was supplied). After this, anonymised summaries of request statistics will be held.

Where requests for information are declined (even partially), the Trust will retain all details of the request for ten years from the last episode related to the request.

6.18 Complaints

The Trust will use the Trust Complaints Procedure to deal with complaints in connection with the Publication Scheme and Rights of Access. If the complainant is dissatisfied with the conduct of the Trust or the outcome of a decision then they can be referred to the Information Commissioner. The procedure will refer applicants to the right to apply to the Information Commissioner if they remain dissatisfied with the conduct of the Trust following attempts at local resolution of their complaint.

6.19 Training/Awareness

The Head of Communications will work with training providers and line managers to ensure that appropriate training is part of the induction process and additional training is available, as appropriate to support staff.

The Head of Communications, through the Information Governance Committee, will ensure awareness to Freedom of Information/Environmental Information issues are raised through briefings, newsletters, leaflets, posters, web services, etc.

7. Consultation and Communication with Stakeholders

This policy has been revised in consultation with the information Governance Steering Group members.

8. Approval and Ratification

The Information Governance Steering Group is the sponsor group for this policy and the Trust Executive Committee is the forum for ratification

9. Review and Revision

This policy will be reviewed in line with the Trust Policy on Management and Development of Procedural Documents; the standard length of time for review is three years.

However, changes within the organisation affecting this process, together with any changes in legislation or the requirements of external regulators /accreditation organisations may prompt the need for revision before the 3 year natural expiry date.

10. Dissemination and Implementation

The Trust process for dissemination of policies will be followed as described in the Organisation Wide Policy for the Management and Development of Procedural Documents.

This includes:

- posting on the dedicated Policies and Procedures page of the Intranet
- notification to all staff of the new policy on the next available E-Bulletin

11. Archiving

The policy will be held in the Trust database, known as the library and archived in line with the arrangements in the Organisation wide Policy for the Management and Development of Procedural Documents.

Working copies will be available on request from the Policy Co-coordinator by contacting the dedicated mailbox trustpolicies@sash.nhs.uk

12. Monitoring compliance

This Policy, the Publication Scheme and associated procedures will be monitored by the Information Governance Steering Group and as part of the Information Governance Toolkit. The FOI manager will provide reports to each Information Governance Steering Group. The review will include details of the number of requests, number and percentage of breaches and exemptions used. Any actions required will be agreed by the committee and undertaken by the FOI manager.

13. References

Data Protection Act 1998

Freedom of Information Act 2000

Environmental Information Regulations 2004

Re-Use of Public Sector Information regulations 2005

Records Management Code of Practice, Part 1, DH 2006

Records Management Code of Practice, Part 2, DH 2009

Lord Chancellor's Code of Practice on the Discharge of Public Authorities' Functions under Part I of the Freedom of Information Act 2000, issued under section 45 of the Act, November 2004

Lord Chancellor's Code of Practice on the Management of Records issued under section 46 of the Freedom of Information Act 2000, November 2009.

14. Associated Documents

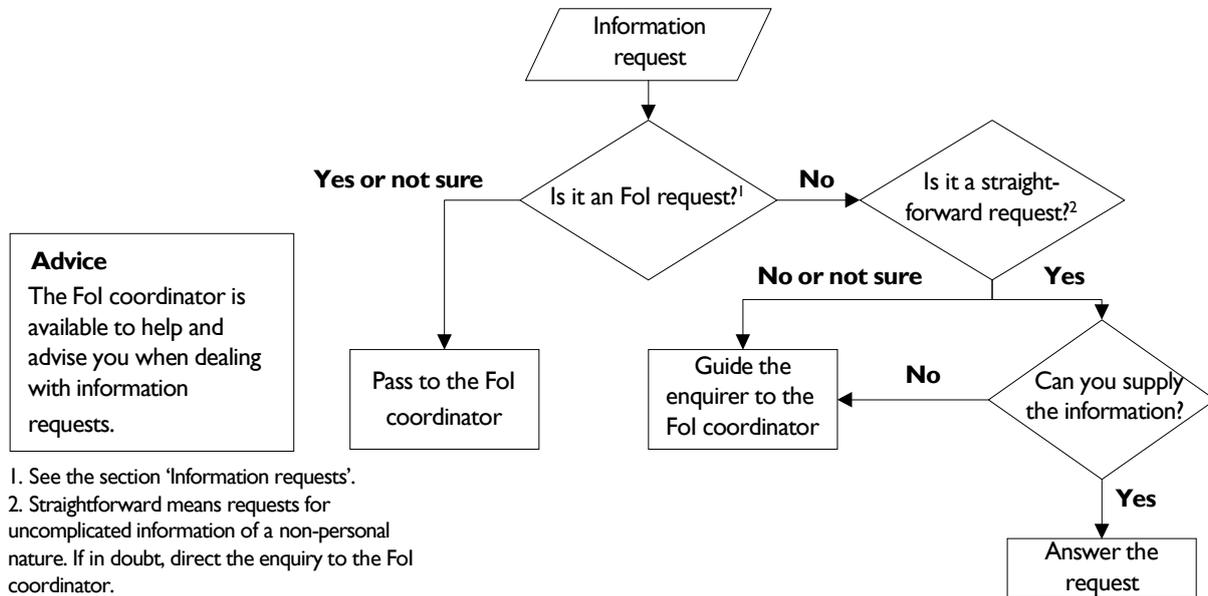
Information Governance Policy

Information Governance Strategy

Records Management Policy and Information Lifecycle Strategy

Appendix 1: Initial enquiry handling flow chart

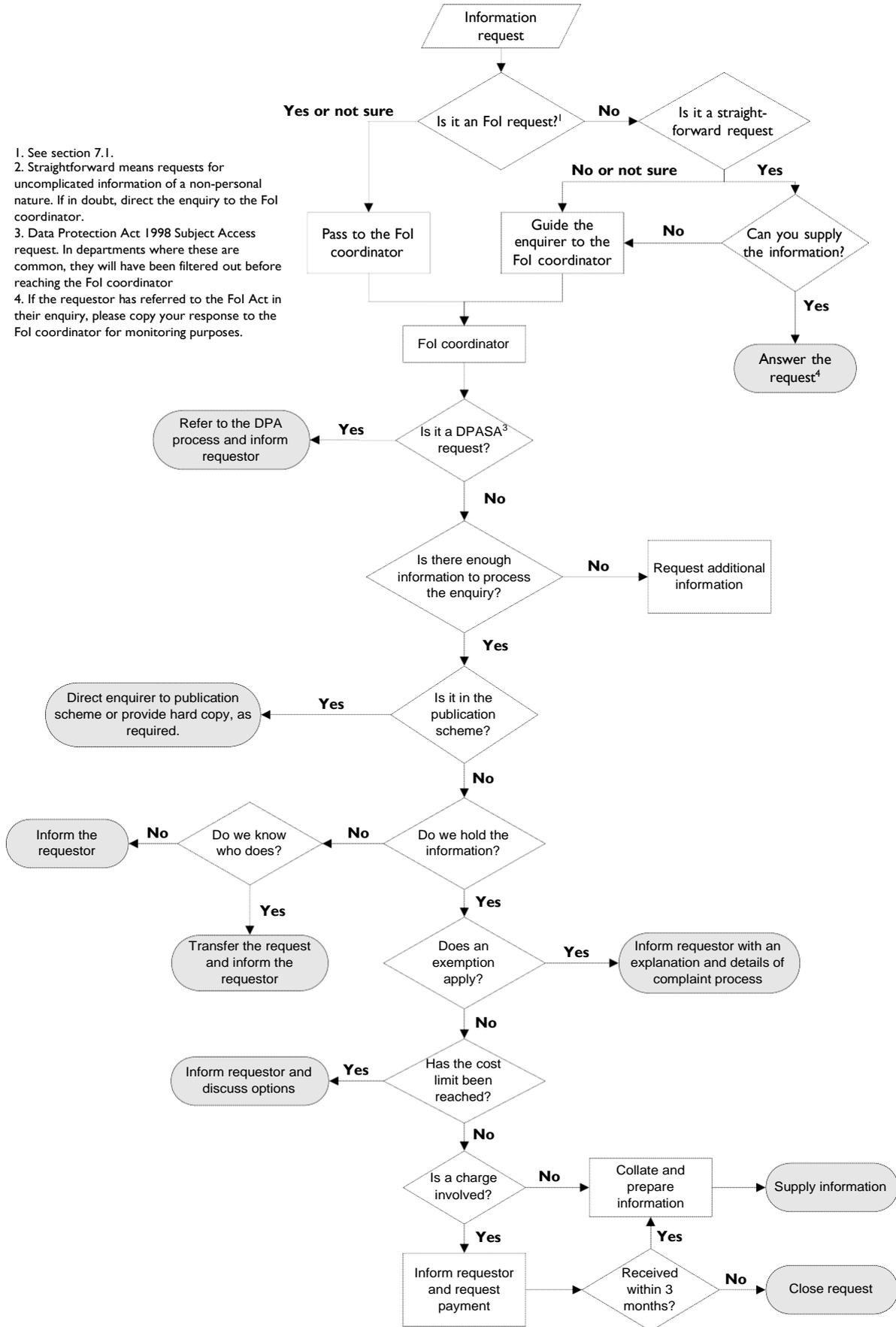
This is the basic procedure for handling requests for information, as shown in the leaflet 'Freedom of Information – A guide for staff'.



The FOI Co-ordinator can be contacted at foi@sash.nhs.uk.

Appendix 2: Detailed enquiry handling flow chart

1. See section 7.1.
2. Straightforward means requests for uncomplicated information of a non-personal nature. If in doubt, direct the enquiry to the Fol coordinator.
3. Data Protection Act 1998 Subject Access request. In departments where these are common, they will have been filtered out before reaching the Fol coordinator.
4. If the requestor has referred to the Fol Act in their enquiry, please copy your response to the Fol coordinator for monitoring purposes.



Appendix 3: tabular summary of legislation and NHS guidelines related to information governance

Requirement	What it covers	Personal responsibilities
Freedom of Information (Fol) Act 2000	All recorded information in any form.	Comply with Freedom of Information procedures for the handling of information requests. Comply with Information Governance policies.
Data Protection (DP) Act 1998	Personal identifiable information about living individuals – manual and automated records (e.g. on computer, video tape, digital images).	Keep all personal identifiable information secure and confidential.
Access to Health Records (AHR) Act 1990	Personal identifiable records made by a health professional for the purpose of health care. Records obtainable under the DP Act are exempt: in practice this means that the AHR Act applies to the records of deceased individuals.	Comply with AHR Act requests and keep relevant information secure and confidential.
Human Rights Act 1998 (Article 8)	An individual's right to privacy for themselves and their family members.	As above.
Computer Misuse Act 1990	Unauthorised access to computer held programs and information/data.	Do not use any other person's access rights (e.g. user id and password).
Common Law of confidentiality	An individual's right to confidentiality of their information when alive and once they have died.	Keep all information secure and confidential. Also remember this covers wishes of deceased persons – if it is recorded they do not want details of their treatment disclosed when they die this

		wish will normally need to be respected.
Caldicott	Security and confidentiality of personal health and social care information for patients and service users.	Apply the Caldicott principles to the collection and storage of patient identifiable information.
Contract of employment	Employee's responsibilities including security and confidentiality of any information accessed during the course of work.	Comply with contract

Appendix 5: Exemptions

There are 23 categories of information under which it is permissible not to release information. Some of the exemptions are absolute exceptions in which case the Trust can automatically withhold the information. No reason needs to be given for non-disclosure other than quoting the relevant exemption.

The absolute exceptions are.

Section of the Act	Exemption name
21	Information accessible by other means
23	Information supplied by, or related to, bodies dealing with security matters
32	Court records and transcripts
34	Parliamentary privilege
36	Prejudice of effective conduct of public affairs
37	Communications with the Monarch, the heir to the throne and the second in line of succession to the throne
40	Personal information
41	Information provided in confidence
44	Prohibitions on disclosure

The general exemptions are:

Section of the Act	Exemption name
22	Information intended for future publications
24	National security
26	Defence
27	Internal relations
28	Relations within the United Kingdom
29	The economy
30	Investigations and proceedings conducted by public authorities
31	Law enforcement
33	Audit functions
35	Formulation of government policy
38	Health and safety
39	Environmental information
42	Legal professional privilege
43	Commercial interests

Appendix 6: Plan for dissemination of procedural documents

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

Acknowledgement: University Hospitals of Leicester NHS Trust.

Title of document:	FOI Policy & Procedure		
Date finalised:	March 2016	Dissemination lead: Communications manager	
Previous document already being used?	Yes		
If yes, in what format and where?	Electronically, held in the Trust document library on the intranet		
Proposed action to retrieve out-of-date copies of the document:	Policy Co-ordinator to archive previous master copy. Director of Communications to publicise new version in staff e-bulletin.		
To be disseminated to:	How will it be disseminated, who will do it and when?	Paper or Electronic	Comments
All staff	Intranet	Electronic	Communications manager to publicise in e-bulletin following ratification at end March 2016

Dissemination Record - to be used once document is approved.

Date put on register / library of procedural documents		Date due to be reviewed	March 2019
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Disseminated to: (either directly or via meetings, etc)	Format (i.e. paper or electronic)	Date Disseminated	No. of Copies Sent	Contact Details / Comments