Policy and procedure

Freedom of information (FoI)

Key messages

- The processing of general requests for information must comply with this policy.
- Information that the Trust routinely publishes is available on the Trust's website as part of the publication scheme.
- General requests for information must be responded to within 20 working days.
- Department data awareness representatives will be contacted by the Information Governance Team to provide information so that we can respond to Freedom of Information requests for information, this information must be received promptly and departments must let the team know if they are concerned about releasing the information requested.

1 Scope

This policy applies to all Trust employees, including:

- staff who hold honorary contracts
- contractors working on behalf of the Trust
- the Board of Governors
- Non-executive directors.

2 Purpose

- To be open and honest with the general public and the media and to place as much information in the public domain about its activities as is practicable and, subject to the exemptions permitted under the *Freedom of Information Act* 2000 (FoI), make all other information available on request.
- Deal with all requests for information in accordance with the Lord Chancellor's Code of Practice.
- In dealing with requests for information under the requirements of the *Freedom of Information Act* 2000 the Trust will comply with other legal requirements, in particular:
  - the *Data Protection Act* 1998 and
  - the *Environmental Information Regulations* 2004.
- To ensure the publication scheme is maintained and kept up to date.
- To ensure that all staff are aware of processes that they should be following in relation to general requests for information.

3 Introduction

This policy applies to all information recorded and held by the Trust.

The Freedom of Information Act 2000 (FoI) aims to promote a culture of openness and accountability in the public sector by providing people with a general right of access to all types of recorded information held by public authorities. The Act sets out exemptions from that right and places a number of obligations on public authorities.

These rights of access to information will facilitate better public understanding of:

- how public authorities carry out their duties
- why they make the decisions they do
- how they spend their money.

When making a request for information the applicant has the right to be told if the information exists and if it exists, to be given the information, unless an exemption applies.

4 Responsibilities

4.1 Board responsibility

The Trust secretary is responsible for raising issues to the Board of Directors as appropriate and for approving responses to FoI requests.

4.2 Information Governance lead

Providing advice and guidance to the information governance team and the Trust on responses to FoI requests and responding to requests for reviews.

4.3 Senior manager

It is the responsibility of all Trust senior managers to ensure that the Trust freedom of information policy and procedures are put in place and adhered to.

4.4 Information Governance Team

Ensuring that all staff across the Trust receives appropriate training and awareness on FoI. Dealing with all requests for information made to the Trust under the Act.

4.5 Data awareness representatives

Collating and locating any departmental information that is required by the information governance team to assist them in responding to FoI requests.

4.6 All staff

All staff are responsible for dealing with requests for information in accordance with the *Freedom of Information Act* and the requirements of this policy and procedure.

5 Publication scheme

The Trust is required to make publicly available a number of documents to comply with the publication scheme, publication schemes are a requirement of FoI. The Trust's publication scheme is available on the Trust's website at: http://www.cuh.org.uk/cuh/profile/foi/foi_index.html.

The Trust's publication scheme will be regularly reviewed and kept up to date. If information is requested on a regular basis then consideration will be given to placing this information on the publication scheme, in consultation with the author and department/ directorate.

6 Dealing with requests for information under the Act

All requests under the *Freedom of Information Act* should:

- be received in writing (email is also acceptable)
- include a contact name and address
- include an outline of the information requested.

A request can be received from any individual, organisation and from any country.

The applicant does not have to state why they want the information or that they are requesting the information under FoI.

It is not possible to ask the reasons for the request but clarification should be sought if it is not clear what information is required. Clarification should be obtained where necessary as soon as the request has been received but no later than within three working days.

If requests requires translation, a translation will be obtained where possible so that it can be determined if this is a request for information under the *Freedom of Information Act*.

If the Trust is aware of a 'round robin' request (ie' a request that has been sent to several recipients) then an email will be sent to the strategic health authority FoI lead at foi@eoe.nhs.uk to advise them of the request.

7 Identifying requests

All areas of the Trust receive requests for information on a regular basis but only some requests fall under the *Freedom of Information Act* 2000.

The following requests must be referred to the Information Governance Team, if

- the request mentions the *Freedom of Information Act* 2000
- the department does not have the information requested
- the request is not one which the department would usually answer
- the department has concerns about releasing the information requested such as personal data, confidential information, commercially sensitive information
- the department wishes to refuse the information requested.

Requests for information could fall under Data Protection Act 1998 or the Environmental Regulations 2004. Please refer to the data protection policy for further information.

8 Procedure for responding to requests for information under the Act

The procedure for dealing with requests for information can be found at appendix 2.

All requests for information that fall under the *Freedom of Information Act* should be passed to the Information Governance Team promptly. Written requests should be date stamped with the date of receipt by the receiving department; contact the information governance team to arrange collection.

All email requests for information should be forwarded immediately to the following email address: foi.contact@addenbrookes.nhs.uk.

Where verbal requests for information are received, the individual should be asked to put this request in writing to the Information Governance Team, either by email or by letter. All correspondence should be addressed to either foi.contact@addenbrookes.nhs.uk or:

Information Governance Team
Patient Services Department, Box 153
Cambridge University Hospitals NHS Foundation Trust
Hills Road, Cambridge, Cambridgeshire CB2 0QQ.

If the individual is unwilling to submit the request in writing, please forward all phone requests to extension 58697.

Responses to request for information will include a satisfaction survey to ask the applicant for their views on how the Trust dealt with their request for information; response to this survey is voluntary.

9 Providing advice and assistance

Advice and assistance will be provided to any applicant requesting help to put in a request for information, by the Information Governance Team. Applicants can also seek advice from outside bodies such as citizen's advice bureaux.

Further information is available at appendix 3.

10 Timescales for responding to requests

The Act requires that responses to requests for information be made within 20 working days, after payment of any fee. Those dealing with requests must do so promptly and not delay responding until the end of the 20 working day period if the information can be reasonably provided earlier.

If a request is received by email during a member of staff's absence the out of office assistant should be used to inform applicants who to contact. If the applicant does not re route the request to the nominated person then the clock does not start to tick until it is opened by the original recipient.

The clock stops if further clarification is required and will only start once the clarification has been received.

If a request is received that would be disproportionately expensive to devote resources to answering, the requestor will be contacted to determine whether it is possible to reduce the volume of the request. The clock continues to tick while this is undertaken.

The clock stops when a fees notice has been issued. The applicant has three months to pay any fees. The clock restarts once the fees have been paid.

The Trust aims to make all decisions within 20 working days.

The 20 working day time limit can be extended to a reasonable time when the Trust has to apply the public interest test because one of the qualified exemptions applies. The Trust has to provide the applicant with an estimate of when they would be able to provide the applicant with a decision/ information. If this estimate is not achievable then the Trust must keep the applicant informed.

It is important that any member of the Trust staff who is contacted regarding a request for information complies within the timescales given to them. Failure to do so will jeopardise the Trust's ability to meet the 20 working day target and may result in the Trust receiving notices from the Information Commissioner.

All requests for information dealt with as part of normal Trust business should also be processed within 20 working days.

11 Fee charging

The Trust has discretion to charge applicants a fee in accordance with the Fees regulations. Further details can be found in appendix 3.

12 Information supplied by a third party

When a request for information is received where the Trust holds information supplied by a third party, the Trust will consult with the third party to enable them to express their views as to whether an exemption should apply.

The Trust maintains sole responsibility to make the decision as to whether the information should be disclosed.

13 Refusal of a request

Where the Trust relies on an exemption to refuse a request for information, the requester will be informed in writing which exemption applies why, and, where appropriate, the arguments for and against the public interest test.

The Information Governance Team will be responsible for deciding if an exemption applies. Opinions from departments will be taken into consideration when making the decision. All FoI requests will be discussed at the weekly FoI meeting with the Trust secretary. The Trust secretary, where appropriate, will refer responses to the chief executive of the Trust.

14 Information accessible

All information is accessible under FoI unless an exemption applies. This includes all information except the spoken word that has not been recorded on any form of media. All historical information is also accessible.

If information is held by a third party then the Trust must inform the requester that it does not hold all or part of the information. If information is held by another third party, the information governance team will inform the applicant who holds the information.

If information has been amended since the application has been received then the applicant should be provided with the amended version.

If information has been destroyed the information governance team will inform the requester that the information is no longer available.

If information cannot be found the information governance team should be informed as soon as possible, the requestor will be informed that the information cannot be located.

Information stored off site – the Data Awareness Representatives will be responsible for ensuring that any information stored off site is retrieved. Should this cause a delay in dealing with the request within 20 working days, then the information governance team will inform the applicant of the delay, giving them a realistic timescale as to when the information will be available.

If the information does not exist the Act does not require the Trust to create the information in order to answer the request. It is good practice though to consider alternative available information that may answer part or the entire request.

Information where appropriate can be provided in other formats for those with special needs.

15 Copyright and the Re-use of Public Sector Information Regulations

Information produced by the Trust falls under Cambridge University Hospitals NHS Foundation Trust copyright. For further information on this please contact Media Studio. How information is used by the requester can be restricted under copyright law.

The EU directive on the Re-use of Public Sector Information Regulations recognises that some information held by public authorities has a commercial value and that public authorities should be able to receive a fair commercial market return plus an amount to cover the costs of production for the use of this information.

Licences should be granted where appropriate to allow an applicant to re-use the information; otherwise information is provided for personal use only and within copyright law.

16 Review and complaint procedure

When responding to requests, the Trust will notify the requester of their rights for a review, to make a complaint and their right to complain to the Information Commissioner if still dissatisfied following the Trust's investigations and response.

A request for a review will be reviewed by the Information Governance lead. Recommendations from the review process will be passed onto the Trust secretary. The final decision on whether a request for a review will be upheld or overturned will be made by either by the Trust secretary or the chief executive of the Trust.

Requestors will be informed of the decision made as a result of the review process; the applicant has the right of appeal to the Information Commissioner. Information on how to do this will be included in letters sent to the applicant.

17 Contracts

When entering into contracts the Trust should 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.

All contracts drawn up should include appropriate disclaimers about the Trust's responsibility to comply with the *Freedom of Information Act*. For further guidance on this please contact the Information Governance Team.

18 Personal data

If the personal data is about the person requesting the information, then there is no right to know the information under the *Freedom of Information Act*. Any such requests automatically become subject requests under the *Data Protection Act* and must be treated as such.

If the personal data is about someone other than the applicant, there is an exemption if disclosure would breach the data protection principles.

19 Release of staff information

Please refer to the protecting and keeping confidential employee data policy.

20 Role of the Information Commissioner

The Information Commissioner is the supervisory body for *Freedom of Information Act*. The Information Commissioner is responsible for authorising the publication schemes and for disseminating information and guidance about the Act. The Information Commissioner has enforcement powers to ensure that public authorities comply with the Act.

21 Implications of non compliance with Act

If the Trust does not comply with the Act then the Information Commissioner has the power to issue notices forcing the Trust to comply with the Act. Failure to comply with these notices could result in the Trust being found in contempt of court.

If the Information Commissioner finds that the Trust procedures for dealing with requests for information do not comply with the codes of practice, then the Information Commissioner can issue practice recommendations to the Trust, advising the Trust how they should be dealing with requests in order to comply with the Act. Under section 77 of the *Freedom of Information Act* any person is guilty of an offence if they have either tampered or destroyed any information that is the subject of a request for information.

An individual is liable for a £5,000 fine.

22 Training and awareness

All Trust staff will receive FoI training as part of their information governance training.

23 Monitoring compliance with and the effectiveness of this policy

Key standards to be maintained:

- 95% of all FoI requests will be dealt with within 20 working days.

The standards will be monitored by the Information Governance Team by:

- maintaining a log of all requests made for information under the *Freedom of Information Act*, which will ensure consistency in dealing with similar requests and identify repeated, duplication or vexatious requests by logging:
    - the time it takes to deal with requests
    - whether the same or similar information has previously been provided or refused
    - the reason for the refusal, if refused
- monitoring performance in dealing with such requests and reporting to the Board of Directors
- undertaking a yearly FoI audit to monitor compliance with this policy; the results of this audit, together with the results of the satisfaction survey, will be reported to the Information Governance Steering Group, who will be responsible for ensuring that any actions identified as part of this monitoring are followed through
- providing quarterly reports on compliance with this policy to the Information Governance Steering Group and the Board.

24 References

Freedom of Information Act 2000
Code of Practice Section 45

25 Associated documents

- access to health records policy
- access to health records procedure
- confidentiality of personal health information policy and procedure
- data protection policy
- information security policy
- internet and email use policy
- protecting and keeping confidential employee data policy
- records management policy and procedure
- records: preservation, retention and destruction policy and procedure

FoI on the Addenbrooke's website:
http://www.cuh.org.uk/cuh/profile/foi/foi_index.html

Equality and diversity statement

This document complies with the Cambridge University Hospitals NHS Foundation Trust service equality and diversity statement.

Disclaimer

It is **your** responsibility to check against the electronic library that this printed out copy is the most recent issue of this document.

Document management

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Appendix 1: Freedom Of information Request process

Request received

1. Record receipt of the request on the Excel FoI database, summary of requests received word document and outstanding weekly FoI meeting report.

   Calculating the 20 working day target:
   Count 20 working days from the next working day after the request was received. The target date is the 20th day.
   Eg request received 1.11.06 – 20 working day target is the 29.11.06, request received 3.11.06 – 20 working day target is the 1.12.06. Bank holidays are not included in the calculation.

   Date request received:
   The date the request was received is the date received by the Trust, not the date the department receives the request. If the letter is not date stamped then take the date of receipt as the date you receive the request. For emails the date of receipt is the date the email was sent during working hours, otherwise the date of receipt is the next working day.

2. Set up an individual request folder in the FoI folder. Title of the folder is the number of the request and the year followed by a subject heading, eg 191.10 Overseas Patients.

3. File a paper copy of the request in the blue folder. Complete a task sheet. Paper copies are held in the front of the blue folder and electronic version in the FoI electronic folder. Note request received on the front sheet of folder.

4. Within three working days of receiving the request send an acknowledgement letter to the applicant – template available. Save a copy of letter within the individual request folder. Complete task sheet. Where possible send the acknowledgement letter by email, otherwise the letter will have to be sent in the post. Record on the Excel database the date the letter was issued.

5. If you need to ask for clarification – contact the applicant either by email, letter or telephone. You can either ask the applicant the information that you want to clarify or ask them to contact you to discuss this over the phone. If you need to ask for clarification do not send an acknowledgement letter and do not work out the 20 working day target until the clarification has been received. Complete the task sheet. Record on the access database the date the letter was issued for clarification. Once clarification received – date request received is the date clarification was received.

6. Within three working days of receiving the request send the request for information to the data awareness representative by email. If the department does not have a data awareness representative send the request to a senior manager. Complete the task sheet. Record on the Excel database the date the email was issued.

7. Requesting information:
   - You may need to send the request to more than one department depending on the questions being asked.
   - Do not disclose who the request has been received by to the data awareness representative or manager. This is not disclosed because of data protection and

to ensure that the information provided to answer the request is not clouded by who has requested the information.

- Any questions relating to money/ budgets go to the Finance Department
- Any questions relating to staffing number (WTE) go to the Finance Department
- Any questions relating to statistical information from HISS go to the Information Management Team. If you are not sure whether they should deal with the request contact the head of Information Management to check first.
- Staff should be given five working days to return the information.
- Email request to member of staff – mark email as urgent. Subject heading of email is FoI request followed by the subject heading. Title all emails sent in relation to the requests in this way.
- Record on task sheet – date sent and who to.

Response not received by deadline
If a response is not received from data awareness representative after the five working days email a reminder to them to chase information. If they need more than five working days to deal with the request agree a response date. A minimum of a six working days is required to pull the response together.

After reminder email – no response: send a further reminder to the data awareness representative, copy to the head of service/ ADO.

Record action on task sheet.

Response received
1. Check information provided answers questions.
2. Complete the task sheet.
3. Check, are there any concerns in releasing information? Does an exemption apply? Is any of the information sensitive?
4. Draft the response letter once all information received, using the appropriate letter template
5. Discuss with a senior manager in Patient Services

Responses that do not need to go to weekly FoI meeting – eg contact details exempt under section 21

6. Save any documents provided by the department to answer the request in the individual FoI request folder.
7. Save all emails to the FoI request folder.
8. Clip all paper documents together and file in the FoI Quarterly folder, marking the front sheet in red with the target date, response date and destruction date.
9. Complete the FoI logs that request completed.
10. Electronic folder is renamed with data of destruction (at the end of the title) and moved to the completed FoI requests folder.
11. Include where appropriate a copy of the response in the weekly report for the FoI meeting

Responses for approval at weekly FoI meeting

12. Include draft response in the weekly FoI report. If due to the deadline the response needs to be approved before the next weekly FoI meeting, forward a draft response

to the Trust secretary for approval, also send to the director of Communications or the Press and media manager if a media request (then follow step 14-20).

13. After the weekly FoI meeting amend as requested. Feedback will determine whether they wish to see the response again before it is issued.
14. Once approval received issue response to applicant, complete the task sheet.
15. Save any documents provided by the department to answer the request in the individual FoI request folder.
16. Save all emails to the FoI request folder
17. Clip all paper documents together and file in the FoI Quarterly folder, marking the front sheet in red with the target date, response date and destruction date
18. Complete the FoI logs that request completed
19. Electronic folder is renamed with data of destruction (at the end of the title) and moved to the FoI requests folder for that year

General information

- While dealing with the requests move all emails to the FoI email folder. Set up a folder for each FoI request in the FoI email account in box, move un-actioned emails for individual requests into their respective folder but keep the email as unread until it has been actioned. Un-actioned new FoI requests should remain as unread in the FoI in box, once actioned they should be moved into their respective email folder.
- Check Information Governance lead's email account as well for stray emails that haven't been sent to the data awareness manager, Information Governance coordinator or the FoI email folder.
- All paper copies of old FoI requests are filed in folders on the shelf.
- Electronic copies are kept in folders on the server in the completed request folder.

Weekly FoI meeting reports

- Two reports are prepared – outstanding requests and completed responses for approval.
- Reports prepared and issued the day before the meeting – circulated to the Trust secretary, the director of Communications, director of Patient Experience and Public Engagement, Press and media manager and the Information Governance lead.
  A copy of the report should also be sent to those directors where either a response or a new request relates to their directorate.
- All new requests are included on the outstanding requests report which details any Media enquiries for the Communication team.
- Save weekly reports in the electronic folder.
- Update weekly reports as dealing with requests, to outstanding weekly report add in red any comments on progress of dealing with requests and any issues that meeting needs to be aware of.

Disclosure log

A disclosure log will be sent to the web editor at the beginning of each of month with examples of FoI responses that have been issued during the previous month in accordance with the guidelines agreed by the FoI User Group, for publishing on the web site.

The website will show the previous 12 months' disclosure logs.

Appendix 2: Providing advice and assistance to applicants

When a person is unable to submit a written request, the data awareness manager or the Patient Advice and Liaison Service will provide further assistance. Depending on the circumstances, appropriate assistance might include:

a) advising the applicant who else might be able to assist them, for example citizen's advice bureaux.
b) in exceptional circumstances, offering to take a note of the application over the phone and then sending the note to the applicant for confirmation.

Where the request is vague or ambiguous the Trust is obliged, as far as practicable, to assist the applicant in clarifying the request. The purpose of this is to clarify the nature of the information sought not to determine the aims or motivation of the applicant.

a) An outline of the different kinds of information which might meet the terms of the request.
b) A general response to the request setting out options for further information which could be provided on request.

If following the provision of such assistance, the applicant is still unable to describe the information requested in a way that would enable the Trust to identify and locate the information; the Trust is not expected to seek further clarification. It is, however required to disclose any information that has been successfully identified and inform the applicant why it can not take the request any further. It must also provide the applicant with details of the Trust's complaint procedure.

Where the applicant is not prepared to pay the appropriate fee, the Trust should nevertheless consider whether there is any information that may be of interest to the applicant that is available free of charge.

Where the Trust is not obliged to supply the information requested because the cost of doing so would exceed the appropriate limit (ie cost threshold), and where the Trust is not prepared to meet the additional cost itself, it should nevertheless provide an indication of what information could be provided within the cost ceiling.

The Trust is not expected to provide assistance to applicants whose requests are deemed vexatious within the meaning of the Act.

Procedure for dealing with requests will be published on the website and available from the Patient Advice and Liaison Department.

Appendix 3: Fees regulations

Disbursement costs
The Trust will charge disbursement costs as per the following table.

Item	Charge
Photocopying	25p per sheet
Postage	Postage will be charged at the appropriate rate. This will vary according to the size and weight of the parcel.

An invoice for disbursement costs will only be raised if the cost is greater than £25.00, this is the cost of raising and processing an invoice.

An invoice would be raised by the data awareness manager and issued to the applicant with a covering letter. Cheques or postal orders should be made payable to Cambridge University Hospitals NHS Foundation Trust and returned to the data awareness manager. The fees would be accepted as paid as soon as the cheque has been cleared. Any fees would be paid into the Patient Services budget.

Other charges
The cost of looking for the information, retrieving the information and putting the information into a format requested by the applicant will be free up to and including £450.00. This equates to 18 hours work, £25.00 per hour.

If a complex request is received that is likely to take more than 18 hours work, the fees would be estimated before the information was located.

The data awareness manager will contact the applicant to inform them that the cost of looking for the information will exceed £450.00. If the applicant is willing to pay the full costs for obtaining this information, the Trust will decide whether it is willing to proceed with the request. If the Trust is willing to proceed with the request an invoice will be raised and issued to the applicant. The information would not be obtained until the fees have been received. The maximum amount can be charged at £25.00 per hour plus disbursement costs.

If the Trust is unwilling to proceed with this request then the data awareness manager will discuss with the applicant whether their request could be modified to reduce the cost. This also applies if the applicant is unwilling to pay the fees.

The rights to access for information must be balanced by the needs of the Trust to carry out its core duties. For this reason the Act allows for the Trust to decline to comply with certain requests for information on the grounds of cost where these would be particularly expensive, even if the applicant is willing to pay for the information.

If an applicant disagrees with the Trust's decision about the cost then they have the right to ask the Information Commissioner's office to intervene.

An invoice would be raised by the data awareness manager and issued with a covering letter to the applicant. Cheques or postal orders should be made payable to cleared. Where appropriate any fees would be paid into the department's budget that was responsible for looking for the information.

The cost for dealing with requests can be aggregated in the following circumstances:

- Two or more requests for information must have been made to the Trust.
- They must either be from the same person or from different persons who appear to the Trust to be acting in concert or in pursuance of a campaign.
- The request must relate to the same or similar information
- Must have been received within 60 consecutive working days.

It is important that there are strong grounds for believing that requests have been framed precisely in order to circumvent the appropriate limit when considering whether requests should be aggregated.