

## Freedom of Information Act Procedure

<b>Date effective from:</b>	01/11/2015
<b>Review date:</b>	01/11/2018
<b>Version number:</b>	2.0

See Document Summary Sheet for full details

<b>CONTENTS</b>		
	Document Summary Sheet	3
	Document Amendment sheet	4
<b>PART A</b>		
<b>Section</b>	<b>Description</b>	<b>Page</b>
1	Executive summary	6
2	The content of the procedural document	6
	2.1 Flow chart of procedure	N/A
	2.2 Description of procedure/process	6
	2.3 Freedom of Information Requests	7
	2.4 Exemptions	11
	2.5 Refusal of Requests	11
	2.6 Provision of Advice and Assistance to Requestors	12
	2.7 Requestor is Unable to Frame Their Request in Writing	12
	2.8 Requestor has Provided Insufficient Information to Fulfil their Request	13
	2.9 Request Exceeds the Appropriate Limit	13
	2.10 Vexatious or Repeated Requests	14
	2.11 Requests that Appear to be Part of an Organised Campaign	14
	2.12 Consultation with Third Parties	15
	2.13 Charges and Fees	16
	2.14 Complaints and Feedback	17
	2.15 Reporting to the Information Governance Group	17
	2.16 Publication Scheme	18
	2.17 Liaison with the Trust Communications Team	18
	2.18 Record Keeping, Retention and Disposal	19
3	Duties	19
4	Training	20
5	Glossary of Definitions	20
6	Appendices relevant to the procedural document	N/A
<b>PART B</b>		
<b>Section</b>	<b>Description</b>	<b>Page</b>
7	Purpose of Document	23
	7.1 Policy statement	23
	7.2 Purpose of document	23
8	Identification of Stakeholders	24
9	References, Evidence Base	24
10	Associated Documentation	24
11	Equality Impact Assessment	25
12	Plan for Dissemination and Implementation	31
13	Standards/key performance indicators	32
14	Monitoring Compliance with, & the Effectiveness of the Procedure	33

**DOCUMENT SUMMARY SHEET**

ALL sections of this form must be completed. Those marked with \* will be used as search information on Staffnet.

<b>Document title*:</b>	Freedom of Information Act Procedure
<b>Document Reference Number *</b>	IG-0005
<b>Member of the Executive Team Responsible* (Title):</b>	Chief Financial Officer
<b>Document author* (Name and title):</b>	Carl Starbuck Information & Knowledge Manager
<b>Approved by (Committee/Group):</b>	Information Governance Group
<b>Date approved:</b>	22/07/2015
<b>Ratified by (Committee/Board):</b>	Finance & Business Committee
<b>Date ratified:</b>	19/10/2015
<b>Review date:</b>	01/11/2018
<b>Frequency of review:</b>	Every three years
<b>Responsible for the review:</b>	Carl Starbuck Information & Knowledge Manager
<b>Target audience:</b> (List, by title, the people this procedural document is essential for)	All Staff
<b>Responsible for dissemination:</b>	Carl Starbuck Information & Knowledge Manager

**DOCUMENT AMENDMENT SHEET**

Please record what changes you have made to the procedural document since the last version.

This is a summary of changes to the document and is designed to show people exactly what has changed. The version number recorded below should correspond to the ratified version number shown on the Document Summary Sheet.

<b>Version</b>	<b>Amendment</b>	<b>Reason</b>
0.1	Conversion of existing document into NHSLA format and general review	To reformat to NHSLA standards, and to refresh in the light of changed procedures, documentation and personnel.  To reflect the maturity of FoIA processes in LPFT and produce a document focused on the procedural needs of the FoIA practitioners and to advise staff and requestors.
1.0	Added section 5.17: Re-Use of Public Sector Information Regulations (2005) References to “Director of Corporate Development” to be altered in line with new organisational structure.	Comments from IM&T Governance Committee at ratification 15/04/2010.
1.1	Re-authored into new document template. Public Sector Information Regulations removed Changes to reflect current procedures. Simplification of language to reflect maturity of FoIA processes.	Reached regular review date.
2.0	Ratified	Ratified by Finance & Business Committee.

## PART A

## 1 EXECUTIVE SUMMARY

The Freedom of Information Act came into force on 1<sup>st</sup> January 2005. The Act gives a general right of access to information held by public authorities, sets out exemptions from that right and places a number of obligations on the Trust.

Leeds and York Partnership NHS Foundation Trust (the Trust) has two main duties under the Act:

- We must deal with individual requests from the public.
- We must have a Publication Scheme, which meets the requirements of the sector-specific Model Publication Scheme – as published by the Information Commissioner's Office.

Any person may make an information request, regardless of age, nationality, or location. A request does not have to mention the Freedom of Information Act, but it must be made in writing.

The Act gives requestors two associated rights:

- To be told whether the information is held by the Trust.
- To receive the information in the format requested, where possible.

The Trust is obliged to respond to requests within 20 working days under the general right of access, or within 10 working days for information classified as within the scope of the publication scheme.

The Procedure forms part of the Trust Information Governance Framework. It is over-arched by the Trust Information Governance Policy and the Freedom of Information Act (2000).

## 2 THE PROCEDURE

### 2.1 Flowchart of Procedure

Not applicable for this procedure.

### 2.2 Description of Procedure

The purpose of this Procedure is to facilitate the disclosure of information under the Act by setting out the procedures the Trust will follow when handling requests for information.

It will serve the interests of those requesting information from the Trust by setting out our processes for handling their requests, and serve the Trust by providing instruction to our staff on handling requests under the Act to meet our statutory obligations.

Although the Procedure is primarily aimed at an internal audience, it will also be made available to potential requestors via our website.

## 2.3 Freedom of Information Requests

### 2.3.1 Identifying a Request

Since the Act became law, any request for information received by the Trust comes under the scope of the Act. However given that it would be overly burdensome to process every request through the formalised FoIA route, the following guidelines should demonstrate which requests should be forwarded to the Information Governance team for processing:

The following are NOT FoIA requests:

- Information released as part of the Trust's normal business process.
- General correspondence that is not a request for information.
- Requests that do not include a delivery address for correspondence (which could be an e-mail address or fax number).
- Requests that are not made in writing ("in writing" includes emails, web-based forms, faxes and letters).
- Requests for access to personal information.

The following ARE FoIA requests:

- Requests from the media, politicians, researchers and any other individual member of the public for "corporate" information.
- There is a need to withhold the information requested, applying exemptions under the Act.
- The cost of complying would exceed the limit set out in the Fees Regulations that accompany the Act (Currently set at £450 at a rate of £25 per hour).
- A search is made for the information requested and it is found that none is held.
- Where further information is required from the requestor in order to identify and locate the information.
- Where the requestor specifically refers to FoIA when making their request.

On the final point, it is worth noting that the Act is often misquoted by requestors, often in error relating to Data Protection Act Subject Access Requests and other information which falls outside the scope of the Act. Under our general duty to advise and assist requestors, we will process such requests immediately and, where possible, advise alternative approaches.

### 2.3.2 Assessing the Request

Within one working day, the recipient of a written request for information must:

- Assess it against the criteria above (2.3.1) to establish whether it needs to be formally managed as a Freedom of Information request. If they are in doubt, seek the advice of the Information Governance team.
- If requested to do so, forward the request to the Information Governance team by the method instructed.
- Even if written requests do not need to be formally managed under FoIA, all staff should ensure that any requested information is provided within 20 working days.

### 2.3.3 Where to Send FoIA Requests

Once identified as an FoIA request, these should be sent to the Freedom of Information Officer at the following address:

Freedom of Information Officer  
Leeds & York Partnership NHS Foundation Trust  
1<sup>st</sup> Floor, North Wing, St Marys House  
St Martins View  
Leeds LS7 3LA

Telephone: 0113 855 9772  
Fax: 0113 295 2338  
Email: [foi.lypft@nhs.net](mailto:foi.lypft@nhs.net)

### 2.3.4 The 20 Working Day Clock

The Trust must respond to a request and despatch the information within 20 working days. The 20 working day clock starts the next working day after the Trust receives the request. A request is considered to be received when it is delivered to the IG team or the generic FoIA e-mail inbox. Any request received by email should be forwarded immediately to [foi.lypft@nhs.net](mailto:foi.lypft@nhs.net).

In respect of “working days”, this includes Monday through Friday only and excludes all days designated as public holidays. The working day should be regarded as being a standard office day, ending at 5pm, regardless of the hours actually worked by the IG team. Requests delivered after 5pm will be regarded as having been delivered on the next working day.

### 2.3.5 Logging FoIA Requests

The IG team will maintain an Excel spreadsheet log of incoming requests that summarises all requests received. The log will create graphical performance data that will be reported to the IG Group on a monthly basis.

Each FoIA request case will be given a unique request identifier using the following naming convention.

### **FOI-Incremental Reference Number**

A complete FoIA reference number will thus take the format:

#### **FOI-1301**

The reference number will be used in all correspondence and filing relating to the request.

The logging spreadsheet will be updated with key information and milestones as the request progresses to completion, for performance monitoring purposes.

### **2.3.6 Upon Receipt by the IG Team**

A new line for the request will be created in the logging spreadsheet, and the next incremental reference number will be allocated.

Within 2 working days of receipt, an acknowledgement will be sent, as follows:

- E-mail requests sent directly to the FoIA inbox will receive an automated e-mail acknowledgement.
- Requests received by letter, fax, or via forwarded e-mail will receive a manually generated acknowledgement using a standard letter template.

Where it is perceived that a response can be made near-immediately, the IG team may forgo the acknowledgement letter, although this will be limited to those requests that can be answered within 5 working days.

Should any aspect of the request be unclear, the IG team will seek clarification from the requestor.

They will inform the requestor in writing of any charges, if known, and that no information will be provided unless the charge is paid within three months. This will constitute the issue of a Fees Notice, as described in section 9 of the Act.

If the IG team estimate that the cost of compliance with the request exceeds the limit given in the Fees Regulations (currently £450, equating to 18 hours work) they will notify the requestor in writing of the estimated cost. The requestor will be advised and offered the opportunity to reduce the scope and hence workload of the request. If it is not possible to comply with the request within the appropriate limits then a Fees Notice will be issued.

If the IG team have evidence to demonstrate that the request is vexatious or repeated (as defined under section 14 of the Act) then the procedure for Exemptions or Refusal of Requests will apply.

### **2.3.7 Gathering the Information**

The IG team will identify and contact the person within the Trust who is most appropriately placed to provide the information requested, within 2 working days of receiving the request.

The information holder will be given 5 working days to present the requested information or in the alternative to give reasons why it cannot be provided. If they feel it will take longer than 5 days they should inform the IG team to agree a revised target date.

In the event of complex requests that are likely to exceed the 18 hour ceiling, the IG team will make the information holder aware of this limit and negotiate with both the requestor and the information holder to seek agreement on a way forward.

If the department from whom information has been requested is not the holder of the information, they should inform the IG team immediately.

Once the information has been gathered the information holder should send the information to the IG team.

The IG team will review the information to ensure that the information holder has answered the questions appropriately, and to see whether any exemptions apply and / or charges should be made. If any exemptions are applicable, the Exemptions procedure will be applied. If a charge is payable, the requestor will be issued with a Fees Notice.

### **2.3.8 Finalising Our Response**

If no exemptions or charges are applicable, the IG team will compile our final response using a standard letter template and forward the completed response to Senior Management for approval. Where a requestor states a preference for either the delivery mechanism or format of the information to be in a prescribed way, this will be honoured wherever practical and possible.

If the IG team determine that it is not reasonable to comply with the preferences stipulated, they will notify the requestor of this. The information will then be provided by such means that the IG team deem reasonable. In the discharge of this function the IG team will have regard to other statutory obligations upon the Trust such as those established under the Disability Discrimination Act.

## 2.4 Exemptions

### 2.4.1 The Exemptions Procedure

The Trust has a right to apply exemptions to disclosure when appropriate under the Act. Information will be withheld in circumstances where relevant sections of the Act apply. As a general principle however, the Trust operates an “open” culture and will always operate the exemptions procedure from the standpoint of “Disclosure First”.

### 2.4.2 Absolute Exemptions

Where exemptions are ‘absolute’, if information falls within the exemption definition then the Trust is not required to disclose the information.

### 2.4.3 Qualified Exemptions

Where the exemption is ‘qualified’, the Trust must apply a Public Interest Test, considering whether the public interest in non-disclosure outweighs the public interest in disclosure. The weighting of this test is always towards disclosure.

When implementing this procedure the IG team are expected to establish:

- When exemptions may need to be applied
- Who should be involved in the decision-making processes depending upon the circumstances of the particular case

The Information & Knowledge Manager, as Freedom of Information Officer, will be available to provide advice and guidance.

## 2.5 Refusal of Requests

A refusal of request may apply to all, or part of, the information requested. A request for information may be refused if:

- The information is considered to be exempt from disclosure
- A charge has not been paid within three months beginning on the day on which the requestor was informed of the charge
- The cost of compliance exceeds the limit (currently set at £450)
- The request is demonstrably repeated or vexatious

If a decision is made to refuse a request for information under any of the above clauses, the IG team must inform the requestor in writing of this fact and of the reason(s) why within 20 working days.

If the reason is because the information is exempt, the notification should:

- State that an exemption applies

- Specify the exemption in question
- State why the exemption applies

In addition, in the case of a qualified exemption, the notification should:

- State why it is in the public interest to withhold the information
- State why it is in the public interest to refuse to confirm or deny that it even holds the information requested.

The statement should not involve the disclosure of information which itself would be exempt information.

The requestor should be informed of the Trust FoIA appeal procedure and of their right to complain to the Information Commissioners Office

## **2.6 Provision of Advice and Assistance to Requestors**

Section 16 of the Act places a legal duty on the Trust to provide advice and assistance to requestors.

When a requestor miss-quotes the Act, attempts to use the Act inappropriately, requests information which we believe is held by another organisation or otherwise makes a request for information which we cannot fulfil, we will attempt to assist the requestor whenever possible, within the limitations of the letter and spirit of the Act and the extent of our knowledge.

## **2.7 Requestor is Unable to Frame Their Request in Writing**

The Trust recognises that the Act may be indirectly discriminatory in mandating the requirement to submit requests “in writing”.

Where a requestor is unable to frame their request in writing, the Trust will take reasonable steps to ensure that appropriate assistance is given to enable that individual to make a request. Appropriate assistance might include:

- Advising the person that another person (such as a Citizens Advice Bureau or other provider of information, advice or advocacy) may be able to assist them with the application, or make the application on their behalf.
- In exceptional circumstances, offering to take a note of the application over the telephone and then send the note to the requestor for confirmation (in which case the written note of the telephone request, once verified by the requestor and returned, would constitute a written request for information and the statutory time limit for reply would begin when the written confirmation was received).

This list is not exhaustive and the IG team will discuss the range of options available to the potential requestor with them, taking account of their circumstances.

## **2.8 Requestor has Provided Insufficient Information to Fulfil their Request**

Where the requestor has not described the information sought in a way that would enable the Trust to identify or locate it, or the request is ambiguous, the IG team will contact them. They will provide assistance to the requestor to enable him or her to more clearly describe the information requested.

The IG team will take care not to give the requestor the impression they are obliged to disclose the nature of their interest or that they will be treated differently if they do. It is important that the requestor is contacted as soon as possible by the most expeditious method.

Appropriate assistance in this instance might include:

- Providing an outline of the different kinds of information which might meet the terms of the request.
- Providing, wherever possible, a description of a particular record so that a requestor can decide if the information is appropriate for their needs.
- Providing a general response to the request setting out options for further information which could be provided on request.

This list is not exhaustive and the IG team will be flexible in offering advice and assistance appropriate to the circumstances of the request.

The IG team will disclose any information that has been successfully identified and found for which the Trust does not wish to claim an exemption. Should unresolved queries remain, the IG team will explain to the requestor why the Trust cannot take the request any further and provide details of the appeal procedure and the requestors' right to complain under section 50 of the Act if they still feel dissatisfied following the Trust's review.

The 20 working day time limit is not activated until the requestor has provided sufficient information for the Trust to supply them with the information they require. Requests will remain on hold while clarification is sought.

## **2.9 Request Exceeds the Appropriate Limit**

Under section 12(1) and 12(4) of the Act the Trust is not obliged to comply with a request for information if the estimated cost of compliance would exceed the cost ceiling. This is defined as £450, calculated at £25 per person per hour worked on a single request or series of linked requests, giving a limit of 18 hours.

In such circumstances the Trust has a number of options:

- To negotiate with the requestor to reduce the scope of the request
- To refuse the request on the basis that it exceeds the cost threshold
- To charge, under section 13 of the Act, for the provision of the information
- To seek a means by which information could be provided within the cost ceiling

In the event of a request exceeding the cost ceiling, the IG team will seek a way in which the information can be provided within the cost ceiling. If this is not possible or if the requestor still wishes to pursue their original request, the IG team will ask the requestor whether or not they would be willing to pay the full fees for the information they requested.

If the requestor is willing to pay the fees they have requested, an estimate will be provided to them. This will constitute a Fees Notice. If the requestor is unwilling to pay the fees the procedure for Exemptions and / or Refusal of a Request will be applied. The requestor will be informed of their rights to appeal under the internal FoIA appeals route and / or to the Information Commissioners Office.

## **2.10 Vexatious or Repeated Requests**

The IG team will not provide assistance to requestors whose requests are vexatious or repeated, as defined by section 14 of the Act.

In such circumstances, the IG team should be able to demonstrate that the request is vexatious or repeated based upon the monitoring data they have collected, or other information relevant to the case.

The intention to apply a section 14 exemption must be discussed with senior management with responsibility for Freedom of Information. Should a section 14 exemption be applied, our response will state that the exemption has been applied only after senior management review, and that any appeal should be forwarded directly to the Information Commissioners Office.

## **2.11 Requests that Appear to be Part of an Organised Campaign**

The Trust may receive a number of apparently related requests. In such circumstances the IG team will consider whether the information could be disclosed by, for example, placing the information that has been requested on the Trust website and / or the Publication Scheme.

There may also be occasions when a group of people act “in concert” to harass the Trust via the sending of numerous and related requests. Where the IG team have reason to believe this is the case, the circumstances will be considered under section 14 of the Act.

## 2.12 Consultation with Third Parties

In some cases the disclosure of information may relate to a third party. Unless an exemption provided for in the Act applies in relation to any particular information, the Trust is obliged to disclose that information in response to a request.

The IG team will however liaise with third parties to seek their views on disclosure, so that:

- The views of the third party may assist the Trust to determine whether an exemption under the Act applies to the information requested; and
- The views of the third party may assist the Trust to determine where the public interest lies

The IG team may consider that consultation is not appropriate where the cost of consulting with third parties would be disproportionate. In such cases, they will consider what is the most reasonable course of action to take in light of the requirements of the Act and the individual circumstances of the request.

Consultation will be unnecessary where:

- The Trust does not intend to disclose the information relying on legitimate grounds under the Act
- The views of the third party can have no effect on the decision of the Trust, for example, where there is other legislation preventing or requiring the disclosure of this information
- No exemption applies and so under the Act's provisions the information must be provided
- The identities of public sector employees acting in their professional capacity are disclosable under FoIA, and colleagues should be aware of their visibility under FoIA.

The fact that a third party has not responded to consultation does not relieve the Trust of its duty to disclose information under the Act, 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 the information should be withheld.

A record will be kept of all contacts with third parties and their representatives in regard to consultations and decision-making in the disclosure of information.

## 2.13 Charges and Fees

The Trust will levy fees in accordance with the Fees Regulations made under the Act in respect of requests made under the general right of access.

The Fees Regulations do not apply:

- To material in scope of the model publication scheme.
- To information which is reasonably accessible to the requestor by other means within the meaning of the exemption provided at section 21
- Where provision is made by or under any other enactment as to the fee that may be charged by the public authority for the disclosure of the information

The Act allows the Trust to decline to comply with requests on the grounds of cost, where they exceed the appropriate limit specified in the Fees Regulations. For the Trust this limit is set at £450.

When calculating whether answering a request would exceed the appropriate limit, the Trust will take into account the costs involved in the following activities:

- Determining whether it holds the information
- Locating the information, or a document which may contain the information
- Retrieving the information, or a document which may contain the information
- Extracting the information from a document containing it (i.e. editing it)

Where the costs are attributable to people undertaking these activities on behalf of the Trust, the Fees Regulations require these to be estimated at a cost of £25 an hour. Given the ceiling of £450, this equates to 18 hours of work as above.

Where two or more requests are made to the Trust by:

- One person, or
- By different people who appear to the Trust to be acting in concert or in pursuance of a campaign

The estimated cost of complying with the requests is taken to be the total costs of complying with all of them.

According to the Fees Regulations, this applies in circumstances where:

- The two or more requests relate, to any extent, to the same or similar information, and
- Those requests are received by the Trust within any period of sixty consecutive working days.

With regard to communicating the information to the requestor, the Trust may take into account, and charge for, the cost of:

- Giving effect to the requestor's wishes on the form in which they wish to receive the information
- Reproducing any document containing the information, for example, through the provision of photocopies
- Postage and other forms of transmitting the information

The IG team will, when appropriate, guide requestors to alternative delivery methods, in particular e-mail, which is a cost-free delivery method.

If a Fees Notice has been issued to a requestor the 'clock' stops in regard to compliance within the twenty working day timescale. Once a requestor has paid their charges, the 'clock' starts again, from the point within the twenty working days that it stopped. The requestor will then be provided with the information they requested.

Requestors will have three months beginning on the day on which they were sent the Fees Notice to pay the charge.

## **2.14 Complaints and Feedback**

Feedback about the discharge of duties of the Trust in regard to the Act should be forwarded to the IG team.

All complaints must be referred immediately to senior management. Complainants will be informed of their right to complain directly to the Information Commissioners Office if they remain dissatisfied with the Trust after using the stated FoIA complaints procedure.

Any correspondence, decision notices etc., which the Trust receives from the Information Commissioners Office in respect of FoIA will be reported immediately to the member of the Executive Team with responsibility for Freedom of Information.

The Trust undertakes to address FoIA complaints within 40 working days.

## **2.15 FoIA Reporting to the Information Governance Group**

The IG team will prepare a monthly report to the Information Governance Group, including the following:

- Number of requests processed in this reporting period
- Details of any exemptions applied
- Graphical representation of FoIA workload
- Graphical representation of FoIA performance against timescales
- Graphical representation of FoIA exemptions

The Information and Knowledge Manager will present this report on behalf of the IG team and will also provide a verbal update on relevant topics, including request themes, workload, “hot topics” and any other relevant points of interest.

Reporting will be escalated to the Finance & Business Committee.

## **2.16 Publication Scheme**

The Trust is mandated by the Act to operate a Publication Scheme.

The Information Commissioners Office produces sector-specific model publication schemes and we align our publication scheme to the healthcare model.

In the main, and wherever possible, we will make available documents, publications and information in the classes indicated in the model scheme via the Trust public-facing website.

As coverage of all classes of information required by the scheme may not be complete at any given time, the Trust will also respond appropriately to requests for information under the publication scheme in a timely manner.

When a request for information is identified as requiring material that falls within the scope of the publication scheme, the IG team will endeavour to fulfil such requests within 10 working days.

The IG team will liaise with the Trust communications team to ensure that our obligations under the Act in respect of the publication scheme are met and that FoIA requirements continue to feature in the Trust communications strategy.

## **2.17 Liaison with the Trust Communications Team**

Whilst the IG team are aware of the “subject blind” principles of the Act, they are also aware that FoIA is used as a research tool by the Press, political researchers, pressure groups and other similar bodies, some of whom have identified themselves in making their request.

Information disclosed under the Freedom of Information Act may have reputational impact (positive and negative) on the Trust, and the IG team will maintain a close working relationship with the communications team and

make them aware of relevant enquiries, who will in turn advise the Trust Executive Team and Board.

The communications team will facilitate public requests for information by advertising the FoIA e-mail inbox, postal address and fax number for requests.

The communications team will host this procedure on the public facing website to inform requestors of our FoIA procedure.

### 2.18 Record Keeping, Retention and Disposal

The IG team will maintain records for Freedom of Information Act cases according to the guidance of IG-0007 – Corporate Records Management Guidance and the NHS Records Management Code of Practice.

Specifically this will include:-

- Retention of case files for 3 years after full disclosure, or
- Retention of case files for 10 years if information is redacted or the information requested is not disclosed

## 3 DUTIES AND RESPONSIBILITIES

The duties within the organisation are as follows:

Staff group	Duties
Chief Executive	The Trust's overall responsible officer for FoIA issues.
Chief Financial Officer (SIRO)	The member of the Executive Team with responsibility for FoIA issues. Responsible for any executive decisions relating to the Act, including internal reviews, escalation of complaints, and the final arbiter in the use of Section 14 "vexatious" exemptions.
Information & Knowledge Manager (as Freedom of Information Officer)	The operational lead for FoIA. Responsible for the oversight of operational FoIA issues.
Information Governance Support Officer	Will process the daily workload under FoIA, in collaboration with the Information & Knowledge Manager.
Trust Managers /	As holders of corporate information, will have a duty to

Information Asset Owners	support the Trust in honouring our obligations under the Act by providing information to the IG team with timely responses to requests for information.
Trust Staff	To maintain an awareness of the Trust's obligations under the Act and to support work in this area when required. To recognise requests for information when they arrive and ensure these are forwarded to the IG team in a timely manner.

#### 4 TRAINING

The Information Governance team will ensure that team members are adequately trained to service the Trust's obligations under the Act. This will include internal and external training where required.

This will be supported by attendance at regional / national Information Governance & Freedom of Information events and forums to ensure that knowledge stays current and contact with appropriate support and expertise is fostered.

Trust staff are required to undertake annual Information Governance training using the HSCIC IG Training Tool, which includes content on recognising and processing requests received under the Act.

#### 5 GLOSSARY OF DEFINITIONS

The following definitions are of relevance to this document:

Definition	Meaning
IG Team	Those personnel within the Trust who will process incoming requests for information, and be the Trust expertise in respect of the Act.
Information Commissioner's Office (ICO)	The regulatory body with authority for the Freedom of Information Act.
Information Governance Group (IGG)	A cross-organisational body which monitors and enacts policy / procedure in relation to the evolving IG agenda. A sub-committee of the Finance & Business Committee.
Finance & Business Committee.	A sub-committee of the Trust board. Responsible for matters relating to information governance.
Person-identifiable information	Information that may, in whole or in part, be used to identify an individual
Senior Information Risk Owner	A board-level officer with responsibility and ownership of organisational information risks.

(SIRO)	
Sensitive Information	Data relating to political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual orientation / preferences, forensic history and / or on-going investigations by the police or actions by the judiciary.

**6 Appendices**

None.

**PART B**

## **7 PURPOSE OF DOCUMENT**

### **7.1 Policy Statement**

The Freedom of Information Act came into force in January 2005. The Act gives a general right of access to recorded information held by public authorities, sets out exemptions from that right and places a number of obligations on our organisation.

Leeds and York Partnership NHS Foundation Trust has two main duties under the Act.

- We must deal with individual requests from the public.
- We must have a Publication Scheme, which meets the requirements of the sector-specific Model Publication Scheme – as published by the Information Commissioner’s Office.

Any person may make an information request, regardless of age, nationality, or location. A request does not have to mention Freedom of Information, but must be made in writing.

The Act gives requestors two associated rights:

- To be told whether the information is held by the Trust.
- To receive the information in the format requested, where possible.

The Trust is obliged to respond to requests within 20 working days under the general right of access, or within 10 working days for information classified in the model publication scheme.

The Procedure forms part of the Trust Information Governance Framework. It is over-arched by the Trust Information Governance Policy and the Freedom of Information Act (2000).

### **7.2 Purpose of Document**

The purpose of this Procedure is to facilitate the disclosure of information under the Act by setting out the procedures the Trust will follow when handling requests for information.

It will serve the interests of those requesting information from the Trust by setting out our processes for handling their requests, and serve the Trust by providing instruction to our staff on handling requests under the Act to meet our statutory obligations.

Although the Procedure is primarily aimed at an internal audience, it will also be made available to potential requestors via our website.

## 8 IDENTIFICATION OF STAKEHOLDERS

The table below should be used as a summary

Stakeholder	Level of involvement
IG team	100%
All staff	100%

## 9 REFERENCES, EVIDENCE BASE

The Freedom of Information Act (2000)

[http://www.opsi.gov.uk/acts/acts2000/ukpga\\_20000036\\_en\\_1](http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_1)

Information Commissioners Office FoIA website:

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>

Ministry of Justice FoIA website – Code of Practice:

<http://www.justice.gov.uk/downloads/information-access-rights/foi/foi-section45-code-of-practice.pdf>

## 10 ASSOCIATED DOCUMENTATION

IG-0001 – Information Governance Policy

IG-0007 – Corporate Records Management Guidance

NHS Records Management Code of Practice

## 11 EQUALITY IMPACT ASSESSMENT

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Please complete the template by following the instructions in each box. If you require any guidance on how to complete the template please contact the Diversity and Inclusion Team on 0113 2954413.

**Title: Freedom of Information Act Procedure**

**What are the intended outcomes of this work?** *Include outline of objectives and function aims*

To facilitate the discharge of the Trust's statutory duties under the Freedom of Information Act (2000)

**Who will be affected?** *e.g. staff, patients, service users etc*

Staff and members of the public.

### Evidence

**What evidence have you considered?** *List the main sources of data, research and other sources of evidence (including full references) reviewed to determine impact on each equality group (protected characteristic). This can include national research, surveys, reports, research interviews, focus groups, pilot activity evaluations etc. If there are gaps in evidence, state what you will do to close them in the Action Plan on the last page of this template.*

Personal knowledge of the policy author, FoIA textbooks.

**Disability** *Consider and detail (including the source of any evidence) on attitudinal, physical and social barriers.*

The Act is often cited as being unintentionally discriminatory in that it is wholly reliant on making a written request for information. Obviously this may discriminate against those information requestors who lack the skills to make such an approach, which may impact on the ability of those with difficulties in making such a request to engage with the process. There are various disabilities which could render the

making of a written request or receiving a written response difficult.

However via this procedure the IG team will seek to assist those who cannot make a written request by facilitating the dictation and subsequent confirmation of an initially verbal approach, and attempt to deliver the output from the request in an appropriate format.

**Sex** Consider and detail (including the source of any evidence) on men and women (potential to link to carers below).

N/A

**Race** Consider and detail (including the source of any evidence) on difference ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers.

**Age** Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.

N/A

**Gender reassignment (including transgender)** Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and harassment.

N/A

**Sexual orientation** Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.

N/A

**Religion or belief** Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief.

N/A

**Pregnancy and maternity** Consider and detail (including the source of any evidence) on working arrangements, part-time working, infant caring responsibilities.

N/A

**Carers** Consider and detail (including the source of any evidence) on part-time working, shift-patterns, general caring responsibilities.

N/A

**Other identified groups** Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.

N/A

**Engagement and involvement**

How have you engaged stakeholders in gathering evidence or testing the evidence available?

Stakeholder engagement plan

N/A

How have you engaged stakeholders in testing the policy or programme proposals?

N/A

For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:

N/A

**Summary of Analysis** *Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in services or expand their participation in public life.*

By agreeing to facilitate requests for those who cannot themselves submit a written request, the IG team has negated the potential for indirect discrimination implicit in the Act.

*Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups.*

**Eliminate discrimination, harassment and victimisation** *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

By agreeing to facilitate requests for those who cannot themselves submit a written request, the IG team has negated the potential for indirect discrimination implicit in the Act.

**Advance equality of opportunity** *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

N/A

**Promote good relations between groups** *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

N/A

**What is the overall impact?** *Consider whether there are different levels of access experienced, needs or experiences, whether there are barriers to engagement, are there regional variations and what is the combined impact?*

Zero.

**Addressing the impact on equalities** *Please give an outline of what broad action you or any other bodies are taking to address any inequalities identified through the evidence.*

By agreeing to facilitate requests for those who cannot themselves submit a written request, the IG team has negated the potential for indirect discrimination implicit in the Act.

**Action planning for improvement** *Please give an outline of the key actions based on any gaps, challenges and opportunities you have identified. Actions to improve the policy/programmes need to be summarised (An action plan template is appended for specific action planning). Include here any general action to address specific equality issues and data gaps that need to be addressed through consultation or further research.*

N/A

**For the record**

**Name of person who carried out this assessment:**

Carl Starbuck – Information & Knowledge Manager

**Date assessment completed:**

29/06/2015

**Name of responsible Director/Director General:**

Dawn Hanwell – Chief Financial Officer

**Date assessment was signed:**

19/10/2015

**Action plan template** (if required)

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your procedural document.

<b>Category</b>	<b>Actions</b>	<b>Target date</b>	<b>Person responsible and their Directorate</b>
<b>Involvement and consultation</b>	N/A		
<b>Data collection and evidencing</b>	N/A		
<b>Analysis of evidence and assessment</b>	N/A		
<b>Monitoring, evaluating and reviewing</b>	N/A		
<b>Transparency (including publication)</b>	N/A		

**12 PLAN FOR DISSEMINATION AND IMPLEMENTATION**

DETAILS OF DOCUMENT TO BE DISSEMINATED

<b>Title of Document</b>	Freedom of Information Procedure		
<b>Date Ratified</b>	19/10/2015		
<b>Dissemination lead name</b>	Carl Starbuck Information & Knowledge Manager	<b>Contact details</b>	<a href="mailto:carl.starbuck@nhs.net">carl.starbuck@nhs.net</a> 0113 855 9771

DETAILS OF DISSEMINATION

<b>Date put on Staffnet</b>	27/10/2015			
<b>Who is the document to be disseminated to</b>	All staff			
<b>Disseminated to (either directly or via meetings, etc)</b>	<b>Format (electronic/ paper)</b>	<b>Date disseminated</b>	<b>No of copies sent</b>	<b>Contact details/comments</b>
All staff	Electronic	27/10/2015	1	Via Staffnet

**13 Standards/key performance indicators**

Requests completed within 20 working days	<b>100%</b>
Review / Complaints / Challenges received	<b>Zero</b>
ICO decision notices / other action	<b>Zero</b>

**14 MONITORING COMPLIANCE WITH, AND THE EFFECTIVENESS OF THE PROCEDURE**

Topic	Monitoring/ Audit	Lead Manager	Data Source	Sample	Data Collection Method	Frequency Of Activity	Review Body
Requests completed within 20 working days	Monitoring	Carl Starbuck – Information & Knowledge Manager	FoIA logging spreadsheet	All requests	Report	Monthly	IG Group
Valid complaints received	Monitoring	Carl Starbuck – Information & Knowledge Manager	FoIA logging spreadsheet / FoIA request files	All requests	Report	Monthly	IG Group
ICO decision notices	Monitoring	Carl Starbuck – Information & Knowledge Manager	FoIA logging spreadsheet / FoIA request files	All requests	Report	Monthly	IG Group