

# Freedom of Information and Environmental Information Regulations Policy and Standard Operating Procedures

## August 2021

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Name of responsible committee	Governance Sub Committee
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Target audience:	All staff

To ensure you have the most current version of this policy please access via the NHS Sheffield CCG Intranet Site by following the link below:

<http://www.intranet.sheffieldccg.nhs.uk/policies-procedure-forms-templates.htm>



## Policy Audit Tool

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

<b>Please give status of Policy: Revised</b>		
<b>1.</b>	<b>Details of Policy/Procedural Document</b>	
1.1	Policy Number:	CO028/03/2022
1.2	Title of Policy/document:	Freedom of Information and Environmental Information Regulations Policy and Standard Operating Procedures
1.3	Sponsor	Deputy Accountable Officer
1.4	Author:	Chevaughn Woodhouse, Freedom of Information Lead
1.5	Lead Committee	Governance Sub-committee
1.5	Reason for policy/document:	To ensure compliance with statutory obligations arising from the Freedom of Information Act 2000 and Environmental Regulations
1.6	Who does the policy affect?	All Staff
1.7	Are the National Guidelines/Codes of Practice etc issued?	Yes
1.8	Has an Equality Impact Assessment been carried out?	Yes
<b>2.</b>	<b>Information Collation</b>	
2.1	Where was Policy information obtained from?	National guidance Revised version of original policy provided by eMBED.
<b>3.</b>	<b>Policy Management</b>	
3.1	Is there a requirement for a new or revised management structure for the implementation of the Policy?	No
3.2	If YES attach a copy to this form.	
3.3	If NO explain why.	Can be operated under existing structures
<b>4.</b>	<b>Consultation Process</b>	
4.1	Was there external/internal consultation?	Yes
4.2	List groups/persons involved	Governance Sub-committee, Information Governance Group
4.3	Have external/internal comments been included?	
4.4	If external/internal comments have not been included, state why.	
<b>5.</b>	<b>Implementation</b>	
5.1	How and to whom will the policy be distributed?	Via weekly round-up and team brief. Policy will be made available on the intranet.
5.2	If there are implementation requirements such as training please	Staff briefings, to be included in the induction checklist.

	detail.	
5.3	What is the cost of implementation and how will this be funded	N/A
<b>6.</b>	<b>Monitoring</b>	
6.1	How will this be monitored	Via the quarterly FOI performance reports to Governance Sub Committee.
6.2	Frequency of Monitoring	Quarterly

## Version Control

VERSION CONTROL				
Version	Date	Author	Status	Comment
	<b>September 2019</b>	<b>Chevaughn Woodhouse</b>		Updated Sponsor Para 1 updated to reflect DPA 2018 Para 7 updated to reflect changes in CCG Policy template Para 8 added two reference documents Para 10 becomes General Data Protection Regulations as per CCG Policy template. This in turn moves Disability Confident to Para 11 Para 11 amended to reflect change in level Part 2 Para 6 amended to include time period for accepting requests for internal review Appendix C letter template amended to reflect changes
	<b>August 2021</b>	<b>Chevaughn Woodhouse</b>		Updated Sponsor Part 1 Para 4.3 Revised sponsor Part 2 Amendment to para 2.5 to include statement on small numbers. Appendix D Updated contact details for provider trust FOI

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# **PART ONE – FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS POLICY**

## **1 Introduction & Purpose**

The Freedom of Information Act (2000) (“the Act”) and Environmental Information Regulations (2004) (EIR) place an obligation on public authorities to make available to anyone information that is held by those public authorities. Access to information can be made through individuals or organisations requesting specific information or by accessing information made available by the CCG through the Publication Scheme which is part of the CCG website.

The CCG supports the principle of openness being the norm in public life. The CCG also supports an individual’s right to privacy and confidentiality and this policy does not overturn the common law duty of confidentiality or statutory provisions that prevent disclosure of personal information. The release of such information will be managed under the Data Protection Act 2018.

This policy sets out how the CCG will meet its obligations in ensuring compliance with the Act.

The Freedom of Information Act (2000) was introduced as part of the Government’s commitment to greater openness and transparency within the public sector.

The Act replaces the non-statutory Code of Practice on Openness in the NHS. The Act enables members of the public to scrutinise the decisions of public authorities and ensure that services are delivered efficiently and accordingly.

The Environmental Information Regulations (2004) covers categories of public information related to the environment, such as emissions, waste disposal etc. The regulations are similar to those in FOI but there is greater expectation of disclosure as the number of exemptions is less.

## **2 Policy Statement, Aims and Objectives**

2.1 The purpose of this policy is to:

- Ensure all requests for information are dealt with consistently and to a high standard.
- Ensure that the CCG is complying with relevant regulations, laws and guidance.
- Ensure all staff is aware of their responsibilities to FOI and EIR, whether that is directing a request or providing a timely response.
- Ensure that statutory timescales are met.
- Ensure the CCG meets its obligations in developing and improving its Publication Scheme.

## 2.2 The principles of the Act include:

- Publish and maintain a publication scheme, available on the CCG's website (and hard copy on request).
- A general right to request and access all recorded information held by the CCG, subject to exemptions and conditions laid out in the Act.
- There are a total of 23 exemptions (absolute and qualified), within the Act which where applicable would mean certain information is not released or published.
- Public authorities are expected to respond to FOI requests within 20 working days.
- Allows for a Fee Notice to be issued in cases where to fulfil the request would exceed 18 working hours as laid out in the Act. Issuing of a Fees Notice must be made within 20 working days.
- A duty to advise and assist those making or wanting to make a request.
- To be considered a request under the Act, it must be received in writing. The request doesn't have to explicitly refer to the Act or be addressed to the FOI Lead. It must include the requester's name, correspondence address and describe the information being requested.
- The Information Commissioner's Office (ICO) oversees implementation and compliance with the Act and associated regulations.

## 3 Scope

3.1 This policy and procedure applies to those members of staff that are directly employed by NHS Sheffield CCG and for whom the CCG has legal responsibility. The policy is applicable to all areas of the CCG and adherence should be included in all contracts for outsourced or shared services. There are no exclusions.

3.2 This policy covers all aspects of recorded information held by the CCG, including but not limited to:

- Patient/Client/Service User information of a general, non-personal type.
- Certain types of Personnel/Staff information, particularly where this concerns senior executives and Board members.
- Organisational and business sensitive information.
- Structured and unstructured record systems – paper and electronic
- All information systems purchased, developed and managed by or on behalf of the organisation
- All documents and information created in the course of staff duties (personal e-mails and potentially including information held on private equipment may fall within the scope of the Act and its regulations).

## **4 Roles and Responsibilities**

### **4.1 Accountable Officer**

The Accountable Officer has responsibility for ensuring that the organisation is compliant with the Freedom of Information Act (2000) and Environmental Information Regulations (2004).

### **4.2 Directors**

Directors have responsibility to:

- Consider and approve FOI response in a timely manner.
- Ensure staff within directorate responds to requests from the FOI Lead in a timely manner.
- Conduct reviews of FOI responses when requested by the requester.

### **4.3 Deputy Accountable Officer**

The Deputy Accountable Officer has responsibility to gain assurance that the FOI service is robust and fit for purpose.

### **4.4 Line Managers**

Line managers are responsible for ensuring adequate dissemination and implementation of policies and procedural documents and for ensuring that all staff have access to and are made aware of any documents that apply to them. Senior managers are also responsible for auditing compliance within their service.

### **4.5 Employees**

Employees have the following responsibilities:

- Have an awareness of the CCG procedure for dealing with FOI and EIR requests
- Have an awareness of what constitutes a FOI or EIR request
- Have an awareness of the key principles of the Act, for instance the 20 working day deadline for responding to requests
- Where an employee is in receipt of what constitutes a FOI or EIR request that this is forwarded to the Freedom of Information Lead (FOI Lead) on day of receipt
- Where an employee is asked for information in response to a FOI or EIR request they must either provide information (in line with procedure), inform the FOI Lead that they do not hold the information, where possible advise the FOI Lead and liaise with the CCG staff who may hold the information
- Where an employee holds the information but has concerns about its release, this should be discussed with their line manager and FOI Lead.



- Be mindful that information held in personal or departmental information filing systems could be requested under FOI or EIR.
- Organise records in a manner which allows for information to be easily accessible and referenced in a clear and concise format.
- Provide accurate and relevant information as required for inclusion in the CCG's Publication Scheme. Likewise alert the FOI Lead to any mistakes or misinformation appearing in the Publication Scheme.

#### 4.6 **FOI Lead**

The FOI Lead is responsible for:

- Ensuring a robust procedure is in place to manage FOI and EIR requests.
- Ensuring exemptions are applied appropriately and in line with regulations.
- Provide quarterly reports to the Governance Sub Committee, detailing FOI activity and performance.

#### 4.7 **Committee Roles**

Governance Sub-committee will:

- Gain assurance that requests for information made under the Act are handled appropriately and within the scope of the Act.
- Receive quarterly reports on the receipt and management of information requests.

### 5 **Training**

The CCG will take all reasonable measures to ensure that staff is aware of policies, protocols, procedures and legal obligations relating to FOI and EIR. This will be achieved through inclusion of FOI in the induction for new Directors, new starter induction checklist and other internal staff communications.

### 6 **Monitoring effectiveness of the policy/procedural document**

The FOI Lead will monitor compliance to this policy and Standard Operating Procedure. Where performance is not meeting standards the FOI Lead will investigate and any subsequent actions arising will be incorporated into both the policy and procedural document as appropriate.

### 7 **Review**

This document may be reviewed at any time at the request of either staff side or management, and thereafter on a bi-annual basis or when a change in legislation dictates.

## **8 References and links to other documents**

### **8.1 Legislation and Guidance**

**The following legislation and guidelines have been considered in the development of this policy:**

- Data Protection Act 1998
- Data Protection Act 2018
- Freedom of Information Act 2000
- Environmental Information Regulations 2004
- Re-Use of Public Sector Information Regulations 2015
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004
- Human Rights Act 1998
- Health and Social Care Act 2012
- Public Records Act 1958
- Freedom of Information Code of Practice July 2018

### **8.2 Links to other documents**

- Information Sharing Policy
- Records Management Policy

## **9 Equality & Diversity Statement**

NHS Sheffield CCG aims to design and implement services, policies and measures that meet the diverse needs of our service population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the Human Rights Act 1998 and promotes equal opportunities for all. This document has been assessed to ensure that no-one receives less favourable treatment on grounds of their gender, sexual orientation, marital status, race, religion, age, ethnic origin, nationality, or disability. Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the person requesting has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

NHS Sheffield CCG embraces the six staff pledges in the NHS Constitution. This policy is consistent with these pledges.

## **10 General Data Protection Regulations**

The CCG is committed to ensuring that all personal information is managed in accordance with current data protection legislation, professional codes of practice, NHS records management and confidentiality guidance. More detailed information can be found in the CCG's Confidentiality Code of Conduct and Data Protection Policy and related CCG policies and procedures

## **11 Disability Confident**

NHS Sheffield CCG has been accredited with the Disability Confident Award – level 2. This is in recognition of meeting the commitments regarding employment of disabled people and permits the organisation to use the Disability Confident logo on all of its stationery.

## **PART TWO - STANDARD OPERATING PROCEDURES – FREEDOM OF INFORMATION**

### **1 Background**

- 1.1 The Freedom of Information Act (2000) (“the Act”) and Environmental Information Regulations (2004) (EIR) place an obligation on public authorities to make available to anyone information that is held by those public authorities. Access to information can be made through individuals or organisations requesting specific information or by accessing information made available by the CCG through the Publication Scheme which is part of the CCG website.
- 1.2 The purpose of this document is to provide a step by step guide to the management of incoming Freedom of Information (FOI) requests. As a publically funded body we are bound by the Freedom of Information Act (2000) to publish certain information (covered under the Publication Scheme) and action information requests from the public.

### **2 Principles**

#### **2.1 Who can make a FOI request?**

Anyone can make a request. Requests can be made by an individual, charity, media, company etc. All requests will be treated in the same manner regardless of who makes the request.

#### **2.2 When is a request a FOI?**

For a request to be considered a FOI, it needs to be received in writing. The request doesn't have to explicitly refer to the Act and doesn't have to be addressed to the FOI Lead.

To be a valid request, it must include requester's real name, correspondence address and detail the information being requested. If the CCG receives a request that doesn't meet the criteria, the CCG will contact the requester, explain the missing detail and ask them to resubmit. This can be done by the member of staff who receives the request or by the FOI team.

### **2.3 What information do we need to provide?**

Any information created by a public authority is covered under the Act; this includes but is not limited to reports, drafts, emails, recorded film.

### **2.4 What if we don't have the information?**

The Act covers the information we hold. We are not expected to create new information to meet a request. If the information being requested is not held by us, it's good practice to advise the requester of who to contact if known. If we don't hold the information we need to inform the requestor in writing as soon as is possible. See Appendix B for useful contact details.

### **2.5 Are there any exemptions to the information we provide?**

Yes, a list of exemptions can be found in Appendix A.

As well as the exemptions allowed by the Act, we will suppress small numbers where there is possibility of patients/ persons being identified. For example a request is made about the numbers of patients living with a certain condition. If the request was for specific Sheffield areas broken down by months we would suppress but if it's across Sheffield over a year period the likelihood of identification is less so we would disclose numbers.

### **2.6 When do we need to respond to a request?**

The legal deadline for responding to a request is 20 working days. The clock starts the day the request is received. For requests received on a Saturday/Sunday the first working day is Monday). Good practice is to respond as soon as is practical. The deadline cannot be extended. However if it is not clear what information is being asked for, we have a duty to contact the requester as soon as possible and seek clarification. At this point the clock is stopped until required clarification is received.

### **2.7 Can we charge for information?**

Charges can be made and these would normally be to cover cost of communication i.e. photocopying, printing, postage, conversion of information etc. A fees notice should be issued to the requester detailing the charges. At this point the clock stops on the 20 working day deadline and is restarted once payment is received. Our Fee Schedule is available within our publication scheme.

### **2.8 Can we refuse a request?**

Yes. However, in refusing a request we need to be certain of the reasons for refusal. A request can be refused under the following circumstances:

- The request is vexatious

- Would be disruptive to respond and serves no benefit to public interest.
- It would take too much time or cost too much to respond
  - The time needed to pull together and/or redact information would exceed 18 hours or the £450 cost. This is in line with the [Freedom of Information \(Appropriate Limit and Fees\) Regulations 2004](#).
- The request is the same as a previous request from the same requester
  - If a response has already been provided and the same (or very similar) request comes in from the same requester.

### **3 Publication Scheme**

3.1 The publication scheme sets out our commitment to proactively make available and publish information. There are seven classes of information we need to provide:

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

3.2 Our publication scheme can be accessed here:

<http://www.sheffieldccg.nhs.uk/about-us/publications-scheme.htm>

The Publication Scheme should be reviewed annually to ensure that the links work and the information being provided is relevant. Where appropriate staff should inform the FOI Lead of any misinformation or issues arising from the Publication Scheme.

### **4 Process for day to day management of FOI**

#### **4.1 Request received**

FOI requests are normally received via the mailbox ([sheccg.foi@nhs.net](mailto:sheccg.foi@nhs.net)). For requests which are received via post these need to be date stamped upon receipt, scanned and stored electronically.

#### **4.2 Acknowledge**

Send an acknowledgement to the requester within two days of receipt. Currently an automatic acknowledgement email is sent upon receipt.

### 4.3 Log

FOI requests are recorded within a [spreadsheet](#), all requests must be logged here. The following details are recorded as a minimum: date received (20 working day clock starts from this date), nature of request, requester name and email, operational lead (responsible for drafting a response, along with date sent). Deadline dates are automatically calculated.

Each request is given a unique reference number.

### 4.3 Inform

Once logged forward the request to the relevant operational lead(s) for response (see Appendix B for the Scheme of Delegation). Only send details of the request not the requester's details. Where possible the request should be sent to operational lead(s) on the day of receipt or at the very least within two working days.

The CCG has a statutory duty to respond to all FOI requests within 20 working days. To enable the CCG to meet the target an internal deadline of 10 working days (from the date received) should be given to the operational lead(s).

Staff have a responsibility to respond to requests for information from the FOI Lead and where they are unable to provide the information or are the wrong person, they must inform the FOI Lead within two working days.

The FOI team will update the spreadsheet with details of who provided the response, this will help to accurately direct future requests of similar natures.

### 4.4 Response received

Operational Leads to provide the FOI Lead with an appropriate response by the given deadline. The FOI Lead will add returned responses and requester contact details to the letter template, and then seek approval from the appropriate Director before sending on to the requester. Directors can expect up to three days to receive and approve responses.

Update the spreadsheet with details of when the response was sent.

## 5 Escalation Process for late FOI responses /approvals

5.1 Working to an internal deadline of 10 working days allows additional time to chase for responses / approvals where necessary.

5.2 Directors and Deputy Directors will receive a weekly update detailing FOI requests which are due within the next 15 working days. Please note where there are no requests, an update is not sent.

For example:

FOI Reference	Description	Internal 10 working day deadline for response	20 working day deadline	Status (waiting clarification/ waiting response/ waiting approval)	Comments
0XXXFOI1718 (breached)	XXXX	02/08/2016	16/08/2016	Response	Request was sent to xxxx on xxxx

5.3 Directors and Deputy Directors are responsible for ensuring that staff in their directorates respond in a timely manner.

## 6 Internal Review

6.1 There will be occasions where the response that we have given is not accepted by the requester. Within the legislation it is not compulsory to have an internal review process. However, it is good practice to have a review process in place as this provides the CCG with the opportunity to review its response, and provides an alternative to the requester taking their complaint straight to the Information Commissioner's Office. When this happens the CCG has a duty to review the request and response.

6.2 The process for the review as per ICO Guidance:

- a) Review should be conducted by someone not involved with the request originally and preferably by a more senior member of staff, this would usually be a Director. The reviewer will be appointed by the Deputy Accountable Officer based on the nature of the FOI request and expertise.
- b) Reviewer should make a fresh decision not just a review of the original decision. It should be treated as a new request; however the reviewer should have access to all correspondence and internal discussion on the original response. The reviewer should document reasons for their decisions.

The FOI Lead is responsible for ensuring that reviewers are provided with all relevant documentation and correspondence relating to the FOI request along with any other supporting guidance on conducting internal reviews.

Although there is no legal timeframe to complete the review the ICO recommends a timeframe of 20 working days.

In cases where we have refused a request and applied an exemption the reviewer will need to determine whether the exemption has been applied correctly.

The CCG will act upon requests for an internal review, providing the request is made within 40 working days of the response being sent.

## **7 Complaints to the Information Commissioner's Office**

7.1 The ICO will investigate complaints made to it only after internal review processes have been exhausted. There are a number of instances when the ICO will investigate a complaint made by a requester. These include (but not exhaustively):

- The response has been received outside of the specified timescale of 20 working days;
- Not providing information without explanation;
- Inappropriate use of exemptions.

7.2 The outcome of ICO decision will either be:

- a. An Enforcement Notice – This is a formal notice which will require the organisation to take action.
- b. An Information Notice – This requires the organisation to provide information as detailed in the notice.
- c. A Decision Notice – This is an outline of the ICO's decision following the investigation into a complaint.
- d. Practice Recommendation – Not enforceable but a recommendation on what the organisation needs to do to ensure conformity with the FOI Act.
- e. Prosecution – In the unlikely event that we have failed to comply with any sanctions or breached the FOI Act/ EIR to a serious extent.

## **8 Reports**

The FOI Lead is responsible for ensuring accurate records of FOI requests and responses and to produce a quarterly report for the Governing Body Sub-committee. Report to detail:

- Performance against 20 working day response standard.
- Themes and trends based on responsible directorates and origin of the request.
- Acknowledge late responses and highlight any areas of concern
- Number of internal reviews requested/ complaints to the Information Commissioners Office.



## NHS Sheffield CCG Equality Impact Assessment 2016

### Equality Impact Assessment

<b>Title of policy or service:</b>	Freedom of Information and Environmental Information Regulations Policy and Standard Operating Procedure	
<b>Name and role of officer/s completing the assessment:</b>	Chevaughn Woodhouse	
<b>Date of assessment:</b>	9 October 2019	
<b>Type of EIA completed:</b>	Initial EIA 'Screening' <input type="checkbox"/> or 'Full' EIA process <input checked="" type="checkbox"/>	

<b>1. Outline</b>	
<b>Give a brief summary of your policy or service</b> <ul style="list-style-type: none"> <li>Aims</li> <li>Objectives</li> <li>Links to other policies, including partners, national or regional</li> </ul>	<p>Aim of the policy is to detail the process for the effective management of freedom of information requests received by the CCG.</p>

**Identifying impact:**

- Positive Impact:** will actively promote or improve equality of opportunity;
- Neutral Impact:** where there are no notable consequences for any group;
- Negative Impact:** negative or adverse impact causes disadvantage or exclusion. If such an impact is identified, the EIA should ensure, that as far as possible, it is justified, eliminated, minimised or counter balanced by other measures. This may result in a 'full' EIA process.

**NHS Sheffield Clinical Commissioning Group Freedom of Information and Environmental Information Regulations Policy (including Standard Operating Procedures) - Author: Chevaughn Woodhouse**

## 2. Gathering of Information

This is the core of the analysis; what information do you have that might *impact on protected groups, with consideration of the General Equality Duty.*

(Please complete each area)	What key impact have you identified?			For impact identified (either positive an or negative) give details below:	
	Positive Impact	Neutral impact	Negative impact	How does this impact and what action, if any, do you need to take to address these issues?	What difference will this make?
<b>Human rights</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There is currently no evidence to confirm if the policy will have a positive or negative impact upon any one making or managing a freedom of information request from any of the protected characteristics.	
<b>Age</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>Carers</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>Disability</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>Sex</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>Race</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>Religion or belief</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>Sexual orientation</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>Gender reassignment</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>Pregnancy and maternity</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>Marriage and civil partnership</b> (only eliminating discrimination)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above

<b>Other relevant groups</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above
<b>HR Policies only: Part or Fixed term staff</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	As above	As above

**IMPORTANT NOTE:** If any of the above results in 'negative' impact, a 'full' EIA which covers a more in depth analysis on areas/groups impacted must be considered and may need to be carried out.

Having detailed the actions you need to take please transfer them to onto the action plan below.

<b>3. Action plan</b>				
<b>Issues/impact identified</b>	<b>Actions required</b>	<b>How will you measure impact/progress</b>	<b>Timescale</b>	<b>Officer responsible</b>

<b>4. Monitoring, Review and Publication</b>				
<b>When will the proposal be reviewed and by whom?</b>	<b>Lead / Reviewing Officer:</b>	<b>Chevaughn Woodhouse</b>	<b>Date of next Review:</b>	<b>To be agreed</b>

## Appendix A

### **Freedom of Information Exemptions**

The Act provides a number of absolute and qualified exemptions for instances where it would not be appropriate to provide requested information. These are listed below, with a brief *explanation* against common ones:

#### **Absolute exemptions**

- Section 21: Information accessible by other means

*Information can already be accessed either outside the organisation or via the Publication Scheme. In this instance notify the requester and advise them of where to find the information.*

- Section 23: Information supplied by, or relating to, bodies dealing with security matters
- Section 32: Court records
- Section 34: Parliamentary privilege
- Section 40: Personal information

*Requests for information about the person making the request fall under the Data Protection Act. If a person makes a request for information about themselves, advise them to make Subject Access Request (SAR). A copy of the SAR policy can be found here <http://www.intranet.sheffieldccg.nhs.uk/ig-policies-and-procedures.htm>.*

*Please note that individual departments are responsible for management of SAR requests and responses. Third party data is also exempt if it would breach any data protection principles.*

- Section 41: Information provided in confidence:
  - *Information covered by contractual or implied (patient-doctor) duty of confidence.*
  - *Cannot be trivial or readily available information.*
  - *Excludes internal documents marked 'confidential'.*
  - *Must be strong likelihood that provider (or person affected) will bring successful legal action.*
  - *Case law suggests we should conduct a public interest test on confidentiality.*
- Section 44: Prohibitions on disclosure

## Qualified exemptions (require a public test)

- Section 22: Information intended for future publication

*Information being requested will be published in the future. Don't have to necessarily state when it will be. Drafts may need to be disclosed. There must also be a real intention to publish the data.*

- Section 24: National security
- Section 27: International relations
- Section 28: Relations within the UK
- Section 29: The economy
- Section 30: Investigations and proceedings conducted by public authorities
- Section 31: Law enforcement

*This covers a range of areas:*

- *Prevention and detection of crime.*
- *Apprehension of offenders.*
- *Investigating unlawful activity or improper conduct.*
- *Investigating fitness or competence regarding management or profession activity.*
- *Investigating cause of an accident.*
- *Securing health, safety and welfare of staff at work.*
- *Protecting public other than staff against risk to health or safety arising from actions of persons at work.*

- Section 33: Audit functions
- Section 35: Formulation of government policy
- Section 36: Prejudice to effective conduct of public affairs
- Section 37: Communications with Her Majesty, etc. and honours
- Section 38: Health and safety

*Disclosure of the information could endanger the physical or mental health of an individual.*

- Section 39: Environmental Information

*Information is covered by the Environmental Information Regulations (EIR)*

- Section 42: Legal profession privilege

*Only applicable where litigation is planned or in progress.*

- Section 43: Commercial interests

*Section 43 – 2 sub-sections protecting commercial interests:*

- *(1) Information containing trade secrets.*
- *Trade secrets can be formulae, USPs, quality, specs, price lists, discount structures, profit margins, working practices, supplier and customer purchasing history.*
- *Trade secrets may be commercially sensitive, but commercial sensitivity isn't automatically a trade secret.*
- *(2) Prejudicial to the commercial interests of any person or the CCG holding it.*
- *Could include purchasing plans and budgets, tenders and unsuccessful bids, negotiations and contracts.*
- *Could also apply to business plans and performance.*

When applying an exemption the requester needs to be informed and advised in a timely manner.

## **Public Interest Test**

Qualified exemptions require completion of the Public Interest Test (PIT)

- Test on both obligations (confirm/provide).
- Determines whether public interest best served by disclosure or non-disclosure.
- Doesn't allow for covering-up incompetence, corruption, maladministration or embarrassment.
- Public interest not same as what might interest public. Shouldn't be influenced by private vested interests or personal reputations.
- Weigh harm in disclosure against benefits in openness, confidence and accountability:
  - Onus is on proving why information should be withheld.
  - Can request extra time for public interest test.

## **Prejudicial**

- This is damage or harm.
- Damage need not be substantial, but needs to be more than trivial.
- Doesn't have to be a certainty, but has to be far more than a remote possibility.
- Has to be a direct cause and effect relationship to disclosure.
- Can't speculate and cannot be hypothetical.
- Has to be evidence of the likely harmful effect which would result from disclosure.
- In cases of third party information we need to ask for this evidence.

## **Appendix B**

### **Scheme of Delegation (internal document)**

Please note that the Scheme of Delegation is regularly updated as information becomes available.

Latest Scheme of Delegation can be found here: [M:\Communications and Engagement\Patient Experience and FOI\FOI\Guides & Useful Info\Contacts](#)

## Appendix C

### Templates

Internal templates can be found here: <M:\Quality\Patient Experience and FOI\FOI\Templates>

### Email Acknowledgement

Dear Enquirer

Thank you for your recent request for information. As a public body we process requests for information under the Freedom of Information Act 2000 in order to ensure that all requests are recorded and responded to in an open and timely manner.

We will respond to your request within 20 working days of receipt.

Kind regards

*Freedom of Information (FOI) Lead*

NHS Sheffield Clinical Commissioning Group

722 Prince of Wales Road

S9 4EU

[www.sheffieldccg.nhs.uk](http://www.sheffieldccg.nhs.uk)

 **Email:** [sheccg.foi@nhs.net](mailto:sheccg.foi@nhs.net)

This message may contain confidential information. If you are not the intended recipient please inform the sender that you have received the message in error before deleting it. Please do not disclose, copy or distribute information in this email or take any action in reliance on its contents: to do so is strictly prohibited and may be unlawful.

### Email Requesting Information

Subject Header – **\*\*NEW\*\*** FOI Request XXXFOI1718 (*brief description of request i.e. CHC nos., agency spend, dementia services, etc.*) – Internal deadline – dd/mm/yy

Dear Colleagues

We have received the following FOI request, please see below. *If we have received similar requests in the past please notify relevant colleagues as we may be able to reuse responses.*

Can you please send the requested information to [sheccg.foi@nhs.net](mailto:sheccg.foi@nhs.net) by **DD/MM/YY** (10 working days deadline). Please be advised that Directors will be informed of responses not received by the deadline.

Can you please acknowledge receipt of this email to confirm that you are handling the FOI request(s) or inform me of whom the requests have been passed on to by DD/MM/YY. Likewise if this is not one for you, please let me know.

Please quote the reference number above on all correspondence in relation to this FOI request.



Quick couple of pointers:

If the information is available online, we can just provide the web link.

If the information needs to be sourced from another organisation, then we can advise the requester to contact other organisations, we don't need to contact them. Remember we need only provide the information we hold.

If you feel that part/ all of the request may be exempt please take a look at the exemption [checklist](#) and complete the exemption [form](#), return to FOI to advise on next steps.

### **COPY AND PASTE FOI REQUEST OMITTING DETAILS OF THE REQUESTER.**

#### *Freedom of Information Lead*

NHS Sheffield Clinical Commissioning Group  
722 Prince of Wales Road  
S9 4EU  
[www.sheffieldccg.nhs.uk](http://www.sheffieldccg.nhs.uk)

 **Email:** [sheccg.foi@nhs.net](mailto:sheccg.foi@nhs.net)

### **Email Requesting Response Approval**

Subject Header – FOI Response for Approval – XXXXFOI1718 – Legal deadline dd/mm/yy

Dear XXX

Can you please confirm that you are happy for the attached FOI response to be sent. The response was completed by INSERT NAME(S) OF WHO PROVIDED INFO.

The legal deadline for sending out this response is **INSERT DATE**.

Please quote the reference number above on all correspondence in relation to this FOI request.

If you require any further assistance with handling this request, then please do not hesitate to contact me.

#### *Freedom of Information (FOI) Lead*

NHS Sheffield Clinical Commissioning Group  
722 Prince of Wales Road  
S9 4EU  
[www.sheffieldccg.nhs.uk](http://www.sheffieldccg.nhs.uk)

 **Email:** [sheccg.foi@nhs.net](mailto:sheccg.foi@nhs.net)

### **Letter Template – Responding to a FOI Request**

FOI Ref:

**Date**

NAME

Email:

Dear NAME

**Freedom of Information Act 2000 – Request for Information**

We are pleased to respond to your request for information and our response is set out below:

**Request**

**Response**

We trust this provides you with the information you require.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request an internal review of our decision you should write to the Freedom of Information Lead, NHS Sheffield Clinical Commissioning Group at the above address or email [sheccg.foi@nhs.net](mailto:sheccg.foi@nhs.net), , quoting the reference number above and within 40 working days of receipt.

If you are not content with the outcome of the internal review, with regards to this Freedom of Information request, you have the right to appeal to the Information Commissioner under Section 50 of the Freedom of Information Act. The Information Commissioner will not investigate your case unless you have exhausted our complaints procedure. The Information Commissioner can be contacted at: The Information Commissioners Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

**Re-Use of Public Sector Information**

If you wish to re-use the information you have requested, in whole or in part, please write to the Freedom of Information Lead, NHS Sheffield Clinical Commissioning Group, 722 Prince of Wales Road, Darnall, Sheffield, S9 4EU (or email [sheccg.foi@nhs.net](mailto:sheccg.foi@nhs.net)), quoting the reference number above, stating the purpose(s) you wish to re-use the information for. You will receive a response within 20 working days of receiving your request with any conditions and charges that relate to the re-use of the information. These will be determined in line with the Re-use of Public Sector Information Regulations 2005 (SI 2005 No. 1515)

Yours sincerely

## Appendix D

### Useful Contacts

In some instances we will not be able to respond to a FOI because we do not hold the information. Below is a list of partner organisations which may hold information:

#### **Sheffield Teaching Hospitals NHS FT**

By Post: Freedom of Information Team  
Information Governance Department  
Royal Hallamshire Hospital  
2 Claremont Place  
Sheffield S10 2TB

By Email: [sth.foi@nhs.net](mailto:sth.foi@nhs.net)

#### **Sheffield Children's Hospital NHS FT**

By Post: Head of Legal and Governance  
Sheffield Children's NHS Foundation Trust  
Western Bank  
Sheffield S10 2TH

By Email: [scn-tr.schfoi@nhs.net](mailto:scn-tr.schfoi@nhs.net)

#### **Sheffield Health and Social Care NHS FT**

By Post: Corporate Affairs  
SHSC  
Fulwood House  
Old Fulwood Road  
Sheffield S10 3TH

By Email: [foi@shsc.nhs.uk](mailto:foi@shsc.nhs.uk)

#### **Yorkshire Ambulance Service**

By Post: FOI Enquiries  
Yorkshire Ambulance Service NHS Trust  
Springhill  
Brindley Way  
Wakefield 41 Business  
Wakefield WF2 0XQ

By Email: [foi@yas.nhs.uk](mailto:foi@yas.nhs.uk)

## **NHS England**

By Post: NHS England  
PO Box 16738  
Redditch  
B97 9PT

By Email: [england.contactus@nhs.net](mailto:england.contactus@nhs.net) (Please write “Freedom of Information” in the subject line)

## **Public Health England**

By Post: Public Information Access Office  
Wellington House  
133-155 Waterloo Road  
London SE1 8UG

By Email: [FOI@phe.gov.uk](mailto:FOI@phe.gov.uk)

## **Sheffield City Council**

By Post: Freedom of Information Request  
Information and Knowledge Management  
Business Information Solutions  
Sheffield City Council  
PO Box 1283  
Sheffield S1 1UJ

By Email: [FOI@sheffield.gov.uk](mailto:FOI@sheffield.gov.uk)