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Author / Originator and Job Title: Hayley Atkinson, Information Governance Manager		Risk Assessment: Not Applicable
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<p>Blackpool Teaching Hospitals NHS Foundation Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that they are not placed at a disadvantage over others. The Equality Impact Assessment Tool is designed to help you consider the needs and assess the impact of your policy in the final Appendix.</p>		

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1 PURPOSE

This document details the Trust's policy and procedure for registering and responding to requests made under the Freedom of Information Act 2000 (FOI) and Environmental Information Regulations 2004 (EIR).

2 TARGET AUDIENCE

All staff including contractors, partners and other bodies working under service level agreement will work in accordance with this policy and procedure.

3 POLICY

3.1 Freedom of Information

The Freedom of Information Act 2000 and Environmental Information Regulations 2004 both came into force on 1st January 2005 and provide individuals or organisations with the right to request information held by a public authority. As such the Trust is obliged to ensure that a robust system is in place to manage all requests within the required timeframes normally 20 working days.

There are many similarities between the two regimes and some requests may encompass information covered by both. The Trust is required to ensure that responses are answered under the terms of the appropriate legislation and guidance.

- Freedom of Information Act 2000.
[Freedom of Information Act 2000](#)
- Environmental Information Regulations 2004.
[Environmental Information Regulations](#)

The right to request information is enshrined in Part 1 of the Act:

“Any person making a request for information to a public authority is entitled:

- to be informed in writing by the public authority whether it holds the information of the description specified in the request, and
- if that is the case, to have that information communicated to him”

Members of the public have a statutory right:

- to obtain (either from the Trust's website or in some other form) all information covered by the Trust's Publication Scheme.

From January 2005:

- to request (subject to certain exemptions) any information held by the Trust, regardless of when it was created, by whom, or the form in which it is recorded.

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Whilst the Trust should always be actively pro disclosure, there are certain circumstances where it is necessary to apply an exemption, see Appendix A.

3.2 Publication Scheme

The Freedom of Information Act requires public organisations to:

- to be open, honest and accountable
- to publish certain information that they routinely generate

The Trust has adopted the Information Commissioners Model Publication Scheme which commits an organisation to make information available to the public as part of its normal business activities.

The classes of information published are listed here in the [Model Publication Scheme](#) and the information itself can be found by navigating the Trust's external facing Website. A full review of the publication scheme will be undertaken as a minimum annually by the Information Governance Team.

3.3 Environmental Information Regulations

Anyone has a right to request environmental information from a public authority. An individual does not have to mention the Environmental Information Regulations when making a request and the request does not have to be directed to a specific member of staff. The Regulations do not specify how a valid request must be made. Requests can be made verbally or in writing, so a request could be made by telephone, letter or email, or using social media sites such as Facebook or Twitter.

As the Regulations state the Trust must respond to all requests in writing. It is very important if you are asked for some information to ensure you take the name and contact details together with an address or a valid email address.

You must ensure you forward the request to the Information Governance Team who will facilitate it within the appropriate timescale.

The Regulations will cover any recorded information held that falls within the definition of 'environmental information'. It is not limited to official documents or information you create, it can cover, for example, drafts, emails, notes, recordings of telephone conversations and CCTV recordings.

For a list of Environmental information types please see Appendix 2.

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3.4 Acknowledgements and Registering of Request

The Information Governance Department will register all new requests onto the request management system. An acknowledgement to confirm receipt will be sent to the requestor together with a reference number and the timeframe for response (20 working days) along with contact details should the applicant wish to discuss their request further. Each request will be carefully considered to ensure the appropriate Act is applied enabling the request to be administered lawfully.

3.5 Response Compilation

Many of the requests received will require a multi-divisional response. The Information Governance Department will nominate the Divisional Lead e.g. Deputy / Assistant Director and the request will be e-mailed through to them for action. Where the request is multi-divisional, all appropriate leads will be copied into the e-mail at registration of the request. Each will be responsible for compiling their part of the response.

Quite often some of the information required is complex and will need an explanation to be provided so that the requestor understands the information in context. The divisional leads are required to assume full responsibility as they are in a position to help the requestor understand the content of the response.

There is a caveat in place to ensure organisations are not completely overwhelmed by requests that require lengthy investigations and responses. The Trust is obliged to undertake work to which equates to a maximum of 18 hours work regardless of the seniority of the person who needs to provide the response.

If it is clear the gathering of information will require longer than the 18 hours the Trust must consider asking the applicant to refine their request so that a response may be provided, however anyone wishing to take this approach must be able to justify it.

3.6 Withholding Information

Although the Trust is in favour of disclosure there may be times when it is right to withhold some; if not all of the information requested. Information cannot be withheld without an adequate explanation and the appropriate application of an exemption (FOI) or exception (EIR) being applied.

If you have concerns about the information requested and you feel it should not be disclosed you must provide a reason to the Information Governance Department and assistance will be provided.

For a list of possible exemptions and exceptions please see Appendix 1 and 2

3.7 Request Response

A draft response must be provided to the Information Governance Department ten working days prior to the release date.

The Information Governance Department will format the response(s) which will include:

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- A resume of the request.
- Confirmation of the information that has been released along with any contextualisation required and/or an explanation of any exemptions that have been applied.
- A description of how to complain should the applicant be dissatisfied with the response.

The Information Governance Department will then forward the response to the relevant Executive Director for approval prior to release.

3.8 If the Applicant is Dissatisfied with the Response

Should the applicant be dissatisfied with the Trusts' response they have the right to ask the Trust reconsider its original response.

Should an applicant take this course of action the Head of Information Governance will call for an internal review to be undertaken and a panel will be asked to meet to reconsider the response. The review should be undertaken by a different person rather than the person who dealt with the original request. A typical panel may consist of:

- An Executive Director / Non-Executive Director
- The Divisional Lead
- The Head of Information Governance or Information Governance Manager

The applicant will be informed by letter of the outcome of the review including an explanation of the decision(s) reached. The trust may uphold its original decision or it may choose to include the release of information not initially provided.

3.9 If the Applicant Remains Dissatisfied with the Response following the Review

Should the applicant remain dissatisfied they have the right of appeal to the Information Commissioner. The Trust has a duty to work with the Information Commissioners Office to facilitate an appropriate outcome.

It should be noted that the Information Commissioners Office has the power to issue a decision notice which can order the Trust to disclose some or all of the information or they may choose to uphold the original Trust decision to withhold.

If the applicant or the Trust are dissatisfied with the Information Commissioners decision notice they have the right to appeal to the Information Tribunal.

3.10 Records Management

It should be noted that poor records management is not considered to be a breach of the FOI. However if poor records management leads to the Trust not meeting any of the requirements, it will constitute a breach of the FOI.

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The FOI sets out strict timetables for complying with a request and makes sure the costs of retrieving information are reasonable. It also asserts that all recorded information held, wherever it is located within the Trust, can potentially be disclosed. As such all Divisions within the Trust should ensure that good records management practices are applied. See Policy - Records Management CORP/POL/054

<http://fcsharepoint/trustdocuments/Documents/CORP-POL-054.docx>

3.11 Monitoring

Monitoring reports will be provided to the Health Informatics Committee bi-monthly.

4 ATTACHMENTS	
Appendix Number	Title
1	Freedom of Information Act 2000
2	Environmental Information Regulations 2004
3	Equality Assessment Tool

5 PROCEDURAL DOCUMENT STORAGE (HARD AND ELECTRONIC COPIES)
Electronic Database for Procedural Documents
Held by Procedural Document and Leaflet Coordinator

6 LOCATIONS THIS DOCUMENT ISSUED TO		
Copy No	Location	Date Issued
1	Intranet	
2	Wards, Departments and Service	

7 OTHER RELEVANT / ASSOCIATED DOCUMENTS	
Unique Identifier	Title and web links from the document library
CORP/GUID/030	Health and Corporate Records Retention and Disposal Schedule (Appendix 1 & 2 is available on the intranet in the Information Governance section) http://fcsharepoint/trustdocuments/Documents/CORP-GUID-030.doc
CORP/POL/054	Records Management http://fcsharepoint/trustdocuments/Documents/CORP-POL-054.docx
CORP/POL/065	Information Governance Policy http://fcsharepoint/trustdocuments/Documents/CORP-POL-065.doc
CORP/PROC/152	Health and Corporate Records Retention and Disposal Procedure http://fcsharepoint/trustdocuments/Documents/CORP-PROC-152.doc

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8 SUPPORTING REFERENCES / EVIDENCE BASED DOCUMENTS
References In Full
Crown. (2000). Freedom of Information Act 2000. Available: http://www.legislation.gov.uk/ukpga/2000/36/contents . Last accessed 21/03/2016.
Crown. (2004). The Environmental Information Regulations 2004. Available: http://www.legislation.gov.uk/uksi/2004/3391/contents/made . Last accessed 21/03/2016.
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Information Commissioners Office. (23/10/2015 v1.2). Model Publication Scheme. Available: https://ico.org.uk/media/for-organisations/documents/1153/model-publication-scheme.pdf . Last accessed 21/03/2016.
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Information Commissions Office. (16/12/2015 v4). What is environmental information? (regulation 2(1)). Available: https://ico.org.uk/media/for-organisations/documents/1146/eir_what_is_environmental_information.pdf . Last accessed 21/03/2016.

9 CONSULTATION / ACKNOWLEDGEMENTS WITH STAFF, PEERS, PATIENTS AND THE PUBLIC		
Name	Designation	Date Response Received
Lisa Rich	Information Governance Specialist	05/02/16

10 DEFINITIONS / GLOSSARY OF TERMS	
EIR	Environmental Information Regulations 2004
FOI	Freedom of Information Act 2000

11 AUTHOR / DIVISIONAL / DIRECTORATE MANAGER APPROVAL			
Issued By	Hayley Atkinson	Checked By	Steven Bloor
Job Title	Information Governance Manager	Job Title	Head of Informatics
Date	February 2016	Date	February 2016

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APPENDIX 1: FREEDOM OF INFORMATION ACT 2000 EXEMPTIONS

Absolute Exemptions

- Information accessible by other means (s.21)
- Information supplied by or relating to, bodies dealing with security matters (s.23)
- Court records (s.32)
- Parliamentary privilege (s.34)
- Personal information (s.40)
- Information provided in confidence (s.41)
- Information whose disclosure is prohibited by law (s.44)

Qualified Exemptions

- Information intended for future publication (s.22)
- National security (s.24)
- Defence (s.26)
- International relations (s.27)
- Relations within the UK (s.28)
- The economy (s.29)
- Investigations and proceedings (s.30)
- Law enforcement (s.31)
- Audit functions (s.33)
- Formulation of government policy (s.35)
- Prejudice to effective conduct of public affairs (s.36)
- Communications with her Majesty (s.37)
- Health and safety (s.38)
- Some personal information (s.40)
- Legal professional privilege (s.42)
- Commercial Interests (s.43)

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APPENDIX 2: ENVIRONMENTAL INFORMATION

Environmental information has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on –

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;
- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c);

and

- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);

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APPENDIX 2: ENVIRONMENTAL INFORMATION

Exceptions

- [EIR 12\(3\)](#) - personal data (also covers Regulation 13)
- [EIR 12\(4\)\(a\)](#) - not held
- [EIR 12\(4\)\(b\)](#) - manifestly unreasonable
- [EIR 12\(4\)\(c\)](#) - request formulated in too general a manner
- [EIR 12\(4\)\(d\)](#) - unfinished/incomplete data
- [EIR 12\(4\)\(e\)](#) - internal communications
- [EIR 12\(5\)\(a\)](#) - international relations, defence, national security or public safety
- [EIR 12\(5\)\(b\)](#) - the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature
- [EIR 12\(5\)\(c\)](#) - intellectual property rights
- [EIR 12\(5\)\(d\)](#) - the confidentiality of the proceedings of that or any other public authority
- [EIR 12\(5\)\(e\)](#) - the confidentiality of commercial or industrial information
- [EIR 12\(5\)\(f\)](#) - harms the interests of the person who provided the information voluntarily
- [EIR 12\(5\)\(g\)](#) - protection of the environment

Excluding the personal data exception, all of the other exceptions can only be used to withhold information if it is in the public interest to withhold the information. There can be cases where is uncertainty about whether or not withholding information is in the public interest but the Regulations require a public authority to apply a presumption in favour of disclosure.

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APPENDIX 3: EQUALITY IMPACT ASSESSMENT FORM					
Department	Informatics	Service or Policy	CORP/POL/106	Date Completed:	
GROUPS TO BE CONSIDERED					
Deprived communities, homeless, substance misusers, people who have a disability, learning disability, older people, children and families, young people, Lesbian Gay Bi-sexual or Transgender, minority ethnic communities, Gypsy/Roma/Travellers, women/men, parents, carers, staff, wider community, offenders.					
EQUALITY PROTECTED CHARACTERISTICS TO BE CONSIDERED					
Age, gender, disability, race, sexual orientation, gender identity (or reassignment), religion and belief, carers, Human Rights and social economic / deprivation.					
QUESTION	RESPONSE		IMPACT		
	Issue	Action	Positive	Negative	
What is the service, leaflet or policy development? What are its aims, who are the target audience?	See Purpose				
Does the service, leaflet or policy/ development impact on community safety • Crime • Community cohesion	No				
Is there any evidence that groups who should benefit do not? i.e. equal opportunity monitoring of service users and/or staff. If none/insufficient local or national data available consider what information you need.	No				
Does the service, leaflet or development/ policy have a negative impact on any geographical or sub group of the population?	No				
How does the service, leaflet or policy/ development promote equality and diversity?	No				
Does the service, leaflet or policy/ development explicitly include a commitment to equality and diversity and meeting needs? How does it demonstrate its impact?	No				
Does the Organisation or service workforce reflect the local population? Do we employ people from disadvantaged groups	No				
Will the service, leaflet or policy/ development i. Improve economic social conditions in deprived areas ii. Use brown field sites iii. Improve public spaces including creation of green spaces?	No				
Does the service, leaflet or policy/ development promote equity of lifelong learning?	No				
Does the service, leaflet or policy/ development encourage healthy lifestyles and reduce risks to health?	No				
Does the service, leaflet or policy/ development impact on transport? What are the implications of this?	No				
Does the service, leaflet or policy/development impact on housing, housing needs, homelessness, or a person's ability to remain at home?	No				
Are there any groups for whom this policy/ service/leaflet would have an impact? Is it an adverse/negative impact? Does it or could it (or is the perception that it could exclude disadvantaged or marginalised groups?	No				
Does the policy/development promote access to services and facilities for any group in particular?	No				

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APPENDIX 3: EQUALITY IMPACT ASSESSMENT FORM				
Does the service, leaflet or policy/development impact on the environment	No			
<ul style="list-style-type: none"> • During development • At implementation? 				
ACTION:				
Please identify if you are now required to carry out a Full Equality Analysis		Yes	No	(Please delete as appropriate)
Name of Author: Signature of Author:		Date Signed:		
Name of Lead Person: Signature of Lead Person:		Date Signed:		
Name of Manager: Signature of Manager		Date Signed:		

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