

Freedom of Information Policy – Practice Guidance Notes		
Freedom of Information Request Procedure – V07		
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1 Introduction

- 1.1 Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust (the Trust/CNTW) is committed to full compliance with the Freedom of Information Act 2000.
- 1.2 The purpose of this procedure is to ensure that the provisions of the Freedom of Information (FOI) Act 2000 are adhered to, and in particular:
- To facilitate a general right of access to information held by CNTW in the course of carrying out public functions, subject to certain conditions and exemptions
 - In relation to most exempt information, the information must nonetheless be disclosed unless the public interest in

maintaining the exemption in question outweighs the public interest in disclosure.

2 Legal Context

2.1 Section 45 of the Freedom of Information Act

2.1.1 The procedure for processing specific information requests complies with Section 45 of the Freedom of Information Act 2000

2.1.2 In this regard the Freedom of Information Act establishes two related rights:

- The right to be told whether information exists, and
- The right to receive the information (subject to exemptions)

2.1.3 These rights can be exercised by anyone - natural or legal persons, worldwide. These specific requests for information not listed in the publication scheme will be dealt with by a FOI Co-ordinator.

2.1.4 Any request must be made in a permanent form (for example in writing or by email) and a charge may be made for dealing with any request. Requestors will not be entitled to information to which any of the exemptions in the Act applies. However, only those specific pieces of information to which the exemption applies will be withheld.

2.1.5 The Trust must respond in writing informing the applicant whether the information is held or not or if an exemption applies.

2.1.6 The Trust must respond to any request within twenty working days although further reasonable details can be requested in order to identify and locate the information. If a fee is required, the period of twenty working days can be extended by up to three months, if the fee is not paid within the three month period the Trust is not obliged to provide the information.

2.1.7 If the applicant suffers from a visual impairment the applicant should be advised that the Trust will assist them in completing an information request.

2.1.8 If the Trust requires more details about a request for information or cannot identify the information because the information request description is too vague then the Trust must contact the applicant as soon as possible to clarify the information required. The provision of the agreed information request is twenty days from this point.

3 'Round Robin' or 'Circular' requests

3.1 Round robin or circular requests usually take the form of a questionnaire and have often been used to identify trends between public authorities. Current guidance from the Information Commissioner states that providing the request is valid and the Trust holds the information, then the Trust is obliged to respond to the request using the normal procedure.

4 Roles and Responsibilities

4.1 Ultimate responsibility for Freedom of Information rests with the Chief Executive of the Trust but all staff members who record information, whether on paper or by electronic means, also have responsibilities under the Act and under this procedure.

4.2. Executive Director of Commissioning and Quality Assurance

4.2.1 Responsibility for FOI has been delegated to the Executive Director of Commissioning and Quality Assurance who must:

- Ensure organisational compliance with the FOI Act
- Promote FOI awareness throughout the organisation
- Ensure the general public has access to information about their rights under the FOI Act

4.3 All Staff

4.3.1 To enable the Trust to fulfil its statutory obligations, all staff must be made aware of the responsibilities they have. The interim FOI Lead will have responsibility for ensuring this happens.

4.4 The Head of Information Governance and Medico Legal

4.4.1 The Head of Information Governance and Medico Legal is centrally responsible for all information requests within the Trust. He / she will:

- Be responsible for the co-ordination of information requests; ensure requests are responded to correctly in accordance with statutory requirements and for ensuring that records are maintained
- Ensure each application received is recorded, that the relevant records are obtained, completion co-ordinated, liaison with the applicant and appropriate staff, progress monitored and records of the access are maintained

- Ensure that all requests are dealt with within the statutory period (twenty days for all living applicants)
- Act as a reference point for procedure and complaints as detailed in this procedure

5 Procedure for Requests

5.1 Receiving an Application

5.1.1 All applications received throughout the Trust should be forwarded to:

FOI Co-ordinator
St Nicholas Hospital
Jubilee Road
Gosforth
NE3 3XT

Email: foi@CNTW.nhs.uk

5.1.1.1 FOIs are coordinated by the Trust's Information Governance Team. They will ensure that:

- Receipt of the request is logged in an appropriate database and receipt of the request acknowledged within two working days.
- The appropriate owner/department holding the requested information is contacted within two days.
- If the request does not have the relevant details, that the requestor is contacted for further clarification. The twenty-working day 'countdown' will not begin until the Trust is satisfied that the applicant has provided enough information for their request to be processed.
- The information is located and received within fifteen working days. This is to enable the relevant Executive Director(s) a full working week to consider the response and provide their approval prior to disclosure (see below).
- If no exemptions apply, issue fees notice where applicable. If fees paid within three months, give information, otherwise invalidate the application
- If no fees apply, information is prepared for release, within three days

- All applications are signed off by the Executive Director of the relevant directorate
- Complex applications will be approved by more than one Executive Director if deemed necessary.

6 Weekly Review

6.1 A weekly report will be prepared of all outstanding requests and this will be submitted each Thursday to the Executive Directors for review.

7 Charging Fees

7.1 The Act does not require charges to be made, but public authorities have discretion to charge applicants a fee in accordance with Fees Regulations made under Sections 9, 12 and 13 of the Act in respect of requests made under the general right of access.

7.2 The Fees Regulations do not apply:

- To material made available under a publication scheme under section 19
- To information which is reasonably accessible to the applicant by other means within the meaning of the exemption provided for at Section 21; or
- Where provision is made by or under any enactment as to the fee that may be charged by the Trust for disclosure of the information as provided in Sections 9(5) and 13(3) of the Act"

7.3 Unless otherwise specified, information made available through the Trust's Publication Scheme will be free of charge.

7.4 The Trust may, however, charge an appropriate fee for dealing with a specific request for information not listed in the publication scheme. This charge will be calculated according to the published 'Fees Regulations'. If the estimated cost of dealing with the request for information exceeds £450 then the Trust can decide not to proceed with the request.

7.5 If a fee is to be charged, then the amount should be quoted and requested prior to the information being provided. The Trust's Finance Office should deal with all funds so received.

8 Complaints and Review

8.1 When a request is refused, the applicant will be informed of the procedure for requesting an internal review of the Trust's handling of the request, and of how to make a complaint to the ICO if they remain dissatisfied.

9 Monitoring and Reviewing

- 9.1 The Head of Information Governance and Medico Legal is responsible for monitoring compliance with this procedure and ensuring its effectiveness.
- 9.2 This procedure will be reviewed after twelve months of the document being implemented. Thereafter it will be reviewed on an annual basis, unless a prior review is deemed to be required. The Head of Information Governance and Medico Legal is responsible for reviewing the procedure.
- 9.3 Any amendments to this procedure will be agreed by the Business Delivery Group.

10 Additional Associated Documents

- CNTW(O)05 - Incident Policy , (including the management of Serious Untoward Incidents and associated practice guidance notes (PGNs))
- CNTW(O)09 – Records Management Policy (and associated PGNs)
- CNTW(O)43 - Freedom of Information Policy
- Data Protection Act 2018
- Lord Chancellor's Code of Practice on the Discharge of Public Authorities'
- Records Management, NHS Code Of Practice Parts 1 and 2
- Functions under Part 1 of the Freedom of Information Act 2000, issued under section 45 of the Act, November 2002
- Lord Chancellor's Code of Practice on the Management of Records under section 46 of the Freedom of Information Act 2000, July 2018