

Corporate - Information Governance

**Receiving and Responding to a Freedom of Information Act
 Request: Standard Operating Procedure**

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Change Control – Amendment History

Version	Dates	Amendments
v1.0	July 2015	SOP created
v1.1	13/08/2015	Note added to paragraph 4.3 – (note: it does not have to specify that it is an FOI request).

1. Introduction

1.1 This document sets out the procedures for South Staffordshire and Shropshire Healthcare NHS Foundation Trust, to adopt in response to requests for information under the Freedom of Information Act 2000 (hereafter referred to as the Act).

2. Purpose

2.1 The procedure supports the disclosure of information under the Act by setting out good administrative practice that the Trust will follow when handling requests for information.

2.2 The procedure will support the Trust’s Information Governance Policy Framework which sets out how the Trust will comply with their obligations under the Act.

3. Scope

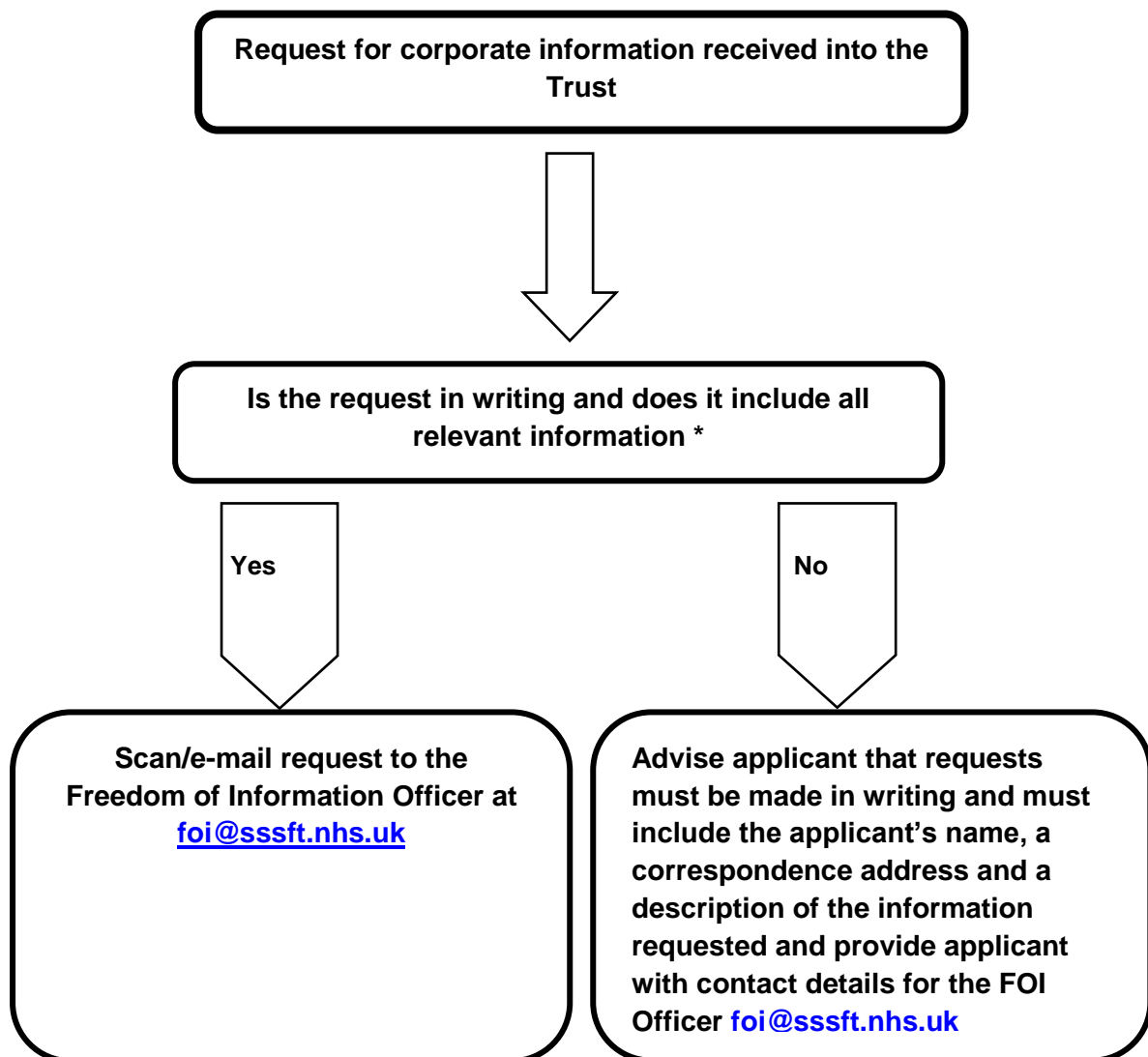
3.1 All staff are obliged to adhere to this SOP. They should be familiar with the requirements of the Act and be aware of their personal responsibilities under the Act.

3.2 All requests for information under the Act will be dealt with by the Freedom of Information (FOI) Lead and should be sent to foi@sssft.nhs.uk

4. FOI Procedure

- 4.1 The public have the right to access any recorded information held by the Trust. Access to information will be subject to certain conditions and exemptions.
- 4.2 All staff have a responsibility to deal with any request they may receive. Many applicants may not make their requests for information directly to the FOI Officer.
- 4.3 The flowchart below details the procedure that staff should follow when an initial request for information is received.

Initial Application for Information: procedure for all staff



*Requests in writing may include emails. All requests must have the name of the applicant, a correspondence address and a description of the information requested (note: it does not have to specify that it is an FOI request).

5. Processing Requests for Information

(see flowchart at appendix 1)

- 5.1 Once the FOI Officer has received an applicant's request, they will write within two working days to inform the applicant that their request has been received and is being processed.
- 5.2 If the FOI Officer has sufficient information to respond to the request they will inform the applicant in the letter of acknowledgement that their request will be processed within 20 working days. They will also inform the applicant whether any charges or fees are applicable and that no information will be provided unless the fee or charge is paid within three months.
- 5.3 The FOI Officer will contact the applicant for further information if this is necessary to progress the application.

6. Accessing the Information

- 6.1 The FOI Officer will identify and contact the relevant staff and department holding the information that the applicant has requested and request confirmation within two days that they are able to provide a full response or whether they believe any exemption may apply.
- 6.2 Upon receipt of an information request from the FOI Officer, Trust staff will then have ten working days to locate and provide the information requested to the FOI Officer. If it is not possible to meet this deadline the FOI Officer must be informed immediately.
- 6.3 The information requested should be forwarded to the FOI Officer. The FOI Officer will then review the information in respect of the exemptions and/or fees payable. This process should occur within two working days of the information being received.

7. Providing the Information

- 7.1 Once the information has been reviewed and if no exemptions apply and if no charge or fee is payable, the FOI Officer will have three working days to provide the information to the applicant.
- 7.2 If any charge or fee is payable, a fees notice will be issued to the applicant and the information will be released only when the charge or fee is paid.
- 7.3 Information will be provided to applicants by any one or more of the following means, namely:
 - as a copy of the information in permanent form or another form acceptable to the applicant;
 - by providing the applicant with a reasonable opportunity to inspect a record containing the information;
 - by providing a digest or summary of the information in a form acceptable to the applicant.

- 7.4 The FOI Officer will consider all the circumstances when providing information in a particular form, including the preferences of the applicant and the costs. If the FOI Officer considers that it is not reasonably practicable to comply with any preference of the applicant in their request, they will notify the applicant of this giving the reasons. If this is the case, the information will be provided in a form considered reasonable by the FOI Officer. When making such decisions the FOI Officer will have regard for other statutory obligations upon the Trust such as those established under the Disability Discrimination Act 1995.

8. Charges and Fees

- 8.1 Information provided in paper format will be free of charge for a single copy. Additional copies may be charged at 10p per sheet to a maximum of £250.
- 8.2 Information provided under General Rights of Access may incur a fee for the staff time involved in identifying, locating and retrieving the information, or extracting the information from a document containing it, where the cost is greater than £450. The cost of staff time is calculated at a rate of £25 per hour.
- 8.3 Any fee charged will be in line with The Freedom of Information and Data Protection (Appropriate Limited and Fees) Regulations 2004 as issued by the Department of Constitutional Affairs.
- 8.4 The production of information on formats other than paper (e.g. photographs, video, and transfer to CD-Rom) may incur a cost to the applicant which will be determined by the FOI Officer.
- 8.5 Any information that can be transmitted by email will normally be provided free of charge.
- 8.6 Where a fee or charge is payable, the FOI Officer will notify the applicant stating the amount payable and explaining how the fee has been determined.
- 8.7 Applicants will have three months in which to pay charges or fees. The information requested will not be provided until any charges or fees have been paid.
- 8.8 If charges or fees remain unpaid after three months the request will be invalidated and the applicant will be required to re-apply for the information and pay the outstanding fees and charges.
- 8.9 Rates for charges and fees will be reviewed regularly by the FOI Officer.

9. Refusing Requests for Information

- 9.1 The FOI Officer may refuse a request for information if:
- the information is exempt from disclosure under Part II of the Act;
 - the applicant has an outstanding fees notice or charge;

- the costs of complying with a request are not reasonably practicable;
- the request is demonstrably vexatious or repeated.

9.2 When considering whether information may be exempt from disclosure under Part II of the Act, the FOI Officer may consult and seek advice from appropriate staff.

9.3 When refusing to disclose information because of a “Qualified Exemption” as defined by the Act, the FOI Officer will consider the “Public Interest Test” in making such a decision. All refusals must be able to be justified to the Information Commissioner. Appendix D gives details of all exemptions under the Act.

9.4 When a request for information is refused the FOI Officer will write to the applicant explaining the reasons, specifying any exemption applied and why. The FOI Officer will inform the applicant of their rights to appeal to the Information Commissioner and will provide contact details for the Commissioner.

10. Providing Advice and Assistance to Applicants

10.1 The FOI Officer will provide advice and assistance to potential and actual applicants for information under the Act. The advice and assistance will include:

- guidance on how to access information from the Trust under the General Rights of Access and the Publication Scheme;
- informing the applicant of the progress of their request;
- explaining the basis upon which any charges or fees have been levied or exemptions applied;
- suggesting other routes through which applicants may wish to access information, including from other public authorities;
- identifying sources of independent help for applicants;
- directing applicants to the complaints procedure and/or Information Commissioner if they are dissatisfied with the Trust response to their application for information.

11. Suspension of 20 Working Day Timescale

11.1 The Trust is obliged under the Act to respond to all requests for information within 20 working days. This timescale will be suspended when:

- the FOI Officer contacts the applicant to obtain further information to progress the request;
- the Trust is awaiting the payment of a charge or fee prior to the information being provided.

12. Complaints and Feedback

12.1 All complaints and feedback, verbal or written (including those transmitted by electronic means) about the Trust compliance with the Act must be referred immediately to the FOI Officer.

- 12.2 The Trust will attempt to resolve any complaints at Director level within 20 days from receipt of the complaint. The applicant will also be informed of their right to appeal to the Information Commissioner and given any appropriate assistance.
- 12.3 The FOI Officer will send out an applicant survey to all applicants requesting their feedback on the service.

13. Monitoring Compliance

- 13.1 The Trust will regularly review its Freedom of Information arrangements to ensure compliance with the Information Governance Policy and this procedure including compliance with the Information Commissioner's Guidance on the Freedom of Information Act (2012).
- 13.2 The Trust will monitor compliance with FOI through the relevant section of the NHS Information Governance Toolkit.
- 13.3 The FOI Office will maintain records of all FOI requests for monitoring purposes in accordance with the Lord Chancellor's Code of Practice (Section 45).
- 13.4 The FOI Office will produce regular reports to the Information Governance Assurance Group and Board to assess performance in meeting the statutory timeframes and applicant satisfaction with the process.
- 13.5 Feedback from the satisfaction survey will also be used by the FOI Office to inform measures for improvement, including identifying any communications and training needs and whether new or revised procedures are needed to comply with the policy.

14. References

- 14.1 Freedom of Information Act 2000 <http://www.opsi.gov.uk/acts/acts2000/20000036.htm>
- 14.2 Information Commissioners Office Freedom of Information Act Guide <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/what-is-the-foi-act/>
- 14.3 Code of Practice on the discharge of public authorities' functions under Section 45 of the Freedom of Information Act <http://www.justice.gov.uk/guidance/foi-guidance-codes-practice.htm>

Appendix 1: Dealing with a Request under FOIA 2000: Procedure for FOI Officer

