

Standard Operating Procedure

Responding to Freedom of Information (FOI) Requests in line with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations (EIR) 2004

Document Author	Authorised
Written By: <i>Information Governance Specialist</i> Date: January 2016	Authorised By: <i>Chief Executive</i> Date: 27 th January 2016
Lead Director: <i>Company Secretary and Foundation Trust Programme Director</i>	
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1 Introduction

This Standard Operating Procedure sets out what staff should do when receiving a Freedom of Information Request in line with the Freedom of Information Act 2000 or the Environmental Information Regulations.

The Trust has determined that all such requests should be processed centrally through the Information Governance Team, who are part of the Corporate Governance Department. This decision was taken in order to ensure compliance with the law as this team have specific skills, experience and qualifications and are therefore equipped to process these requests. Staff in the Information Governance Department, are fully versed in the legislation surrounding requests for information in order to provide assurance to the Trust that requests are processed lawfully and legislation is not being breached. Therefore any request received directly by a member of Trust staff must be referred to the Information Governance Team, as quickly as possible and no later than 24 hours from the request being made.

It is important that all staff are familiar with this Standard Operating Procedure as any member of Trust staff may be the first point of contact for a request for information and they must understand and be able to articulate the correct process to follow, and be able to provide advice to others, including patients, service users and other stakeholders.

Further information can be accessed from the Information Governance pages on the intranet at <http://intranet.iow.nhs.uk/Information-Governance>

Under the Freedom of Information Act, and the Environmental Information Regulations, requests for information must be processed within 20 working days from receipt of the request, however, where a fees notice is made the deadline will be extended by the number of days it takes for the fee to be paid.

On average the Trust processes circa 500 FOI requests per year.

2 Processing a FOI request – Information Governance Team

Receiving and logging a request

On receipt of a request for information in line with the Freedom of Information Act or the Environmental Information Regulation the following steps will need to be followed.

1. Review the request to ensure it constitutes an FOI (on occasion applicants may request personal information and not appreciate that these request should be processed in line with the Subject Access Request process), and is not information readily available to the public elsewhere (for example information already available through a publicised annual report, here the applicant would be directed to the information source). Where the nature or extent of the request for information is not clear seek further clarity from the applicant.
2. Where the FOI request is considered sensitive in anyway (including any requests regarding Board members), this must be discussed with the Company Secretary as

Senior Information Risk Owner as ultimate decisions maker in relation to information to be shared following such requests.

3. Acknowledge the request (next working day), using the standard acknowledgement template (email/letter).
4. Identify the relevant Freedom of Information Lead (FOIL) or FOILs.
5. Log the request on the current FOI log, ensuring all relevant columns and tabs are completed. This log must be maintained at all stages and all actions or communications must be entered on this log.
6. Create a FOI folder in the Access to Information Drive, current year folder at the following location J:\Freedom Of Information Act\FOIA – Requests. This will enable you to allocate the FOI and FOI unique reference number. All correspondence in relation to the request and any relevant attachments must be saved in this folder.
7. Create a template request for information email to be sent to the Freedom of Information Leads (FOIL) or their named deputy and ensure this is delivered successfully (for example ring the persons direct where their email account is full and the email cannot be delivered). *NB where appropriate it may be beneficial to coordinate a meeting when there are numerous FOIL's involved to determine the boundaries of responsibility.*
8. Continue to send reminders to FOILs where information is not received in a timely manner, in line with the original template request email.
9. The following responses may be received from the FOIL or the relevant approver:-
 - a. Requested information has been received by the IG team, with the relevant approval from the FOI approver (normally this will be in the form of an email direct from the FOI approver) the request can continue to be processed. It is the responsibility of the approver to ensure that the information is suitable to be shared outside the organisation.
 - b. Further clarity sought from the FOIL or approver, here the IG team will go back to the applicant and seek further clarification and stop the clock for the request.
 - c. Determine that the request could be subject to an exemption, either an 'absolute' or a 'qualified' exemption. Here the IG team would consult the FOI Act, or consult with the Information Commissioners Office, and take necessary steps, which could include a Public Interest Test. The outcome of the decision will determine next steps. Where it is decided that the request is exempt, or part of the request is exempt the applicant will be notified of this decision. Where it is decided that the request is valid, the standard process will be resumed (step 8)
10. On receipt of the response from the FOIL or any further communication, create a progress log entry.
11. Check that all the information requested has been supplied and that the information is fit to be shared outside the organisation.
12. Create a completion letter/email and send this to the applicant, with the necessary attachments providing all valid information.
13. Update the FOI log and the progress log to ensure that there is a robust audit trail.

3 Processing a FOI request – Role of the Freedom of Information Leads/approver.

Across the Trust there are a number of FOILs who have been identified within the Business Units who will act as the central point of contact for all requests for information within their Business Units. They must follow the process outlined below.

1. Acknowledge receipt of the request for information from the IG team (this can be via email or phone).
2. Review the request and determine whether they hold the information or can source the information keeping in mind the potential that the information may be exempt (advice on this is contained within the original email request or can be sought from the IG team).
3. Keep the IG team informed in relation to progress in collating the information or potential exemptions. Particularly where there are barriers to the information being collated in a timely manner.
4. Collate the information, and submit this to the relevant approver, in order that the approval can review the information, discuss amendments as required and authorise/approve it for release, once satisfied that the information is both accurate and fit for release.
5. When the response is complete, the FOI Lead will undertake a quality check e.g. corporate standards/expectations, punctuation, grammar, format etc. and to ensure all questions have been fully answered before following the approval route set out below.
6. Where the FOI Approver has any concerns, they will liaise with their Director as necessary in order to amend/approve the response.
7. The information must then be sent to the IG team via the following email address FreedomofInformation@iow.nhs.uk ensuring that relevant colleagues are included in the email.

NB it is imperative that accurate and timely records are maintained throughout this process to ensure that a robust audit trail is in place and available for scrutiny. Therefore all those involved in the process must ensure they keep accurate and up to date records of actions taken, or communications held.

All email correspondence with the IG team regarding FOI's must be through the following email address FreedomofInformation@iow.nhs.uk