

## FREEDOM OF INFORMATION POLICY

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Relevant Staff Group:	All staff who receive letters or correspondence to the Trust or have Trust e-mail accounts

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## DOCUMENT CONTROL

<b>Reference</b> PB/Jan/16/FOIP	<b>Version</b> 4	<b>Status</b> Final	<b>Author</b> Director of Strategy and Corporate Affairs
<b>Amendments</b>	Review of processes and responsibilities		
<b>Document objectives:</b> The Freedom of Information Act 2000 provides a right of access to information held by NHS Trusts. Under the Act, individuals and interested bodies may apply for copies of information held by the Trust.			
<b>Intended recipients:</b> All Trust staff			
<b>Committee/Group Consulted:</b> Caldicott and Information Governance Group			
<b>Monitoring arrangements and indicators:</b> Caldicott and Information Governance Group			
<b>Training/resource implications:</b> The Trust will ensure that all necessary staff (qualified, unqualified, other clinical staff, bank and agency staff) are appropriately trained in line with the organisation's overall Information Governance training requirements.			
<b>Approving body and date</b>	Caldicott and Information Governance Group		Date: February 2016
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<b>Contact for review</b>	Director of Strategy and Corporate Affairs		
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## 1. INTRODUCTION

- 1.1 The Freedom of Information Act 2000 provides a right of access to information held by NHS Trusts. Under the Act, individuals and interested bodies may apply for copies of information held by Somerset Partnership NHS Foundation Trust.

## 2. PURPOSE AND SCOPE

- 2.1 The overarching general principle is that the Trust will always seek to disclose the requested information, unless the information is exempt under the provisions of the Act. General Information is available via the Trust's website; <http://www.somerset.nhs.uk/sompar>
- any member of staff who receives a request for Partnership Trust information must, in the first instance, forward it without delay to the FOI and Complaints Officer at Mallard Court.
  - the policy takes into account the requirements of government departments to provide information as a statute duty, which includes NHS Trusts. Requests should be processed, wherever possible, within 20 working days.

## 3. DUTIES AND RESPONSIBILITIES

- 3.1 **Responsibilities of the Trust Board:** The Trust Board has overall responsibility for ensuring robust management is in place in order for the Trust to be able to comply with the Act.
- 3.2 **Chief Executive Officer:** Overall responsibility for the release of information under the Freedom of Information Act 2000 rests with the Chief Executive.
- 3.3 **Responsibilities of the Information Governance Team:** The team will provide the following:
- the **Director of Strategy and Corporate Affairs** will provide advice to the Trust Board and Senior Managers.
  - the **Head of Risk** will provide advice to Senior Managers and Trust staff.
  - the **FOI and Complaints Officer** will support the Director of Strategy and Corporate Affairs and the Head of Risk and any person making a Freedom of Information request to the Partnership Trust and who legitimately requires assistance as required by the Act.
  - the **Information Governance Manager** will act as an independent reviewer in the event that an applicant should request an Independent Trust Review under Section 50 of the Freedom of Information Act 2000 if they are not satisfied with the response provided.
  - Specialist advice is obtained from the Trust solicitors and the Information Commissioner's Office, where required.
- 3.4 **Responsibilities of the Line Manager:** Line managers are responsible for ensuring staff, under their direction, are aware of the Freedom of Information Act and that they comply with this policy and the Act in general.
- 3.5 **Trust staff:** This policy applies to all Trust staff.

#### **4. EXPLANATIONS OF TERMS USED**

FOI - Freedom of Information Act 2000

#### **5. PROCEDURE**

- 5.1 The Trust's approved Freedom of Information process must be followed in all circumstances and the flowchart for this is found in Appendix B.
- 5.2 If an attempt is made to make a verbal request the applicant should be reminded that under the Act these requests must be made in writing either by post or by e-mail. It is appropriate that if by e-mail they are addressed to: [foi@sompar.nhs.uk](mailto:foi@sompar.nhs.uk)
- 5.3 Any member of staff who receives a written request for Trust information must in the first instance forward it without delay to the FOI and Complaints Officer, even if the request will then be actioned by a manager or member of staff who received the request. This is to ensure the request is properly logged by the Trust and the appropriate action set taken.
- 5.4 Written requests must state an address for correspondence (e-mail addresses suffice) and provide a description of the information requested together with a name; this should be a 'proper' name not alias or made up.
- 5.5 Draft responses should, wherever possible, be in the format as requested by the applicant and may be a copy, summary or digest of the information in paper, email, CD or other format if available and in standard or large print. Information is normally disclosed in English but can be requested in a range of formats and languages including Braille and large print upon request.
- 5.6 There may be a fee and this will be advised by the FOI and Complaints Officer. Fee information is also available in the Trust's public website under its Publication Scheme.
- 5.7 The Freedom of Information Act 2000 has certain disclosure limitations such as: section 12 appropriate (fees) limits, section 21 information available by other means (e.g. Trust internet site), section 23 future publication, section 40 about personal information, section 41 information provided in confidence, section 43 commercial interest, or section 44 information prohibited from disclosure. This is not an exhaustive list and full advice can be obtained from the FOI and Complaints Officer. They do not always apply and the Trust stance is to be proactive with disclosure wherever possible.
- 5.8 Further information: Enquiries or formal requests should be addressed to the FOI and Complaints Officer, 2<sup>nd</sup> Floor, Mallard Court, Express Park, Bristol Road, Bridgwater, TA6 4RN Tel: (01278) 432084 Fax: (01278) 432001.

#### **6. TRAINING REQUIREMENTS**

- 6.1 The Trust will ensure that all necessary staff (qualified, unqualified, other clinical staff, bank and agency staff) are appropriately trained in line with the organisation's overall Information Governance training requirements.
- 6.2 This will include specialist training for lead staff on FOI processes and actions and provided by the Information Governance Manager. General training available to all staff under the Information Governance Toolkit e-learning which is also part of the Trust's Induction training pack.

## **7. EQUALITY IMPACT ASSESSMENT**

- 7.1 All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. In addition, the Trust has identified Learning Disabilities as an additional tenth protected characteristic. If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Equality and Diversity Lead who will then actively respond to the enquiry.

## **8. MONITORING COMPLIANCE AND EFFECTIVENESS**

### **8.1 Monitoring arrangements for compliance and effectiveness**

This will be by the Caldicott and Information Governance Group.

### **8.2 Responsibilities for conducting the monitoring**

The Chair of the Caldicott and Information Governance Group will ensure the monitoring of this policy.

### **8.3 Methodology to be used for monitoring**

The FOI and Complaints Officer will provide a report to the Caldicott and Information Governance Group covering:

- number of FOI requests and exemptions applied;
- time taken to respond to FOI requests

The Trust will also:

- conduct an annual satisfaction survey;
- monitor and investigate complaints referred to the Information Commissioner's Office relating to FOI requests, reporting on findings to the Caldicott and Information Governance Group.

### **8.4 Frequency of monitoring**

Quarterly report to the Caldicott and Information Governance Group

### **8.5 Process for reviewing results and ensuring improvements in performance occur.**

Any audit results will be presented to the Caldicott and Information Governance Group for consideration, identifying good practice, any shortfalls, action points and lessons learnt. This Group will be responsible for ensuring improvements, where necessary, are implemented.

## **9. COUNTER FRAUD**

- 9.1 The Trust is committed to the NHS Protect Counter Fraud Policy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document.

## **10. RELEVANT CARE QUALITY COMMISSION (CQC) REGISTRATION STANDARDS**

10.1 Under the **Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3)**, the **fundamental standards** which inform this procedural document, are set out in the following regulations:

Regulation 16: Receiving and acting on complaints  
Regulation 17: Good governance

10.2 Under the **CQC (Registration) Regulations 2009 (Part 4)** the requirements which inform this procedural document are set out in the following regulations:

Regulation 18: Notification of other incidents

10.3 Detailed guidance on meeting the requirements can be found at <http://www.cqc.org.uk/sites/default/files/20150311%20Guidance%20for%20providers%20on%20meeting%20the%20regulations%20FINAL%20FOR%20PUBLISHING.pdf>

### ***Relevant National Requirements***

Department of Health requirements and initiatives

Department of Constitutional Affairs requirements and initiatives

Information Commissioners Office; Freedom of Information sections

## **11. REFERENCES, ACKNOWLEDGEMENTS AND ASSOCIATED DOCUMENTS**

### **11.1 References**

Department of Constitutional Affairs: Freedom of Information Act 2000

Information Commissioners Office: FOI Guidance Sheets 2006-2009

### **11.2 Cross reference to other procedural documents**

Data Protection and Confidentiality Policy

Information Governance Policy

Information Management and Technology Security Policy

Record Keeping and Record Management Policy

Risk Management Policy

Untoward Events Reporting Policy

Trust's Freedom of Information Act 2000 Information Leaflet

Trust's Freedom of Information Request – Feedback Form

All current policies and procedures are accessible in the policy section of the public website (on the home page, click on 'Policies and Procedures'). Trust Guidance is accessible to staff on the Trust Intranet.

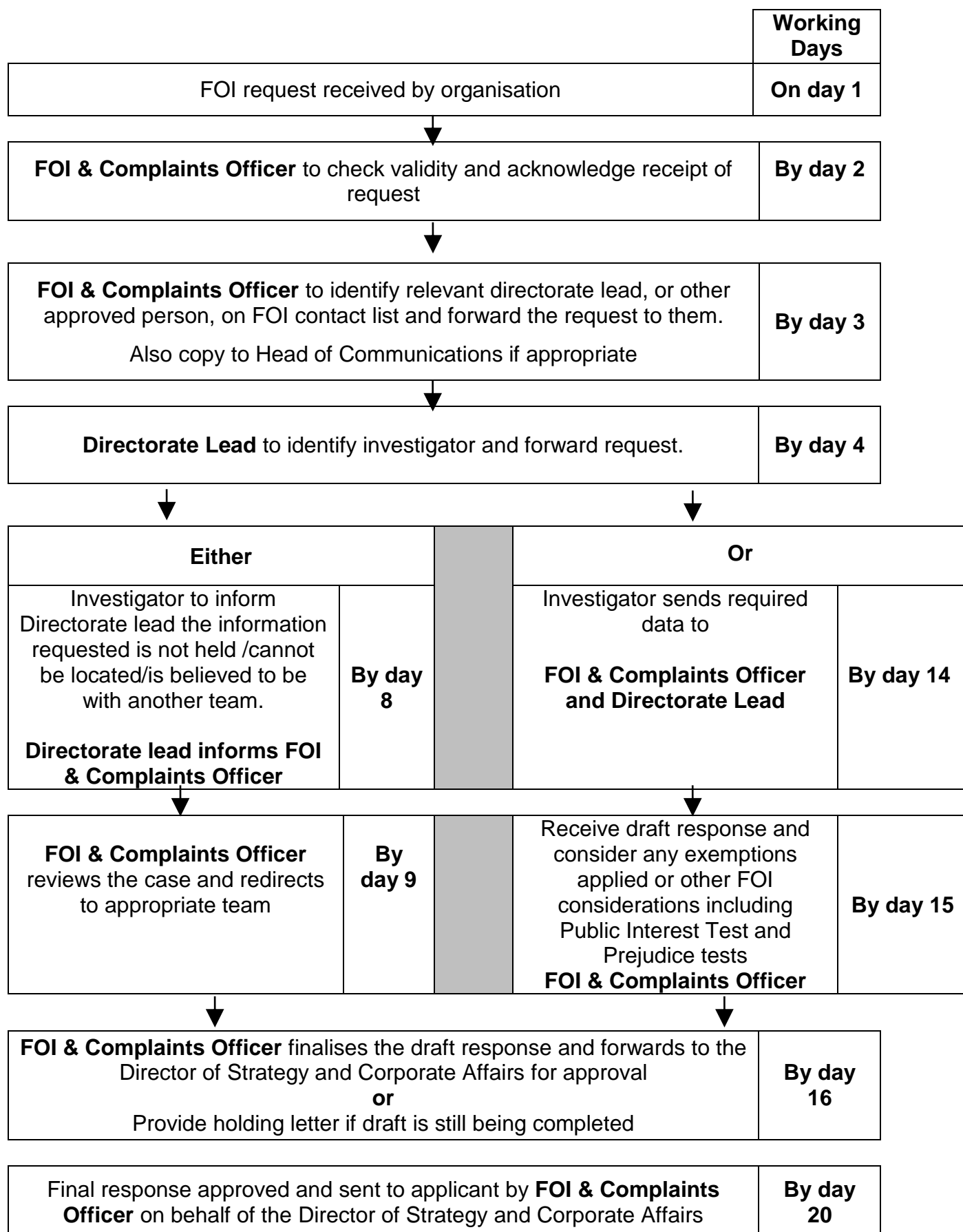
12. **APPENDICES**

12.1 For the avoidance of any doubt the appendices in this policy are to constitute part of the body of this policy and shall be treated as such. This should include any Audit Standards.

- Appendix A Freedom of Information Process Flowchart
- Appendix B Freedom of Information Directorate Leads



## FOI FLOWCHART WITH TIMESCALES



**Freedom of Information process and flowchart**

Requests, once logged, are sent by the Complaints and FOI Officer to the following approved leads or teams:

- Information Team
- Finance Department
- Human Resources and Workforce Development Directorate
- Medical Directorate
- Nursing and Patient Safety Directorate
- Operational Directorate
- Governance and Corporate Development Directorate
- Estates and Facilities Department

The Freedom of Information process and flowchart is found below.