

Freedom of Information Policy

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Author:	<i>Diane Gypps, Complaints & FOI Manager</i>
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Related Documents	<i>Records Management and Information Governance Policies</i>





POLICY DEVELOPMENT PROCESS

Names of those involved in policy development

Name	Designation	Email
Diane Gypps	Complaints & FOI Manager	diane.gypps@nhs.net

Names of those consulted regarding the policy approval

Date	Name	Designation	Email
05/05/2015	Jane Meggitt	Director of Communications and Engagement	jane.meggitt@bedfordshireccg.nhs.uk

Equality Impact Assessment prepared and held by

Date	Name	Designation	Email

Committee where policy was discussed/approved/ratified

Committee/Group	Date	Status
Risk Management Group	11 May 2015	Approved
Executive Management Team	11 June 2015	Ratified

Equality Impact Assessment

Bedfordshire Clinical Commissioning Group is committed to promoting equality in all its responsibilities – as commissioner of services, as a provider of services, as a partner in the local economy and as an employer. This policy will contribute to ensuring that all users and potential users of services and employees are treated fairly and respectfully with regard to the protected characteristics of age, disability, gender, reassignment, marriage or civil partnership, pregnancy and maternity, race, religion, sex and sexual orientation.



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Introduction

The key messages contained in this policy are as follows:

- Requests under the Freedom of Information (FOI) Act must, by law, be responded to within 20 working days.
- All requests must be forwarded immediately to the FOI Manager.
- This document sets out the CCG's policy on FOI and (in Appendix 1) the processes to be followed by all staff to ensure that the policy is implemented.
- This policy applies to all CCG employees, including staff on honorary contracts, contractors working on behalf of the CCG, and members of its governing boards.

Purpose

The purpose of this policy is to ensure that:

- the CCG is fully compliant with its statutory responsibilities under the Freedom of Information Act 2000 (the Act);
- all requests under the Act are dealt with within the 20-working-day legal requirement;
- all FOI requests, regardless of route received, are immediately forwarded to the FOI Manager;
- responses are consistent and of a high standard;
- requests are dealt with fairly and consistently and that the CCG fulfils its obligation to 'advise and assist' requestors;
- that the CCG's publication scheme – also a legal requirement – is up to date and fit for purpose;
- that all staff are aware of their responsibilities under the Act.



Responsibilities

While ultimate responsibility for compliance with the Act rests with the CCG's Chief Operating Officer, all members of staff have responsibilities under the Act and this policy. All staff receive FOI training as part of their mandatory Information Governance training. In addition, all members of staff are responsible for creating their own records and for adhering to the CCG's records management and information governance policies and processes.

Development process

The Freedom of Information Act was introduced in 2000 and became effective in 2005. It covers (with very few exceptions) all public bodies, including NHS organisations and the CCG. Anyone (not residents in the UK or EU) is entitled to submit a request for information under the Act and to receive a response within 20 working days. The response must (except in specific circumstances):

- i. state whether or not the CCG holds the information requested;
- ii. provide the information, or if withholding it, cite a valid exemption under the Act to explain why it is being withheld.

The Act is overseen by the Information Commissioner's Office (ICO), which has powers to enforce compliance. The ICO has the power, for example, to order an organisation to release information if it feels the grounds it gave for withholding it was insufficient: further failure to comply could result in the organisation being found to be in contempt of court.

Under FOI, information can be requested on almost any subject. An important exception is that an individual cannot request information about themselves under the FOI Act. For example, a patient wanting copies of their own medical notes would need to request these under the Data Protection Act 1998 (DPA) not the FOI Act. DPA enquiries should be directed to the Information Governance Team.

Please note: information recorded in any form can be subject to an FOI request, this includes information held electronically and/or in hard copy, such as reports, agendas, minutes, emails, letters, memos, databases, hand-written notes, video/audio recordings, etc, and in some cases may also include personal emails.

In addition to the FOI Act, there are separate Environmental Information Regulations 2004 (EIR). EIR requests should be directed to the FOI Manager in the same way as FOI requests.

Requests under the Act must be received in writing (whether by email, post or fax) and the legal 20-working-day deadline starts when the CCG receives the request – not when it reaches the FOI Manager. Requests cannot be made anonymous; either a personal name (not necessarily a full name) and/or a company/organisation name must be provided, however the requestor does not have to declare the organisation they represent or their reasons for seeking the information. The Act does not stipulate that a request needs to state that it is a Freedom of Information request or mention 'Freedom of Information' or 'FOI' to be classed as FOI request. As a general guide, requests for information which do not mention the Act can be answered as general enquiries. However, if a request specifically mentions the FOI Act, they should be passed to the FOI Manager.



Responding to requests

In compliance with good practice, the information requested should, where held, be disclosed. In certain circumstances, the CCG may refuse to supply all, or some, of the information requested. For example, the information requested may be commercially sensitive and possibly damage the CCG. Also patient-identifiable information will not be disclosed.

All documents provided by the CCG should include appropriate disclaimers about the CCG's responsibility to comply with the Act. The CCG can only withhold information requested if a valid exemption applies and, in cases where the public interest test applies, the balance is in favour of withholding the information.

The CCG will charge for information only when the cost of supplying it would be likely to exceed the limit set by the Act, which is £450 – calculated as the equivalent of one person working for 18 hours at £25 per hour.

While it is possible under the Act to refuse requests on the grounds of duplication or vexatious material, these exemptions apply only in specific circumstances. Identical or very similar requests, or frequent requests from the same source, will not necessarily be treated as duplicative or vexatious.

Information about services carried out on behalf of the CCG by other public bodies (NHS trusts, local government, etc) will not usually be supplied by the CCG, however the enquirer will be signposted to the relevant public body.

Where data is withheld, the relevant exemptions(s) will be cited and, where applicable, the "public interest test" will be applied.

Publication

The CCG is obliged under the Act to have a formal Publication Scheme, which is the CCG's website. As well as the information dictated by the Act – such as information on the CCG's role within the NHS structure, its chief partner organisations, etc, the CCG will pro-actively publish other information, such as reports, minutes, and selected material released in response to FOI requests. This will:

- a. demonstrate good governance and accountability;
- b. support the principles of openness and transparency which are enshrined by the FOI Act and supported by the CCG; and
- c. save CCG staff and the general public time, as material will increasingly be made available online which might otherwise have been requested under the Act.

Request for review

Requestors who are dissatisfied with the way their request has been handled or with a decision to withhold information, are entitled to request an internal review. The request must be made, in writing, to the CCG's Director of Communications and Engagement:



Jane Meggitt
Director of Communications and Engagement
Bedfordshire CCG
Capability House
Silsoe
Bedford
MK45 4HR

Requests for a review must be received within two months of the CCG's original response. If the requestor remains dissatisfied after receiving notice of the outcome of an internal review, they may appeal to the ICO:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF
Telephone number: 08456 306060

Re-use Regulations

The CCG's FOI response letter contains standard wording that the information provided is for the requestor's personal use, is the property of the CCG, and is subject to any existing Intellectual Property and Database Rights, and that any commercial application may be subject to the provisions of the "Re-use of Public Sector Information Regulations 2005" and the CCG's permission must be sought before any re-use. Requests for re-use should be directed to the Information Governance Team.

Fees

There is not usually a charge to the requestor for information obtained under the Act. However, in certain circumstances, eg a requestor requires a substantial amount of material in hard-copy, then a charge may be made to cover postage, printing and photocopying.

Records Management

The NHS Code of Practice on Records Management (Part 2), 2nd edition, states that FOI requests and responses should be retained for a minimum of three years after full disclosure and ten years if information is redacted or withheld.

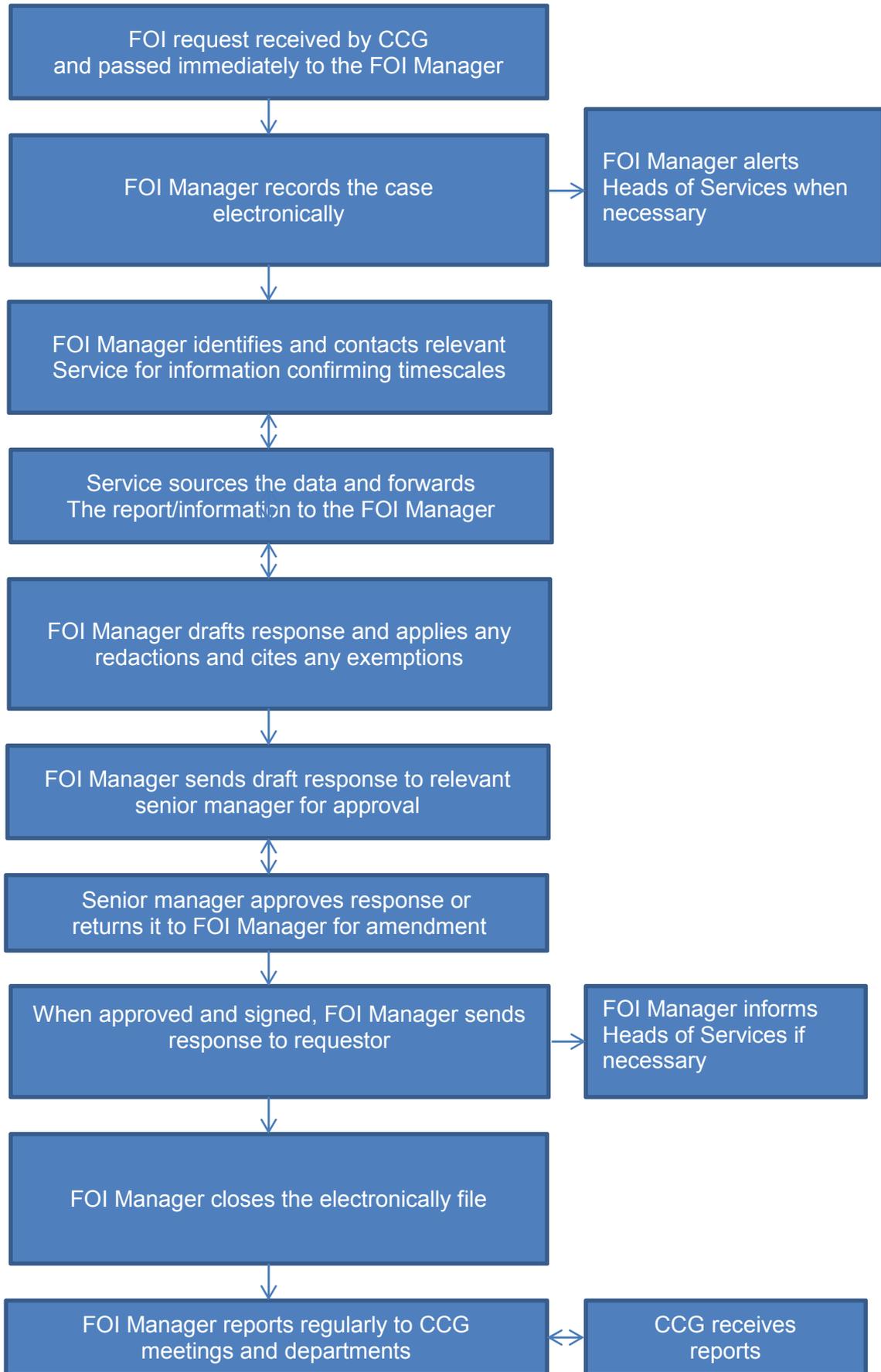
Monitoring

The CCG will receive regular reports from the FOI Manager on the numbers of requests received, compliance, and also notification of any emerging themes, areas of particular interest, etc, and will also highlight any problem with departments or teams who are slow to respond with information for FOI responses.

References

Freedom of Information Act 2000
Data Protection Act 1998

Appendix 1 – FOI process flow chart





Appendix 2 – FOI Exemptions

FOI Exemptions

Exemption Section 21:	Information available by other means
Exemption Section 22:	Information intended for future publication
Exemption Section 22a:	Research (prejudice based qualified exemption)
Exemption Section 23:	Information supplied by, or related to, bodies dealing with security matters
Exemption Section 29:	The economy
Exemption Section 30:	Investigations and proceedings conducted by public authorities
Exemption Section 33:	Audit functions
Exemption Section 38:	Health and safety
Exemption Section 39:	Environmental Information
Exemption Section 40:	Personal information
Exemption Section 41:	Information provided in confidence
Exemption Section 43:	Commercial interests
Exemption Section 44:	Prohibitions on disclosure

<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/exemptions-guidance>