

Ref No:

**FREEDOM OF INFORMATION & ENVIRONMENTAL
INFORMATION REGULATIONS POLICY (FOI AND EIR POLICY)**

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Ratified by:	Policy Ratification Group
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Name of originator/author:	Scott Reid
Name of responsible committee/individual:	Information Governance Steering Group (Approved by the Corporate Health Informatics Steering Committee)
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Version	Date	Author	Status	Comment
1.0	18/01/05	S. Reid	Approved	Initial approved policy
1.1	22/02/06	S. Reid	Approved	Updates to take account of the Public Sector Information Regulations 2005
2.01	09/10/07	S. Reid	Draft	Re-formatted inline with new Trust policy template
2.02	11/10/07	S. Reid	Draft	Modified after discussion at IGSG meeting
2.03	22/10/07	S. Reid	Approved	Change made to job title in section 3.9
3a	22/07/10	S. Reid	Draft	Re-formatted inline with new Trust policy template and minor changes
3b	16/08/10	S. Reid	Draft	Revised to take account of comments from the IGSG
3c	05/10/09	S. Reid	Draft	Revised to take account of comments from the CHISC
3d	21/12/10	S. Reid	Approved	Revised to take account of comments from the PRG

The 10 Golden Rules of this Policy

- 1** The Trust will be open with the general public and the media and will place in the public domain as much information about its activities as is practicable and, subject to the exemptions permitted under the Act and exclusions permitted under the EIR, make all other information available on request.
- 2** All staff will provide information to assist in the response to FOI requests (including rationale for not releasing information) to the FOI Officer or deputy within 5 working days.
- 3** The Trust will deal with all requests for information in accordance with the Lord Chancellor's Code of Practice on Discharge of Public Authorities' Functions – see the FOI & EIR Code of Practice.
- 4** The Trust will deal with requests to re-use information in accordance with the Office of Public Sector Information guidance.
- 5** The Trust will deal with all requests for environmental information in accordance with the Secretary of State's Code of Practice on the Discharge of the Obligations of Public Authorities under the Environmental Information Regulations 2004.
- 6** All staff will manage records in accordance with the Trust's retention & destruction schedule
- 7** All staff will forward any FOI request to the FOI Officer via the email: freedomofinformation@rothgen.nhs.uk
- 8** If unsure about the nature of an information request, consider it as FOI request.
- 9** Document records with the knowledge that these may at some time in the future be released to the public in response to an FOI request.
- 10** All staff will be familiar with and adhere to the related Trust documents listed in section 10 of this policy.

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1 INTRODUCTION

The Freedom of Information Act 2000 (FOI Act), UK Re-use of Public Sector Information Regulations 2005 (PSI) and the Environmental Information Regulations 2004 (EIR) place a number of obligations on public authorities, which include The Rotherham NHS Foundation Trust, to disclose information about its activities. The FOI Act, PSI and EIR also provide the public with wide rights of access to the Trust's records.

In general: members of the public have a statutory right:

- From 1st January 2005, to request, with some exceptions and the retention schedule, any information held by the Trust, regardless of when it was created, by whom, or the form in which it is now recorded.
- From 1st July 2005, to request to re-use information to which the Trust has copyright.

2 PURPOSE

This Policy, and its associated Codes of Practice, sets out how the Trust will meet its obligations under the FOI Act, PSI and EIR. The Trust Board has overall responsibility for the Policy and for ensuring that it is complied with.

The Board has delegated, to the Information Governance Steering Group, responsibility for the associated Codes of Practice and for ensuring they are reviewed annually or whenever major developments impose changes.

The FOI Act replaces the non-statutory "Code of Practice on Openness in the NHS". The EIR replaces the "Environmental Information Regulations 1992".

The Trust is committed to being open and honest in the conduct of its operations and to comply fully with the Freedom of Information Act 2000, the UK Re-use of Public Sector Information Regulations 2005, and the Environmental Information Regulations 2004. To this end the Trust will:

- Be open with the general public and the media and will place, in the public domain, as much information about its activities as is practicable and, subject to the exemptions permitted under the Act and exclusions permitted under the EIR, will make all other information available on request.

- Establish records management organisations, structures and procedures which will be underpinned by Health Service Circular 1999/053 “For the Record” and which will meet the requirements of the Lord Chancellors’ Code of Practice on the Management of Records.
- Deal with all requests for information in accordance with the Lord Chancellor’s Code of Practice on Discharge of Public Authorities’ Functions.
- Deal with requests to re-use information in accordance with the Office of Public Sector Information guidance.
- Deal with all requests for environmental information in accordance with the Secretary of State’s Code of Practice on the Discharge of the Obligations of Public Authorities under the Environmental Information Regulations 2004.

There will be occasions when the Trust will not be able to supply all the information requested. Information will only be withheld in accordance with the exemptions laid down in the Act or exclusions laid down in the EIR, and in particular those concerning:

- The Trust’s duties under the Data Protection Act 1998 to keep confidential, sensitive information about individual members of staff and patients;
- Other legal and contractual obligations; or
- Materials detrimental to the safe and efficient conduct of the Trust’s operations, or which is commercially sensitive.

On such occasions the Trust will always state the reasons why information has been withheld.

The policy will apply to:

- All information recorded and held by the Trust
- All Trust employees and non-Executive Directors

3 DUTIES

3.1 Duties within the Organisation

- 3.1.1 **The Rotherham NHS Foundation Trust Board** is ultimately responsible for determining the policies that shall apply to information held by the Trust and for establishing policies,

standards, procedures and guidance for administering requests for information in compliance with the provisions of the Freedom of Information Act 2000, the UK Re-use of Public Sector Information Regulations 2005, and the Environmental Information Regulations 2004.

- 3.1.2 **Directors and Heads of Department** are responsible for ensuring that information held within their areas of responsibility fully complies with the policies and procedures agreed by the Trust Board, including information processed by contractors, partners or other bodies working under service level agreements.
- 3.1.3 **Line Managers** are responsible for ensuring that staff under their direction and control are aware of the policies, standards, procedures and guidance agreed by the Trust Board, and for checking that those staff understand and appropriately apply policies, procedures and guidance in carrying out their day to day work.
- 3.1.4 **All staff** are responsible for processing information in accordance with the FOI Act, PSI and EIR; the Trust FOI Code of Practice and the policies, standards, procedures and guidance agreed by the Trust Board (see section 11 for key documents).
- 3.1.5 **The Information Governance Steering Group** is responsible for overseeing/monitoring all FOI Act, PSI & EIR policy, procedures and guidance.
- 3.1.6 **The Freedom of Information (FOI) Lead** will act as the Trust's FOI Project Manager and oversee the creation of policies, procedures and guidance. **The FOI Lead** will also provide a point of contact for all Trust staff that requires advice on the Freedom of Information Act, UK Re-use of Public Sector Information Regulations 2005, and Environmental Information Regulation 2004 matters. Responsibility for the maintenance of this document lies with the **FOI Lead**.
- 3.1.7 The Trust's Publication Scheme is available on the Trust's Internet website at:
www.rotherhamhospital.nhs.uk or through the **FOI Lead**
- 3.1.8 **The FOI Officer** will act as the central contact and advice centre for all FOI / PSI / EIR requests (see Freedom of Information Code of Practice for details).

3.2 Consultation and Communication with Stakeholders

- 3.2.1 The **Information Governance Steering Group** will lead on and develop the policy. It will approve minor changes to the policy.

3.3 Approval of the policy

- 3.3.1 The policy will be approved by the **Corporate Health Informatics Steering Committee (CHISC)**.
- 3.3.2 Final approval will be required from **CHISC** on major changes to the policy

3.4 Ratification of the policy

- 3.4.1 Ratification is via the **Trust Policy Ratification Group**.

4 DEFINITIONS AND ABBREVIATIONS

- **EIR** – Environmental Information Regulations.
- **FOI** – Freedom of Information.
- **CHISC** – Corporate Health Informatics Steering Committee.
- **IGSG** – The Information Governance Steering group is the body responsible for ensuring the Trust complies with information governance requirements and legislation. The contact for this group is the Head of Information.
- **Information Commissioner** – The Information Commissioners Office is the UK's independent public body set up to promote access to official information and protect personal information by promoting good practice, ruling on eligible complaints, providing information to individuals and organisations, and taking appropriate action when the law is broken.
- **PSI** – Public Sector Information
- **Retention Schedule** – Details the minimum retention period for various types of documents held by the Trust. See the Corporate Records Management Policy and Health Records Policy for further details.

5 EQUALITY IMPACT ASSESSMENT

- 5.1 The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

- 5.2 A completed copy of the Equality Impact Assessment tool is attached as **Appendix 1**.

6 REVIEW AND REVISION ARRANGEMENTS

- 6.1 The policy will be reviewed by the **IGSG** within the timescales listed on the coversheet.
- 6.2 The **Head of Information**, as the Author of this policy will be the lead officer for ensuring the policy is reviewed and approved according to the method identified.
- 6.3 Significant changes to the policy will be submitted to **CHISC** for approval.

7 PROCEDURAL INFORMATION

- 7.1 FOI Requests will be dealt with as detailed in the document: Freedom of Information Code of Practice: Requests for Information.

8 DISSEMINATION AND IMPLEMENTATION

8.1 Dissemination

- 8.1.1 The policy will be added to the Trust document management system located on the Intranet site. **The Head of Information** is responsible for this task (including points 9.2 & 9.3).
- 8.1.2 The current version of the policy will be stored as "**Latest**" on the document management system and will be the document users find when initiating a search.
- 8.1.3 Previous versions will remain on the document management system and be marked as "**Previous**". These will not be visible to users when initiating a search, but retrievable by Departmental Intranet Administrators.
- 8.1.4 A **Departmental Intranet Administrator** shall be contacted to retrieve a superseded policy from the document management system if required.
- 8.1.5 The policy will be communicated to staff.

As a minimum:

- 8.1.5.1 An electronic version of the policy document will be emailed to all **Heads of Departments/Ward Managers/Matrons/Clinical Directors** by the **Head of Information**.
- 8.1.5.2 **Heads of Departments/Ward Managers/Matrons/Clinical Directors** must ensure that new policy documents are communicated to all relevant staff and that arrangements for training and support are identified.
- 8.1.5.3 The approval of the policy will be printed in relevant **CEO Bulletin** or equivalent document.
- 8.1.5.4 The **Head of Information** will load the policy on the Document Management System.

8.2 IMPLEMENTATION PLAN INCLUDING TRAINING

- 8.2.1 Implementation is detailed in the IG Communications plan.

9 MONITORING COMPLIANCE

9.1 Monitoring Compliance With and the Effectiveness of Procedural Documents

- 9.1.1 The Trust will maintain a register of requests for information made (and dealt with) under the FOI Act, PSI and EIR, and the action taken on each application. The register will identify whether the same or similar information has previously been requested and provided, or refused and the reasons for refusal. This will ensure consistency in dealing with similar requests and identify repeated, duplicate or vexatious requests. It will also identify recurring requests for the same or similar information not already published and will allow the Publication Scheme to be updated.
- 9.1.2 Performance in dealing with such requests will be monitored by the **FOI Lead** and reported to the **Information Governance Steering Group**.
- 9.1.3 The Trust will put in place procedures for systematically reviewing its arrangements for administering and managing requests for information. These procedures will include systems for auditing compliance with the FOI Act, PSI and EIR.

9.2 Standards/Key Performance Indicators

- 9.2.1 The volume of requests received will be monitored on a regular basis to ensure the Trust has sufficient resources in place to effectively respond within the required timescales. This information will be fed into the **Information Governance Steering Group** to action if required.
- 9.2.2 The Trust will maintain a register of all complaints received about its Freedom of Information arrangements and will ensure that any learning points that arise from such complaints are used to improve related policies, standards, procedures and guidance.

10 REFERENCES

This Policy has been produced in accordance with the following documents:

- Code of Practice on the Management of Records
<http://www.foi.gov.uk/reference/imprep/codemanrec.htm>
- Code of Practice on the discharge of public authorities' functions under Part I of the Freedom of Information Act 2000
<http://www.foi.gov.uk/reference/imprep/codepafunc.htm>
- Code of Practice on the Discharge of the Obligations of Public Authorities under the Environmental Information Regulations 2004
<http://www.defra.gov.uk/corporate/opengov/eir/pdf/cop-eir.pdf>

11 ASSOCIATED DOCUMENTATION

Related documents (available on Trust Intranet)

- Corporate (Non-Clinical) Records Management Policy
- Freedom of Information Code of Practice – Requests for Information
- Freedom of Information Code of Practice – Requests for Environmental Information
- Health Records Policy
- Information Governance Policy
- Use and Protection of Patient Information Policy (Confidentiality Code of Conduct)

EQUALITY IMPACT ASSESSMENT (EIA) INITIAL SCREENING TOOL

Document Name: Corporate (Non-Clinical) Records Management Policy Date/Period of Document: 2 year review cycle

Lead Officer: Scott Reid, Head of Information Directorate: Finance Reviewing Officers: John Francis

Function Policy Procedure Strategy Joint Document, with who?

Describe the main aim, objectives and intended outcomes of the above:

To ensure robust record management practices are in place to manage non-clinical records and that national legislation and guidance is followed.

You must assess **each** of the 7 areas separately and consider how your policy may affect people's human rights.

1. Assessment of possible adverse impact against any minority group

	How could the policy have a significant negative impact on equality in relation to each area?	Response		If yes, please state why and the evidence used in your assessment
		Yes	No	
1	Age?		x	
2	Gender (Male, Female and Transgender)?		x	
3	Disability (Learning Difficulties/Physical or Sensory Disability)?		x	
4	Race or Ethnicity?		x	
5	Religious, Spiritual Belief?		x	
6	Sexual Orientation?		x	
7	Socio-economic groups?		x	

You need to ask yourself:

- Will the policy create any **problems** or **barriers** to any community of group? **Yes/No**
- Will any group be **excluded** because of the policy? **Yes/No**
- Will the policy have a negative impact on **community relations**? **Yes/No**

If the answer to any of these questions is Yes, you must complete a full Equality Impact Assessment

2. Positive impact:

	Could the policy have a significant positive impact on equality by reducing inequalities that already exist? Explain how will it meet our duty to:	Response		If yes, please state why and the evidence used in your assessment
		Yes	No	
1	Promote equal opportunities		x	
2	Get rid of discrimination		x	
3	Get rid of harassment		x	
4	Promote good community relations		x	
5	Promote positive attitudes towards disabled people		x	
6	Encourage participation by disabled people		x	
7	Consider more favourable treatment of disabled people		x	
8	Promote and protect human rights		x	

3. Summary

On the basis of the information/evidence/consideration so far, do you believe that the policy will have a positive or negative adverse impact on equality?

Positive	Please rate, by circling, the level of impact				Negative	
HIGH	MEDIUM	LOW	NIL	LOW	MEDIUM	HIGH
Date assessment completed: 30.07.10	Is a full equality impact assessment required?			<input type="checkbox"/> Yes	x No	
(documentation on the intranet)						

WEBSITE SUMMARY FORM

Please ensure that you complete this form for publishing on our website

DETAILS OF COMPLETED EQUALITY IMPACT ASSESSMENT	KEY FINDINGS	FUTURE ACTIONS	TIMESCALES
Directorate Finance Name of Function or Policy FREEDOM OF INFORMATION & ENVIRONMENTAL INFORMATION REGULATIONS POLICY (FOI AND EIR POLICY) Brief description of aims of the Policy/Function This Policy, and its associated Codes of Practice, sets out how the Trust will meet its obligations under the FOI Act, PSI and EIR Status of Function or Policy (i.e. new, changing, existing) Revised policy Name of Lead Officer Completing the Assessment IG Manager Date of Assessment 30.07.10	No areas identified that will have either a positive or negative impact on equality.		

We are required to publicise the results of all Equality Impact Assessments, could you please forward a copy of your completed screening tool and website summary form to webmaster@rothgen.nhs.uk for uploading on the intranet/internet.