

Freedom of Information Policy

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Contents

1. Introduction	3
2. Purpose or aim	3
3. Scope	3
4. Policy description	3
4.1 FOI Publication Scheme	3
4.2 Responding to a Request for Information under Freedom of Information	4
4.3 Freedom of Information Fees	4
4.4 Responding to a Request for Information under Environmental Information Regulations	5
4.5 Environmental Information Regulations Fees	5
4.6 Duty to provide advice and assistance	5
4.7 Freedom of Information Vexatious or Repeat Requests	5
4.8 Environmental Information Regulations Manifestly Unreasonable Requests	5
4.9 Information Provided by Other Organisations	5
4.10 Exemptions & the Public Interest Test	5
4.11 Disclosing Staff Information	6
4.12 If a Requestor Complains about the Trust's Response	6
4.13 Enforcement Notifications	6
5. Roles and responsibilities	6
5.1 Chief Executive	6

Freedom of Information Policy

5.2	Information governance team	6
5.3	Quality and Standards Committee	7
5.4	All Staff	7
6.	Standards	7
7.	Training.....	7
8.	Monitoring or Audit	7
9.	Associated and Related Procedural Documents	7
10.	References.....	8

1. Introduction

Avon and Wiltshire Mental Health Partnership NHS Trust (AWP) is bound by the provisions of a considerable number of items of legislation and regulation affecting the stewardship of data and information and the Trust's Information Governance Management System (IGMS), which is a suite of policies including the [Overarching Information Governance Policy](#), defines the strategy for the effective management of compliance with this legislation and regulation.

2. Purpose or aim

To set out the Trust's policy for compliance with the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations (EIR) in providing access to information requested by the public, and,

To formally document the key principles which shall be enacted through associated procedures.

3. Scope

This is a Trust-wide policy and applies to all Information Technology (IT) systems and the data held, processed or transmitted by them, including staff, service user, management, audit and all other types of information used by the Trust. Compliance with all policies, procedures and guidelines contained in the IGMS is mandatory for all persons and organisations operating under the auspices of, or delivering a service to the Trust, whether they are staff, students, volunteers, contractors or partner organisations.

In the context of FOIA and EIR, the term 'information' means every piece of information held by the Trust, whether paper or electronic. It includes all documents, draft documents, agendas, minutes, emails, diaries, to handwritten notes and documents were the Trust is not the author.;

There is overlap between FOIA, EIR and Data Protection Act (DPA), the General Data Protection Regulation (GDPR) with regard to information relating to living individuals. Should responding to an FOIA or EIR request require disclosure of information relating to an individual then relevant areas of DPA and GDPR must be taken into account.

4. Policy description

4.1 FOI Publication Scheme

Section 19 of the FOI Act makes it a duty for the Trust to adopt and maintain a scheme relating to the publication of information by Trust. The AWP Publication Scheme shall specify the classes of information, the manner of publication and whether the material will be provided free of charge or on payment on the following Classes of Information:

- Who we are and what we do
- How we fit into the NHS structure
- Organisational structure
- Lists of and information relating to organisations with which the authority works in partnership
- Senior staff and management board members
- Location and contact details for all public-facing departments
- What we spend and how we spend it
- Annual statement of accounts & Budgets and variance reports
- Financial audit reports, Standing financial instructions & Capital programme

Freedom of Information Policy

- Staff and Board members' allowances and expenses. This should cover details of international and domestic travel, business expenses and hospitality received.
- Pay. Senior staff at Director level and equivalents. This should cover salaries of £90,000 and above. Names and job titles should also be included.
- Benefits in kind. Director level and equivalents. Benefits in kind refer to benefits employees receive from their employment but which are not included in their salary. Data should be published to the nearest £100.
- Staff pay and grading structures
- Funding (including endowment funds)
- Details of contracts currently being tendered
- List and value of contracts awarded and their value
- What are our priorities and how are we doing
- How we make decisions
- Internal communications guidance and criteria used for decision making i.e. process systems and key personnel
- Our policies and procedures
- Data protection / information governance / Caldicott Guardian
- Estate management Charging regimes and policies
- List and registers
- The services we offer

4.2 Responding to a Request for Information under Freedom of Information

Staff receiving requests for information shall be required to pass them to the Freedom of Information Lead. All requests shall be logged and the response process and outcome documented.

The Trust shall endeavour to fulfil any request that:

- is received in permanent form, such as in writing or email
- contains the name and correspondence address for the applicant
- includes sufficient information to enable the Trust to identify the information requested

Following the completion of a response to a request for information that is not covered by the publication scheme, consideration will be made as to whether this information should become part of the publication scheme.

The information governance lead shall be responsible for facilitating review of the scheme on at least an annual basis; The Publication Scheme shall also state what sort of information is regarded as exempt, outlining the nature of the exemption applied.

4.3 Freedom of Information Fees

The Trust may charge a fee for dealing with a request, in line with the 'Fees Regulations' set out in the 'Freedom of Information (Fees and Appropriate limit) Regulations. The Trust will not comply with a request if it would mean exceeding the cost limit set out in the Regulations unless agreement on costs over and above the initial cost limit can be reached with the applicant.

4.4 Responding to a Request for Information under Environmental Information Regulations

EIR requests are defined as those relating to the Trust's interactions with fauna or flora i.e. requests may be about the impact of activities on the environment, such as the use of cleaning fluids, disposal of clinical waste, emissions or noise from generators or the placement of buildings, etc.

Staff receiving requests for information shall be required to pass them to the Freedom of Information Lead All requests shall be logged and the response process and outcome documented.

The Trust shall endeavour to fulfil any request that:

- Is received verbally as requests need not be made in writing, however there to respond to a request contact details need to be provided and requested that are received in permanent form, such as in writing or email.

4.5 Environmental Information Regulations Fees

There is no exception for requests that involve costs in excess of the 'appropriate limit' under EIR. ALL requests must be dealt with and any charges imposed must be reasonable.

4.6 Duty to provide advice and assistance

The Trust is under a duty to provide advice and assistance 'so far as it would be reasonable to expect the Trust to do so', to help requestors under the FOIA and EIR and this includes other Acts of Parliament that may be relevant e.g. the Disability Discriminations Act 1995 and the Race Relations Act 1976 (as amended by the Race Relations (Amendment Act 2000)).

4.7 Freedom of Information Vexatious or Repeat Requests

Should an applicant make, what the FOI Lead considers to be, 'vexatious' the FOI Lead shall follow the Freedom of Information Vexatious or Repeated Procedure.

4.8 Environmental Information Regulations Manifestly Unreasonable Requests

This means that if a request for environmental information would be judged to be vexatious or repeated under the terms of the FOIA, it would be equivalent to manifestly unreasonable under EIR and therefore exempt from the duty to disclose.

4.9 Information Provided by Other Organisations

If the response to a request will contain information provided by another organisation, the Trust will ensure that it is clear to the applicant where this information has come from, so that they can, if they require, raise a request to the source organisation.

In deciding whether to disclose information provided by another organisation in response to a request, the Trust will apply the same process with regard to exemptions, and will if required involve staff from the source organisation in discussion about possible exemptions. If the response to a request is that the Trust does not hold any relevant information, the Trust will advise the applicant to organisations who may hold the information they seek.

4.10 Exemptions & the Public Interest Test

The FOIA and EIR set out various exemptions to the general right of access to information. Some of these are 'absolute', but the majority are 'qualified', in that if the release of information is deemed to be 'in the public interest' then the exemption does not apply.

Freedom of Information Policy

The FOI lead shall follow the Public Interest Test Procedure if an exemption may apply. Freedom of Information, Environmental Information Regulations and Data Protection

The FOIA and EIR does not apply to Service User or Staff personnel records.

If an individual is seeking information about themselves, then it is exempt from Freedom of Information, but is covered by the 'subject access' provisions within the Data Protection Act as detailed in the Trust's Data Protection Policy.

4.11 Disclosing Staff Information

Information, such as job title, responsibilities and job banding about the following staff in their capacity as public servants is disclosable:

- Board of Directors
- Associate Directors
- Non-Executive Board of Directors
- Council of Governors
- Head and Deputy Head of Departments
- Clinical and Managing Directors
- Directors of Quality
- Data Protection Officer

Requests for information about other staff members will be considered on an individual basis.

Direct staff contact details will not be released as many staff are constantly affected by cold calling.

4.12 If a Requestor Complains about the Trust's Response

The Trust shall ensure in response letters with applicants that they are informed that if at any point out they feel unhappy with the way their request has been dealt with or the response they have received they can request an internal review by writing to the Chief Executive.

The FOI Lead shall follow the Internal Review procedures.

4.13 Enforcement Notifications

Should the Trust be in receipt of any notices served by the Information Commissioner it will make all endeavours possible to comply unless it feels the need to appeal to the Information Tribunal.

5. Roles and responsibilities

5.1 Chief Executive

The Chief Executive is accountable for the Trust's compliance with FOI and EIR legislation.

5.2 Information governance team

Responsibilities include:

- Setting out a full and efficient process for dealing with information requests
- Facilitating the provision of education and awareness for staff.
- Developing an approach to publication and maintenance of the publication scheme

- Regular review of policy, process and code of practice with regard to changes in legislation or guidance from the Information Commissioner's Office.

5.3 Quality and Standards Committee

The Quality and Standards Committee shall facilitate the review of and update this policy and supporting IG policies.

5.4 All Staff

The breadth of this legislation means that all staff will be affected. All staff are responsible for:

- Creating and maintaining records, which are accurate, appropriate and retrievable. This will include adherence to standards for authoring, referencing, naming, filing documents,
- Ensuring that requests for information are passed in a timely manner to staff that are responsible for processing the request,
- Ensuring that disclosures are not made outside of the defined process, so that inappropriate disclosures are precluded,
- Ensuring that documents that are within the classes of information of the Trust's publication scheme are provided for publication,
- Bringing new documents or classes of information that have not been previously published to the attention of the Publication Scheme co-ordinator, who will facilitate agreement on publication of such material.

The Acts makes it a criminal offence for an individual or a public authority to alter, deface, block, erase, destroy or conceal any record held by the Trust, with the intention of preventing disclosure of all or part of the information that an applicant is entitled to. Penalties can be imposed on both the Trust and employees for non-compliance with the Acts.

In line with the Records Management: NHS Code of Practice, every member of the Trust has a legal duty to preserve formal records of their official activities, which must be accurate, adequately named and indexed for easy retrieval or publication.

6. Standards

This policy will be assessed against the Information Governance Toolkit standards or equivalent.

7. Training

Staff specifically involved in the administration of FOIA and EIR requests shall receive specific training.

8. Monitoring or Audit

Compliance with this policy will be monitored and measured by an annual assurance report to the relevant Trust Committee.

9. Associated and Related Procedural Documents

- Data Protection Policy
- General Data Protection Regulation
- Freedom of Information and Environmental Information Regulations Request Procedure
- Health & Social Care Records Policy

Freedom of Information Policy

- Information Security Policy
- Overarching Information Governance Policy
- Records Management Policy
- Freedom of Information Act Public Interest Test Procedures
- Environmental Information Regulations and Freedom of Information Act Internal Review Procedure
- Freedom of Information Vexatious or Repeated Requests Procedure

10. References

A full list of the applicable legislation referenced in the compilation of this policy can be viewed in the [NHS Information Governance Guidance on Legal and Professional Obligations](#).

Version History				
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