



Trafford

Clinical Commissioning Group

**FREEDOM OF INFORMATION
POLICY AND PROCEDURES**

POLICY DOCUMENT – VERSION CONTROL CERTIFICATE

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Prior to 1st Approval, this Policy Document was circulated to the following for consultation:

Senior Information Governance & Audit Officer and Records Management Project Manager, Greater Manchester Commissioning Support Unit
Lead Information Governance & Audit Officer, Greater Manchester Commissioning Support Unit
Associate Director of Corporate Services & OD Management Team

Following Approval this Policy Document will be circulated to:

Notification to CCG staff via Staff News Bulletin
Executive Directors
CCG Intranet
CCG Internet

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FREEDOM OF INFORMATION POLICY AND PROCEDURES

1.0 PRINCIPLES

1.1 The Freedom of Information Act 2000 is part of the Government's commitment to encourage openness and transparency in the public sector. It gives a general right of access to all types of recorded information held by public authorities. The main features of the Act are:

- A general right of access to all recorded information held by NHS Trafford Clinical Commissioning Group (CCG). As Trafford CCG was established on April 1st 2013, records are only available from this time. Subject to exemptions specified in the Act, an applicant has the right to ask "do you have it" and "can I see it".
- A duty on every public authority to adopt and maintain a Publication Scheme by 31st October 2003. Trafford CCG's Publication Scheme is available on the Trafford CCG website.

1.2 NHS Trafford CCG supports the principle that openness should be the norm in public life. The CCG also recognises that individuals have the right to privacy and confidentiality, and this policy does not overturn the common law duty of confidentiality, or statutory provisions, that prevent disclosure of personal information. The processing of personal information is covered by the Data Protection Act 1998. The CCG must still be able to carry out its duties effectively and ensure that any exemptions outlined in the Freedom of Information Act are applied appropriately (see Appendix C).

2.0 SCOPE

2.1 This policy applies to all employees of the NHS Trafford CCG and the Governing Body members, and provides a framework to ensure compliance with the Act. Managers must ensure that employees, locums, bank nurses, agency staff, volunteers and other contractual staff are made aware of this document.

3.0 ROLES AND RESPONSIBILITIES

3.1 Chief Operating Officer

The Chief Operating Officer is ultimately responsible for CCG compliance with the FOI Act 2000. Responses to FOI requests will be signed off on behalf of the Chief Operating Officer. The Chief Operating Officer will be notified of non-compliance and the reasons for this.

3.2 Directors and Managers

All Directors and Managers are responsible for ensuring that this policy is communicated and implemented within their area of responsibility. Advice or

assistance regarding this policy can be obtained from the CCG's Policy Officer and the Senior Information Governance and Audit Officer (Greater Manchester Commissioning Support Unit).

It is the responsibility of Directorate and Department Managers to ensure that records management within their area is compliant with NHS Trafford CCG's Records Management Policy, in order to facilitate prompt responses to FOI requests.

3.3 Policy Officer

The Policy Officer is responsible for maintaining and updating the Publication Scheme, logging and monitoring where FOI requests are coming from, advising on the use of the exemptions and providing assistance to those who request it.

3.4 All Staff

To assist NHS Trafford CCG in fulfilling its statutory obligations, all staff are made aware of their responsibilities regarding the Freedom of Information Act via this policy. This policy is available on the CCG intranet

All staff are responsible for ensuring that all Freedom of Information Requests they receive are passed directly to the Policy Officer for action.

All staff are responsible for ensuring that an accurate response, where requested, is provided to the Policy Officer to ensure the CCG complies with the 20 working day deadline. Staff will be given a deadline within which to respond by the Policy Officer that must be adhered to. This will be 10 working days from the date the request is received or that clarification of the request has been given by the requestor.

4.0 INTERNAL REVIEW OF REQUESTS

4.1 Draft responses to FOI requests will be reviewed by the Head of Governance, Planning and Risk in the first instance. Once approval has been received from the Head of Governance, Planning and Risk, a response will be sent on behalf of the Chief Operating Officer.

4.2 If information requested is contentious, responses should be reviewed by the Senior Information Governance and Audit Officer (Greater Manchester Commissioning Support Unit) or escalated to the Chief Operating Officer for final review. Once approval has been received, the Chief Operating Officer will sign off the response.

4.3 The Freedom of Information request procedural flowchart can be found in Appendix A.

5.0 ADVICE AND ASSISTANCE

5.1 NHS Trafford CCG has a duty to provide advice and assistance to applicants and would-be applicants. Responsibility for this is delegated to the Policy Officer, who will clarify any requests that are ambiguous and provide an escalation route to applicants who are dissatisfied with the CCG's response to their request.

6.0 PUBLICATION SCHEME

6.1 NHS Trafford CCG is required to produce a Publication Scheme, which details information about the CCG, its actions and decisions, services, spending and policies. See appendix B for further detail on the content of the Publication Scheme.

6.2 The CCG has adopted the NHS Model Publication Scheme, which has been approved by the Information Commissioner and has been divided into seven classes. The scheme is available on request from the Policy Officer or via the CCG's website.

7.0 GENERAL RIGHTS OF ACCESS

7.1 The Act gives people a general right of access to recorded information held by NHS Trafford CCG (subject to certain exemptions – see Appendix C). This means that any person who makes a request has the right to: -

- be informed in writing whether the CCG holds the information requested, this is the duty to confirm or deny; and
- if the CCG holds the information, to have it communicated to them.

7.2 The Act requires that requests are responded to within 20 working days. Where the CCG decides to make use of a condition or exemption to withhold information the applicant will be informed as soon as possible, and in any case within 20 working days.

7.3 As recommended in the Lord Chancellors Code of Practice, the CCG has set out procedures about how requests for information are dealt with, and these will be made available to staff and the public via the intranet and website respectively. Whilst the CCG cannot ask the applicant the reason or purpose for the request, they can ask for more specific information in order to be able to correctly identify and supply the information the applicant is requesting, providing it is subject to FOI (not exempt).

7.4 Requests of a 'round robin' nature will be forwarded to the most relevant organisation to collate. These are requests that are sent to multiple organisations requesting the same information from each, sometimes nationally, and could be more appropriately responded to by national bodies, for example, NHS England.

8.0 CHARGES AND FEES

- 8.1 On the 1st September 2013, amendments were made to the Freedom of Information Act 2000 and Data Protection Act 1998 via the Protection of Freedoms Act 2012. One of the key amendments made relates to public authorities being able to charge a fee for allowing the re-use of any datasets containing copyright material.
- 8.2 NHS Trafford CCG will not charge for information which is contained in the Publication Scheme. The CCG, however, reserves the right to charge for copies of this information. These charges will be in accordance with the fees regulations, (Statutory Instrument 2004 No 3244, The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004).
- 8.3 The maximum charge for costs incurred is £5. In the event that charges are incurred, this will be reviewed on a case by case basis by the Chief Operating Officer. The Policy Officer will liaise with the Finance team to ensure that payment is received prior to progressing with the request.

9.0 EXEMPTIONS

- 9.1 Some information will be exempt from disclosing under the Freedom of Information Act 2000 for various reasons. The exemptions are listed in Appendix C, but the more common reasons the CCG is likely to refuse the release of information for are below. In the event that a request is refused because an exemption is applicable, the requestor should be given a full explanation of the exemption being used and why it is applicable.

9.1.1 Section 12 – Compliance would exceed cost limit

If it would cost the CCG more than £450 to comply with the request, the request can be refused. This is most likely to be exceeded by the cost of staff time, which should be rated at £25 per person per hour, so £450 would be exceeded if compliance with the request would take over 18 hours. Fees can be charged if the cost limit will be exceeded, but the CCG does not have to and should not begin to comply until the fee is agreed with and paid by the requestor. A costing form should be completed by staff and returned to the Policy Officer if they receive a FOI request that would exceed the cost limit. A costing form can be found in Appendix D.

9.1.2 Section 14 – Repeated or vexatious requests

If a request is a repeat of an earlier request and there has been no change to the information since, the CCG need not send the information to the requestor again. Sometimes a request may be very obviously unreasonable or objectionable, in which case the requestor will be informed that the CCG will not respond as the request is considered vexatious. Other times it may not be so clear cut and requests that appear as if they may be vexatious will be escalated to the Chief Operating Officer.

9.1.3 Section 21 – Information already reasonably accessible

If the information requested is already reasonably accessible in the public domain then the information does not need to be provided by the CCG and the requestor should be informed of where they can access the information. This would include information available via the publication scheme or on the CCG website. If the information is available in the public domain but not reasonably accessible to the requestor, for example, if they do not have internet access, the CCG should provide the information to them in an appropriate way (e.g. by post).

9.1.4 Section 22 – Information intended for future publication

If the information requested is intended to be published at a later date, it does not need to be disclosed. There does not have to be a publication date agreed for this exemption to apply.

9.1.5 Section 40 – Personal information

If the information requested is personal data belonging to the requestor it should be treated as a subject access request (refer to Subject Access Request Policy and Procedures). If the information requested concerns personal data of a third party who is still alive this would be exempt according to their rights under the Data Protection Act 1998.

9.1.6 Section 43 – Commercially sensitive

If complying with the request would prejudice, or would be likely to prejudice, someone's commercial interests then the information does not have to be disclosed. However, the CCG would have to consider the public interest test in order to decide whether public interest outweighs the duty of confidentiality owed to a third party contractor and the potential legal action that could be taken following disclosure. Legal advice may need to be sought in such cases.

10.0 ESCALATION PROCEDURE

10.1 The requestor should be informed of the escalation process on receipt of their request. If the requestor is dissatisfied with the way in which the CCG has dealt with their request, they should contact the Chief Operating Officer in the first instance.

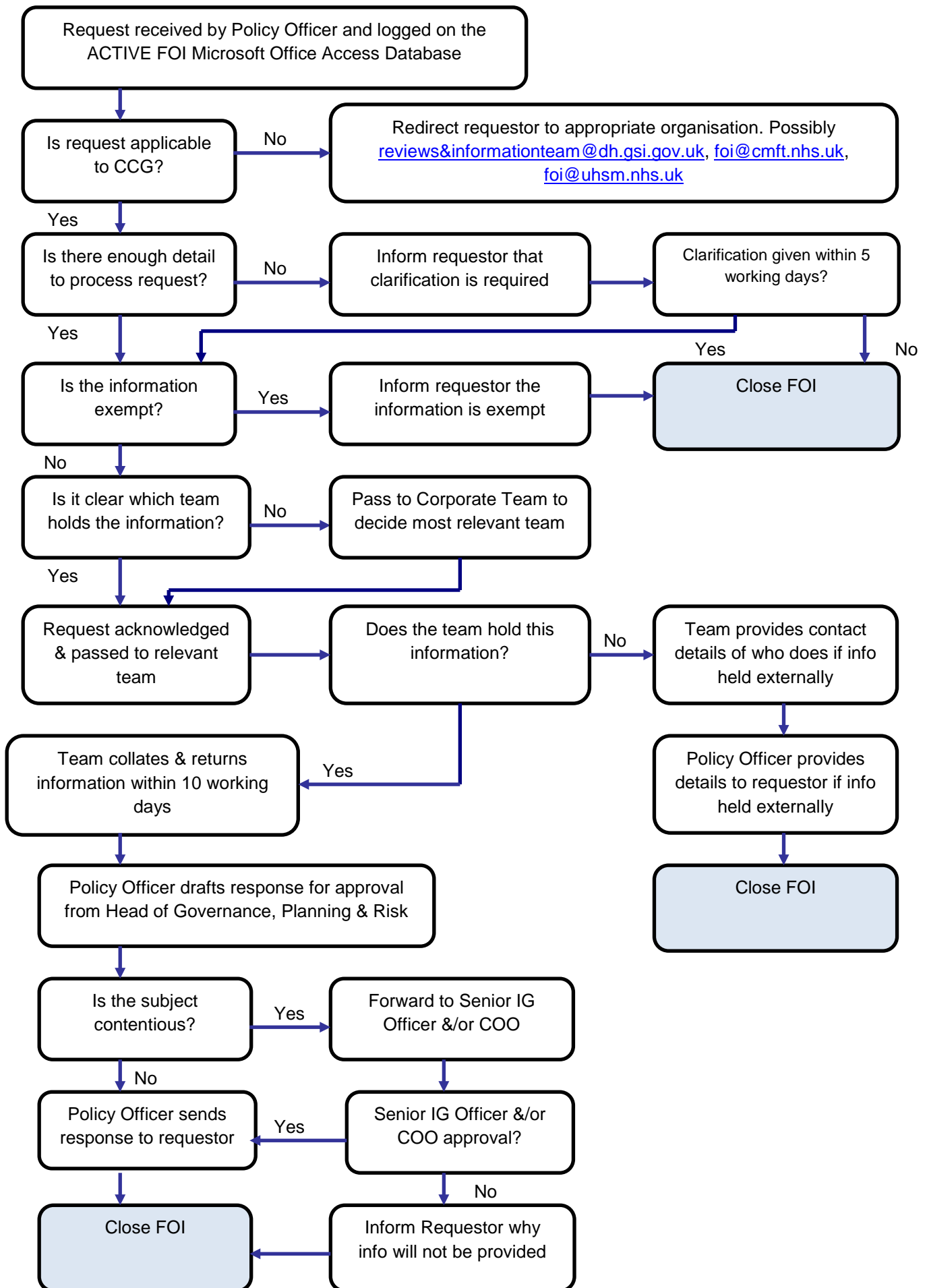
10.2 If the requestor remains dissatisfied with the CCG's response after escalating to the Chief Operating Officer, or they wish to appeal against the refusal of all or part of their request, they could escalate this to the Information Commissioner's Office. This process is outlined on the Information Commissioner's Office website (www.ico.org.uk) and they can be contacted at the following address:

First Contact Team
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Tel: 01625 545 745
E-mail: mail@ico.gsi.gov.uk

11.0 REFERENCES

- F.O.I procedures
- Records Management Policy
- Data Protection Act 1998
- Freedom of Information Act 2000
- Information Commissioner's Office (www.ico.org.uk)



**FREEDOM OF INFORMATION ACT 2000
NHS Trafford CCG Publication Scheme**

Information relating to each of the headers below can be obtained in NHS Trafford CCG's Publication Scheme, which can be accessed on the Trafford CCG website.

The Classes of Information

- 1. Who we are and what we do.**
- 2. What we spend and how we spend it.**
- 3. What our priorities are and how we are doing.**
- 4. How we make decisions.**
- 5. Our policies and procedures.**
- 6. Lists and Registers.**
- 7. The Services we Offer.**

FREEDOM OF INFORMATION ACT 2000: EXEMPTIONS

For further information about when Freedom of Information requests can be refused, please refer to the guidance available on the Information Commissioner's Office website:

www.ico.org.uk/for_organisations/freedom_of_information/guide/refusing_a_request

- Section 12 - Compliance would exceed cost limit
- Section 14 - Repeated or vexatious requests
- Section 21 - Information reasonably accessible to the applicant by other means
- Section 22 - Information intended for future publication
- Section 23 - Information supplied by or relating to security bodies
- Section 24 - The national security exemption
- Section 26 - Defence
- Section 27 - International relations
- Section 28 - Relations within the UK
- Section 29 - Economy
- Section 30 - Investigations
- Section 31 - Law enforcement
- Section 32 - Information contained in court records
- Section 33 - Public audit
- Section 34 - Parliamentary privilege
- Section 35 - Policy formulation, Ministerial communications, Law Officers' advice and the operation of Ministerial Private Office
- Section 36 - Effective conduct of public affairs
- Section 36 - What should be recorded?
- Section 37 - Communications with Her Majesty and the awarding of honours
- Section 38 - Health and safety
- Section 39 - Environmental information
- Section 40 - Personal Information
- Section 40 - Update note: Applying the exemption for third party personal data: the Tribunal's approach in House of Commons v IC & Leapman, Brooke and Thomas
- Section 41 - Information provided in confidence
- Section 41 - The duty of confidence and the public interest
- Section 41 - Information provided in confidence relating to contracts
- Section 42 - Legal professional privilege
- Section 43 - Commercial interest
- Section 43 - Public sector contracts
- Section 43 - Commercial detriment of third parties
- Section 44 - Prohibitions on disclosure

FREEDOM OF INFORMATION ACT 2000: COSTING FORM

In the event that Section 12 “Compliance would exceed cost limit” exemption can be applied, staff should complete the enclosed costing form and return to the Policy Officer:



FoI Costing Form.xls

FREEDOM OF INFORMATION ACT COSTING FORM

Request Number:

Date:

Form Completed by:

Considerations in cost estimations:

- Time spent in determining whether the information requested is held
- Time spent in locating the information, or document
- Time spent on retrieving such information or documents holding the information
- Time spent on extracting the information or document holding it

Estimated Hours

0

Cost of staff time @ £25 per hour

Total Estimated Costs

£0.00

EITHER Total Estimated Costs exceeds maximum limit of £450

Options:

- A Not to comply with the request inform the applicant by way of a Refusal Notice.
- B Explain what information could be provided within the cost limit, and advise applicant to narrow down request
- C Comply and charge a fee for full cost recover (plus communication charges), issue a fees notice for full estimated cost

Tick appropriate box

OR Total Estimated Costs under limit of £450

Costs that can be passed on :

Disbursement costs:

Photocopying.

(Number of sheets =)

Printing.

(Number of sheets =)

Postage (current postage rates to be confirmed)

£

0

Chargable costs

Appendix E: Checklist for the Review and Approval of Procedural Document

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

	Title of document being reviewed:	Yes/No/ Unsure	Comments
1.	Title		
	Is the title clear and unambiguous?	Yes	
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	
2.	Rationale		
	Are reasons for development of the document stated?	Yes	
3.	Development Process		
	Are people involved in the development identified?	Yes	
	Do you feel a reasonable attempt has been made to ensure relevant expertise has been used?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	
4.	Content		
	Is the objective of the document clear?	Yes	
	Is the target population clear and unambiguous?	Yes	
	Are the intended outcomes described?	Yes	
	Are the statements clear and unambiguous?	Yes	
5.	Evidence Base		
	Is the type of evidence to support the document identified explicitly?	Yes	
	Are key references cited?	Yes	
	Are supporting documents referenced?	Yes	
6.	Approval		
	Does the document identify which committee/group will approve it?	Yes	
	If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document?	N/A	
7.	Dissemination and Implementation		

	Title of document being reviewed:	Yes/No/ Unsure	Comments
	Is there an outline/plan to identify how this will be done?	Yes	
	Does the plan include the necessary training/support to ensure compliance?	Yes	
8.	Document Control		
	Does the document identify where it will be held?	Yes	
	Have archiving arrangements for superseded documents been addressed?	Yes	
9.	Process to Monitor Compliance and Effectiveness		
	Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document?	Yes	
	Is there a plan to review or audit compliance with the document?	Yes	
10.	Review Date		
	Is the review date identified?	Yes	
	Is the frequency of review identified? If so is it acceptable?	Yes	
11.	Overall Responsibility for the Document		
	Is it clear who will be responsible for co-ordinating the dissemination, implementation and review of the documentation?	Yes	

Individual Approval

If you are happy to approve this document, please sign and date it and forward to the chair of the committee/group where it will receive final approval.

Name	Rachel Mills	Date	16/10/2013
Signature	Rachel Mills		

Committee Approval

If the committee is happy to approve this document, please sign and date it and forward copies to the person with responsibility for disseminating and implementing the document and the person who is responsible for maintaining the organisation's database of approved documents.

Name		Date	
Signature			