



Doncaster and Bassetlaw Hospitals



NHS Foundation Trust

Please Note: This policy is currently under review and is still fit for purpose.

Freedom of Information (FOI) Policy

This procedural document supersedes: CORP/ICT 15 v.3 - Freedom of Information (FOI) Policy & Operational Procedures



Did you print this document yourself?

The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Name and Title of authors/ reviewers	Roy G Underwood - Head of Information Governance Lee Kilby - Head of Communications & Engagement
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Target Audience	Trust-wide

Warning: Always ensure you are using the most up-to-date policy or procedure document. If you are unsure, you can check that it is the most up-to-date version by looking on the Trust Website: www.dbh.nhs.uk under the headings → Freedom of Information → Information Classes → Policies and Procedures.

Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 4	30 September 2014	Tri-annual review: <ul style="list-style-type: none"> • Major Policy Rewrite/Rename • Procedural elements of the Policy removed and included in a new Operational Procedure (C&E SOP 1) • Major FOI Responsibility/Process changes • FOI Policy 'At a Glance' 	R G Underwood Emer Scott Lee Kilby Dawn Jarvis
Version 3	October 2010 June 2010	FOI responsibility transferred from PALS to Communications Department Tri-annual review: <ul style="list-style-type: none"> • Updated to include detail from the 2009 Publication Scheme • Amended Job Title of FOI Project Lead • For general requests the General Manager or Departmental Manager will be provided with a copy of the request and strict timescale within which they must reply. For requests of a clinical nature, the relevant clinical lead will also be included in the request process, as will the Trust Medical Director (for information only in the first instance). • Amend responsibility references • Defined FOI management responsibilities Approved by the Information Governance Group – 6/9/2010	R G Underwood Hazel Brand
Version 2	02/10/2006	Bi-annual review, incorporating amendments for: <ul style="list-style-type: none"> • Addition of an amendment register page Approved by the Information Governance Team – 8/1/2007	R G Underwood

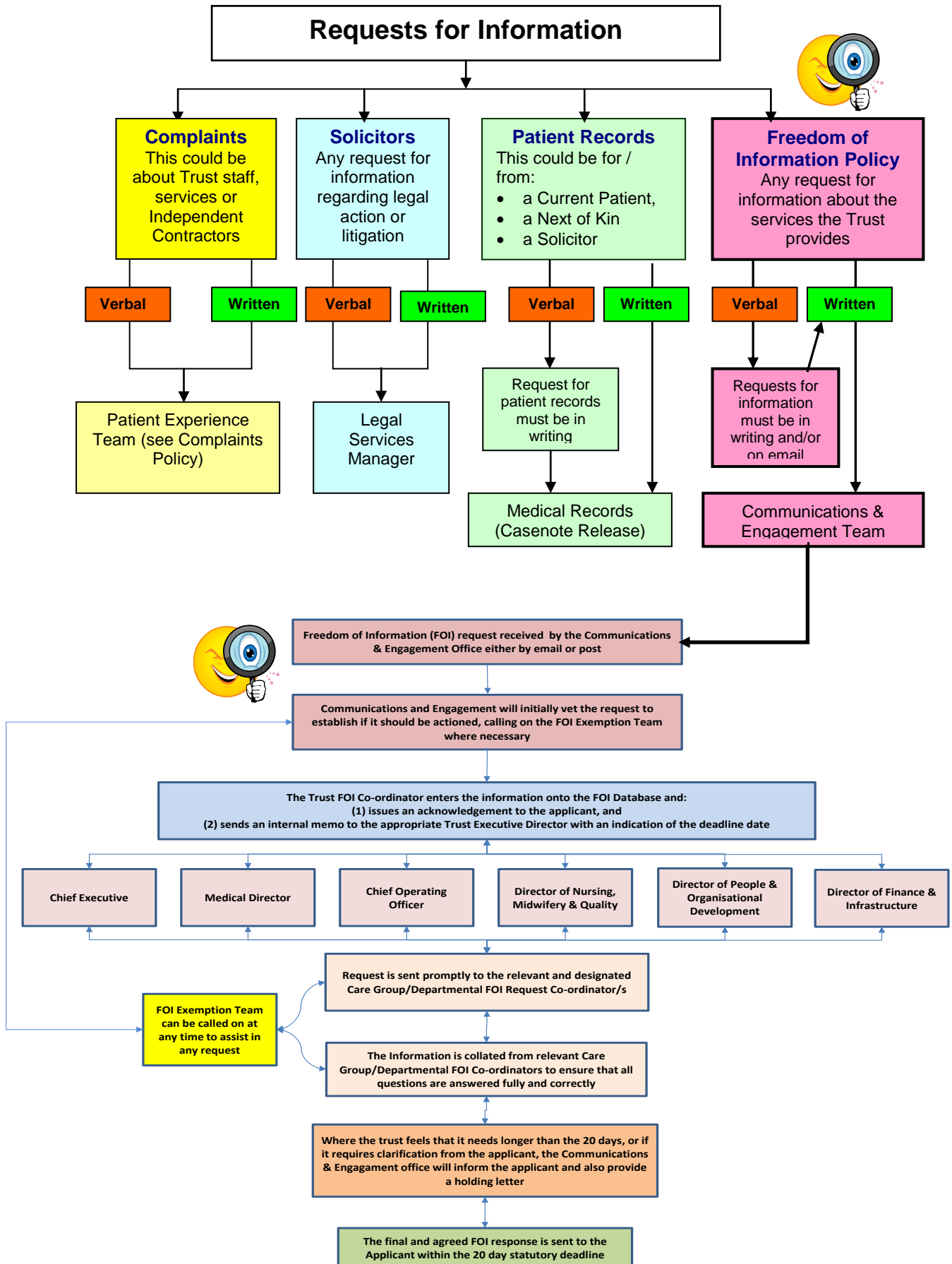
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1. INTRODUCTION

- 1.1 The Freedom of Information Act 2000 is part of the Government's commitment to greater openness in the public sector, a commitment supported by Doncaster & Bassetlaw NHS Foundation Trust. The Freedom of Information Act 2000 (the FOI Act) will further this aim by helping to transform the culture of the public sector to one of greater openness. The FOI Act replaces the non-statutory *Code of Practice on Openness in the NHS*.
- 1.2 The main features of the FOI Act are:
- a general right of access from 1st January 2005 to recorded information held by public authorities, subject to certain conditions and exemptions contained in the FOI Act. Any person making a request for information to the Trust is entitled:
- (a) to be informed in writing whether the Trust holds the information of the description specified in the request, and
 - (b) if the Trust holds the information to have that information communicated to them. This is referred to as the 'duty to confirm or deny'. These provisions are fully retrospective in that if the Trust holds the information it must provide it, subject to the certain conditions and exemptions. All requests for information under the general rights of access must be received in writing (which includes a request transmitted by electronic means that is received in legible form and is capable of being used for subsequent reference), stating the name of the applicant and an address for correspondence, and describes the information requested. Details of 'how to apply' can be found on the Trust Internet website.
 - (c) in cases where information is exempted from disclosure, except where an absolute exemption applies, a duty on the Trust to:
 - (i) inform the applicant whether they hold the information requested, and
 - (ii) communicate the information to the applicant,
 - (d) unless the public interest in maintaining the exemption in question outweighs the public interest in disclosure;
- 1.3 The Trust adopted and published a Publication Scheme on 31st October 2003, which was then revised, as instructed by the Information Commissioner, in January 2009. The Trust's Publication Scheme details the information that the Trust publishes and is available via the website and in hard copy (on request).
- 1.4 FOI requests and answers can be found on the [Trust FOI Disclosure Log](#) on the Trust Internet site.

1.5 Freedom of Information Policy - At a Glance



2. PURPOSE

- 2.1 The Policy will apply to all Trust employees and to Non-Executive Directors.
- 2.2 The Policy will provide a framework within the Trust to ensure compliance with the requirements of the FOI Act.
- 2.3 Although this policy does not apply to independent contractors, they may adapt the principles and procedures contained within, as they will also be subject to the requirements of the FOI Act.
- 2.4 The Trust aims to create a climate of openness and dialogue with all stakeholders and improved access to information about the Trust.
- 2.5 This Policy does not overturn the duties of confidence or statutory provisions that prevent disclosure of personal identifiable information. The release of such information is still covered by the subject access provisions of the Data Protection Act 1998 (please see: CORP/ICT 7 - Trust Data Protection Policy)
- 2.6 The Trust believes that public authorities should be allowed to discharge their functions effectively. This means that the Trust will use the exemptions contained in the FOI Act where an absolute exemption applies or where a qualified exemption can reasonably be applied in terms of the public interest of disclosure.
- 2.7 The Trust believes that common standards are required to ensure that the organisation is compliant with the FOI Act.
- 2.8 The Trust will use all appropriate and necessary means to ensure that it complies with the Freedom of Information Act 2000 and associated Codes of Practice issued by the Lord Chancellor's Department pursuant to sections 45(5) and 46(6) of the FOI Act.

3. ACCOUNTABILITY AND RESPONSIBILITIES

- 3.1 The Trust recognises its responsibilities to implement in full its duties in respect of the FOI Act and to ensure all its employees understand and implement FOI Act requirements. The Chief Executive has overall responsibility for the performance of the Trust in respect of the FOI Act. The Chief Executive is therefore responsible for ensuring the implementation of the FOI Act and principles by the Trust.
- 3.2 The Chief Executive further nominates the Medical Director to be the Trust's nominated FOI Champion who has the delegated functions to oversee the Operational Procedures, the FOI Policy, and to advise on access requests and exemptions.
- 3.3 The Chief Executive nominates the Communications & Engagement Team to manage and action all requests for information under the FOI Act on behalf of the Trust.

- 3.4 The Medical Director nominates the Head of Information Governance to be the Trust's nominated FOI Advisor and Exemption Manager who will have delegated functions to assist the Communications & Engagement Team as necessary, and to lead on exemption considerations, and to help review and advise on the FOI Policy, Procedures, and the FOI Database.
- 3.5 Ongoing monitoring of the Policy and FOI issues are the responsibility of the Information Governance Group (IGG) – in line with the requirements of the Information Governance Toolkit standards – and the IGG reports to the Trust Audit & Non Clinical Risk sub Committee.
- 3.6 Managers at all levels are responsible for ensuring that the staff for whom they are responsible are aware of and adhere to this Policy. They are also responsible for ensuring staff are updated in regard to any changes in this Policy.
- 3.7 All staff and Non-Executive Directors are obliged to adhere to this policy. Staff are responsible for ensuring that they identify and report access requests to the Communication & Engagement Team within the strict time frames. A staff leaflet WPR 19622 is available on the Trust Intranet.

4. PROCEDURE

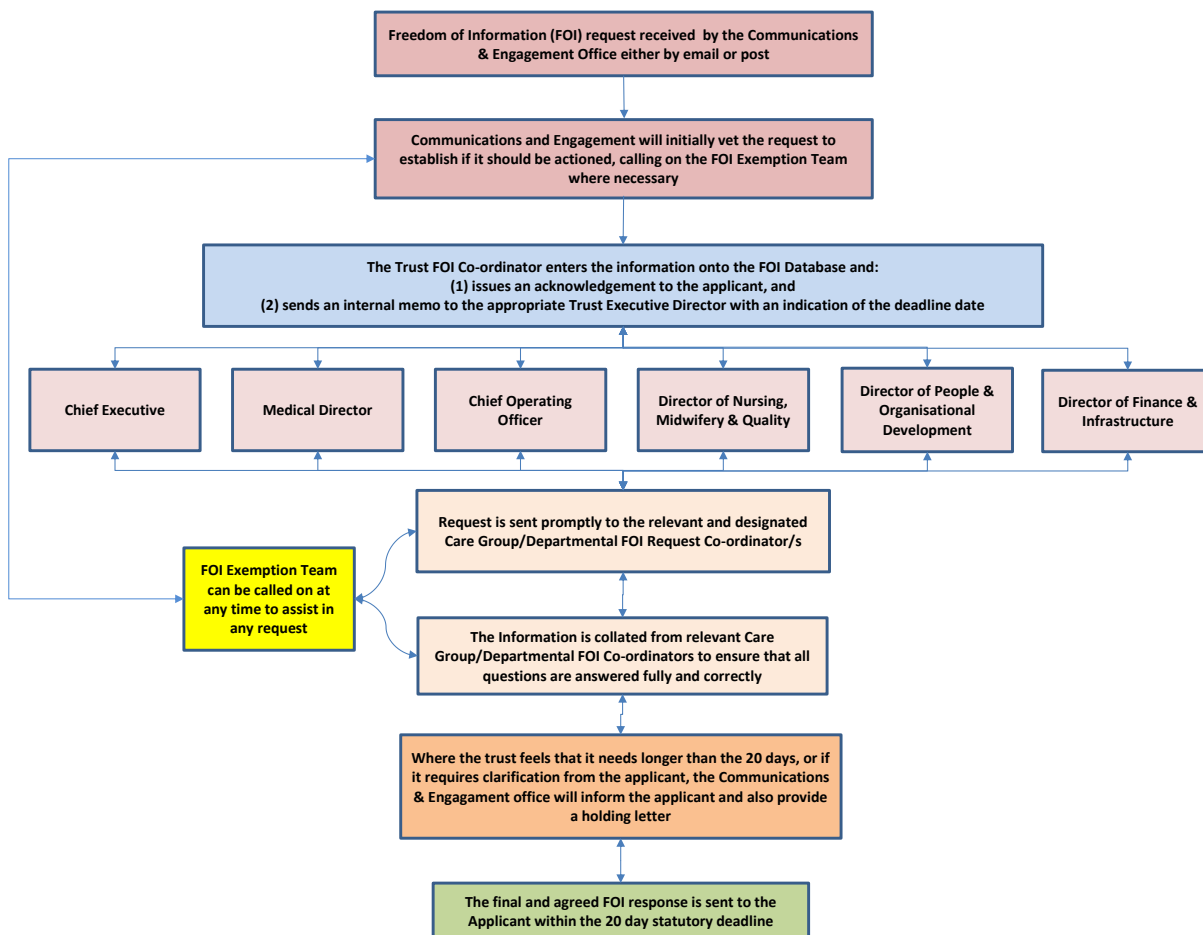
4.1 *Upon Receipt of a Request*

It is accepted that requests for information can come from many sources (via email, letter, over the telephone and in person) and it is important for **all** members of staff to be able to recognise an FOI request so it can be processed quickly and appropriately. **All Trust** staff have a responsibility to ensure that all FOI applications are identified and reported.

- 4.1.1 Not every application will clearly indicate the nature of the request as being FOI. From 1st January 2005, **all** requests for information which are not related to a complaint, a claim or an access to patient notes request (and would therefore follow a different Trust policy/procedure) must be treated as an FOI request provided they are in writing (including email).
- 4.1.2 The Trust has a statutory responsibility to ensure that all FOI requests are actioned within a very limited 20 working day time frame. All requests that are either identified as an FOI request or are being treated as one in the case where the nature of the request is unclear **must** be forwarded to the Communications & Engagement Team. If the application is in the form of a paper copy, the original documentation should also be sent to the Communications & Engagement Office in addition to any fax or electronic copy. The 20 day deadline will commence on the day following opened and catalogued receipt of any individual request, giving the Trust 20 clear working days to service any individual request.

4.1.3 The Communications & Engagement Team will confirm receipt of the request with the applicant. This confirmation date will predict the 'deadline date' for the final response as being 20 working days following entry onto the Trust FOI Database. A record will be kept of this contact.

4.1.4 The Communications & Engagement Team will record the relevant information on the FOI Management Database, and respond to the applicant. The request will then be passed on to appropriate Care Group Executives for action as follows:



4.1.5 If the applicant has not provided sufficient information for the request to be processed, the Communications & Engagement Team will ask the applicant for clarification. The FOI clock will stop and then be reset once a response is received.

4.1.6 If the Communications & Engagement Team believes that any of the information requested is exempt from disclosure under Part II of the Act the procedure for Refusal of a Request will be invoked. These provisions either confer an absolute exemption or a qualified exemption. A qualified exemption may be applied if, in all circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in disclosing whether the Trust holds the information. The Trust's Head of Information Governance and/or the Legal advisors may be consulted by the Communications & Engagement Team for guidance where applicable. All exemptions must be authorised by the FOI Exemption Team which should comprise at least two of the managers detailed below:

Head of Information Governance
 Head of Communications & Engagement or an appointed deputy
 Head of Legal & Risk or the Legal Services Manager

- 4.1.7 The applicant will be informed in a letter of acknowledgement that their request will be processed within a maximum of **twenty working days**. The applicant will also be informed in writing of any fees or charges, if known, and a Fees Notice will be issued to the applicant. The applicant will be informed within the letter that the fees are payable for the provision of the information and that no information will be provided unless the fee or charge is paid within three months.

4.2 Complaints and Review of Responses

- 4.2.1 In the first instance, all complaints about the discharge of the duties of the Trust under the FOI Act, including the handling of requests for information will be dealt with under the Trust's Complaints Policy:
- Internal FOI Review
 - Complaint about Handling The Request
- 4.2.2 If after exhausting the Trust's Complaints Procedure the applicant remains dissatisfied with the conduct of the Trust, the applicant may apply to the Information Commissioner who will decide whether the request has been handled properly. The Trust will provide the applicant with contact details for the Information Commissioner.

5. TRAINING/ SUPPORT

- 5.1 The Head of Information Governance will train and certify all staff who handle FOI requests i.a.w. the Information Governance Toolkit Standards. They will also work with the Communications & Engagement Team to ensure that training and awareness sessions relating to the FOI Act are available to all staff and Non-Executive Directors who require it, and especially those who actual handle requests on behalf of the Trust Care Groups or Departments.
- 5.2 Staff will receive instruction and direction regarding the Freedom of Information Act and information from a number of sources: -
- Trust Policies and Procedures
 - Line manager
 - Training – at Corporate Induction and in regular Information Governance training sessions
 - Other Communications methods (e.g. Team Brief/team meetings)
 - Trust Intranet
 - FOIA Staff Information leaflet: WPR 19620

6. MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

- 6.1 The Freedom of Information Processes will be monitored and reported on to the Board of Directors through the Trust Information Governance Group (IGG) and the Audit & Non Clinical Risk sub Committee, in accordance with the following and on an as and when required basis:-
- As a standing Agenda item on the IG Group Worklist
 - Legislative changes
 - Good practice guidance
 - Case law
 - Changes to organisational infrastructure
- 6.2 The Freedom of Information Policy and associated Procedures are available via the Trust webpages.
- 6.3 Staff will be made aware of policy reviews as they occur via team briefs and team meetings.

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
Numbers of FOI Requests, the Types and numbers of Applicants and the numbers and reasons for exceeding statutory 20 day time limits	IG Group	Half Annually	Reported to the IGG and then on to the A&NCRsC
Compliance with the Information Governance Toolkit Standards	IG Group Internal Audit	Half Annually	Reported to the IGG and then on to the A&NCRsC

7. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. See Appendix 1.

8. ASSOCIATED TRUST PROCEDURAL DOCUMENTS

8.1.1 A number of other policies in the (Corporate Policy Manual) are related to this Freedom of Information Act Policy and all employees should be aware of the full range:

- Standard Operational Procedures for dealing with FOI Requests (C&E SOP 1)
- Complaints Policy
- Records Management Strategy & Policies
- Data Protection Policy
- Policy for the Management of Clinical and Non-Clinical Claims

9. REFERENCES

- Data Protection Act 1998
- Freedom of Information Act 2000
- Lord Chancellor's Code of Practice
- The Doncaster & Bassetlaw Hospitals NHS Foundation Trust Publication Scheme (2009 edition)
- Staff FOI Information Leaflet WPR 19622

10. GLOSSARY OF TERMS

Absolute exemption – applied to information that does not have to be released to the applicant either through a Publication Scheme (q.v.) or through the general right of access (q.v.) under the FOI Act. Information to which an absolute exemption applies does not require a public authority (q.v.) to take a test of prejudice or the balance of public interest to be in favour of non-disclosure. Reference to absolute exemptions can be found in Part I, Section 2 and Part II of the FOI Act.

Applicant - the individual(s), group or organisation requesting access to information under the FOI Act.

Duty to confirm or deny - any person making a request for information to a public authority (q.v.) is entitled to be informed in writing by that authority whether the public authority the information specified in the request or not.

Fees Notice – a written notification issued to an applicant (q.v.) stating that a fee is payable and exempts public authorities (q.v.) from being obliged to disclose information until the fee has been paid. The applicant will have three months from the date of notification to pay the fee before his request lapses.

Fees Regulations – national regulations that will prohibit a fee with regard to certain types of request, set an upper limit on amounts that may be charged and prescribe the manner in which any fees are to be calculated. The regulations will not apply where provision is made under another Act as to the fee that may be charged for the provision of particular information.

General right of access - Section 1 of the FOI Act confers a general right of access to information held by public authorities (q.v.). An applicant (q.v.) has a right to be told whether the information requested is held by that authority and, if it is held, to have it communicated to them. Provisions limiting an authority's duty under section 1 appear in sections 1(3), 2, 9, 12 and 14 and in Part II of the FOI Act. The grounds in sections 9, 12 and 14 relate to the request itself and the circumstances in which an authority is not obliged to comply with it. The provisions of Part II relate to the nature of the information requested.

APPENDIX 1 – EQUALITY IMPACT ASSESSMENT – PART 1 INITIAL SCREENING

Service/Function/Policy/Project/ Strategy	CSU/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Freedom of Information Policy	Trust	Roy Underwood	Existing Policy	1/7/2014
1) Who is responsible for this policy? Information Governance/Communications & Engagement				
2) Describe the purpose of the service / function / policy / project/ strategy? Compliance with the Freedom of Information Act (FOIA) 2000				
3) Are there any associated objectives? FOIA 2000				
4) What factors contribute or detract from achieving intended outcomes? – N/A				
5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No				
<ul style="list-style-type: none"> • If yes, please describe current or planned activities to address the impact [e.g. Monitoring, consultation] – 				
6) Is there any scope for new measures which would promote equality? N/A				
7) Are any of the following groups adversely affected by the policy?				
Protected Characteristics	Affected?	Impact		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
8) Provide the Equality Rating of the service / function /policy / project / strategy – tick outcome box				
Outcome 1 ✓	Outcome 2	Outcome 3	Outcome 4	
*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form in Appendix 4				
Date for next review: September 2017				
Checked by: Roy Underwood			Date: 1 July 2014	