



Greater Huddersfield
Clinical Commissioning Group

Freedom of Information and Environmental Information Regulations Policy



Review and Amendment Log / Control Sheet

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1. Introduction

- 1.1 This document defines the Freedom of Information and Environmental Information Regulations Policy for NHS Greater Huddersfield Clinical Commissioning Group (NHS GHCCG).
- 1.2 The Freedom of Information Act (2000) (FOI Act) is part of the Government's commitment to greater openness in the public sector. It enables members of the public to scrutinise the decisions of public authorities more closely and ensure that services are delivered properly and efficiently. The FOI Act replaces the non-statutory Code of Practice on Openness in the NHS and does not put a limit on the amount of information an organisation can disclose i.e. it may release more information than is allowed for in the Act, but must at least release the information that the Act suggests it should.
- 1.3 The main features of the Act are:
- A general right of access to everyone to all recorded information held by public authorities, subject to certain conditions and exemptions set out in the Act.
 - A public interest test in cases where information may be exempt from disclosure, except where an absolute exemption applies.
 - A duty on public authorities to:
 - (i) Inform the applicant whether they hold the information requested, and
 - (ii) Communicate the information to him or her not later than the twentieth working day following the date of receipt, unless the public interest test in maintaining the exemption in question outweighs the public interest in disclosure.
 - A duty on every public authority to adopt and maintain a Publication Scheme.
 - The creation of the Information Commissioner's Office to oversee the implementation and compliance with this Act and associated legislation and regulations
- 1.4 Certain categories of public information are covered by the Environmental Information Regulations (2004) (EIR). The Regulations cover information related to the environment such as emissions, land use, pollution, waste disposal etc. The regulations are similar to FOI but there is an even greater presumption of disclosure, exemptions are fewer and requests can be made verbally.
- 1.5 As a public authority, the CCG has obligations under the FOI Act and EIR. This policy support the principle that openness should be the norm in public life. The organisation believes that individuals have a 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 release of such information will be dealt with under the provisions of the Data Protection Act 1998. The CCG must still be able to carry out its duties effectively and to ensure this; the exemptions outlined in the Act and Regulations will be applied appropriately.

2. Aims and objectives

The aim of this policy is to:

- Ensure all requests for information are dealt with consistently and receive a high quality response, however and wherever the contact is made;
- Ensure that NHS GHCCG complies with all relevant regulations, laws and guidance;
- Ensure staff at all levels are aware of their responsibilities with regards to the Act and Regulations, be it in directing any queries to the appropriate person/service, or in ensuring they provide any information requested in a timely fashion;
- Ensure timescales are met;
- Ensure the Governing Body is fully informed on the operation of the Act and

Regulations and any implications to the service.

3. Scope

- 3.1 The Freedom of Information and Environmental Information Regulations Policy applies to all staff who work for the CCG (including those on temporary or honorary contracts, secondments, pool staff and students).
- 3.2 This policy applies to all information held by the CCG, including documents that have been supplied by other organisations. Staff should be aware that all documents they create in the course of their duties (even personal e-mails) may fall within the scope of the Act and Regulations. The information can be held in any form, including recordings or notes of telephone calls, file notes, the web, emails and video/audio recordings.
- 3.3 All CCG staff should have an understanding of this policy in order to direct enquirers appropriately.

4. Accountability

4.1 The Audit Committee

The Audit Committee is responsible for ensuring that resources and systems are in place to support the delivery of the IG Toolkit and IG Work Programme, and to receive by exception significant risks and gaps in compliance on policy issues relating to the Freedom of Information Act and Environmental Information Regulations.

4.2 Chief Officer

The Chief Officer has organisational responsibility for all aspects of Information Governance, including the responsibility for ensuring the CCG has appropriate systems and policies in place to comply with the requirements of the Freedom of Information Act and Environmental Information Regulations.

4.3 Senior Information Risk Owner

The Chief Finance Officer is the Senior Information Risk Owner (SIRO) and has organisational responsibility for all aspects of risks associated with Information Governance, including those relating to Freedom of Information and Environmental Information Regulations

4.4 Information Governance Lead

The Senior Level Information Governance Lead for the CCG is the Governance and Corporate Manager. The IG Lead is accountable for ensuring effective management, accountability, compliance and assurance for all aspects of IG and for liaising with the Information Governance Team. The IG Lead is supported by the FOI/EIR Team in administering the FOI/EIR process.

4.5 Information Asset Owners

Information Asset Owners (IAO) are directly accountable to the SIRO and must co-operate and support the provision of information in response to requests.

4.6 Heads of Service

Heads of Service are responsible for ensuring that current and complete information is provided to the Governance & Corporate Manager so that a Publication Scheme can be kept up to date. Heads of Service are also responsible for ratifying responses to FOI requests that relate to their area of responsibility before they are released.

4.7 Employees

All employees are responsible for:

- Ensuring compliance with this policy
- Seeking advice, assistance and training where required

The CCG will take all reasonable steps to ensure that staff are aware of policies, protocols, procedures and legal obligations relating to the FOIA and EIR. This will be delivered through training and staff communications at team and CCG-wide levels.

All staff should be aware that any breach of this policy may result in disciplinary proceedings. Furthermore, any breach of legal obligations may result in legal proceedings against an individual and/or the CCG.

5. Definition of terms

- **'The Act'** refers to the Freedom of Information Act 2000.
- **'FOI'** and **'FOIA'** are acronyms for the Freedom of Information Act 2000.
- **'DPA'** is an acronym for the Data Protection Act 1998.
- **'EIR'** is an acronym for Environmental Information Regulations 2004.
- **'ICO'** is an acronym for the Information Commissioner's Office (independent regulator for Freedom of Information, Environmental Information Regulations and the Data Protection Act).
- **'Exemption'** or **'Exception'** – categories of information that are not required to be disclosed. They can be absolute or qualified.
- **'Public Interest Test'** is required for qualified exemptions and exceptions to determine if disclosure of the information is in the public interest. This test may also be applied under the Data Protection Act 1998 to third party requests for information which are prohibited under FOI and EIR but which there may be a public interest in disclosing.
- **'Publication Scheme'** – the CCG has a legal requirement to compile and make available a list of documents it has in its possession and that it will routinely and proactively provide to the public. This is called a Publication Scheme. The CCG Publication Scheme can be found on the website or in hard copy on request.
- **'Redaction'** is the process of editing or revising a piece of writing in preparation for publication or responding to a request.

6. Publication Scheme

6.1 The CCG will adopt the model publication scheme as provided by the ICO. This sets out categories of information that the CCG undertakes to publish, which cannot be added or removed without the approval of the Information Commissioner. The current classes of information are:

- Who we are and what we do
- What we spend and how we spend it
- What are our priorities and how are we doing
- How we make decisions
- Our policies and procedures
- Lists and registers
- The services we offer

6.2 The documents available through the Scheme will be the final, approved versions only. It is the CCG's policy not to include draft documents in this Scheme although these may be releasable under FOI or EIR. The Scheme as a whole will be reviewed annually.

6.4 The Scheme covers a wide range of information from all areas of the organisation. It is the responsibility of each Service Lead to ensure that up to date information is provided so that the Scheme can be kept up to date. This is especially important with documents such as policies and procedures and information leaflets. It will be assumed that the appropriate managers are satisfied with current documents unless they state otherwise. It is also the responsibility of the relevant managers to ensure that records management in their department is compliant with the Records Management Code of Practice and NHS GHCCG's Records Management Policy.

7. General Right of Access

7.1 FOI and EIR give a general right of access to recorded information held by the CCG, subject to certain conditions and exemptions. This means that any person who makes a request has the right to:

- a) Be informed in writing whether the CCG holds the information requested and;
- b) If the CCG holds that information, have it communicated to them.

7.2 A request for access under FOI must be made in writing, giving the name of the applicant, an address for correspondence and a description of the information requested. E mail is an acceptable form of correspondence.

7.3 Requests for information under EIR can be made verbally although it would be good practice to record the request and send a dated copy to the requester inviting them to make any amendments necessary.

7.4 The CCG has a dedicated e-mail account for FOI/EIR requests. The CCG website provides clear instructions to the public on how they can make an FOI or EIR request electronically or by traditional postal means.

7.5 It is important to understand that a request for information does not need to be marked as such; there is no need for the applicant to say they are making a FOI or EIR request, nor does it have to be sent to the e-mail account or FOI/EIR Team.

7.6 Although all requests for information are FOI requests, the CCG will handle routine day to day requests in the normal way without them being recorded as FOI requests.

7.7 FOI and EIR require that requests are responded to within 20 working days. (See section 8 for further detail on the 20 working day clock).

7.8 If the CCG chooses to apply an exemption/exception to any information, or decides to refuse a request because it appears to be vexatious or repeated, or exceeds the appropriate limit for costs of compliance, a notice will be issued within 20 working days informing the applicant of this decision.

7.9 If the CCG needs to apply the public interest test to a request for information, it may not be possible to reach a decision relating to disclosure within the 20 working day time limit. In this situation, the CCG will write to the applicant within 20 working days of receipt of the request with a realistic estimate of when a decision will be reached.

7.10 All notices issued by the CCG to the effect that it is refusing to comply with a request for information will inform the applicant of the procedure for submitting an appeal/complaint and of their right to apply to the Information Commissioner.

8. The 20 Working Day Clock

8.1 The CCG will start the 20 working day clock:

- The day after the request is received (provided that it is received on a working day). The time limit for compliance is the 20th working day following the date of receipt. In accordance with the Act, a working day is Monday – Friday, with the exception of public/bank holidays.

Or

- The day the CCG receives further information it reasonably requires in order to identify and locate the information requested.

9. Advice and Assistance

9.1 FOI and EIR require the CCG to provide advice and assistance to applicants and would-be applicants. The organisation will do this, taking into account other statutory duties, e.g. the Disability Discrimination Act 1995.

9.2 If the applicant is requesting advice and assistance or has not provided enough information for the request to be dealt with, one or more of the following steps will be taken, depending on the situation:

- give guidance on how to access the information from the CCG's Publication Scheme and the general rights of access;
- inform the applicant of the progress of their request;
- explain the basis for any charges or fees levied or exemption/exceptions applied;
- suggest other routes through which the applicant may wish to access information, including directing them to other public authorities;
- identify independent sources of help for applicants;
- direct applicants to the FOI/EIR review or complaints procedure and/or the Office of the Information Commissioner if they are dissatisfied with any outcome.

10. Limit on the Cost of Complying with a Request

10.1 The National Fees Regulations currently entitle the CCG to apply a cost of limit of £450, equivalent to 18 working hours, to requests for information. This represents the cost the CCG would reasonably expect to incur in:

- determining whether it holds the information;
- locating the information, or a document which may contain the information;
- retrieving the information, or a document which may contain the information; and
- extracting the information from a document containing it.

10.2 This does not include the cost of reproducing any document containing the information such as printing or photocopying, or posting and packing the information requested, or any time taken to redact exempt information.

10.3 Where it is estimated that the appropriate limit will be exceeded, the CCG will work with applicants to keep compliance costs to a minimum but reserves the right to either refuse to disclose the information or charge whatever the costs of disclosure are above the appropriate limit.

11. Charges and Fees

11.1 Where a request falls within the appropriate limit, the CCG will generally not charge for information that is requested under the Act. However, the CCG reserves the right to

apply charges in accordance with the National Fees Regulations, for example, if multiple hard copies are requested, or information is to be copied onto other media.

- 11.2 In all cases where the CCG chooses to make a charge, a fees notice will be issued to the applicant to be paid within a period of three months beginning with the day on which the fees notice is issued. Payment will be required prior to the release of information.

12. Consultation with Third Parties

- 12.1 In the event that a request contains information about third parties, the CCG will make reasonable efforts to liaise with the third parties about their rights to make representation on any information they do not wish to have released. Whilst the CCG will make reasonable efforts to consult third parties where necessary, it may consider that consulting the third party is not appropriate where the cost of consulting would be disproportionate.
- 12.2 In such cases where necessary, the CCG will take specialist legal advice.
- 12.3 In all cases, it is for the CCG to determine whether information should be disclosed. Non-response or refusal by a third party to consent to disclosure does not, in itself, provide sufficient reason for information to be withheld. The CCG will record its consideration of these requests.

13. Public Sector Contracts

- 13.1 When entering into contracts the CCG will limit the contractual terms which are intended to restrict the disclosure of information held by the CCG. The CCG cannot 'contract out' its obligations under the Act. The Lord Chancellor's Code of Practice states that "unless an exemption provided for under the Act is applicable in relation to any particular information, a public authority will be obliged to disclose that information in response to a request, regardless of the terms of any contract".
- 13.2 Contractors may put pressure on the CCG to accept confidentiality clauses covering information about the terms of the contract, its value and performance. Where it is necessary to include a non-disclosure provision in a contract (exceptional circumstances only) an option could be to agree a schedule with the contractor that clearly identifies the information that should not be disclosed. The organisation would have to be aware that any restrictions on disclosure in such a schedule could be overridden by the obligations of the Act and Regulations.
- 13.3 The CCG should not hold information 'in confidence' that is not confidential in nature. The confidential information exemption under the FOI and EIR only applies if the release of such information constitutes a breach of confidence actionable in a court of law.

14. Personal Data

- 14.1 Personal data is information about a living or deceased individual from which that individual can be identified. It may take any of the following forms:
- Computer documents;
 - Information processed by a computer or other equipment (e.g. CCTV);
 - Information in medical and other records;
 - Information in some forms of structured manual records;

- Unstructured personal information held in manual form by a public authority (the applicant is likely to be asked to provide extra details to locate the information requested).
- 14.2 If the person requesting the information is the subject of the information then they should be redirected to the subject access provisions under the Data Protection Act 1998.
- 14.3 If the personal data is about someone other than the applicant, there is an absolute exemption under FOI/EIR but the CCG must still consider if disclosure would breach any of the Data Protection principles and apply a public interest test. The subject also has the right to object to the disclosure. The CCG will undertake to ensure that all requests for personal information are handled in consultation with the subject and with advice from the IG Team, the SIRO and Caldicott Guardian as appropriate. The CCG will endeavour to balance an individual's right to privacy with the accountability that goes with working in the public sector.

15. Data Sets

- 15.1 As of 1 September 2013, Section 102 of the Protection of Freedoms Act 2012 added new provisions to the FOIA (in particular Sections 11 and 19) regarding how information held in datasets is released under FOI. A data set is a collection of factual information in electronic form to do with the services and functions of the CCG that is neither the product of analysis or interpretation, nor an official statistic and has not been materially altered. Where a request is made for a dataset the CCG will provide this information in a re-usable form so far as reasonably practicable.
- 15.2 A re-usable form means that the dataset is in a machine readable form. Factors which can affect whether it is reasonably practicable to provide the dataset in a readable form can include the time and cost of conversion, technical issues and resources of the CCG. If a dataset is a relevant copyright work (the CCG owns the copyright and database rights), the CCG will provide it under the terms of a specified license. The Open Government License OGL is the default license for datasets that can be re-used without charge. Other licenses which can be used if appropriate are Freedom of Information Act and Environmental Information Regulations Policy the Non Commercial Government License (the information cannot be used for Commercial purposes) and the Charged License (where it is appropriate to charge for the re-use of information). As required by the new provisions, the CCG will publish datasets requested and any updated versions unless the CCG feels that it is not appropriate to do so. Reasons for it not being appropriate may include :
- The information is exempt from disclosure under the FOIA.
 - The information may cover a very narrow area of information. Although the requestor is entitled to ask for the information under the FOIA the CCG may consider that there is no benefit in continuing to publish the dataset routinely.
 - The cost or technical issues involved in making the information routinely available on the Publication Scheme.
- 15.3 The dataset provisions do not apply to EIR however Regulation 6 does require that a public authority should make information available in the format requested by the applicant unless it is reasonable not to.

16. Exemptions/Exceptions

- 16.1 There are several different exemptions/exceptions and circumstances in which they can be applied. The exemptions / exceptions are either absolute or qualified:
- Absolute exemptions – there is no obligation to consider the request for information further if an absolute exemption applies.
 - Qualified exemptions – are subject to the public interest test. Qualified exemptions do not justify withholding information unless, following a proper assessment, the balance of the public interest comes down against disclosure.
- 16.2 In both cases, the CCG will provide a written response to the applicant explaining clearly why the information that they have requested cannot be provided.
- 16.3 With the exception of Section 21 (information available by other means), exemptions apply not only to the communication of information but also to the duty to confirm or deny, if that in itself would disclose information that it is reasonable to withhold.
- 16.4 The CCG will maintain documentation/communication records of the decision process.

17. Vexatious / Repeated Requests

- 17.1 The CCG is not obliged to comply with a request for information if the request is deemed to be vexatious or repeated as defined by the Act or EIR. As all requests are logged for monitoring purposes, the CCG will be able to identify those which fall into this category.
- 17.2 Where a request is refused, the CCG will notify the applicant within 20 working days of receiving the request and explain why the request is being refused. A further notice will not be issued where the CCG has already issued a notice that a request is being refused because it is vexatious or repeated.

18. Redactions

- 18.1 If an applicant has requested all the information in a particular document but it is necessary to redact some of that information because it is exempt, it must be made clear that redactions have taken place, and cite the relevant exemption/exception as to why the information has been redacted.
- 18.2 The Act/EIR applies to information, and not documents. Whilst the information requested is likely to be contained within a document, this does not mean that the document has to be released with exempt material redacted from it. Rather, it may be more appropriate to release solely the information that can be released by creating a new document with only that information contained.
- 18.3 Any hard copy information which should not be released because it is exempt will be deleted by 'black-penning' the information to be protected prior to disclosure of the remaining contents. A check must be made to ensure that method used has been effective (for example, ensure that it cannot be read from the reverse, or by holding it up to the light). Where necessary, it will be photocopied after redaction to ensure complete obscurity.
- 18.4 Consideration must be given as to whether redaction made in electronic documents could be technologically reversed. Where necessary, the information will be printed and scanned back into electronic format.

19. Public Interest Test

- 19.1 The public interest must be considered in every case where a qualified exemption applies. The Information Commissioner states that “In effect something in the public interest is something which serves the interests of the public. When applying the test, the public authority is simply deciding whether in any particular case it serves the interests of the public better to withhold or to disclose information.”
- 19.2 The public interest will vary with each request and the exemption being considered. It may often include ensuring honesty, accountability, transparent decision making and the absence of bias. The CCG will consider the public interest on a case by case basis. It will seek advice from relevant professionals as necessary (this may include colleagues and legal advice). The public interest does not include protecting an authority or individual from embarrassment.

20. Information that has been Deleted or Amended

- 20.1 The right of access to information under the Act/EIR applies to information held by the CCG at the time that the request is received.
- 20.2 Altering, defacing, blocking, erasing, destroying or concealing information in order to avoid providing it in response to a request may constitute a criminal offence for which the person convicted will be held personally responsible.
- 20.3 Instructing a computer to delete a particular item may not result in the item being destroyed immediately. At least for a period, the information might still be retrievable albeit with substantial cost and disruption to the system. However, where it is the intention that data should be permanently deleted, and this is not achieved only because the technology will not permit it, the CCG will regard such data as having been permanently deleted. This information is no longer considered to be ‘held’ by the CCG, and does not have to be retrieved or provided in response to a request.
- 20.4 This approach is not justified where the information has only been temporarily deleted and is stored in such a way that it could easily be recovered, for example, from the Deleted Items folder in Outlook. This information is still considered to be ‘held’ by the CCG and may have to be provided if a request is received.

21. Re-use of Public Sector Information Regulations

- 21.1 Any requesters wishing to re-use the information they have requested, in whole or in part, must submit a written request to the Governance & Corporate Manager stating the purpose they wish to re-use the information for.
- 21.2 All requests will be determined in line with the ‘Re-Use of Public Sector Information Regulations 2005 (SI 2005 No.1515)’.
- 21.3 All requesters will receive a response in writing within 20 working days of receipt setting out any conditions and changes that relate to the re-use of the information.

22. Transferring a Request

- 22.1 All or part of a request can be transferred to another public authority if it becomes apparent that the CCG does not hold the information concerned. A transfer should only occur if it has been established that the other authority does hold the information concerned.

22.2 A request must not be transferred outside the CCG without the applicant's consent.

23. Appeals / Complaints

23.1 Initial appeals (requests for review of decisions) or complaints about the handling of a request for information will be directed to the Governance & Corporate Manager.

23.2 On receipt of an appeal, the Governance & Corporate Manager will conduct an internal review. The internal review will examine the handling of the request as appropriate to the appeal/complaint, for example:

- Whether the applicant was given adequate advice and guidance about their request for information;
- Whether the procedures for responding to request for information were followed correctly;
- Whether, if an exemption was applied, the reasons were explained adequately to the applicant;
- Where information was withheld, the application of any exemption will be re-examined as will any application of the public interest test in the case of a qualified exemption.

23.3 Where the Governance & Corporate Manager has been involved in the original response, the Chief Finance Officer as SIRO will carry out the internal review.

23.4 The CCG aims to complete reviews within 20 working days of receipt. Any delay in completing the review will be communicated to the applicant.

23.5 Where the outcome of an appeal/complaint is that information should be disclosed which was previously withheld, the information in question will be disclosed as soon as possible and the applicant will be informed when this will be.

23.6 Any applicant has a right to apply to the Information Commissioner if they remain dissatisfied with the conduct of the CCG following attempts at local resolution of their appeal/complaint. When the applicant is informed of the outcome of this process, they must be given the details of the Office of the Information Commissioner and informed of their right to take their complaint to that Office.

23.7 In the event that the Information Commissioner issues a decision/enforcement notice as a result of an appeal/complaint, the complainant or the CCG may appeal to the Tribunal against the notice.

24. Training and Awareness

24.1 Information Governance Training is included in the CCG's training programme and all staff are required to annually complete IG e-learning and training. There will be more detailed awareness raising for managers and senior staff to ensure they are aware of their responsibilities.

25. Records Management

25.1 Good records management is the key to complying with requests for information. The CCG has a Records Management Policy and supporting guidelines which provide comprehensive guidance for the management of all records and are consistent with:

- a) Records Management Code of Practice - Department of Health 2006

- b) The Lord Chancellor's Code of Practice on the Management of Records under Section 46 of the Freedom of Information Act 2000 (November 2002)

25.2 Good records management should allow the CCG to deal with requests in an efficient and accurate manner.

26. Implementation and Dissemination

26.1 Following approval by the Audit Committee, this policy will be disseminated to staff via the intranet and communication through in-house newsletters.

26.2 This Policy will be reviewed every two years or in line with changes to relevant legislation or national guidance.

27. Equality impact assessment

27.1 NHS GHCCG 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. NHS GHCCG uses a single equality impact assessment for all of its policies and procedures. The Equality Impact Assessment for this policy is included at appendix D.

28. Monitoring compliance with the Policy

28.1 Audit Committee

A quarterly report will be compiled by the Governance & Corporate Manager containing summarised compliance information on FOI/EIR requests for the CCG. This includes: the number of requests received; a summary of the subject matter; the number of exemptions applied; and the time taken to respond.

28.2 Senior Management Team

A quarterly report will be compiled by the Governance & Corporate Manager setting out overall and service performance on FOI/EIR requests.

29. Legal references

The following documents are referenced in this policy:

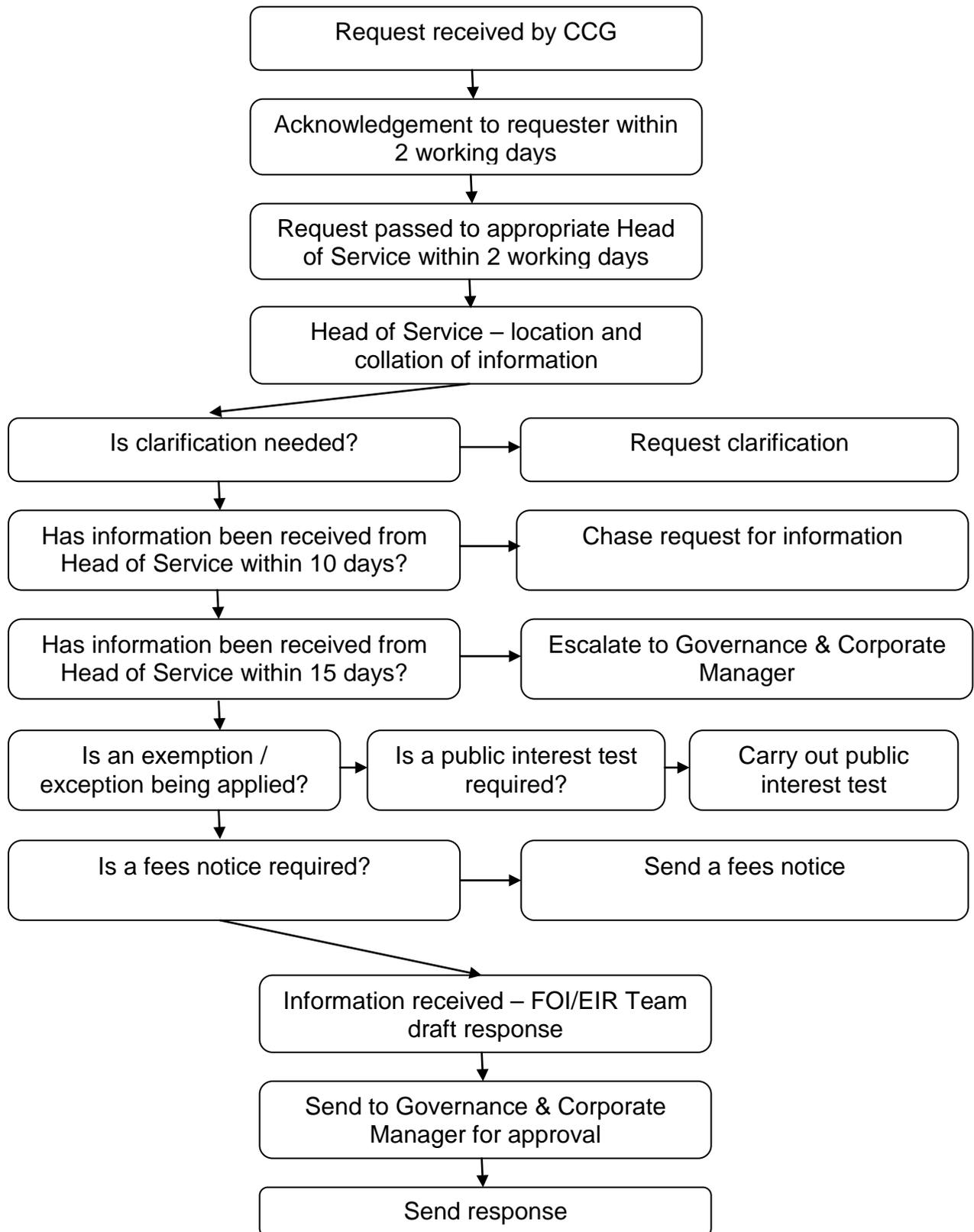
- Freedom of Information Act 2000
- Environmental Information Regulations 2004 (EIRs)
- Data Protection Act 1998
- Records Management Code of Practice
- Lord Chancellor's Code of Practice on the Discharge of Public Authorities' Functions under Part I of the Freedom of Information Act 2000, issued under section 45 of the Act (November 2002)
- Lord Chancellor's Code of Practice on the Management of Records under section 46 of the Freedom of Information Act 2000 (November 2002)

29. Associated Documents

The following CCG policies and procedures are related to this policy

- Records Management Policy
- Access to Records Procedure
- Complaints Framework
- Confidentiality and Data Protection Policy

FOI / EIR Handling Procedure



Freedom of Information Act – Exemptions**Absolute Exemptions**

Section 21	Information reasonably accessible to the applicant by other means
Section 23	Information supplied by, or relating to, bodies dealing with security matters
Section 32	Court records
Section 34	Parliamentary privilege
Section 36	Prejudice to the effective conduct of public affairs (but only absolute in relation to information held by the Commons or House of Lords)
Section 40	Personal information
Section 41	Information provided in confidence (but only if this would constitute an actionable breach of confidence)
Section 44	Prohibitions on disclosure

Qualified Exemptions, subject to the public interest test

Section 22	Information intended for future publication
Section 24	National security
Section 26	Defence
Section 27	International relations
Section 28	Relations within the UK
Section 29	The economy
Section 30	Investigations and proceedings conducted by public authorities
Section 31	Law enforcement
Section 33	Audit functions
Section 35	Formulation of government policy, etc
Section 36	Prejudice to effective conduct of public affairs
Section 37	Communications with Her Majesty and honours
Section 38	Health and safety
Section 39	Environmental information
Section 42	Legal professional privilege
Section 43	Commercial interests

ENVIRONMENTAL INFORMATION REGULATIONS EXCEPTIONS

1. While the FOI Act contains “exemptions” which allow the withholding of information under that Act, EIRs make use of “exceptions” in respect of withholding environmental information. The following summarises the EIR exceptions.
2. While a public authority should apply a presumption in favour of disclosing environmental information, the EIRs make provision for a number of exceptions to the duty to disclose such information. However, there are fewer exceptions under EIRs in respect of the release of environmental information than exist under the FOI Act in respect of the release of non-environmental information. A presumption under the regulations that environmental information must be released, unless there are reasons to withhold it.
3. Regulation 12 lists the exceptions under which a public authority can refuse to disclose information. All the exceptions are subject to a public interest test. Those weighing the public interest of whether to release or withhold information should interpret the exceptions very carefully.
4. **A request for information can be refused (or part of the information withheld) if:**
 - Information is not held (then there is a duty to refer the request on)
 - The request is manifestly unreasonable
 - The request is too general (after fulfilling duty to advise and assist)
 - The request is for unfinished documents or data (in which case estimated time for completion must be given)
 - The request is for internal communications
5. **A public authority may also refuse to disclose information or withhold part of it in order to protect the following:**
 - Confidentiality of proceedings
 - International relations / public security / defence
 - The course of justice and right to fair trial
 - Commercial confidentiality
 - Intellectual property rights
 - Personal / voluntary data
 - Environmental protection
6. If information relates to emissions, a public authority cannot refuse to disclose it on grounds of confidentiality of proceedings, commercial confidentiality, personal/ voluntary data or environmental protection.
7. **Public Interest Test** - It is important to note that none of the exceptions is absolute. For all of these exceptions, the public authority can only refuse to disclose environmental information **if, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.** There should always be a presumption in favour of disclosure, and, where there is a balance between the two public interests, information should be disclosed.
8. Detailed guidance about Environmental Information Regulations and applying exceptions is available from the Information Commissioner’s website
http://www.ico.org.uk/upload/documents/library/environmental_info_reg/introductory/introduction_to_eir_exceptions.pdf

Title of policy, project or service	Freedom of Information Policy	
Service Area	Corporate Governance	
Name and role of people completing the assessment	Governance & Corporate Manager / Associate IG Specialist CSU	
Date assessment started/completed	12/12/13	

1. Outline	
<p>Give a brief summary of your policy, project or service</p> <ul style="list-style-type: none"> • Aims • Objectives • Links to other policies, including partners, national or regional 	<p>The aim of this policy is to:</p> <ul style="list-style-type: none"> - Ensure all requests for information are dealt with consistently and receive a high quality response however and wherever the contact is made - Ensure that NHS GHCCG complies with all relevant regulations, laws and guidance; - Ensure staff at all levels are aware of their responsibilities with regards to the Act and Regulations, be it in directing any queries to the appropriate person/department, or in ensuring they provide any information requested in a timely fashion; - Ensure timescales are met; - Ensure the Governing Body is fully informed on the operation of the Act and Regulations and any implications to the service.
<p>What outcomes do you want to achieve</p> <ul style="list-style-type: none"> • Desired outcomes • Benefits • Who for 	<p>Demonstrate the organisations compliance with legislation and its commitment to being open and transparent in its decisions by managing public access to the information it holds.</p>

2. Consideration of relevant information – what do we know about peoples and groups access, experience or outcomes?	
Protected group	2a. Consultation, engagement or experience data
Generic issues	No impact on any protected group from the FOI & EIR Policy has been identified - the impact on protected groups of individual services will be assessed as the need arises. Any equality issues raised will be reviewed and acted upon as appropriate, with this EQIA amended accordingly.
Human rights	No specific relevant data
Age	No specific relevant data
Carers	No specific relevant data
Disability	No specific relevant data
Sex	No specific relevant data
Race	No specific relevant data
Religion or belief	No specific relevant data
Sexual orientation	No specific relevant data
Gender reassignment	No specific relevant data
Pregnancy and maternity	No specific relevant data
Marriage and civil partnership (only eliminating discrimination)	No specific relevant data
Other relevant group a group identified as relevant ie, rural communities, asylum seekers and refugees	No specific relevant data

Protected group	2b. Evidence, data or research available
Generic issues	No specific relevant data
Human rights	No specific relevant data
Age	No specific relevant data
Carers	No specific relevant data
Disability	No specific relevant data
Sex	No specific relevant data
Race	No specific relevant data

Religion or belief	No specific relevant data
Sexual orientation	No specific relevant data
Gender reassignment	No specific relevant data
Pregnancy and maternity	No specific relevant data
Marriage and civil partnership (only eliminating discrimination)	No specific relevant data
Other relevant group	No specific relevant data

3. Analysis of impact			
<p>This is the core of the assessment, using the information above detail the actual or likely impact on protected groups, with consideration of the general duty to;</p> <ul style="list-style-type: none"> • eliminate unlawful discrimination • advance equality of opportunity • foster good relations 			
	What key issues have you identified?	What action do you need to take to address these issues?	What difference will this make?
General issues	None		
Human rights	None		
Age	None		
Carers	None		
Disability	None		
Sex	None		
Race	None		
Religion or belief	None		
Sexual orientation	None		
Gender reassignment	None		
Pregnancy and maternity	None		
Marriage and civil partnership (only eliminating discrimination)	None		
Other relevant group	None		

Using the above actions populate the plan below.

4. Action plan				
Action	Progress milestones	Lead	Timescale	How will impact be measured
N/a				

5. Monitoring, Review and Publication			
How will you review/monitor the impact and effectiveness of your actions	N/a		
How will these actions form part of mainstream activity	N/a		
Lead Officer		Review date:	

6. Sign off			
Lead Officer	Governance & Corporate Manager / Associate IG Specialist, CSU		
Director		Date approved:	December 2013

