



FREEDOM OF INFORMATION ACT 2000 POLICY

Title:	Freedom of Information Act 2000 Policy		
Purpose of Policy:	To ensure that Trust staff follow a corporate approach towards Freedom of Information legislative principles in the workplace and understand the importance of same.		
Directorate Responsible for Policy:	Finance and IT Directorate		
Name and Title of Author:	Miss Alison Vitty, Corporate Manager		
Staff Side Consultation	YES (via HR Joint Consultative Group 9 April 2009)		
Equality Screened:	YES		
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	Trust Board	7 May 2009	
	Comments	APPROVED	
Publication Date:	June 2009	Review:	June 2012
	Version: NIAS/TW/IG/2 (v2)		
(01) January 2007	This policy has been superseded. All documentation with this issue date should now be destroyed.		
(02) June 2009	Policy amended in light of Publication Scheme requirement, change in reporting structure and additional information supplied regarding Exemption Types		
(03)			
(04)			

Circulation List:

This Policy was circulated to the following groups for consultation.

- Staffside
- Executive Directors and Senior Managers

Following approval, this policy document was circulated to the following staff and groups of staff.

- All Trust Staff
- Trust Internet Site/Intranet Site

FREEDOM OF INFORMATION ACT 2000 POLICY

1.0 INTRODUCTION

1.1 The Northern Ireland Ambulance Service (NIAS) Health and Social Care Trust recognises the importance of the Freedom of Information Act 2000 and to assist the Trust's compliance with the legislative requirement, will endeavour to ensure that:

- The majority of information can be accessed through the Trust's publication scheme;
- Other information is readily available on request;
- If the information requested is subject to an exemption, the Trust will implement the public interest test to determine when the information can be released.

The main features of the Act are:

- A general right of access from 1 January 2005 to recorded information held in any format by the Trust, subject to certain conditions and exemptions;
- In cases where information is exempted from disclosure, except where an absolute exemption applies, there is a duty on the public authority to:
 - (a) Inform the applicant whether they hold the information request, and; ***unless the public interest in maintaining the exemption in question outweighs the public interest in disclosure;*** communicate the information to the requestor;
 - (b) Adopt and maintain a Publication Scheme.

Refer to Appendix A for further information on Exemption explanations.

Refer to Appendix B for Glossary of Terms.

1.2 Under the Freedom of Information Act 2000, the Trust is required to make publicly available a Publication Scheme. This is achieved by placing the Publication Scheme on the Trust's internet site – www.niamb.co.uk. By January 2009, the Trust is required to adopt a new Publication Scheme and to proactively publish specified information by 1 January 2009. This is a statutory obligation under the Freedom of Information Act 2000. The Information Commissioner's approval of current schemes expires on 31 December 2008.

The Freedom of Information Act Policy is a statement of what the Trust intends to do to ensure compliance with the Act. It is not a statement of how compliance will be achieved; this is covered in supporting procedures relating to Freedom of Information and Environmental Information Regulations. The Trust has a duty to comply with this legislation.

2.0 **SCOPE OF THE POLICY**

- 2.1 This Policy is intended to cover all records created in the course of the business of the Trust i.e. corporate records which are also recorded under the terms of the Public Records Acts.
- 2.2 This **includes** email messages and other electronic formats.
- 2.3 The Freedom of Information Act Policy will apply to all Trust employees and to Non-Executive Directors.
- 2.4 The Policy will provide a framework within which the Trust will ensure compliance with requirements of the Act.
- 2.5 The Policy will underpin any operational procedures and activities connected with the implementation of the Act.
- 2.6 The Policy supports the principle of openness. The Trust wants to create a climate of openness and transparency with all the stakeholders and improving access to information about the Trust will facilitate the development of such an environment.
- 2.7 The Trust believes that individuals also have a right to privacy and confidentiality. This Policy does not overturn the common law duties of confidence or statutory provisions that prevent disclosure of personal identifiable information.

3.0 **POLICY STATEMENT**

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 Act and guidance notes issued by the Information Commissioner.

3.1 **Publication Scheme**

The Trust has adopted a Publication Scheme in accordance with the HPSS Freedom of Information Project Board. The Information Commissioner has approved the Trust's Publication Scheme.

The Publication Scheme is a statutory requirement under Section 20 of the Act and ensures compliance with Section 19 of the legislation.

By January 2009, the Trust is required to adopt a new Publication Scheme and to proactively publish specified information by 1 January 2009. This is a statutory obligation under the Freedom of Information Act 2000. The Information Commissioner's approval of current schemes expires on 31 December 2008.

3.2 General Rights of Access

From 1 January 2005, Section 1 of the Act give a general right of access to recorded information held by the Trust, subject to certain conditions and to Exemptions contained in the Act. In accordance with Section 8 of the Act, a request for information under the general rights of access must be received in writing. Requests of information regarding environmental issues (EIR) can be received verbally.

3.3 Conditions and Exemptions

The duty to confirm or deny an information request is subject to certain conditions and exemptions. Under Section 13 of the Act, the duty to confirm or deny does not arise where the Trust:

- Reasonably requires further information in order to identify and locate the information requested, and
- Has informed the application of that requirement.

The Trust will make reasonable efforts to contact the applicant for additional information pursuant to their request should further information be required.

3.4 Charges and Fees

The Trust will generally not charge for information it has chosen to publish in its Publication Scheme. Charges may be levied for hardcopies, multiple copies or copying onto such media such as a CD-ROM. The Publication Scheme and the procedures that support this Policy will provide further guidance on charging.

The Trust follows the DHSSPS Fees Regulations for general rights of access under the Act.

A fees notice, when applicable, will be issued to the applicant as required under Section 9 of the Act.

3.5 Time Limits for Compliance with Requests

The Trust will ensure compliance with the duty to confirm or deny and to provide the information requested within 20 working days of a request in accordance with Sections 10 and 46 of the Act. All staff and Non-Executive Directors will be required to comply with the requirements of these procedures, failure to do so, may result in disciplinary action.

3.6 Means by Which Information will be Conveyed

Where an applicant, on making their request for information, expresses a preference for communication by any one or more of the following means, namely:

- (a) The provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant;
- (b) The provision to the applicant of a reasonable opportunity to inspect a record containing the information;
- (c) The provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant.

The Trust will make every effort, within cost limits, to comply with the applicant's preference.

3.7 Duty to Provide Advice and Assistance

The Trust will ensure that systems and procedures are in place to meet the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the Trust to do so, to persons who propose to make or have made requests for information. This is a duty under Section 16 of the Act.

The Trust will ensure that the systems and procedures that are deployed to meet the Section 16 duty also conform to the Code of Practice issued under Section 45 of the Act.

3.8 Transferring Request

A request can only be transferred where the Trust receives a request for information which it does not hold, within the meaning of Section 3(2) of the Act but which is held by another public body.

All transfers of requests will take place as soon as is practicable and the applicant will be informed as soon as possible once this has been done.

3.9 Personal Data

Where information constitutes "personal data" within the meaning of the Data Protection Act, the Trust will have regard to Section 40 of the Act which makes detailed provision for cases in which a request relates to such information and the interplay between the Act and the DPA in such cases.

3.10 Public Sector Contracts

Public sector tendering, contracts and agreements are also governed by the Act, the general duties of disclosure are lessened by several significant Exemptions, provided that the use of such Exemptions can be properly validated as being in the public interest.

The Trust will seek not to impose Conditions in contracts (or have them imposed by prospective contractors) in the interests of mere secrecy, through it is recognised that this is not always possible, given the strength of the negotiating position of the respective parties.

3.11 **Accepting Information in Confidence from Third Parties**

The Trust will only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Authority's functions and it would not otherwise be provided.

The Trust will not agree to hold information received from third parties "in confidence" which is not confidential in nature.

3.12 **Refusal of Requests**

The Trust will keep a record of all notices issued to refuse requests for information as part of its recording and monitoring system. The Trust's decision to deny access to information will be taken following due care and consideration of the Act's Exemptions.

3.13 **Complaints about Discharge of duties of the Trust under the Act**

The Trust's procedure for dealing with complaints about the discharge of its duties under the Act is outlined in the Trust's FOI/EIR Procedures Manual (December 2006).

The procedure refers applicants to the right under Section 50 of the Act to apply to the Information Commission if they remain dissatisfied with the conduct of the Trust, following attempts at local resolution of their complaint/dissatisfaction with the request handling.

3.14 **Records Management**

The Trust will develop a separate Policy with supporting systems and procedures that will ensure compliance with the Lord Chancellor's Code of Practice on the Management of Records under Section 46 of the Freedom of Information Act 2000 and the Department of Health's Guidance HSC 1999/053; For the Record; Managing Records in HPSS Trust's and Health Authorities and the DHSSPS paper entitled Good Management, Good Records.

4.0 **RESPONSIBILITIES**

4.1 **Responsibilities of all Staff and Non-Executive Directors**

All staff and Non-Executive Directors are obliged to adhere to this Policy. A failure to adhere to this Policy and its associated procedures may result in disciplinary action. Managers at all levels are responsible for ensuring that the staff for whom they are responsible, are aware and adhere to this Policy. They are also responsible for ensuring staff are updated in regard to any changes in this Policy.

- 4.2 The Corporate Manager is accountable to the Director of Finance and IT for the co-ordination and management of freedom of information requests and records management. The Corporate Manager will oversee the implementation of the Policy on behalf of the Director of Finance. The Corporate Manager will establish systems and procedures that will support the implementation of this Policy.
- 4.3 The Corporate Manager is responsible for the maintenance and review of this Policy.
- 4.4 It is the responsibility of the Corporate Manager and relevant personnel to handle requests for information under the Freedom of Information Act. Control of these requests will be handled by the Corporate Manager.
- 4.5 It is the responsibility of all Trust staff to refer any requests received for information under the Freedom of Information Act either verbally, via email or writing, to the Corporate Manager so that the request can be appropriately handled and dealt with in the legislative timescales ie 20 days.
- 4.6 The Corporate Manager is identified as the Trust's Freedom of Information lead.
- 4.7 The Corporate Manager will work with the Regional Ambulance Training Centre to ensure that training on the Act is available to staff and Non-Executives who require it.

5.0 **Designated Accountability**

- 5.1 The person accountable for overseeing the implementation of this policy and guidelines is the Corporate Manager.
- 5.2 The Director of Finance and IT will ensure that staff operating in the Trust are made aware of developments in law, HPSS and/or other professional guidelines and recognised good practice.
- 5.3 The Trust's Freedom of Information Act 2000 Policy is required to be reviewed every three years or in line with legislative requirements.



Signed:

Liam McIvor (Mr)
CHIEF EXECUTIVE

EXEMPT INFORMATION UNDER THE PART II OF THE FREEDOM OF INFORMATION ACT 2000

There are two types of class exemption:

- (a) **Absolute** which do not require a test of prejudice of the balance of public interest to be in favour of non-disclosure.
- (b) **Qualified** by the public interest test which require the public body to decide whether it is in the balance of public interest to not disclosure information.

With the exception of Section 21 (information available by other means) exemptions apply not only to communication of information but also to the duty to confirm or deny, if that itself would disclose information that it is reasonable to withhold.

The absolute exemptions under the Act are:

- **Section 21**
Information accessible to 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 effective conduct of public affairs (so far as relating to information held by the House of Commons or the House of Lords)
- **Section 40**
Personal Information (where disclosure may contravene the Data Protection Act 1998)
- **Section 41**
Information provided in confidence
- **Section 44**
Prohibitions on disclosure

The exemptions that are qualified by the public interest test are:

- **Section 22**
Information intended for future publication

- **Section 24
National Security**
- **Section 26
Defence**
- **Section 27
International Relations**
- **Section 28
Relations within the United Kingdom**
- **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**
- **Section 36
Prejudice to effective conduct of public affairs (for all public authorities except the House of Commons and the House of Lords)**
- **Section 37
Communications with Her Majesty etc and Honours**
- **Section 38
Health and Safety**
- **Section 39
Environmental Information**
- **Section 42
Legal Professional Test**
- **Section 43
Commercial Interest**

More information on exemptions can be found on the HMSO Website at www.legislation.hmso.gov.uk/acts/en/2000en36.htm

APPENDIX B

GLOSSARY OF TERMS

Absolute Exemption	Applied to information that does not have to be released to the applicant either through a Publication Scheme or through the general right of access under the Act. Information to which an absolute exemption applies does not require a public authority to take a test of prejudice or 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 Act.
Applicant	The individual(s), group or organisation requesting access to information under the Act.
Duty to confirm or deny	Any person making a request for information to a public authority is entitled to be informed in writing by the authority whether the public authority holds the information specified in the request or not.
Fees Notice	A written notification issued to an applicant stating that a fee is payable and exempts public authorities 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 Act confers a general right of access to information held by public authorities. An applicant has a right to be told whether the information requested is held by the authority and if it is, 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 Act. The grounds in Section 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.
Information Commissioner	The Sites Co-ordinator enforces and oversees the Data Protection Act 1998 and the Freedom of Information Act 2000. The Commissioner is a United Kingdom independent supervisory authority reporting directly to the UK Parliament and has an international role as well as a national one.

	In the UK, the Commissioner has a range of duties including the promotion of good information handling and the encouragement of Codes of Practice for data controllers, that is, anyone who decides how and why personal data (information about identifiable, living individuals) are processed.
Lord Chancellor's Department	The Lord Chancellor's Department is responsible for efficient administration of justice in England and Wales. Broadly speaking, the Lord Chancellor is responsible for: <ul style="list-style-type: none"> - The effective management of the Courts; - The appointment of Judges, Magistrates and other Judicial Office holders; - The administration of legal aid; - The oversight of a wide programme of Government legislation and reform in such fields as human rights, freedom of information, data protection, data sharing, family law, property law, electoral and referenda law, defamation and legal aid.
Public Authority	The Act is intended to have wide application across the public sector at national, regional and local level. In view of the large number of bodies and offices intended to fall within the scope of the Act it is not feasible to list each body individually. Public authorities are, therefore, designated in one of the following ways: <ul style="list-style-type: none"> (a) On the face of the Act (in Schedule 1) using generic descriptions where appropriate, which specifies the principle authorities in national and local government, together with the principle public authorities relating to the armed forces, national health service, education, the Police and other public bodies and offices; (b) By order under Section 4(1) adding to Schedule 1 any body or the holder of any office that satisfies certain specified conditions; (c) By order under Section 5 adding any person that satisfies certain conditions and that appears to the Secretary of State to exercise functions of a public nature or is providing under a contract with a public authority any service whose provision is a function of that authority; or (d) By reference to the definition of a publicly-owned company in Section 6.
Publication Scheme	A Scheme specifying the classes of information which it publishes or intends to publish, the manner of publication and whether the information is available to the public free of charge. By January 2009, the Trust is required to adopt a new Publication Scheme and to proactively publish specified information by 1 January 2009.

Qualified Exemption	Information to which a qualified exemption applies requires a public authority to take a test of prejudice or to demonstrate that the balance of public interest is in favour of non-disclosure. Reference to qualified exemptions can be found in Part 1, Section 2 and Part II of the Act.
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