

Policy Number	IT13
Policy Name	Freedom of Information Act 2000 incorporating Environmental Information Regulations (EIR) 2004
Policy Type	Trust-wide Service Based
Accountable Director	Director of Informatics & Performance Improvement
Author	Director of Informatics & Knowledge Management
Recommending Committee	Joint Senior Information Risk Owner / Caldicott Office
Approving Committee	Acquisition Steering Group
Date Originally Approved	December 2015 (Reviewed April 2017)
Next Review Date	April 2018

This document is a valid document, however due to organisation change some references to organisations, organisational structures and roles have now been superseded. The table below provides a list of the terminology used in this document and what it has been replaced with. When reading this document please take account of the terminology changes on this front cover

Terminology used in this Document	New terminology when reading this Document
Information Governance Committee	Joint Senior Information Risk Owner, Information Governance and Caldicott Committee
Communications Department	Information Governance Department

FOR OFFICE USE ONLY (Work Stream submission check)

This document is compliant with current best practice guidance

This document is compliant with legislation required in relation to its content

What change has this document undergone in the policy alignment process relating to the South Sefton Transaction?

None
 Minor
 Major
 This is a new document

This document has been reviewed and is no longer required

Changes made to reflect the inclusion of South Sefton Community Division in Naming conventions

Does this document impact on any other policy documents?

Yes , **if yes, which policies are effected?** [Click here to enter text.](#)

No

Signed:

Date:

SUPPORTING STATEMENTS – this document should be read in conjunction with the following statements:

SAFEGUARDING IS EVERYBODY'S BUSINESS

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and vulnerable adults, including:

- being alert to the possibility of child/vulnerable adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/vulnerable adult;
- knowing how to deal with a disclosure or allegation of child/adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child/vulnerable adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or vulnerable adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line the with a Human Rights based approach and the FREDA principles of **Fairness, Respect, Equality Dignity, and Autonomy**

TRUST-WIDE SERVICE BASED POLICY

POLICY

FREEDOM OF INFORMATION ACT 2000

Incorporating
 Environmental Information Regulations (EIR) 2004

Policy Number:	IT13
Scope of this Document:	All Staff
Recommending Committee:	Information Governance & Caldicott Committee
Approving Committee:	Information Governance Committee
Date Ratified:	December 2013
Next Review Date (by):	April 2018
Version Number:	April 2017 – Version 8
Lead Executive Director:	Executive Director of Finance
Lead Author(s):	Director of Informatics & Performance Improvement

TRUST-WIDE SERVICE BASED POLICY DOCUMENT POLICY

April 2017 – Version 8

Quality, recovery and wellbeing at the heart of everything we do

TRUST-WIDE SERVICE BASED POLICY

POLICY

FREEDOM OF INFORMATION ACT 2000

Incorporating Environmental Information Regulations (EIR) 2004

Further information about this document:

Document name	Policy – Freedom of Information Act 2000
Document summary	<p>This policy defines the framework to ensure the Trust meets its obligations in relation Information Governance. Implementation of and adherence to this policy will ensure:</p> <ul style="list-style-type: none"> Information is held, used and obtained in accordance with the Data Protection Act 1998 and Freedom of Information Act 2000. Information is stored in accordance with the NHS Code of Records Management. Staff are trained and aware of their responsibilities in respect of Information Governance and Confidentiality. This policy is applicable to all staff working for, or with, Mersey Care NHS Trust.
Author(s) Contact(s) for further information about this document	<p>Jim Hughes Director of Informatics & Performance Improvement Telephone: 0151 473 2982 Email: jim.hughes@merseycare.nhs.uk</p>
Published by Copies of this document are available from the Author(s) and via the trust's website	<p>Mersey Care NHS Trust V7 Building King Business Park Prescot Liverpool L34 1PJ</p> <p>Your Space Extranet: http://nwww.portal.merseycare.nhs.uk Trust's Website www.merseycare.nhs.uk</p>
To be read in conjunction with	<p>IT02 IM&T Security Policy IT06 Corporate Health Records Policy and Procedures IT10 Policy and Procedure for Confidentiality and Data Sharing IT14 Data Protection Act Policy</p>
This document can be made available in a range of alternative formats including various languages, large print and braille etc	
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Version Control:

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Version 7	For review by Corporate Policy Review Group	August 2015
Version 8	For review by Corporate Policy Review Group	April 2017

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1 INTRODUCTION

1.1 Rationale

The Freedom of Information Act 2000 is part of the Government's commitment to greater openness in the public sector. This is a commitment supported by Mersey Care NHS Foundation Trust. The Freedom of Information Act 2000, referred to hereafter as the Act, will further this aim by helping to transform the culture of the public sector to one of greater openness. It will enable members of the public to question the decisions of public authorities more closely ensuring that the services we provide are efficiently and properly delivered. The Act replaces the non-statutory Code of Practice on Openness in the NHS.

The key features of the Act are:

A general right of access from 1st January 2005 to recorded information held by public authorities, subject to certain conditions and exemptions; cases where information is exempt from disclosure, except where an absolute exemption applies, impose 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 unless the public interest in maintaining the exemption in question outweighs the public interest in disclosure;
- a duty on all public authorities to adopt and maintain an approved model Publication Scheme, specifically applicable to the NHS from 1st January 2009, superseding the publication scheme which had been in place since 31st October 2003.
 - the creation of a new office of Information Commissioner with wider powers to enforce the rights created by the Act and to promote good practice, and a new Information Tribunal;
 - a duty on the Lord Chancellor to promulgate Codes of Practice for guidance on specific issues.

This Freedom of Information Act Policy is a statement of how Mersey Care NHS Foundation Trust intends to ensure compliance with the Act and the duties placed upon the Trust. It is not a statement of how compliance will be achieved; this will be a matter for operational procedures.

1.2 Scope

The Freedom of Information Act Policy will apply to all staff employed by Mersey Care NHS Foundation Trust, and also to bank, agency and locum staff; students; voluntary staff; trainees on temporary placements.

1.3 Principles

- 1.3.1 The Policy will underpin any operational procedures and activities connected with the implementation of the Act.
- 1.3.2 The Policy supports the principle that openness and not secrecy should be the norm in public life. The Trust will aim to create a climate of openness and will facilitate dialogue with stakeholders and improved access to information in the development of such an environment.
- 1.3.3 The Trust believes that individuals also have the 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. The release of such information continues to be governed by the subject access provisions of the Data Protection Act 1998.
- 1.3.4 The Trust believes that public authorities should be allowed to discharge their functions effectively. In doing so, the Trust will use the exemptions contained in the Act where an absolute exemption applies or where a qualified exemption can reasonably be applied in terms of the public interest of disclosure.
- 1.3.5 The Trust will ensure that staff have appropriate access to expert knowledge to assist and support them in understanding the implications of the Act. Common standards will be required to ensure the organisation is compliant and future compliance is maintained.
- 1.3.6 The Policy will provide a framework within which the Trust will ensure compliance with the requirements of the Act.
- To ensure that requests for Internal Review are undertaken within a 20 day timeframe by the Information Governance Manager.
 - To ensure that the Trust maintains the publication scheme.

2 POLICY STANDARDS

2.1 Policy Statement

The Trust will utilise 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 Chancellors Department pursuant to sections 45(5) and 46(6) of the Act.

The Trust must ensure that it adheres to the Freedom of Information Act by complying with the following standards:

- To ensure that all staff are aware that FOI requests must be processed by the Freedom of Information Clerk within the Information Governance Team.
- To ensure that the Trust records and monitors FOI requests and responses are made within the 20 day timeframe.

- To ensure that requests for Internal Review are undertaken within a 20 day timeframe by the Information Governance Manager.
- To ensure that the Trust maintains the publication scheme.

2.2 The Publication Scheme

2.2.1 The Trust has adopted and will maintain the second model publication scheme which was introduced on 1 January 2009. This is permissible under section 20 of the Act and ensures compliance with section 19 of the legislation.

2.2.2 The model publication scheme commits the trust to make information available to the public as part of its normal business activities. The information covered is included in the classes below:

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

It will provide and guide individuals to the information and will detail the format in which the information is available and whether or not a charge will be levied for the provision of that information. The Publication Scheme will be available in hard copy on request and through our website. It will be subject to regular review in terms of content and will be reviewed by the Information Commissioner's Office as part of its monitoring strategy.

2.2.3 Applications for information listed in the Publication Scheme may be received verbally or in writing. The Trust has established systems and procedures to process applications arising from requests against the Publication Scheme.

2.3 General Rights of Access

2.3.1 *Section 1 of the Act gives a general right of access from 1st January 2005 to recorded information held by the Trust, subject to certain conditions and exemptions contained in the Act. Any person making a request for information (see 2.3.2) to the Trust is entitled:*

- (a) to be informed in writing whether the trust holds information described and specified in the request, and
- (b) if the information is held, 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 we are obliged to provide it, subject to any exemptions. The Trust will ensure that procedures and systems are in place to facilitate access by the public to information from 1st January 2005.

- 2.3.2 In accordance with section 8 of the Act, a request for information under the general rights of access must be received in writing. It must state the name of the applicant, an address for correspondence and a description of the information requested. A request transmitted by electronic means, received in legible form and capable of being used for subsequent reference must be accepted as a written request.

2.4 Conditions and Exemptions

- 2.4.1 The duty to confirm or deny is subject to certain conditions and exemptions. Under section 1(3) the duty to confirm or deny does not arise where the Trust:

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement

- 2.4.2 Under section 1(3) of the Act, if it is not possible to locate the information requested, because insufficient details have been provided, the Trust is not required to comply with the request until that further information is provided by the applicant. The 20 working day time for compliance would not start until the Trust has sufficient information to enable the request to be dealt with.

- 2.4.3 Under section 2 of the Act the Trust does not have to comply with this duty if the information is exempt under the provisions of Part II of the Act, sections 21 to 44. These provisions either convey an absolute exemption or a qualified exemption. A qualified exemption may be applied if, in all circumstances, 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 Part II exemptions are listed in Appendix A of this policy. The Trust will endeavour to use the qualified exemptions sparingly and will, in accordance with section 17 of the Act justify the use of such exemptions.

- 2.4.4 The duty to confirm or deny does not arise if a fees notice has been issued to an applicant and the fee has not been paid within a three-month period of it being issued to the applicant.

- 2.4.5 The duty to comply with a request for information does not arise if the Trust estimates that the cost of compliance with the request would exceed the appropriate limit that will be established in national Fees Regulations. The Trust will work with applicants to keep compliance costs to a minimum but will reserve the right to either refuse or charge for the communication of information that exceeds the limit.

- 2.4.6 The Trust is not obliged to comply with a request for information if the request is vexatious. Where the Trust has previously complied with a request for

information, it is not obliged to comply with a subsequent identical or subsequently similar request from the same applicant unless a reasonable interval has elapsed between requests. The Communications Department will keep a log of all requests for information for monitoring purposes and should be able to identify repeated or vexatious requests.

2.5 Charges and Fees

- 2.5.1 The Trust will generally not charge for information available through its Publication Scheme. Charges may be levied for hard copies, multiple copies or copying onto other media. The Publication Scheme itself will provide further guidance on charging arrangements.
- 2.5.2 Organisations will be expected to follow, once published, the national Fees Regulations for general rights of access under the Act. These will set appropriate limits on the cost of compliance, the manner in which an appropriate fee may be calculated and circumstances in which no fee should be levied.
- 2.5.3 Where the Trust chooses to charge for information, a fees notice will be issued to the applicant as required by section 9 of the Act. Applicants will be required to pay any fees within a period of three months for processing of the application to continue.

2.6 Time Constraints for Compliance with Requests

- 2.6.1 The Trust has established systems and procedures to ensure that compliance with a request for information is achieved within the statutory twenty working days. All data is recorded by the Freedom of Information Clerk onto an electronic database. It is essential that any request be sent directly to the Freedom of Information email box upon receipt.
- 2.6.2 If processing of an application incurs a charge or fee, the period between receipt of the fee notice by the applicant and receipt of payment by the trust will be disregarded for the purposes of calculating the twentieth working day.

For applications subject to an exemption or if the Trust refuses to comply with a request as it appears to be vexatious or repeated, or exceeds the appropriate limit for costs of compliance, a decision shall be issued to the applicant within twenty working days

2.7 Means by which Information will be Conveyed

- 2.7.1 If an applicant, on making their request for information, expresses a preference for communication to be by any one or more of the following:
- (a) the provision 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, and

(c) the provision of a summary of the information in permanent form or in another form acceptable to the applicant,

The Trust shall so far as reasonably practicable give effect to that preference in accordance with section 11 of the Act.

- 2.7.2 The Trust will consider all circumstances, including cost, before determining whether it is reasonably practical to communicate information by a particular means. If it is determined that it would not be reasonably practicable to comply with any preference made by the applicant, the Trust will notify the applicant of its decision and provide the information in a form which it deems to be reasonable in the circumstances.
- 2.7.3 The Trust has established systems and procedures to monitor the provision of information arising from requests under the Act.

2.8 Refusal of Requests

2.8.1 The duty to confirm or deny does not arise if the Trust:

- (a) applies an exemption under Part II of the Act,
- (b) has issued a fees notice which has not been paid within a three month period of being given to the applicant,
- (c) estimates that the cost of compliance with the request for information exceeds the appropriate limit
- (d) can demonstrate that the request is repeated or vexatious

2.8.2 If by applying one of the above criteria a request is refused, the applicant will be informed of the reasons for the decision within twenty working days. The applicant should also be advised of the procedures for making a complaint about the discharge of organisational responsibilities under the Act (section 50).

2.8.3 If the Trust is to rely on an exemption, a notice will be issued to the applicant within twenty working days. The notice will:

- (a) state reliance on an exemption
- (b) specify the exemption in question, and
- (c) state (if not otherwise apparent) why the exemption applies

If at the time of issuing the notice to the applicant the Trust has not yet reached a decision as to the application of an exemption, the notice should indicate that no decision has been reached and contain an estimated date by which that decision is likely to be made. As indicated by the Lord Chancellor's Code of Practice issued under section 45 of the Act, such estimates should be realistic and reasonable and compliance would be expected unless there are extenuating circumstances. If an estimate is exceeded, the applicant will be advised of the reason(s) for the delay and offered an apology. A record of instances where

estimates are exceeded will be kept and where this occurs more than occasionally, steps will be taken to identify the problem and to rectify it.

2.8.4 If applying a qualified exemption, the Trust will notify the applicant stating the reasons for claiming:

(a) that, in all circumstances, 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, or

(b) that, in all circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The statement should not involve the disclosure of information, which would itself be exempt information.

2.8.5 If reliance is on a claim that the cost of compliance exceeds the appropriate limit or that the request is repeated or vexatious and a notice stating this has been issued to the applicant within twenty working days, a further notice is not required.

2.9 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 reasonable, to persons who propose to make, or have made requests for information.

2.10 Transferring Requests for Information

2.10.1 A request can only be transferred where the Trust receives a request for information that it does not hold, but which is held by another public authority (within the meaning of section 3(2) of the Act). Transfers may also apply to requests where only part of the information is held. 'Holding' information includes holding a copy of a record produced or supplied by another person or body but does not extend to holding a record on behalf of another person or body.

2.10.2 All requests will be processed in accordance with the Act and applicants will be advised if all or some of the information requested is not held by the Trust.

2.10.3 If it is believed that some or all of the information requested is held by another public authority, consideration will be given as to the most helpful way of assisting the applicant with their request. In most cases this is likely to involve:

(a) informing the applicant that the information requested may be held by another public authority;

(b) suggesting the applicant re-applies to the appropriate authority;

(c) providing contact details for that authority, where possible.

2.10.4 If it is considered appropriate to transfer a request to another authority, consultation will be required with that authority in order to ascertain whether it holds the information. A request should not be transferred without confirmation

that the information is held or if the applicant is likely to have any grounds for objecting to the transfer. If it can be reasonably concluded that the applicant is unlikely to object, transfer of the request may take place without referral to the applicant, although applicants must be informed that the transfer has taken place.

2.10.5 If it is believed that an applicant is likely to object to a transfer of the request, consent from the applicant must be sought prior to any transfer, or it may be suggested to the applicant that a new request should be sent to the other authority.

2.11 Consultation with Third Parties

2.11.1 The Trust recognises that in some cases the disclosure of information pursuant to a request may affect the legal rights of a third party, for example, where information is subject to the common law duty of confidence or where it constitutes 'personal data' within the meaning of the Data Protection Act 1998 (DPA). The Trust would be obliged to disclose information in response to a request unless an exemption provided for in the Act applies.

2.11.2 If the disclosure of information cannot be made without the consent of a third party (for example, where disclosure without consent would constitute an actionable breach of confidence (section 41 exemption), the Trust will consult that third party with a view to seeking a consent for disclosure, unless this is not practical due to the third party being difficult to locate or the cost of consulting them is disproportionate.

2.11.3 Where information constitutes 'personal data' within the meaning of the DPA, the trust will refer to section 40 of the Act which makes detailed provision for the processing of such requests.

2.11.4 Consultation will be undertaken where:

(a) the views of the third party may assist the organisation to determine whether an exemption under the act applies to the information requested; or

(b) the views of the third party may assist the organisation to determine where the public interest lies under section 2 of the Act.

2.11.5 The Trust may consider that consultation is not appropriate where the cost of consulting with third parties would be disproportionate. In such cases, it will consider the most reasonable course of action in light of the requirements of the Act and the individual circumstances of the request. Consultation will be unnecessary where:

(a) there is no intention to disclose the information (by applying an exemption)

(b) the views of the third party can have no effect on the decision (where there is other legislation preventing or requiring disclosure of the information)

(c) no exemption applies and so under the provision of the Act, the information must be disclosed

2.11.6 The fact that a third party has not responded to consultation does not relieve the Trust of its duty to disclose information under the Act, or its duty to reply within the specified time period. In all cases, it is for the Trust, not the third party to determine whether or not information should be disclosed. A refusal to consent to disclosure by a third party does not, in itself, mean information should be withheld.

2.12 Public Sector Contracts

2.12.1 When entering into contracts the Trust will refuse to include contractual terms which purport to restrict the disclosure of information held by the Trust. Unless an exemption provided under the Act is applicable in relation to any particular information, the Trust will be obliged to disclose that information in response to a request, regardless of the terms of any contract.

2.12.2 When entering into contracts with non-public contractors, the Trust may be under pressure to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance will be exempt for disclosure. As recommended by the Lord Chancellor's Department, the Trust should reject such clauses wherever possible. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, the Trust will investigate the option of agreeing with the contractor a schedule of the contract which clearly identifies information which should not be disclosed. There must be awareness that any restrictions on disclosure could potentially be overridden by obligations under the Act. Any acceptance of such confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioner.

2.12.3 The Trust will not agree to hold 'in confidence' which is not in fact confidential in nature. Advice from the Lord Chancellor's Department indicates that the exemption provided for in section 41 only applies if information has been obtained by a public authority from another person, and the disclosure of the information to the public, other than under the Act would constitute a breach of confidence.

2.12.4 The Trust must disclose information pursuant to the Act, and not the non-public authority contractor. The Trust will take steps to protect from disclosure by the contractor, information which that organisation has provided to the contractor which would clearly be exempt from disclosure under the Act, by appropriate contractual terms. In order to avoid unnecessary secrecy, any such constraints will be drawn as narrowly as possible and according to the individual circumstances of the case.

2.13 Accepting Information in Confidence from Third Parties

- 2.13.1 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 organisational functions and it would not otherwise be provided.
- 2.13.2 The Trust will not agree to hold information received from third parties 'in confidence' which is not confidential in nature. Again, any acceptance of confidentiality provisions must be justifiable to the Information Commissioner.

2.14 Complaints

- 2.14.1 At all stages of the request, applicants will be referred to their right under section 50 of the Act to apply to the Information Commissioner if they are unsatisfied with the conduct of the trust following attempts at local resolution of any complaint.
- 2.14.2 Complaints and appeals will be dealt with by the Information Governance Manager and will be completed within 20 days of the date of appeal.

2.15 Records Management

- 2.15.1 The Trust will have a corporate records 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 guidance Records Management: NHS Code of Practice.
- 2.15.2 The policy and associated procedures will address issues of active records management including the creation, storage, maintenance and ultimate disposal.

2.16 Publication of data-sets

- 2.16.1 With effect from 1st September 2013 upon responding to FOI requests involving the release of dataset information the trust will ensure that it publishes that dataset on the trust website and that the dataset can be accessed and downloaded in a re-usable format.

2.17 Sefton Community Services (previously under the management of Liverpool Community Health)

- 2.17.1 Freedom of Information requests for children 0-19's and Litherland Walk-in Centre. These requests will be re-directed by Mersey Care NHS Foundation Trust to North West Boroughs Health Care NHS Foundation Trust who will respond directly to the requestor.

3. MONITORING COMPLIANCE

The process for monitoring compliance with and the effectiveness of this Policy and Procedure is outlined below:

System for the Monitoring of Compliance	
Monitoring of compliance with this policy will be undertaken by:	Information Governance Committee
Monitoring will be performed by:	Information Governance Manager
Monitoring will be undertaken by means of:	Satisfaction surveys, monitoring requests for internal reviews or complaints to ICO. Reports submitted to IGC on a quarterly and annual basis
Should shortfalls be identified the following actions will be taken:	Process review overseen by IGC
The results of monitoring will be reported to:	Information Governance Committee and Executive Committee
Resultant actions plans will be progressed and monitored through:	Information Governance Committee
The auditable standards of the policy are:	Request compliance within timeframe, Request for internal review, Complaints to ICO

4 DEVELOPMENT & CONSULTATION PROCESS

This policy has been developed by the Information Governance Manager. The policy has also been consulted upon with the Senior Information Risk Owner, Caldicott Guardian, and Information Governance Committee.

5 DUTIES & RESPONSIBILITES

Chief Executive

The Chief Executive has overall responsibility for the management of the Freedom of Information Act incorporating Environmental Information Regulations within the Trust. As the accountable officer they are responsible for the management of the organisation and for ensuring appropriate mechanisms are in place to comply with legislation.

Caldicott Guardian

The Trust's Caldicott Guardian has a particular responsibility for reflecting service user's interests regarding the use of patient identifiable information.

Senior Information Risk Owner

The SIRO has a particular interest in Freedom of Information requests and has the responsibility for sign off of FOI request responses.

Information Governance Committee

The Information Governance Committee is responsible for monitoring that the Trust is adhering to current legislation and the Trust is complying with its duty to respond within the 20 day timeframe.

Information Governance Manager

The Information Governance Manager is responsible for ensuring that the Trust is working within the legal framework of the Data Protection Act, Freedom of Information Act, NHS Code of Practice for Records Management, NHS Code of Practice for Confidentiality, Information Governance Standards.

Information Governance Department

Designated clerks within the Information Governance team are responsible for recording FOI requests onto the electronic database and collating information to formulate responses and that responses comply with legislation.

Local Managers

Local managers are responsible for ensuring that all staff are aware of this policy and that if any staff within their area receive a FOI request that this is reported and sent to the Communications Department.

All staff

All Trust staff, whether clinical, social care or administrative, who create, received and use organisational information have a responsibility to ensure that data is maintained safe and securely and can be accessed if processed under FOI or EIR.

6 REFERENCE DOCUMENTS

Freedom of Information Act (2000)
 Environmental Information Regulations (2004)
 NHS Code of Practice – Records Management
 Data Protection Act (1998)
 Protection of Freedoms Act (2012)
 General Data Protection Regulation (2018)

7 BIBLIOGRAPHY

No Bibliography

8 GLOSSARY

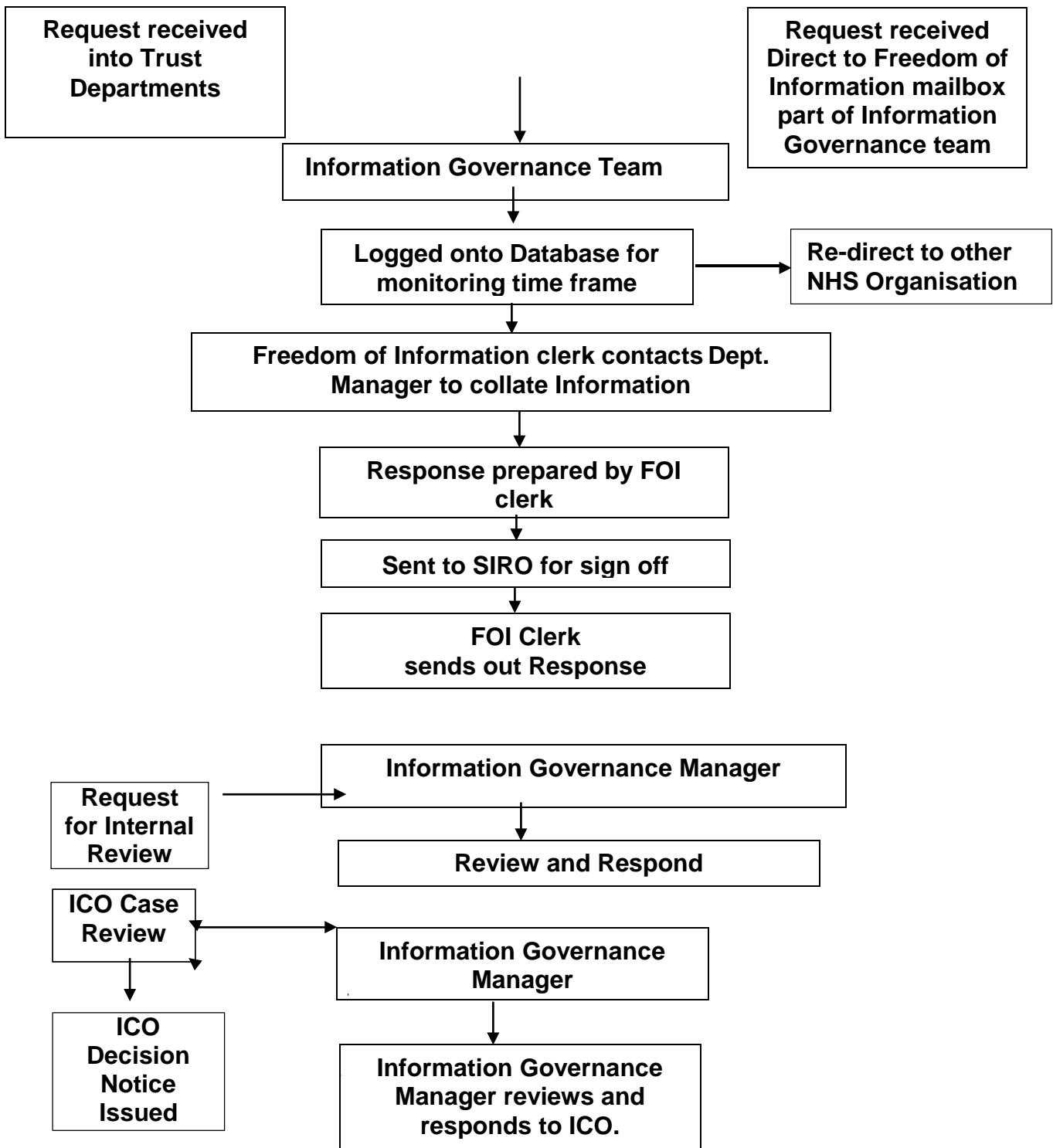
No Glossary

9 APPENDIX

FOI Flowchart

- 10 BIBLIOGRAPHY**
No Bibliography
- 11 GLOSSARY**
No Glossary
- 12 APPENDIX**
FOI Flowchart

Freedom of Information Overview of Process



Rights Analysis

Title:	Freedom of Information Act 2000 incorporating Environmental Information Regulation (EIR) 2004
Area covered:	Trust wide

What are the intended outcomes of this work? <i>Include outline of objectives and function aims</i>
To give guidance for all staff outlining their responsibilities to comply with Freedom of Information Act 2000 and Environmental Information Regulations 2004
Who will be affected? <i>e.g. staff, patients, service users etc</i>
Staff

Evidence
What evidence have you considered?
Disability (including learning disability)
Sex
Race <i>Consider and detail (including the source of any evidence) on difference ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers.</i>
Age <i>Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.</i>
Gender reassignment (including transgender) <i>Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and harassment.</i>
Sexual orientation <i>Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.</i>
Religion or belief <i>Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief.</i>
Pregnancy and maternity <i>Consider and detail (including the source of any evidence) on working arrangements, part-time working, infant caring responsibilities.</i>
Carers <i>Consider and detail (including the source of any evidence) on part-time working, shift-patterns, general caring responsibilities.</i>
Other identified groups <i>Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.</i>
Cross Cutting <i>implications to more than 1 protected characteristic</i>

Human Rights	Is there an impact? How this right could be protected?
Right to life (Article 2)	<i>Not engaged</i>
Right of freedom from inhuman and degrading treatment (Article 3)	<i>Not engaged</i>
Right to liberty (Article 5)	Not engaged
Right to a fair trial (Article 6)	Not engaged
Right to private and family life (Article 8)	<i>Not engaged</i>
Right of freedom of religion or belief (Article 9)	Not engaged
Right to freedom of expression Note: this does not include insulting language such as racism (Article 10)	Not engaged
Right freedom from discrimination (Article 14)	Not engaged

Engagement and Involvement <i>detail any engagement and involvement that was completed inputting this together.</i>

Summary of Analysis <i>This highlights specific areas which indicate whether the whole of the document supports the trust to meet general duties of the Equality Act 2010</i>
Eliminate discrimination, harassment and victimisation
Advance equality of opportunity

Promote good relations between groups

What is the overall impact?

Addressing the impact on equalities

There needs to be greater consideration re health inequalities and the impact of each individual development /change in relation to the protected characteristics and vulnerable groups

Action planning for improvement

Detail in the action plan below the challenges and opportunities you have identified. *Include here any or all of the following, based on your assessment*

- *Plans already under way or in development to address the **challenges** and **priorities** identified.*
- *Arrangements for continued engagement of stakeholders.*
- *Arrangements for continued monitoring and evaluating the policy for its impact on different groups as the policy is implemented (or pilot activity progresses)*
- *Arrangements for embedding findings of the assessment within the wider system, OGDs, other agencies, local service providers and regulatory bodies*
- *Arrangements for publishing the assessment and ensuring relevant colleagues are informed of the results*
- *Arrangements for making information accessible to staff, patients, service users and the public*
- *Arrangements to make sure the assessment contributes to reviews of DH strategic equality objectives.*

For the record

Name of persons who carried out this assessment:

Gina Kelly

Reviewed by Gina Kelly – no changes required

Stephanie White

Kate Greenwood

Date assessment completed: 19/10/2011

29th October 2015

Name of responsible Director: Jim Hughes

Date assessment was signed:

19/10/2011

IMPLEMENTATION PLAN	ISSUES IDENTIFIED/ACTION TO BE TAKEN	TIME-SCALE
<p>Co-ordination of implementation</p> <ul style="list-style-type: none"> • How will the implementation plan be co-ordinated and by whom? <p><i>Clear co-ordination is essential to monitor and sustain progress against the implementation plan and resolve any further issues that may arise.</i></p>	<ul style="list-style-type: none"> • The implementation plan will be co-ordinated by the Information Governance Manager. The plan will include distribution of the policy in accordance with the guidance in Policy and Procedure for the Development, Ratification, Distribution and Reviewing Policies and Procedures. 	<p>May 2012</p>
<p>Engaging staff</p> <ul style="list-style-type: none"> • Who is affected directly or indirectly by the policy? • Are the most influential staff involved in the implementation? <p><i>Engaging staff and developing strong working relationships will provide a solid foundation for changes to be made.</i></p>	<ul style="list-style-type: none"> • This policy is applicable to all staff working for, or with, Mersey Care NHS Foundation Trust (the trust). 	
<p>Involving service users and carers</p> <ul style="list-style-type: none"> • Is there a need to provide information to service users and carers regarding this policy? • Are there service users, carers, representatives or local organisations who could contribute to the implementation? <p><i>Involving service users and carers will ensure that any actions taken are in the best interest of services users and carers and that they are better informed about their care.</i></p>	<ul style="list-style-type: none"> • There is no need to provide service users or carers a copy of this Policy however it will be available via the Trust website or copies will be provided upon request in different formats. • Service Users and Carers will not be involved in implementing the procedure. 	

IMPLEMENTATION PLAN	ISSUES IDENTIFIED/ACTION TO BE TAKEN	TIME-SCALE
<p>Communicating</p> <ul style="list-style-type: none"> • What are the key messages to communicate to the different stakeholders? • How will these messages be communicated? <p><i>Effective communication will ensure that all those affected by the policy are kept informed thus smoothing the way for any changes. Promoting achievements can also provide encouragement to those involved.</i></p>	<ul style="list-style-type: none"> • Key messages are: <ul style="list-style-type: none"> - The Freedom of Information Act provides the general public with the right of access to organisational information and outlines the process. • All staff will be able to access the policy via their manager or the Trust website. 	
<p>Training</p> <ul style="list-style-type: none"> • What are the training needs related to this policy? • Are people available with the skills to deliver the training? <p><i>All stakeholders need time to reflect on what the policy means to their current practice and key groups may need specific training to be able to deliver the policy.</i></p>	<ul style="list-style-type: none"> • Completion of Trust Mandatory and Corporate Essential Training • Training will be on-line via the Connecting for Health IG training tool. This will be overseen by the Information Governance Manager and monitored via IGC. 	
<p>Resources</p> <ul style="list-style-type: none"> • Have the financial impacts of any changes been established? • Is it possible to set up processes to re-invest any savings? • Are other resources required to enable the implementation of the policy e.g. increased staffing, new documentation? <p><i>Identification of resource impacts is essential at the start of the process to ensure action can be taken to address issues which may arise at a later stage.</i></p>	<ul style="list-style-type: none"> • There are no additional financial implications arising from the implementation of this procedure. 	

IMPLEMENTATION PLAN	ISSUES IDENTIFIED/ACTION TO BE TAKEN	TIME-SCALE
<p>Securing and sustaining change</p> <ul style="list-style-type: none"> • Have the likely barriers to change and realistic ways to overcome them been identified? • Who needs to change and how do you plan to approach them? • Have arrangements been made with service managers to enable staff to attend briefing and training sessions? • Are arrangements in place to ensure the induction of new staff reflects the policy? <p><i>Initial barriers to implementation need to be addressed as well as those that may affect the on-going success of the policy</i></p>	<ul style="list-style-type: none"> • Consideration of potential barriers was discussed during the development of the procedure. 	
<p>Evaluating</p> <ul style="list-style-type: none"> • What are the main changes in practice that should be seen from the policy? • How might these changes be evaluated? • How will lessons learnt from the implementation of this policy be fed back into the organisation? <p><i>Evaluating and demonstrating the benefits of new policy is essential to promote the achievements of those involved and justifying changes that have been made.</i></p>	<ul style="list-style-type: none"> • Increased awareness in respect of FOI legislation. • Annual completion and compliance against Information Governance toolkit and regular reporting to the Information Governance Committee. 	<p>March annually</p>
<p>Other considerations</p>		