

TRUST-WIDE NON-CLINICAL POLICY

FREEDOM OF INFORMATION ACT 2000

Incorporating
Environmental Information Regulations (EIR) 2004

Policy Number:	IT13
Scope of this Document:	All Staff
Recommending Committee	Joint SIRO and Information Governance Group
Approved By:	Executive Director of Finance
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Lead Author(s):	Medical Director/Caldicott Guardian

TRUST-WIDE NON-CLINICAL POLICY

May 2020 – Version 11

*Striving for perfect care
and a just culture*

TRUST-WIDE POLICY

FREEDOM OF INFORMATION ACT 2000 Incorporating Environmental Information Regulations (EIR) 2004

Further information about this document:

Document name	Freedom of Information Act 2000 IT13
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 2018/General Data Protection Regulation 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 Foundation Trust.
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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 Data Protection Act 2018 General Data Protection Regulation</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	Corporate Policy Review Group	August 2015
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Version 10	Policy Group/Executive Committee	May 2019
Version 11	Executive Director of Finance approval	May 2020

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 adults, including:

- being alert to the possibility of child / adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child / 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 / 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 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, sex, race, religion and belief (or lack thereof), sexual orientation, gender reassignment, pregnancy and maternity and marital and civil partnership status. The Equality Act also requires regard to socio-economic factors.

The trust is committed to promoting and advancing equality and removing and reducing discrimination and harassment and fostering good relations between people that hold a protected characteristic and those that do not 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 with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

CONTENTS

		Page
1	Purpose and Rationale	5
2	Scope	5
3	Outcome Focused Aims and Objective	5
4	Duties	6
5	Process	8
6	Monitoring	16
7	Consultation	16
8	Training and Support	16
9	Equality Impact Analysis	16
10	Appendix	18

1 Purpose and 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.

1.1 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 an office of Information Commissioner with wider powers to enforce the rights created by the Act and to promote good practice, and an Information Tribunal;
 - a duty on the Lord Chancellor to promulgate Codes of Practice for guidance on specific issues.

1.2 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.

2.0 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.

3.0 Outcome Focused Aims and Objectives

3.1 The Policy will underpin any operational procedures and activities connected with the implementation of the Act.

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.

- 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 General Data Protection Regulation.
- 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.
- 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.
- 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 Data Protection Officer.
 - To ensure that the Trust maintains the publication scheme.

4. Duties

4.1 Policy Statement

- 4.1.1 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.
- 4.1.2 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

4.2 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.

4.3 Caldicott Guardian

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

4.4 Senior Information Risk Owner & Executive Director of Finance

The SIRO & Executive Director of Finance have a particular interest in Freedom of Information requests and have the responsibility for sign off of FOI request responses.

4.5 Senior Information Risk Owner & Executive Director of Finance

The Joint SIRO /Information Governance Committee and Executive Director of Finance are 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.

4.6 Data Protection Officer

The Data Protection Officer is responsible for ensuring that the Trust is working within the legal framework of the General Data Protection Regulation/Data Protection Act 2018, Freedom of Information Act, NHS Code of Practice for Records Management, NHS Code of Practice for Confidentiality and Information Governance Standards.

4.7 Information Governance Department

Designated administrators 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.

4.8 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.

4.9 All Staff

All Trust staff, whether clinical, social care or administrative, who create, receive and use organisational information have a responsibility to ensure that data is maintained safe and securely and can be accessed if required to process requests for information under the Freedom Of Information Act or the Environmental Information Regulations Act. Staff who receive a direct request from the Trust's FOI clerk must ensure that they can comply with the requirements of the request within the specified timeframe.

5. Process

5.1 The Publication Scheme

- i. 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.
- ii. 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:
 1. Who we are and what we do
 2. What we spend and how we spend it
 3. What our priorities are and how we are doing
 4. How we make decisions
 5. Our policies and procedures
 6. Lists and registers
 7. The services we offer.
- iii. The Trust will publish details of its Freedom of Information performance on a quarterly basis.
- iv. 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.
- v. 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.

5.2 General Rights of Access

- vi. 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 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
- vii. 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.

- viii. 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.

5.3 Conditions and Exemptions

5.3.1 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

5.3.2 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.

5.3.3 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 Trust will endeavor to use the qualified exemptions sparingly and will, in accordance with section 17 of the Act justify the use of such exemptions.

5.3.4 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.

5.3.5 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.

5.3.6 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 FOI Administrator will keep a log of all requests for information for monitoring purposes and should be able to identify repeated or vexatious requests.

5.4 Charges and Fees

5.4.1 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. Further information regarding charging can be obtained upon request.

5.4.2 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.

5.4.3 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.

5.5 Time Constraints for Compliance with Requests

5.5.1 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 Administrator onto an electronic database. It is essential that any request be sent directly to the Freedom of Information email box upon receipt.

5.5.2 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.

5.5.3 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

5.6 Means by which Information will be Conveyed

5.6.1 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.

- 5.6.2 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.
- 5.6.3 The Trust has established systems and procedures to monitor the provision of information arising from requests under the Act.

5.7 Refusal of Requests

- 5.7.1 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
- 5.7.2 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).
- 5.7.3 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
- 5.7.4 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.

5.7.5 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.

5.7.6 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.

5.8 Duty to provide advice and assistance

5.8.1 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.

5.9 Transferring Requests for Information

5.9.1 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.

5.9.2 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.

5.9.3 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.

- 5.9.4 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.
- 5.9.5 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.

5.10 Consultation with Third Parties

- 5.10.1 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 General Data Protection Regulation. The Trust would be obliged to disclose information in response to a request unless an exemption provided for in the Act applies.
- 5.10.2 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.
- 5.10.3 Where information constitutes 'personal data' within the meaning of the General Data Protection Regulation, the trust will refer to section 40 of the Act which makes detailed provision for the processing of such requests.
- 5.10.4 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.
- 5.10.5 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

5.10.6 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.

5.11 Public Sector Contracts

5.11.1 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.

5.11.2 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.

5.11.3 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.

5.11.4 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.

5.12 Accepting Information in Confidence from Third Parties

5.12.1 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.

5.12.2 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.

5.13 Complaints

- 5.13.1 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.
- 5.13.2 Complaints and appeals will be dealt with by the Information Governance Manager and will be completed within 20 days of the date of appeal.

5.14 Records Management

- 5.14.1 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.
- 5.14.2 The policy and associated procedures will address issues of active records management including the creation, storage, maintenance and ultimate disposal.
- 5.14.3 The NHS Retention/Disposal Schedule MUST be adhered to in relation to all Corporate Records and is set out in 2.15.3. The Trust has adopted the statutory retention periods for all NHS Records as detailed in the Information Governance Records Management Code of Practice for Health and Social Care, as this has been established to be the longer statutory record period. Once a Corporate record has met the statutory retention period or if it is a closed record; any NHS records held over 20 years become public records and could be deposited at a local Public Records Office will be closed for 100 years. In exceptional circumstances it may be necessary to access information under 100 years, however this would require authorisation from the Trust's Caldicott Guardian.

5.15 Publication of data-sets

- 5.15.1 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.

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

- 5.16.1 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.

6 MONITORING

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:	Joint SIRO/Information Governance Group on a quarterly and annual basis
Monitoring will be performed by:	Information Governance Manager on a quarterly and annual basis
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 on a quarterly basis
The results of monitoring will be reported to:	Joint SIRO/Information Governance Group on a quarterly basis
Resultant actions plans will be progressed and monitored through:	Joint SIRO/Information Governance Group on a quarterly basis
The auditable standards of the policy are:	Request compliance within timeframe. Request for internal review. Complaints to ICO

7 CONSULTATION PROCESS

- 7.1 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 Joint SIRO/Information Governance Group. The policy requires no further consultation across the Trust.

The following documents have been referred to in the production of this policy:

Freedom of Information Act (2000) Environmental Information Regulations (2004) NHS Code of Practice – Records Management General Data Protection Regulation Data Protection Act 2018 Protection of Freedoms Act (2012) Equality and Human Rights Analysis

8 TRAINING & SUPPORT

- 8.1 Freedom of Information training forms part of the Data Security Awareness training which is mandatory and has to be completed annually by all staff. The Information Governance Officer can be consulted if any technical queries arise relating to the policy.

9 EQUALITY IMPACT ANALYSIS

- 9.1 Mersey Care NHS Foundation Trust recognises that all sections of society may experience prejudice and discrimination. This can be true in service delivery and employment. 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. The Trust is working towards, and is committed to the elimination of unfair and unlawful discriminatory practices. All employees have responsibility for the effective implementation of this policy. They will be made fully aware of this policy and without exception must adhere to its requirements. Please see Human Rights Analysis on page 19.

9.2 Mersey Care NHS Foundation Trust also recognises its legal duties under the Human Rights Act 1998. All public authorities have a legal duty to uphold and promote human rights in everything they do. It is unlawful for a public authority to perform any act which constitutes discrimination.

9.3 Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line with the Human Rights principles of dignity, autonomy, respect, fairness and equality.

10 BIBLIOGRAPHY

No Bibliography

9 GLOSSARY

No Glossary

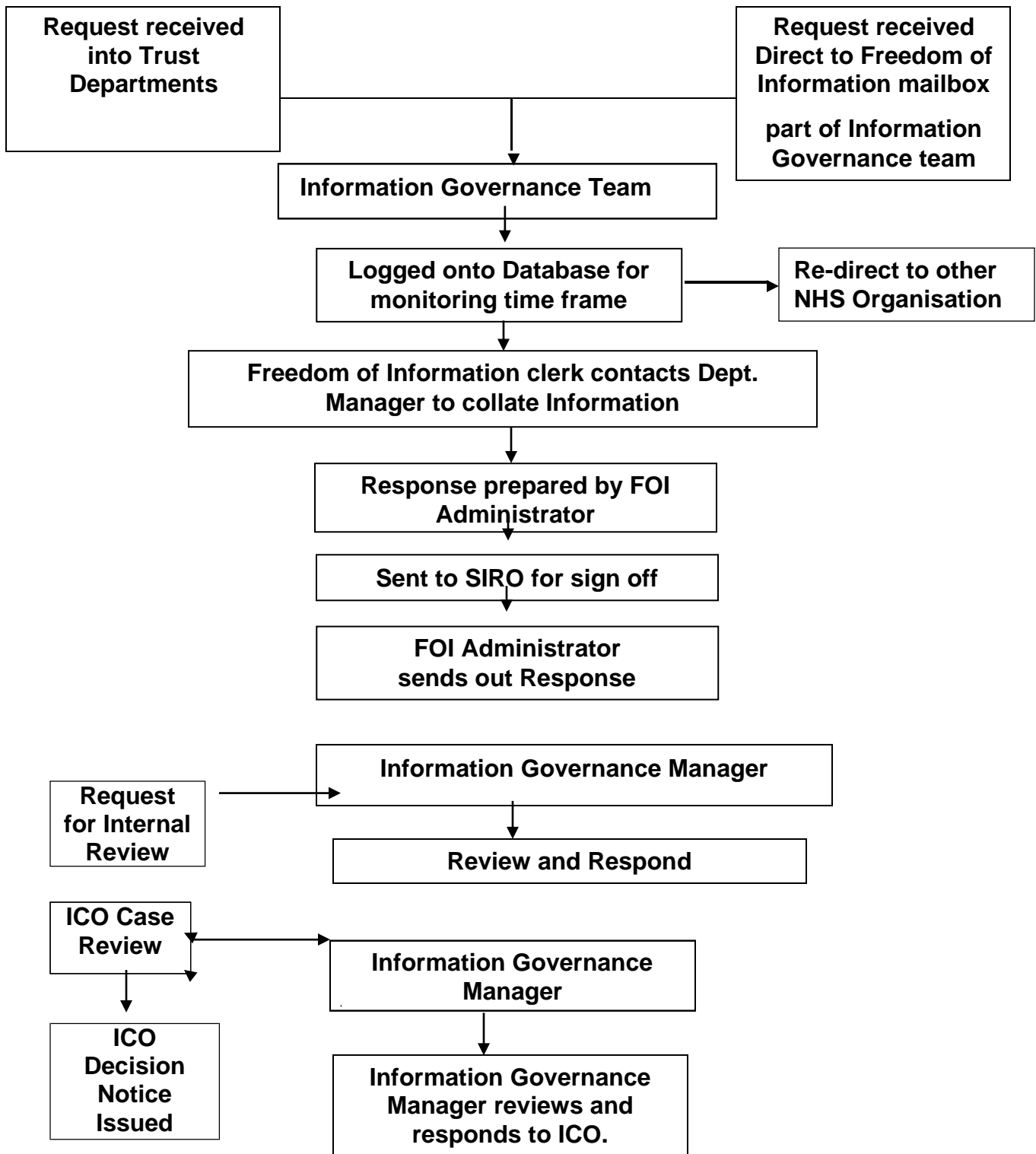
10 Definitions

No Definitions

11 Appendix

FOI Flowchart

Freedom of Information Overview of Process



Equality and Human Rights Analysis

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

What are the intended outcomes of this work? To give guidance for all staff outlining their responsibilities to comply with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004
Who will be affected? All staff

Evidence
What evidence have you considered? The document in question was read, and where necessary discussed between the assessors, in order to consider whether the policy (and its impact) will have on human rights or equality.
Disability including learning disability Document states that it is available in different formats available upon requests to the document author.
Sex Nothing noted with the analysis.
Race Nothing noted with the analysis.
Age Nothing noted with the analysis.
Gender reassignment (including transgender) Nothing noted with the analysis.
Sexual orientation Nothing noted with the analysis.
Religion or belief Nothing noted with the analysis.
Pregnancy and maternity Nothing noted with the analysis.
Carers Nothing noted with the analysis.
Other identified groups Nothing noted with the analysis.
Cross cutting Nothing noted with the analysis.

Sexual orientation Not applicable.
Religion or belief Not applicable.
Pregnancy and maternity Not applicable.
Carers Not applicable.
Other identified groups Not applicable.
Cross cutting Not applicable.

Human Rights	Is there an impact? How this right could be protected?
Right to life (Article 2)	Not engaged.
Right of freedom from inhuman and degrading treatment (Article 3)	Not engaged.
Right to liberty (Article 5)	Not engaged.
Right to a fair trial (Article 6)	Not engaged.
Right to private and family life (Article 8)	Not engaged.
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

Removed after consultation with George Sullivan (email 14/11/2013).

Summary of Analysis

Eliminate discrimination, harassment and victimisation

This policy has gone through Equality & Human Rights process.

Advance equality of opportunity

To ensure it does not directly or indirectly discriminate

Promote good relations between groups To support the Trust to meet its Equality Act duties.

What is the overall impact?

The assessment panel view is there are no equality and human rights issues with the document.

Addressing the impact on equalities Not required.

Action planning for improvement Not required.

- No actions noted

For the record

Name of persons who carried out this assessment (Min of 3):

Gina Kelly

Stephanie White

Kate Greenwood

Reviewed by Geoff Springer – no changes required

Date assessment completed: 19/10/2011, 29/10/2015

Name of responsible Director: Director of IPI

Date assessment was signed: 19/10/2011

IMPLEMENTATION PLAN	ISSUES IDENTIFIED/ACTION TO BE TAKEN	TIME-SCALE
	<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. 	May 2012
<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 Joint SIRO/Information Governance Group. 	<p>March annually</p>
<p>Other considerations</p>		