

# Policy for the Management of Freedom of Information Requests

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#### 1. INTRODUCTION

The Freedom of Information (FOI) Act was passed in 2000 and replaces the Open Government Code of Practice that has been in place since 1994. The Act gives the public a general right of access to almost all types of recorded information held by public authorities. The Act came into full effect on 01 January 2005.

The Act places a statutory obligation on all public bodies to publish details of all recorded information that they hold and to allow the general public to have access to this information on request, except where an exemption applies e.g. personal or other confidential data.

East Coast Community Healthcare C.I.C. (ECCH) is not a publicly owned organisation and therefore although not directly subject to the FOIA, is contractually obliged to assist, and cooperate with all statutory Commissioners, who are subject to the act. ECCH will however also review all FOIA's received and may choose to respond to FOIA's if it is in the best interest of the wider health system.

#### 2. PURPOSE

The purpose of this policy is to detail the procedure to follow when in receipt of a Freedom of Information request including our contractual requirements with our NHS Commissioners.

## 3. SCOPE

All ECCH staff are within the scope of this policy, including staff working in or on behalf of ECCH inclusive of contractors, temporary staff, secondees, all permanent, employees, temporary and agency staff.

#### 4. RESPONSIBILITIES

#### Chief Executive

Overall responsibility for the enforcement of this policy lies with the Chief Executive of ECCH

## The Caldicott Guardian (Executive Director of Quality & People)

Is responsible for overseeing the FOI procedure and conducting any final reviews of information leaving the organisation.

## Data Protection Officer (DPO)

Is responsible for managing the FOI procedure and ensuring all FOIs are appropriately processed in line with policy.



• **ECCH Managers** – Are responsible for ensuring that the is adhered to and followed on receipt of any FOI to their service.

## ECCH Employees

Are responsible for the implementation of this policy and following the requirements of the policy.

#### 5. POLICY STATEMENT

ECCH will use all appropriate and necessary means to ensure that it complies with FOI legislation.

#### 6. PROCEDURE

Any staff member receiving a request for information under the auspices of the FOIA must forward the request immediately, without delay, to the Executive Director of Quality – Caldicott Guardian, & the Data Protection Officer (DPO) via the <a href="mailto:caldicott@ecchcic.nhs.uk">caldicott@ecchcic.nhs.uk</a> email box. All FOIA's will then be logged by the Quality Admin Team and processed in line with the FOIA procedure flow chart in <a href="mailto:Appendix 2">Appendix 2</a> detailing the procedure for ECCH and Commissioner requests. For Commissioners requests please also refer to <a href="mailto:Appendix 1">Appendix 1</a> – 'Insert extract from Contract Module C Clause 27.5' Any information that is sent out for as part of an FOI request must be viewed by the DPO and Caldicott Guardian prior to it being sent out of the Organisation.

#### 7. MONITORING AND REVIEW

The Information Governance and Caldicott Group will undertake the monitoring and review of this policy and procedure. This policy and procedure will be reviewed every three years (or earlier in light of new legislation/guidance).

#### 8. AUTHOR

**Data Protection Officer** 

## 9. ASSOCIATED POLICIES (To include but not limited to)

- Information Governance Policy
- Subject Access Request Policy
- Data Protection Policy
- Confidentiality Policy



## 10.REFRENCES

https://ico.org.uk/for-organisations/guide-to-freedom-of-information/

11.APPENDICES



## **Appendix 1 - Insert extract from Contract Module C Clause 27.5**

#### Freedom of Information and Transparency

- 27.5.1 Where the Provider is not a Public Authority, the Provider acknowledges that the Commissioner is subject to the requirements of the FOIA and shall assist and co-operate with the Commissioner to enable the Commissioner to comply with its disclosure obligations under the FOIA. Accordingly, the Provider agrees:
- 27.5.2 that this Agreement and any other recorded information held by the Provider on the Commissioner's behalf for the purposes of this Agreement are subject to the obligations and commitments of the Commissioner under the FOIA;
- 27.5.3 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA is a decision solely for the Commissioner to whom the request is addressed;
- 27.5.4 that where the Provider receives a request for information under the FOIA, it will not respond to such request (unless directed to do so by the Commissioner to whom the request is addressed) and will promptly (and in any event within 2 Operational Days) transfer the request to the Commissioner;
- 27.5.5 that the Commissioner, acting in accordance with the codes of practice issued and revised from time to time under both section 45 of the FOIA, and regulation 16 of the Environmental Information Regulations 2004, may disclose information concerning the Provider and this Agreement either without consulting with the Provider, or following consultation with the Provider and having taken its views into account; and
- 27.5.6 to assist the Commissioner in responding to a request for information, by processing 'information' or 'environmental information' (as the same are defined in the FOIA) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of the FOIA, and providing copies of all information requested by the Commissioner within 5 Operational Days of such request and without charge.



## **Appendices 2 - FOIA Procedure Flow Chart**

## Freedom of Information Requests (FOI)

(For more information on FOI's:

https://ico.org.uk/for-organisations/quide-to-freedom-of-information/what-is-the-foi-act/)

All Freedom of Information Requests (FOI) will be sent immediately on receipt to the Executive Director of Quality, Deputy Director of Quality & the Data Protection Officer (DPO).

The DPO will arrange for the Quality Admin Team to log all <u>FOL's</u> on receipt; recording date received and any actions and decisions taken throughout the process including dates and details of any information provided.

A review of the FOI will then take place to ascertain if it is a request for the Commissioner or ECCH.

(As a Social Enterprise, East Coast Community Healthcare CIC is not subject to Freedom of Information Act requests however it is contractually obliged to provide information to the Commissioner to assist with any of their FOI's. ECCH will however review each FOI individually and may respond to this it is in the best interest of the wider health network.)

#### Commisioner

## East Coast Community Healthcare

The FOI will be immediately sent and in any event within 2 Operational Days to the Commissioner's nominated Officer. The FOI will be immediately sent and in any event within 2 Operational Days to the relevant Director and Deputy Director in relation to the request for their review.

Any staff member who receives a subsequent request from a Commissioner for copies of information requested will provide this within 5 Operational Days of the request at no charge A discussion will be held with them to decide whether the request will be responded to or not.

(Consideration should be given to the benefits and risks of disclosure of information in relation to the wider health network)

The contractual timescales indicated above must be adhered to. Exceptions to this must be reported directly to the Executive Director of Quality, Deputy & Director of Quality and for logging to the Data Protection Officer.

## FOI to be Declined

Response to be sent including the below statement:

'As a Social Enterprise,
East Coast Community
Healthcare CIC is not
subject to Freedom of
Information Act requests
as has been determined
by the Information
Commissioner's Office.
Therefore we will not be
responding to your request
for information.'

# FOI to be Completed

A letter/email of acknowledgement of the request is to be sent to the enquirer including the below statement:

'As a Social Enterprise,
East Coast Community
Healthcare CIC is not
subject to Freedom of
Information Act requests
as has been determined
by the Information
Commissioner's Office.
However following a
review of your request a
decision to process it has
been made on this
occasion.'

Relevant staff members to be contacted to provide information within 5 Operational Days of the request.

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FOI response to be sent within 20 working days from receipt.

All FOI responses and information to be sent out of the organisation must be reviewed and approved by:

- The relevant Service Lead/Director
- The Data Protection Officer & Caldicott Guardian Email: <a href="mailto:caldicott@ecchcic.nhs.uk">caldicott@ecchcic.nhs.uk</a>

A copy should also be shared with ECCH's Comms Team for awareness.

Email: comms@ecchcic.nhs.uk





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# **Version Control**

<b>Version Date</b>	Version No.	Author/ Reviewer	Comments
April 2019	3	Heather Howman DPO	No changes
March 2021	4	Hannah Lewis - DPO	Added to updated Policy template. Updated process following consultation with Executive Team and added flow chart. Full review.
Feb 2023	5	Hannah Sewell DPO	Updated email for Comms / Added to new template
Sept 2023	6	Hannah Sewell DPO	Updated responsibilities.  Updated flow chart of procedure to include more detailed check to information being sent out.  Updated responsibilities to include
June 2025	7	Hannah Sewell DPO	checks.  Added appendix links throughout as required. Updated title of Executive Director of Quality and People.