

Policy for the management of Freedom of Information Requests

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DOCUMENT CONTROL SHEET

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Version Control

Version Date	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.

EQUALITY AND DIVERSITY IMPACT ASSESSMENT

Impact Assessments must be conducted for:

- All ECCH policies, procedures, protocols and guidelines (clinical and non-clinical)
- Service developments
- Estates and facilities developments

Name of Policy / Procedure / Service	Policy for the management of Freedom of Information requests
Manager Leading the Assessment	Hannah Lewis
Date of Assessment	March 2021

STAGE ONE – INITIAL ASSESSMENT

<p>Q1. Is this a new or existing policy / procedure / service?</p> <p><input type="checkbox"/> New</p> <p><input checked="" type="checkbox"/> Existing</p>
<p>Q2. Who is the policy / procedure / service aimed at?</p> <p><input type="checkbox"/> Patients</p> <p><input type="checkbox"/> Staff</p> <p><input checked="" type="checkbox"/> Visitors</p>
<p>Q3. Could the policy/procedure/service affect different groups (age, disability, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation) adversely?</p> <p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>If the answer to this question is NO please sign the form as the assessment is complete, if YES, proceed to Stage Two.</p>

Analysis and Decision-Making

Using all of the information recorded above, please show below those groups for whom an adverse impact has been identified.

Adverse Impact Identified?

Age	No
Disability	No
Gender reassignment	No
Marriage and civil partnership,	No
Pregnancy and maternity	No
Race	No
Religion or Belief	No
Sex	No
Sexual Orientation	No

- Can this adverse impact be justified?
- Can the policy/procedure be changed to remove the adverse impact?

If your assessment is likely to have an adverse impact, is there an alternative way of achieving the organisation's aim, objective or outcome

N/A

What changes, if any, need to be made in order to minimise unjustifiable adverse impact?

N/A

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1. INTRODUCTION

The Freedom of Information Act 2000 (FOIA) gives rights of public access to information held by public authorities.

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 co-operate with the 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 network.

2. PURPOSE

This Policy informs East Coast Community Healthcare staff and contractors of the procedure to follow when in receipt of a Freedom of Information request.

3. SCOPE

The contractual requirements with NHS Commissioners are detailed at Appendix 1 and Appendix 2 is the full FOIA procedure flow chart.

4. RESPONSIBILITIES

All Directors, staff and subcontractors.

5. POLICY STATEMENT

Managers must ensure all staff are aware of this procedure and Business Unit Leaders are advised to assure themselves of suitable arrangements for implementing it.

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, Deputy Director of Quality & the Data Protection Officer (DPO). All FOIA's will then be logged and processed in line with the FOIA procedure flow chart in Appendix 2 detailing the procedure for ECCH and Commissioner requests. For Commissioners requests please also refer to Appendix 1 – 'Insert extract from Contract Module C Clause 27.5'

7. MONITORING AND REVIEW

Annual performance audit.

This policy will be reviewed every 2 years or sooner if required.

8. AUTHOR

Data Protection Officer

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

- Information Governance Policy
- Access to Health Records Policy and Procedure Guidance

10. REFERENCES

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

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 Act Requests (FOIA)

For more information on FOI's:

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/what-is-the-foi-act/>

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

The DPO will log all FOIA's 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 FOIA will then take place to ascertain if it is a request for the Commissioner or ECCH.
(As a Social Enterprise, ECCH 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 FOIA's. ECCH will however review each FOIA individually and may respond to this if it is in the best interest of the wider health network.)

Commissioner

The FOIA will be immediately sent and in any event **within 2 Operational Days** to the Commissioner's nominated Officer.

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

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.

East Coast Community Healthcare

The FOIA 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.

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)

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** to their Director & Deputy Director for review and final compilation prior to sending.

FOIA response to be sent within **20 working days from receipt**.

The ECCH Communications Team must be copied into any FOIA feedback/responses sent:
ECCH.comms@nhs.net