

# FREEDOM OF INFORMATION ACT (2000) ANNUAL REPORT 2014-15

## Report

### 1. Introduction

- 1.1 The report provides an overview of the work undertaken during the financial year 2014/15 in meeting the requirements of the Freedom of Information Act (2000).
- 1.2 The Freedom of Information Act (2000) provides access to information held by public authorities. This is delivered in two ways:
  - Public authorities are obliged to publish certain information about their activities through a Publication Scheme usually on their website.
  - Members of the public are entitled to request information from public authorities.
- 1.3 The Act covers any recorded information that is held by a public authority in the UK, including printed documentations, computer files, letters, email, photographs, sound, or video recordings. Printed documentation can be either handwritten or electronic.
- 1.4 The Act does not give people access to their own personal data such as their health records. However these may be requested under "Subject Access Requests" under the Data Protection Act.
- 1.5 The Trust has a legal duty to reply to any request made under the Act within 20 working days counting from the first working day after the request is received. Anyone, anywhere in the world can make a request under the Act.
- 1.6 The Trust can refuse to reply to the request as long as it can justify the reason based on 23 exemptions outlined in the Act. The Information Commissioner's Office can receive complaints from any of the requesters if they feel that the Trust has not complied appropriately with the Act and could lead to formal proceedings being taken against the Trust.

### 2. Process for dealing with FOIs

- 2.1 The following process is in place for dealing with FOI requests:
  - All FOI requests received by the Trust are acknowledged and logged within 48 hours
  - Staff members are identified to supply the information and are given 10 working days to collect the data.
  - The Corporate Services Manager drafts a response ensuring that the Act is interpreted appropriately.
  - All responses are approved by the relevant senior manager before being sent.

### 3. FOI Performance for the financial year (April 2014 – March 2015)

- 3.1 The total number of information requests received under the Freedom of Information Act between 1 April – 31 March 2015 was **263**. All requesters received a response. **95%** of requests were dealt with within the statutory timeframe of 20 working days. An overview is provided in Table 1.

Table 1

	<b>Total no of requests received</b>	<b>Requests dealt with within 20 days</b>	<b>Requests outside of 20 days</b>	<b>Percentage on time</b>
Apr – Jun (Q1)	74	68	6	91%
Jul – Sep (Q2)	47	44	3	94%
Oct – Dec (Q3)	72	70	2	97%
Jan – Mar (Q4)	70	70	0	100%
<b>Total</b>	<b>263</b>	<b>252</b>	<b>11</b>	<b>95%</b>

The Trust performs well when compared with the performance of other NHS organisations in London during the same period. See table 2 below.

Table 2

<b>Trust</b>	<b>Total no. of requests per year</b>	<b>Percentage on time</b>
A	618	72%
B	459	47%
C	306	92%
D	218	91%
E	537	44%
F	586	86%
G	602	59%
BEHMHT	263	95%

### 3.2 Category of Requesters

- 3.2.1 Table 3 lists the number of requests by category of requester. Requests for information came from a variety of sources and mainly via email. Requesters have an obligation to provide their name and address under the Act. (An email address is acceptable). Whilst some requesters provide their full address or the name of their organisation, the majority only provide a name and an email address. These are listed as “private” in the table below.

Table 3

<b>Category of Requesters</b>	<b>Number of requests received each quarter</b>				<b>Total per category</b>
	<b>Q1</b>	<b>Q2</b>	<b>Q3</b>	<b>Q4</b>	
Private	25	13	14	19	71
Commercial organisations	10	13	13	16	52
Media	10	1	7	7	25
NHS	6	6	4	7	23
Websites dedicated to FOI requests	7	4	7	5	23
Members of the Public	4	2	8	3	17
Voluntary Organisations/Campaign Groups	3	3	6	3	15
Students/Academic institutions	6	1	5	4	16
Members of Parliament	3	3	3	3	12
Staff	0	1	5	3	9
<b>Total:</b>	<b>74</b>	<b>47</b>	<b>72</b>	<b>70</b>	<b>263</b>

### 3.3 Types of information requested

3.3.1 The subject matter of FOI requests varied and often one request had multiple strands. The following themes were consistent:

#### **Trust corporate matters:**

- Trust annual expenditure
- Trust policies
- Bank and agency staff spending
- IT Systems and equipment
- Contracting and procurement
- Information relating to Complaints handling

#### **Clinical services related matters:**

- Patient safety and incidents
- Confidentiality breaches
- ECT treatment
- Child and Adolescent services
- Bed management – Bed pressures
- Prescribing/Pharmacy information
- Information relating to the estates of deceased patients
- Organisational structures
- Mental Health Act
- Waiting times
- Health Records

3.3.2 The Trust took the opportunity during the year to revise the content of its publication scheme in line with the ICO's revised publication scheme issued in June 2014. It has recently started the process of publishing a disclosure log and encouraging requesters to look through this before submitted a request.

### 3.4 Internal Reviews and Complaints

3.4.1 The Trust dealt with three complaints to the Information Commissioner's Office during the year.

#### **Complaint 1**

A complaint to the ICO from the previous financial year led to an ICO Decision Notice being issued in April 2014. The requester appealed against this Decision Notice and the case was forwarded to the General Regulatory Chamber for a First Tier Tribunal. The outcome was that the FTT issued a substitute Decision Notice on 24 October 2015 Their decision was final and binding on all parties and this case is now closed.

#### **Complaint 2**

A complaint to the ICO in October 2014 led to a Decision Notice being issued in April 2015. The requester appealed against the Decision and at the time of writing this report the ICO are considering the appeal.

#### **Complaint 3**

A complaint to the ICO in February 2015 was dealt with and resolved informally.

3.4.2 One requester not satisfied with their response and wrote back to seek an internal review. The Trust reviewed the information provided and the request was resolved.

### 3.5 Exemptions

3.5.1 Disclosure of some of the information requested under the Act may be refused for one of the following reasons:

- The information falls under one or more of the 23 exemptions under the Act.
- The cost of processing the request would exceed the appropriate limit set, which is £450 for NHS organisations. This is calculated £25.00 per hour and a limit of 18 man-hours.
- The request is considered to be repeated or vexatious.

3.5.2 A total of 36 exemptions were applied during the year, see table 3 below. It is important to note that where Trust information is accessible to applicants by other means, applicants are directed to the relevant resource.

Table 3

Exemption	Description	Number of times applied	Reason
Section 12	The request would exceed the cost limit as defined by the Act.	4	Locating and retrieving the information would exceed the cost limit
Section 21	Information accessible to applicant by other means	12	Already published as part of the Trust Publication Scheme on the Trust website
Section 22	Information intended for future publication	2	Documents in draft form that will be published in the near future
Section 36	Prejudice of effective conduct of public affairs	2	Disclosure of information would be likely to inhibit the free and frank provision of exchange of views for the purpose of deliberation
Section 40	Personal information	8	Personal data within the meaning of the Data Protection Act 1998
Section 41	Information provided in confidence	4	Personal information relating to deceased patients
Section 43	Commercial interests	4	Disclosure could prejudice the commercial interests of the Trust or a third party

### 3.6 Fees

3.6.1 The fee regulations of the Act indicate that an appropriate limit for processing a request is £450 for NHS organisations. Trusts can charge this fee if they can demonstrate that the cost of processing a request will exceed this limit. In some cases communication costs can also be recovered, such as for photocopying, printing and postage. There were no requests during the year where the Trust was required to recover fees.

### 3.7 Repeated or Vexatious Requests

3.7.1 There were no requests that were considered as repeated or vexatious during the year.

#### **4. Model Publication Scheme**

- 4.1 In 2008 the ICO issued a model Publication Scheme which set out certain classes of information which must be made routinely available. It set out the framework that public authorities must follow to meet their legal obligations under the FOI Act and to demonstrate their commitment to openness and to build trust with the public. This included financial information, minutes of public meetings, annual reports and policies and procedures.
- 4.2 As well as responding to requests for information, the Trust must publish information proactively. The ICO reviewed and revised its publication scheme in June 2014 and expects organisations to keep their publication schemes up to date in order to comply with their legal duties under FOIA.
- 4.3 In 2014/15 the Trust reviewed and revised the content of its publication scheme on the website so that it met the revised scheme.

#### **5. Monitoring of FOI Requests**

- 5.1 The Trust's Information Governance Forum meets every two months and is chaired by the Chief Information Officer, who is the Trust's Senior Information Risk Officer (SIRO). The IG Forum oversees the following regarding delivery of the FOI Act.
- Review of the Trust's FOI performance
  - Review of staff awareness regarding FOIs
  - Review of any reports to the Trust Board
  - Review of the Trust Model Publication Scheme
  - Review of the assurance required to meet the requirements of the IG Toolkit

### **Implications**

#### **6. Budgetary / Financial Implications**

- 6.1 Failure to comply with the FOI Act 2000 could lead to complaints to the Information Commissioner's Office who can impose sanctions on the Trust, including monetary penalties.

#### **7. Risk Management**

- 7.1 Failure to comply with the FOI Act 2000 could lead to complaints being made against the Trust to the Information Commissioner's Office. The ICO could monitor the Trust for compliance.

#### **8. Equality and Diversity Implications**

- 6.1 None.