

## Freedom of Information Policy

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### **Circulation list**

Prior to approval, this policy was circulated to

- CCG customer care team
- Patient Advisory Group
- Equality and Diversity Lead
- Members of CCG and CSU embedded staff

Following Approval this Policy Document will be circulated to:

- All CCG and CSU embedded staff
- Patient Advisory Group

### **Equality impact assessment**

This document has been impact assessed by the CCG. No issues have been identified in relation to equality, diversity and inclusion.

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## Policy Summary

This policy sets out the process for which NHS Greater Preston identifies, acknowledges and responds to requests made to the CCG under the Freedom of Information Act 2000, ensuring that all requests are processed in accordance with the Act and other relevant legislation.

### 1.0 Introduction

- 1.1 The Freedom of Information (FOI) Act 2000 sets out an obligation to all public authorities to be open and transparent with the information they hold. It enables members of the public to question the decisions of public authorities more closely and thereby ensure that the services provided are efficiently and properly delivered.
- 1.2 If a member of the public requests information, information will only be provided that is held in recorded form.
- 1.3 The FOI Act contains two main parts:
  - The right of an individual to request information about, or held by a public authority in relation to any of its duties.
  - The legal obligation of a public authority to actively publish certain information within a publication scheme and provide a guide to this information.
- 1.4 This document:
  - Sets out the FOI policy for NHS Greater Preston Clinical Commissioning Group (CCG).
  - Provides a framework to ensure that the CCG complies with the FOI Act 2000 and deals with all FOI requests in a timely and consistent manner.
  - Highlights to all CCG staff their responsibilities under the FOI Act.

### 2.0 Scope

- 2.1 This policy applies to all employees of NHS Greater Preston CCG including Governing Body members, employees on temporary contracts, agency staff, consultants, apprentices and students.
- 2.2 This policy provides a framework within which NHS Greater Preston CCG will ensure compliance with the requirements of the FOI Act 2000.
- 2.3 This policy does not cover requests for people to access their own personal data (information about themselves) such as their health records, or HR information. If a member of the public wishes to see information that a public authority holds about them, they should make a 'subject access request' under the Data Protection Act 1998. More information about subject access requests can be found on the Information Commissioner's Office (ICO) website: <https://ico.org.uk/for-the-public>.

- 2.4 A guide to the FOI Act 2000 can be found on the ICO website:  
<https://ico.org.uk/for-organisations/guide-to-freedom-of-information>.
- 2.5 Anyone may request information under the Act. A valid request must be made in writing, stating; the name of the applicant, an address (postal or e-mail) for correspondence, a description of the information requested, and the format in which the information is to be supplied.
- 2.6 'In writing' can be letter or e-mail.
- 2.7 A request for information made under the FOI Act 2000 does not need to state the Act within it.
- 2.8 Requests for information under the FOI Act 2000 should be made to the CCG in writing and sent to:

The Customer Care Team  
NHS Greater Preston Clinical Commissioning Group  
Chorley House  
Lancashire Business Park Centurion Way  
Leyland  
Lancashire  
PR26 6TT

Or by email to [gpccg.foi@nhs.net](mailto:gpccg.foi@nhs.net)

- 2.9 This policy should be read in conjunction with the CCG's customer care policy which can be accessed via the CCG website:  
<https://www.greaterprestonccg.nhs.uk/how-to-make-a-complaint>
- 2.10 A list of useful contacts and resources is illustrated within Appendix 2.

### **3.0 Principles**

- 3.1 The main principle behind the FOI legislation is that people have a right to know about the activities of public authorities, unless there is a good reason for them not to. This means that:

- Everybody has a right to access official information unless there is a good reason not to share the information. There are a number of exemptions permitted under the Act that are set out in appendix 1.
- An applicant (known as the requester) is not required to give a reason for wanting the information.
- The information someone can obtain under the Act should not be affected by who they are. All requesters should be treated equally, whether they are journalists, local residents, public authority employees, or researchers.
- Any information released to a requester under the Act should be treated as if

it were being released into the public domain that is accessible to all.

## **4.0 Responsibilities**

### **The role of the Information Commissioner's Office (ICO)**

- 4.1 The ICO is the UK's independent authority established to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The ICO holds the power to enforce the rights created by the Act. This is done through ruling of complaints, providing information to individuals and organisations and taking the appropriate action when the law is broken.
- 4.2 In promoting good FOI practice, the ICO provides a number of guidelines, which can be used to help organisations to meet their obligations under the Act.
- 4.3 Full information regarding the role of the ICO can be found on its website at [www.ico.gov.uk](http://www.ico.gov.uk).

### **CCG responsibilities**

- 4.4 It is the responsibility of every staff member to be aware of the FOI Act 2000. Requests made under the Act do not have to mention the Act and can be given to any member of staff working for NHS Greater Preston CCG.
- 4.5 When creating information such as e-mails, documents or anything written down, members of staff should be aware that this can be requested under FOI. Marking an item as 'confidential' or submitting documents to 'private meetings' does not necessarily prevent its release.
- 4.6 The Chief Officer of NHS Greater Preston CCG has ultimate responsibility for the CCG's compliance with the FOI Act 2000. The CCG has delegated day-to-day responsibility for implementing the Act to the Head of Strategy and Corporate Services.
- 4.7 The Director of Quality and Performance will have ultimate responsibility for the sign off of all FOI requests, which will also be delegated as needed.
- 4.8 The CCG will ensure that staff responding to FOI requests have received the appropriate training to do so.
- 4.9 The CCG will ensure that awareness of FOI is cascaded to all staff via the annual mandatory Information Governance (IG) training, and IG induction training.
- 4.10 Managers at all levels are responsible for ensuring that the staff for whom they are responsible are aware of, and adhere to, this policy. They are also responsible for ensuring that staff are updated in regard to any changes in this policy.
- 4.11 The CCG's customer care team will be responsible for logging, investigating and responding to any requests for information made under the FOI Act 2000.

- 4.12 Individual members of staff or teams regarded as 'subject experts' will be asked to supply information in a timely matter to the customer care team as part of their investigations.
- 4.13 Members of staff need to be aware that when they are asked to provide information for an FOI request, that there is a time limit involved (see 5.2).
- 4.14 If there are any queries from members of staff about releasing information under the exemption criteria, the customer care team will offer advice, but ultimately it is the responsibility of the Director of Quality and Performance to make final decisions relating to whether an exemption can be applied.

## **5.0 Processing FOI requests**

- 5.1 The date of receipt of the FOI request is the day that the request is received by the organisation and not the date it is received by the individual who processes requests.
- 5.2 The timescale for the CCGs to respond to a request made under the FOI Act 2000 is within 20 working days of receipt, in accordance with section 10 of the Act.
- 5.3 The 20 day timeframe will commence the next working day after receipt of the request.
- 5.4 It may sometimes be necessary to extend this timeframe, for example to assess the public interest to release the information. In these circumstances, the response will be made within 40 working days, with notification given to the requester.
- 5.5 If a request for information under the FOI Act 2000 is received by a member of CCG staff who is not a member of the customer care team, it is important that they hand the request in person to a member of the customer care team, or email it directly to the team at: [gpccg.FOI@nhs.net](mailto:gpccg.FOI@nhs.net) as soon as they receive it.
- 5.6 Once an FOI request is received, the customer care team will:
- Check that the request for information under the FOI Act 2000 is a valid request.
  - Log the request onto the CCG's secure Pentana system.
  - Acknowledge the request to the requester, in writing, within three working days.
  - Respond to the requester within 20 working days.
- 5.7 A copy of the process flowchart is illustrated within Appendix 3.

## **6.0 Duty to provide advice and assistance**

- 6.1 Under section 17 of the FOI Act 2000, the CCG has a duty to provide advice and assistance to anyone who has made, or wishes to make, requests for information.
- 6.2 The CCG will ensure that systems and processes are in place to meet this duty.



This will include making all staff aware of their responsibilities under FOI via the established staff communications methods and training programmes.

## **7.0 Requests which appear to be part of an organised campaign**

7.1 Where a number of requests made by different people appear to form part of an organised campaign, the CCG may calculate the cost of complying with any of the requests as the cost of complying with them all. If this cumulative cost is estimated to exceed the appropriate limit that is set in the national regulations (18 hours), the CCG is not required to comply with the requests.

7.2 Where 7.1 is the case, the CCG will consider whether it is possible to publish the information on the FOI section of the CCG website and forward details of the link to each of the applicants.

## **8.0 Multiple requests from one party**

8.1 Where a number of requests are made by one party, the CCG may calculate the cost of complying with the requests as the cost of complying with them all. If this cumulative cost is estimated to exceed the appropriate limit that is set in the national regulations (18 hours), the CCG is not required to comply with the requests.

8.2 Where 8.1 occurs, and the requests are received within a short space of each other, the requester will be asked to prioritise their requests. The CCG will then respond to as many requests as possible within the appropriate time limit.

## **9.0 Transferring requests for information**

9.1 Where the CCG receives a request for information that it does not hold, but which is held by another public authority, the request for information may be transferred.

9.2 If a request is partly for information, which the CCG does hold, and partly for information which it does not, the transfer will only be made in respect of the information it does not hold. The CCG would then continue to process the request for the information that is held.

9.3 Wherever possible, the CCG will inform the requester which organisation may hold the information not held, and offer the requester contact details.

## **10.0 Seeking clarification**

10.1 When processing requests, there may be times when the CCG may require the requester to provide clarification over all or part of the information requested.

10.2 When this occurs, the CCG will write to the requester expressing in detail what further information is required.

10.3 The CCG, wherever possible, will help the requester in clarifying the request.

- 10.4 Requests for clarification fall outside the 20 working days timescale to process requests. Therefore, requesters are encouraged to respond promptly to ensure that their request is processed as quickly as possible.
- 10.5 The 20 day timeframe will be paused until clarification is received.
- 10.6 Clarification may be discussed over the telephone in order to resolve clarification issues quickly.
- 10.7 Calls made to and from the customer care team are recorded for training and monitoring purposes.

## **11.0 Gathering information**

- 11.1 In order to respond to an FOI request, the customer care team will seek information from CCG subject experts, teams or individual members of staff.
- 11.2 When requesting information, the customer care team will:
- Clarify full details of the FOI request.
  - Ask the person they have contacted to confirm that they do hold the information, or clarify within five working days the person/ team who may hold the information if it is not them.
  - If the response internally is not received within five days it will be escalated to the department head.
  - Confirm timescales that the information is required by.

## **12.0 Applying exemptions and extensions**

- 12.1 The CCG's duty to provide information under the FOI Act 2000 is subject to certain conditions or exemptions.
- 12.2 A list of exemptions is supplied in appendix 1 of this policy.
- 12.3 If the information requested is held, but meets one of the conditions outlined in the Act exempting it from disclosure, the requester will be issued with a refusal notice, which will inform them which exemption(s) has been applied, and the reasoning behind withholding the information.
- 12.4 All refusal notices provided by the CCG will contain details of how to appeal, both internally and to the ICO.
- 12.5 If the CCG holds some of the information, but some is exempt, the customer care team will provide the information that is not exempt.
- 12.6 If the CCG intends to withhold some information, there is a duty to explain the decision. This should be done within 20 working days, but if the CCG needs to consider the public interest test, they are entitled to a reasonable extended period.
- 12.7 If an extension is required, the CCG will estimate to the requester when they expect to reach a decision outside of the 20 working day period.

### **13.0 The Public interest test**

- 13.1 Public interest will be considered in every case where a qualified exemption is applied.
- 13.2 Defining public interest may vary according to the information requested. It may involve decisions about accountability, transparent decision making and good management. When considering the public interest to reach a decision on an exemption, the CCG will seek appropriate advice. This may include legal advice.

### **14.0 Response letters**

- 14.1 Once the information relating to the FOI has been gathered, the customer care team will generate a draft response letter.
- 14.2 The draft letter will be sent to the CCG's FOI lead: Director of Quality and Performance for amendment, approval or sign off.
- 14.3 Any necessary amendments will be undertaken by the customer care team and sent back to the Director of Quality and Performance to amend, approve or sign off.
- 14.4 Once the final response has been signed off, the customer care team will send out the final response to the requester.
- 14.5 If the request was emailed to the CCG, a PDF copy of the final response will be emailed to the requester. The case will then be closed on the Pentana system.
- 14.6 If the request was made by post, the final response will be posted out to the requestor. The case will then be closed on the Pentana system.

### **15.0 FOI complaints procedure**

- 15.1 If a requester is dissatisfied with the way that their request has been processed, they have a right to ask for an internal review to be conducted.
- 15.2 If an applicant is dissatisfied with the response they should contact the CCG's customer care team via post or email at the addresses outlined in 3.7.
- 15.3 In conforming to section 45 of the FOI Act 2000, internal reviews will be conducted by a member of staff within the customer care team who has not been involved in responding to the original request, and therefore can give an impartial, independent opinion.
- 15.4 Wherever possible, internal reviews will be conducted within 20 working days.
- 15.5 On receiving an appeal, the customer care team will let the requester know promptly if they feel that the review will exceed 20 working days.
- 15.6 If a requester remains dissatisfied with the outcome of an appeal, they have the

right to make a complaint against the CCG to the ICO. This can be done in writing to:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## **16.0 Publication scheme**

- 16.1 It is a legal requirement of all public authorities to publish certain categories of information in the form of a publication scheme, showing commitment to routinely and proactively providing information to the public.
- 16.2 NHS Greater Preston CCG has developed a section on its website that provides information in relation to previous FOI requests, key documents such as the annual report and Governing Body papers and meeting schedules. It can be found at: <http://www.greaterprestonccg.nhs.uk/how-to-make-a-freedom-of-information-request>. Previous FOI responses can be found on the CCG's website at: <https://www.greaterprestonccg.nhs.uk/previous-freedom-of-information-requests>
- 16.3 The content held on the CCG website is subject to regular reviews. As part of this, the CCG will identify where frequent requests have been made for the same information and aim to proactively publish this information, wherever possible.

## **17.0 Charges and fees**

- 17.1 The FOI Act and associated Fees Regulations stipulate that the CCG cannot levy a fee for information unless there is a statutory basis for doing so, or the amount of time taken to locate the information takes longer than 18 hours.
- 17.2 Although the CCG does not generally charge for any information supplied under the FOI Act, or as part of its publication scheme, it is allowed to charge for disbursements related to the provision of information, and any reformatting requested by the requester of the information under the Act provided that the CCG makes the requester aware of the charges. This can also apply when multiple page hard copies are requested, or information is to be copied onto other media (e.g. disc).
- 17.3 Where charges are applicable, a fees notice will be issued to the requester as required under section 9 of the FOI Act.
- 17.4 Timescales for responding to an FOI may change if a charge or fee has occurred. The working days in the period between the requester's receipt of the notice fee and the CCG receiving payment will not be included in the 20 working day calculation.

## **18.0 Re-use of information**

18.1 NHS Greater Preston CCG allows all information held on its website and supplied under the FOI Act to be re-used free of charge with the following conditions:

- Information supplied freely by the CCG should not be re-used for commercial profit or gain.
- Information should be re-used in the context to which it was originally supplied, and not altered without the express permission of NHS Greater Preston CCG.

## **19.0 Equality and diversity**

19.1 The CCG will consider all requests for information to be translated or provided in an alternative format and will make every effort to supply this where possible. These requests should be made with the initial FOI request.

19.2 The CCG website has been tested by its Patient Advisory Group for accessibility. Information held on the CCG website in relation to FOIs can be translated, using Google Translate. The website also contains accessibility tools for alternating text size and background shade, and also for use within screen readers.

## **20.0 Records management**

20.1 All records created, used and held in implementing the FOI Act 2000 are done so in accordance with related CCG policies, information governance standards and relevant legislation listed below:

- The Equality Act 2010.
- The NHS Confidentiality Code of Practice 2003.
- The Freedom of Information Act 2000.
- The Human Rights Act 1998.
- The Data Protection Act 1998.
- Access to Health Records Act 1990.
- The Public Records Act 1958.

## **21.0 Reporting on FOI data**

21.1 Activity relating to requests for information under the FOI Act 2000 will be reported to the Joint Patient Voice Committee and the Joint Quality and Performance Committee via a quarterly customer care activity report. Information reported to the Committees will include the number of requests, themes and the number of breaches. No personal data will be reported.

21.2 The activity report will also be shared with the CCG's Joint Patient Advisory Group.

## **Appendix 1 Freedom of information exemptions**

In response to a request for information under the FOI Act, the CCG may refuse to supply some or all of the information, or may be unable to process a request for another reason. In such situations, the requester will be advised of the reasons why.

The following provides further information about some of the reasons why the CCG may not supply the information requesters have asked for; it is not a comprehensive legal guide, but is intended to provide general information.

Please note that the FOI Act does contain other exemptions to disclosure that are not included below, but which may apply to a request.

Full details of exemptions can be found on the Information Commissioners Office (ICO): <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/refusing-a-request>.

### **Common exemptions**

- Section 1(3) - interpreting and clarifying requests
- Section 12 - it will cost too much to find the information you want
- Section 14 (1) - the request is vexatious
- Section 14 (2) - you have already asked for this information
- Section 21- the information you want is already available
- Section 22 - the information you want is going to be published in the future
- Section 22a- the information is part of research information
- Section 30 - the information you want is held for investigative purposes
- Section 31- disclosing the information would prejudice law enforcement
- Section 32 - the information has been filed with, or created by, a court
- Section 38 - somebody's health or safety may be endangered
- Section 40 - you are asking for personal information
- Section 41- the information was provided in confidence
- Section 42 - the information is legally privileged
- Section 43 - the information is commercially sensitive
- Section 44 - we are not allowed to give you the information
- The public interest test

### **Section 1(3) - interpreting and clarifying requests**

This exemption means that the CCG does not have to comply with a request in situations where it needs more information from you in order to do so. However, when refusing to deal with the request for this reason, the CCG must ask the requester for more details so that we can deal with the request.

### **Section 12 - it will cost too much to find the information you want**

This exemption means that the CCG does not have to comply with a request if the cost of doing so exceeds the 'appropriate limit'. The appropriate limit is, effectively, 18 hours, and applies to time spent locating and collating the requested information. In such circumstances, the CCG has a duty to advise the requester how, if possible, the scope of the request could be narrowed to bring it within the limit.

### **Section 14(1) - The request is vexatious**

The CCG does not have to comply with a request if it is vexatious. The definition of vexatious is not straightforward, but the following would be taken into consideration:

- Can the request fairly be seen as obsessive?
- Is the request harassing the authority or causing distress to staff?
- Would complying with the request impose a significant burden in terms of expense and distraction?
- Is the request designed to cause disruption or annoyance?
- Does the request lack any serious purpose or value?

### **Section 14(2) - You have already asked for this information**

The CCG does not have to comply with repeated requests. This only applies to requests from the same person, submitted without a 'reasonable' interval in between, and where we have already responded to the first request. Although the FOI is officially 'applicant blind', this is one of a few circumstances where the CCG can consider the specific application. A 'reasonable' interval depends upon the nature of the request; if the requested information changes or is updated frequently a reasonable interval may only be a couple of months. However, if the information is obviously never going to change, or only changes once a year, then a reasonable interval may be a year or longer.

### **Section 21 - The information you want is already available**

If the information you have requested is already available elsewhere, your request can be refused. The CCG will signpost the requester to how the information can be found.

**Section 22 - The information you want is going to be published in the future** If a request is for information that is due to be published in the future, the request might be refused. There must be a genuine intention to publish the information at a future date (even if a date of publication has not been set) at the time the request is received, and it must be reasonable in all the circumstances to withhold the information until the planned publication.

### **Section 22A - The information is held as part of research information**

This exemption applies if, the requested information is held as part of an ongoing programme of research and there is an intention by someone, whether an individual or organisation, private or public sector, to publish a report of the research; and where disclosure of the information would or would be likely to prejudice the research programme, the interests of participants in the programme, or a public authority holding or intending to publish a report of the research. So long as the research programme is continuing, the exemption may apply to a wide range of information relating to the research project. There does not have to be any intention to publish the particular information that has been requested, nor does there need to be an identified publication date.

### **Section 30 - The information you want is held for investigative purposes**

The CCG can withhold information that has been held at any time for the purposes of investigations and proceedings conducted by the CCG to determine whether somebody should be charged with an offence. It also applies to information that was obtained or recorded for these purposes.

**Section 31 - Disclosing the information would prejudice law enforcement**

If disclosure of the information you want would, or would be likely to, prejudice the prevention or detection of crime, or the apprehension or prosecution of offenders, then the CCG can refuse to disclose it.

**Section 32 - The information has been filed with, or created by, a court**

If the information you want is in a document that has been filed with a court, or is in a document that has been created by a court, it is exempt from disclosure.

**Section 38 - Somebody's health or safety may be endangered**

If disclosure of the information you want would, or would be likely to, endanger the physical or mental health of anybody the CCG can refuse to disclose it.

**Section 40 - You're asking for personal information**

If you are asking for personal information about yourself it will be refused. However, your request will automatically be considered as a subject access request under the Data Protection Act. If you are asking for personal information about somebody else, your request can be refused if disclosure of the information would breach one of the data protection principles, or if the individual concerned has specifically asked that the information is not disclosed (and they have provided suitable reasons as to why).

**Section 41 - The information was provided in confidence**

If the information requested was provided to the CCG in confidence, the request may be refused, but only if disclosure would constitute a breach of confidence that could result in legal action being taken against the CCG. This only applies to information received from outside the CCG.

**Section 42 - The information is legally privileged**

The exemption exists to protect the confidentiality of communications between a client and their legal adviser. If the information requested constitutes legal advice, or a request for legal advice, then it might not be disclosed.

**Section 43 - The information is commercially sensitive**

If the information requested is a trade secret, or will prejudice somebody's commercial interests, the request may be refused.

**Section 44 - We're not allowed to give you the information**

The FOI Act does not over-rule other legislation. Disclosure of the information requested may be prohibited by another Act, and so we are legally prevented from providing it.

**The public interest test**

Some of the exemptions in the FOI Act have a 'public interest test' associated with them. This means that, even if the exemption applies, we must consider whether the public interest favours disclosing the information, or whether the public interest favours withholding it.



## Appendix 2 Useful contacts

<b>CCG customer care service contact details</b>	
Telephone	01772 214601 or 01772 214602  Calls to these numbers are recorded for training and monitoring purposes
Fax	01772 214051
Email	Gpccg. <a href="mailto:Gpccg.customercare@nhs.net">customercare@nhs.net</a>
Freedom of Information (FOI) email	Gpccg. <a href="mailto:FOI@nhs.net">FOI@nhs.net</a>
General enquiries	Gpccg. <a href="mailto:enquiries@nhs.net">enquiries@nhs.net</a>
FOI website page	<a href="https://www.greaterprestonccg.nhs.uk/how-to-make-a-freedomof-information-request">https://www.greaterprestonccg.nhs.uk/how-to-make-a-freedomof-information-request</a>
Customer care website page	<a href="http://www.greaterprestonccg.nhs.uk/contact-us">www.greaterprestonccg.nhs.uk/contact-us</a>
<b>External links</b>	
Information Commissioner's Office	<a href="https://ico.org.uk">https://ico.org.uk</a>

### Appendix 3 Process Flowchart

