

Title:	<b>Freedom of Information and Environmental Information Policy</b>
Reference No:	C18
Owner:	Operational Executive
Author:	Information Governance Lead
First Issued On:	August 2010
Latest Issue Date:	February 2017
Operational Date:	February 2017
Review Date:	January 2022
Consultation Process:	OE July 2019 AQuA 3 September 2019
Ratified and Approved by:	Governing Body 2 October 2019
Distribution:	All staff of the CCG
Compliance:	Mandatory for all permanent and temporary employees of Rotherham CCG
Equality & Diversity Statement:	In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

## Revision History

Date of this revision: June 2019

<b>Revision date</b>	<b>Previous revision date</b>	<b>Summary of Changes</b>
7 <sup>th</sup> March	16/12/2004	First Draft
16/12/2004	15/10/2004	Final Draft
07/03/2008		Minor changes
August 2010		Aligned with Rotherham Foundation Trust Policy. Added references to EIR/Public Sector Information Regs. Dissemination plan. Extra Training requirements Brief overview added. Additional compliance monitoring and reporting. Publication scheme compliance
January 2015	August 2010	Updated into organisational policy template and amended references to PCT
December 2016	January 2015	Updated reference to Re-Use of Public Sector Information Regulations 2015 Updated reference to new Records Management Code of Practice for Health and Social Care 2016 Removed references to Sub AQuA and replaced with IG Group
<u>June 2019</u>	<u>January 2019</u>	<u>Reviewed in line with the 3 yearly governance process.</u>

## Contents

Definitions	4 - 5
Introduction	6
<b>SECTION A - POLICY</b>	
Policy statement	6
Legislation and guidance	7
Scope	7
Roles and responsibilities	8
Dissemination, training and review	9
Publication Scheme	9
Monitoring and reviewing	9
<b>SECTION B - PROCEDURE</b>	
Introduction	9
Publication Scheme	9
Procedure for handling FOI requests	10
Twitter FOI requests	11
Monitoring Twitter requests	11
Replying to Twitter requests	11
Twitter review	12
Timescales	12
Duty to advise and assist requesters	12
Complaints	12
Persistent and repetitive requests	12
FOI appeals process	13
Appendix 1 – Procedures flowchart	14
Appendix 2 – Exemptions	15
Appendix 3 - Checklist for the review and approval of procedural documents	17
Appendix 4 – Equality Impact Assessment	18

## Definitions

### Term

### Definition

#### **Absolute exemption**

Applied to information that does not have to be released to the applicant either through a Publication Scheme or through the general right of access under the Freedom of Information Act 2000 (FOIA). Information to which an absolute exemption applies does not require a public authority to take a test of prejudice or the balance of public interest to be in favour of non-disclosure. This information may be releasable under alternative legislation or regulations.

#### **Applicant**

The individual(s), group or organisation requesting access to information.

#### **Duty to confirm or deny**

Any person making a request for information under FOIA or Environmental Information Regulations (EIR) to a public authority is normally entitled to be informed in writing by that authority if the information specified in the request is in their possession.

#### **Environmental Information**

Categories of information which relate to the Environment in any way – this broadly includes issues relating to land, air, sea, pollution, waste, landscape, noise, radiation, emissions, plans, food safety, impacts of developments etc. See Appendix D for further detail.

#### **Environmental Information Regulations 2004**

Regulations relating to the release of information concerning the environment intended to enact the European Directive and the international treaty (Aarhus).

#### **Exceptions**

Refusals to release information under EIR must be made using exceptions rather than exemptions used for FOI requests.

#### **Fees – EIR**

Public authorities can charge a reasonable fee provided the schedule of fees is published but cannot refuse EIR requests on the grounds of cost alone.

#### **Fees Notice**

A written notification issued to an applicant stating that a fee is payable and exempts public authorities from being obliged to disclose information until the fee has been paid. The requester will have three months from the date of notification to pay the fee before his request lapses.

#### **Fees Regulations**

FOIA national regulations that will prohibit a fee with regard to certain types of request, set an upper limit on amounts that may be charged and prescribe the manner in which any fees are to be calculated. The regulations will not apply where provision is made under another Act as to the fee that may be charged for the provision of particular information.

**General right of access**

Section 1 of the FOI Act confers a general right of access to information held by public authorities. A requester has a right to be told whether that authority holds the information requested and, if it is held, to have it communicated to them.

**Information Commissioner**

The Information Commissioner (ICO) enforces and oversees the Data Protection Act 2018, Environmental Information Regulations 2004 and the Freedom of Information Act 2000. The Commissioner is a United Kingdom (UK) independent supervisory authority reporting directly to the UK Parliament and has an international role as well as a national one. In the UK the Commissioner has a range of duties including the promotion of good information handling and the encouragement of codes of practice for data controllers, that is, anyone who decides how and why personal data, (information about identifiable, living individuals) are processed.

**Lord Chancellor's Department**

The Lord Chancellor's Department is responsible for the efficient administration of justice in England and Wales. Broadly speaking the Lord Chancellor is responsible for:

- The effective management of the courts.
- The appointment of judges, magistrates and other judicial office holders.
- The administration of legal aid.
- The oversight of a wide programme of Government civil legislation and reform in such fields as human rights, freedom of information, data protection, data sharing, family law, property law, electoral & referenda law, defamation and legal aid.
- Management of Public Records

**Public authority**

The legislation and guidance are intended to have wide application across the public sector at national, regional, and local level. In view of the large number of bodies and offices intended to fall within the scope of the FOIA and EIR it is not feasible to list each body individually. The EIR include all the usual categories of public authority but have a wider scope to include other bodies providing public functions.

**Publication Scheme**

A scheme specifying the classes of information which it publishes or intends to publish, the manner of publication and whether the information is available to the public free of charge or on payment.

**Qualified exemption**

FOIA Information to which a qualified exemption applies requires a public authority (q.v.) to take a test of prejudice or to demonstrate that the balance of public interest is in favour of non-disclosure.

## **1. Introduction**

- 1.1** The Freedom of Information (FOI) Act 2000, UK Re-use of Public Sector Information Regulations 2015 (RPSI) and the Environmental Information Regulations 2004 (EIR) imposes a number of obligations on Public Authorities, which includes NHS Rotherham CCG, to disclose information about its activities and provide the public with wide rights to access to the CCG's records.
- 1.2** In essence, members of the public have a statutory right to obtain (either from the CCG's website or in some other form) all the information covered by the CCG's Publication Scheme, to request (with some minor limitations) any information held by the CCG, regardless of when it was created, by whom, or the form in which it is now recorded and to request to re-use information to which the CCG has copyright.
- 1.3** The Policy, and its associated Codes of Practice, set out how the CCG will meet its obligations under the FOI Act, Re-use of Public Sector Information (RPSI) and EIR. The Governing Body has overall responsibility for the Policy and for ensuring that it is complied with. The Governing Body has delegated to the Corporate Business Team responsibility for the policy and for ensuring that it is reviewed every three years or whenever major development impose change.
- 1.4** This policy does not overturn the duties of confidence or statutory provisions that restrict disclosure of personal identifiable information. The release of such information for living individuals is still covered by the subject access provisions of the Data Protection Act 2018 hereafter referred to as the DPA and is dealt with in the Data Protection Policy and Records Management policies. Not all personal data will automatically be exempt under FOIA and EIR and consideration needs to be given to each circumstance.
- 1.5** The FOI Act replaces the non-statutory "Codes of Practice on Openness in the NHS". The EIR replaces the "Environmental Information Regulations 1992".
- 1.6** Public authorities should be allowed to discharge their functions effectively. This means that the organisation will sue the exemptions and exceptions allowed for within FOIA and EIR where appropriate. The purpose of this document is to provide guidance to staff leading on the development of procedural documents. The aim is to ensure that there are documented, up to date, authorised organisation wide procedural documents in place which enable the organisation to achieve its objectives.

## **SECTION A - POLICY**

### **2. Policy Statement**

- 2.1** The CCG is committed to being open and honest in the conduct of its operations and to complying fully with the Freedom of Information Act 2000, the UK Re-use of Public Sector Information Regulations 2015, and the Environmental Information Regulations 2004. To this end the CCG will:
  - Be open with the general public and the media and will place in the public domain as much information about its activities as is practicable and, subject to the exemptions permitted under the Act, will make all other information available on request.
  - Establish records management organisations, structures and procedures which will be underpinned by the Records Management Code of Practice for Health and Social Care 2016 and which will meet

the requirements of the Lord Chancellor's Code of Practice on the Management of Records which was issued under section 46 of the FOI Act 2000.

- Deal with all requests for information in accordance with the Lord Chancellor's Code of Practice on the Discharge of Public Authorities' Functions.
- Deal with requests to re-use information in accordance with the Office of Public Sector Information guidance.
- Deal with all requests for environmental information in accordance with the Secretary of State's Code of Practice on the Discharge of the Obligations of Public Authorities under the Environmental Information Regulations 2004.
- There will be occasions when the CCG will not be able to supply all the information requested. Information will only be withheld in accordance with the exemptions laid down in the Act, and in particular those concerning the CCG's duties under the Data Protection Act 2018 to keep confidential sensitive information about individual members of staff and patients;
- Other legal and contractual obligations; or
- Material detrimental to the safe and efficient conduct of the CCG's operations, or
- Which is commercially sensitive;
- On such occasions the CCG will always state the reasons why information has been withheld.

## **2.2 Legislation and Guidance**

The following legislation and guidance has been taken into consideration in the development of this procedural document:

- Data Protection Act 2018.
- Freedom of Information Act 2000.
- Environmental Information Regulations 2004.
- Human Rights Act 1998.
- The Records Management NHS Code of Practice 2009.
- Lord Chancellor's Code of Practice on the Discharge of Public Authorities' Functions under Part I of the Freedom of Information Act 2000, issued under section 45 of the Act, November 2002.
- Lord Chancellor's Code of Practice on the Management of Records under section 46 of the Freedom of Information Act 2000 November 2002.
- NHS Litigation Authority (2007) an organisation wide policy for the Development and Management Procedural Documents.
- The Health and Social Care Act 2012.

## **3. Scope**

This policy applies to those members of staff that are directly employed by NHS Rotherham CCG and for whom NHS Rotherham CCG has legal responsibility. For those staff covered by a letter of authority/honorary contract or work experience this policy is also applicable whilst undertaking duties on behalf of NHS Rotherham CCG or working on NHS Rotherham CCG premises and forms

part of their arrangements within NHS Rotherham CCG. As part of good employment practice, agency workers are also required to abide by NHS Rotherham CCG policies and procedures, as appropriate, to ensure their health, safety and welfare whilst undertaking work for NHS Rotherham CCG.

#### **4. Roles and Responsibilities**

Overall accountability for ensuring that there are systems and processes to effectively manage procedural documents lies with the Chief Officer.

**4.1** The **Chief Officer** is responsible for ensuring the CCG has appropriate policies and procedures in place for administering requests for information in compliance with the provisions of the Freedom of Information Act 2000, the UK Re-use of Public Sector Information Regulations 2015, and the Environmental Information Regulations 2004.

**4.2** The **Assistant Chief Officer** or their nominated representatives are responsible for administering all requests for the information made to the CCG and will provide a point of contact for all CCG staff who requires advice on Freedom of Information Act matters. The Assistant Chief Officer will, where possible, provide advice directly to staff on FOI matters or otherwise refer to a competent person to obtain such advice.

Responsibility for the maintenance of the CCGs Publication Scheme, available on the CCG's website at: [www.rotherhamccg.nhs.uk](http://www.rotherhamccg.nhs.uk) also lies with the Assistant Chief Officer.

**4.3** **Heads of Department** are responsible for ensuring that information held within their areas of responsibility fully complies with the policies and procedures agreed by the Governing Body, including information processed by contractors, partners or other bodies working under service level agreement.

**4.4** **Managers** are responsible for ensuring that staff under their direction and control are aware of the policies, standards, procedures and guidance agreed by the Governing Body, and for checking that those staff understand and appropriately apply policies, procedures and guidance in carrying out their day to day work.

**4.5** **All Staff** are responsible for processing information in accordance with the FOI Act, Re-use of Public Sector Information (RPSI) and Environmental Information Regulations (EIR); the CCG's FOI Code of Practice and the policies, standards, procedures and guidance agreed by the Governing Body.

#### **5. Dissemination, Training and Review**

**5.1** The effective implementation of this policy will support openness and transparency. NHS Rotherham CCG will:

- Ensure all staff and stakeholders have access to a copy of this procedural document via the organisations website.
- Communicate to staff any relevant action to be taken.
- Ensure that relevant training programmes raise and sustain awareness of the importance of effective information management.

This policy is located on Rotherham CCG website. Staff are notified by email and all staff briefing of new or updated procedural documents.

**5.2** All written communications (including those by electronic means) to Rotherham CCG will fall within the scope of the Act if they seek information, and must be dealt with in accordance with the provisions of the Act. It is essential that all CCG staff are familiar with the provisions of the Act, the associated Codes of Practice, and any

relevant good practice guidance issued by the Information Commissioner.

- 5.3 The CCG will ensure that responsibilities of contractors, bodies working under service level agreement and partnership agreements are aware of their responsibilities and that they have in place sufficient means to ensure that they can competently carry out their responsibilities.
- 5.4 Staff dealing with FOI requests must keep training up to date and complete refresher courses as necessary.

## 6. Publication Scheme

- 6.1 The Freedom of Information Act requires every public authority to have a publication scheme, approved by the Information Commissioner's Office (ICO), and to publish information covered by the scheme.

The CCG's Publication Scheme, is available on it's the website: [www.rotherhamccg.nhs.uk](http://www.rotherhamccg.nhs.uk) .

## 7. Monitoring and Review

- 7.1 The CCG will put in place procedures for systematically reviewing its arrangements for administering and managing requests for information. These procedures will include systems for auditing compliance with the Act by the CCG and those who hold data on our behalf.

Performance in dealing with FOI requests will be monitored by the Assistant Chief Officer and reported regularly to the Audit, Quality Assurance (AQuA) committee and Governing Body via a quarterly Corporate Assurance Report.

- 7.2 The CCG will maintain a register of all complaints received about its Freedom of Information arrangements and will ensure that any learning points that arise from such complaints are used to improve related policies, standards, procedures and guidance.
- 7.3 This policy will be reviewed at least every 3 years to ensure that it remains up to date, effective and takes account of emerging good practice. Where new legal directions come into force, the policy will be reviewed in line with the commencement date of that legislation.
- 7.4 The CCG will commission Internal Audit to audit as necessary, the process, and compliance and if the policy is embedded within every day organisational activity.

## SECTION B – FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS PROCEDURE

### 1. Introduction

This document sets out the approach to be taken within NHS Rotherham Clinical Commissioning Group to provide a robust framework for the management of compliance with the Freedom of Information Act and the Environmental Information Regulations.

The Freedom of Information and Environmental Information Regulations Policy and procedure will be available to staff via the CCG website.

### 2. Publication Scheme

- 2.1 The Freedom of Information Act requires every public authority to have a publication scheme, approved by the Information Commissioner's Office (ICO), and to publish

information covered by the scheme.

The CCG's Publication Scheme, is available on its website: [www.rotherhamccg.nhs.uk](http://www.rotherhamccg.nhs.uk)

### **3. Procedure for Handling Freedom of Information Requests**

**3.1** The following procedure will take place when a request for information arises. This is in accordance with the Freedom of Information Act 2000, The Data Protection Act 2018, the Environmental Information Regulations 2004 and also acknowledges the CCG's Freedom of Information Policy and Conditions of Contract.

**3.2** The Freedom of Information Act 2000 makes it a requirement that all requests for information must be made in writing (letter, Twitter or e-mail).

**3.3** Requesters must be advised to put in their request in writing to the contact details provided below. Where requests have been received by staff, they must be forwarded to:

Freedom of Information Officer  
NHS Rotherham CCG  
Oak House Moorhead Way  
Bramley  
Rotherham  
S66 1YY  
[roccg.foi@nhs.net](mailto:roccg.foi@nhs.net)

**3.4** The CCG will maintain a register of all requests made for information under the Freedom of Information Act and the action taken on each request. The register will identify whether the same or similar information has previously been requested and provided, or refused and the reasons for refusal. This will ensure consistency in dealing with similar recurring requests for the same or similar information not already published and allow the CCG to consider whether such information should be routinely published on the Publication Scheme website or other medium.

**3.5** Written requests may come in from any source for example Chief Executive's Office, Communications Department, and be directed to any member of staff. If the information is not classified as a complaint, solicitor's letter or request for access to personal records, it should be considered as a possible FOI enquiry and be forwarded to the FOI Officer.

**3.6** All FOI requests must be recorded on the FOI log and all communication with requesters must be made by the FOI Officer or a nominated person in their absence.

**3.7** The FOI Officer will be responsible for updating all of the fields associated with the FOI log prior to acknowledging receipt of the request. This must be completed within 2 working days of receiving the FOI request.

**3.8** The FOI Officer will be responsible for evaluating requests for information and disseminating these to the relevant lead/heads of departments or services within the CCG. This also might include seeking advice from the Assistant Chief Officer.

**3.9** The FOI Officer will be responsible for ensuring that draft responses to FOI requests are dealt with within 7 working days wherever possible and that these draft responses are then authorised by the relevant Operational Executive member then forwarded to the Assistant Chief Officer for signature before the response is dispatched to the requester.

**3.10** If however the draft reply is in response to an FOI request from national/local media

or an MP's request, a Communications Manager will be asked to review the draft reply as well.

- 3.11** The FOI Officer will provide the information to the requester in their preferred format (so far as this is reasonably practical). The CCG will notify the requester of the reasons if it considers it is not practical to comply.
- 3.12** The FOI Officer will have timely meetings with the Governance & Complaints Officer in reviewing and determining how FOIs should be handled and advice on any legal aspects. Attention must be given to FOIs where there is a possibility of non-compliance.
- 3.13** The timings of these meetings may vary between daily and weekly, depending on the amount or complexities of the FOI requests received. (Appendix 1 – Procedures Flowchart)

#### **4. Twitter FOI Requests**

The Information Commissioner has ruled that public sector organisations with Twitter accounts must accept FOI requests by Twitter. In order to facilitate this, guidance on how to submit Freedom of Information requests through Twitter will be included on the Rotherham CCGs website.

##### **4.1 Monitoring Twitter requests**

- 4.1.1** The official Twitter account operated by Rotherham CCG is @NHSRotherhamCCG
- 4.1.2** This account will be checked daily, from Monday to Friday, with the exception of public holidays, for FOI requests. The account will be checked by the Communications team. Any FOI requests received in this way will be captured as a screen shot and handed immediately to the FOI Officer to be investigated in the usual way.

##### **4.2 Replying to twitter requests**

- 4.2.1** A request will be considered as a valid FOI request when it is addressed directly to the CCG's Twitter account @NHSRotherhamCCG - and contains a request for information.
- 4.2.2** FOI requests received via Twitter will be acknowledged on the working day on which they are received through the @NHSRotherhamCCG account and provided with a reference number supplied by the FOI Officer.
- 4.2.3** Requesters will be directed to the Rotherham CCG's website for information about how their request will be handled, through a short web link.
- 4.2.4** Should clarification be required, a fee or further information, requesters will be contacted via their Twitter account and asked to contact the FOI Officer. The request will be put on hold from the day on which the contact is requested and will be taken off hold once the necessary information has been received.
- 4.2.5** Requesters will be asked to supply an email address for their response through a 'direct message' (private communication via Twitter between the requester and the @NHSRotherhamCCG account). This email address will then be forwarded on to the FOI Officer for their use and records.
- 4.2.6** If there is any uncertainty as to whether an enquiry is an FOI request or not, this will be checked with the potential requester.

**4.2.7** If no alternative address/means of contact is provided, either through the initial Tweet or a subsequent direct message, the requester's Twitter account will automatically become the default means of contact.

## **5. Timescales**

**5.1** The FOIA requires that requests are responded to by the twentieth working day following date of receipt. (See Appendix 1 Procedures Flowchart).

**5.2** If the CCG applies a condition or exemption to withhold information, the applicant must be informed within 20 working days. (See Appendix 3a Exemptions)

**5.3** The 20 working days timescale may be extended only if the CCG:

- Requests further clarification relating to the enquiry from the applicant, in which case the 20 working days is suspended until a reply is received.
- Advises the applicant it is unable to complete the enquiry within the 20 working days and a revised timescale is agreed between the requester and the CCG.
- A fees notice is issued, in which case the 20 working days is suspended until payment is received by the CCG.

## **6. Duty to advise and assist requesters**

**6.1** The CCG is obliged by the Act with a duty to provide advice and assistance to requester. If the request is unclear, or will be too time consuming to meet, the FOI Officer will:

- contact the applicant to explain why the FOI cannot be met and ask the applicant to clarify what information is needed and/or suggest suitable alternatives if appropriate or
- ask the applicant, if they would like an estimate of costs of retrieving information which would take more than 18 working hours to collate.

## **7. Complaints**

**7.1** The CCG will deal with complaints or requests for internal reviews to ensure that the requirements of the FOIA are met.

**7.2** Internal reviews will be undertaken in the first instance by the Assistant Chief Officer. If however the nominated lead officer has been closely involved in the handling of the original request, the review will be conducted by the Chief Officer or a Lay member of the Governing Body.

**7.3** The applicant will have the right to complain to the Information Commissioner, if they are not satisfied by the way the internal review was conducted.

**7.4** The CCG will inform the applicant of these rights as part of the standard acknowledgement correspondence.

**7.5** The CCG will ensure that a record is kept of internal reviews, complaints and any subsequent outcomes.

## **8. Persistent and repetitive requests**

**8.1** Under Section 14 (1) of the Act, the CCG does not have to comply with persistent requests. These are requests that may be so patently unreasonable or objectionable

that it will obviously be persistent. In cases where the issue is not clear-cut, the key question to ask is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress.

**8.2** Under Section 14 (2) of the Act, the CCG does not have to comply with a request which is identical, or substantially similar to a previous request submitted by the same individual, unless a reasonable period has elapsed between those requests. The CCG may only apply Section 14 (2) where it has either:

- Previously provided the same requester with the information in response to an earlier FOIA request; or
- Previously confirmed the information is not held in response to an earlier FOIA request from the same requester.
- The CCG maintains an FOI log and maintains a response audit trail which can be used as the evidence log.

## **9. FOI appeals procedure**

**9.1** Any written reply by the applicant (including by electronic means) that indicates dissatisfaction with the CCG's response to a valid request for information should be treated as a request for an internal review and passed immediately to the FOI lead in accordance with Section 17 (7) of the Freedom of Information Act, all responses to FOI requests made to the CCG include standard wording in relation to the requesters right of appeal if they are dissatisfied with the response given for any reason, as follows:

If you are dissatisfied with this response or wish to appeal, please write to our Governance & Complaints Officer at the address below or by email at: [roccg.complaints@nhs.net](mailto:roccg.complaints@nhs.net)

Governance & Complaints Officer  
NHS Rotherham Clinical Commissioning Group  
Oak House  
Moorhead Way  
Bramley  
Rotherham  
S66 1YY

If you still remain dissatisfied with our response, you may appeal to the Information Commissioner whose contact details are available at <http://www.ico.gov.uk> together with further information about the Freedom of Information process.

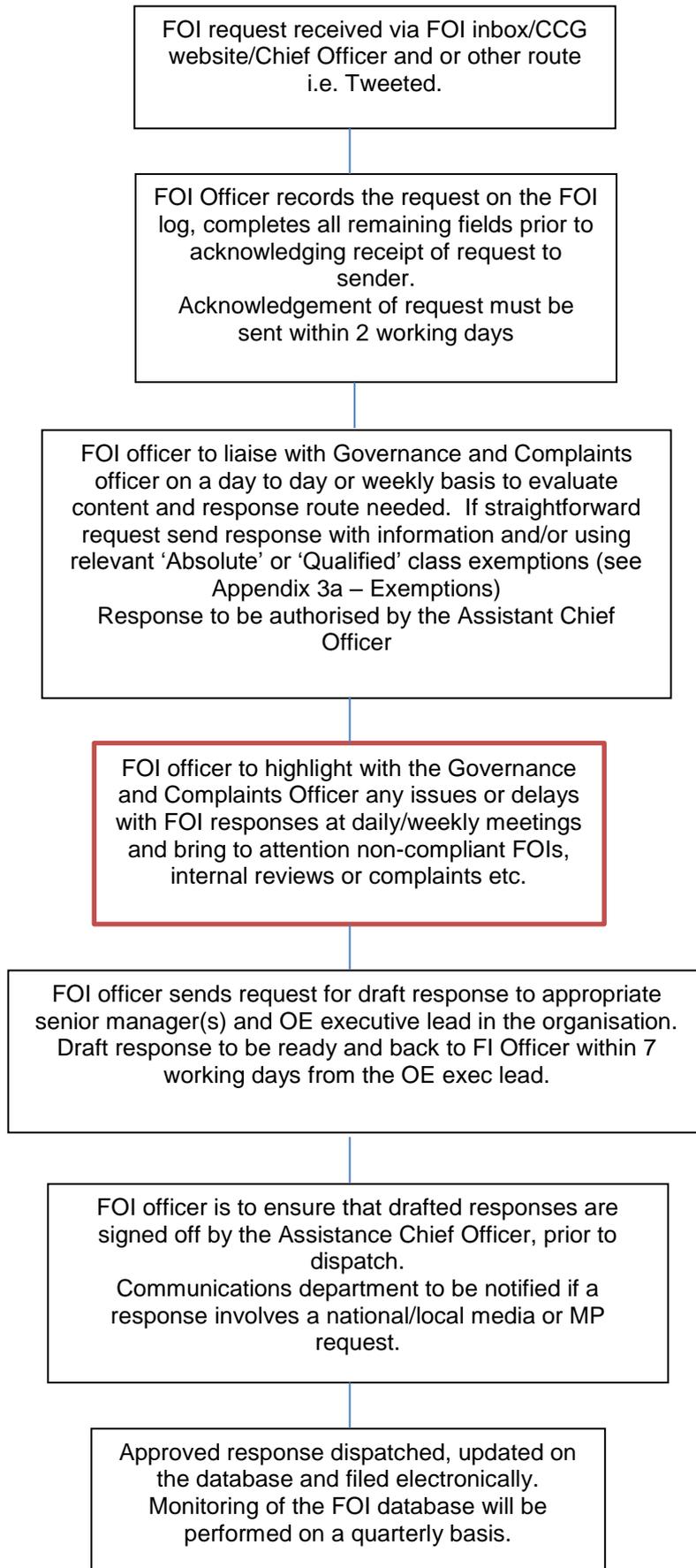
**9.2** A consultation will take place with appropriate senior management and a range of decisions will be considered including:

- release information that has previously been withheld
- uphold the CCG's decision not to release information
- consider whether apologies for any failures in internal processes are necessary. If so review these, proposing improvements if necessary to prevent recurrence, for implementation by the Assistant Chief Officer.

**9.3** A response will be prepared by the appropriate staff and signed off centrally prior to being sent to the applicant, including details of how to appeal to the Information Commissioner, as above, if dissatisfaction remains.

**9.4** A review of all Appeals received will be completed every 3 months to ensure all necessary actions appertaining to the appeal have been actioned and satisfactorily concluded.

# Maximum 20 Working Days



There are two types of class exemptions:

- Absolute, which do not require a test of prejudice or the balance of public interest to be in favour of non-disclosure
  
- Qualified by the public interest test, which require the public body to decide whether it is in the balance of public interest not to disclose information.

With the exception of section 21 (information available by other means) absolute exemptions apply not only to the communication of the information but also to the duty to confirm or deny, if that itself would disclose information that it is reasonable to withhold.

**The absolute exemptions under the FOIA are:**

**Section 21 Information accessible to applicant by other means** – it may be reasonably accessible even if the applicant has to pay for it.

**Section 23 Information supplied by, or relating to, bodies with security matters** – this is aimed at the Security Services, Government Communications Headquarters and the National Criminal Intelligence Service.

**Section 32 Court records**- covers documents in the custody of a court, created by a court served on or by a public authority for court proceedings.

**Section 34 Parliamentary privilege** - to avoid infringing privileges of the House of Parliament.

**Section 40 Personal Information** – where the applicant is the subject of the information the request must be dealt with in accordance with the Subject Access rights provided in the Data Protection Act 2018. Where the applicant is not the subject of the information, then it is exempt if disclosure of it would breach the Data Protection Act.

**Section 41 Information provided in confidence** – if the disclosure of the information would constitute a breach of confidence that could lead to action against the CCG.

**Section 44 Prohibitions on disclosure** – information is exempt if its release is prohibited under any enactment; it is incompatible with Community obligations or would constitute contempt in court.

**The exemptions that are qualified by the public interest test are:**

**Section 22 Information intended for future publication** – covers information held with a view to publication by the public authority or another person at some future date.

**Section 24 National security** – information can be exempt if it is required to safeguard national security.

**Section 26 Defence** – information can be exempt if its release would affect the defence of the British Isles, any British colony or the capability and effectiveness of the armed forces.

**Section 27 International relations** – information is exempt if its release would prejudice relations with another state, international organisation, international court or the interests of the UK abroad.

**Section 28 Relations within the UK** – covers information that would prejudice the economic interests of the UK or of any administration in the UK.

**Section 29 The economy** – covers information that would prejudice the economic interest of the UK or of any administration in the UK.

**Section 30 Investigations and proceedings conducted by public authorities** – covers information held for an investigation that the authority has a duty to conduct to decide if a person should be charged with or found guilty of an offence, relates to criminal proceedings that the authority has power to conduct or relates to civil proceedings brought by or on behalf of the authority.

**Section 31 Law enforcement** – information is exempt if its release would prejudice law enforcement. This includes the prevention and detection of crime, apprehension and prosecution of offenders, administration of justice, the operation of immigration controls and the security prisons.

**Section 33 Audit functions** – this applies to authorities that have functions in relation to the audit of other authorities' accounts and the examination of efficiency and effectiveness of the use of their resources. This does not cover internal auditing functions of authorities.

**Section 36 Prejudice to effective conduct of public affairs** – information is exempt if, in the opinion of a qualified person, it would be prejudice how the CCG conducts its public affairs.

**Section 37 Communications with Her Majesty**, with other members of the Royal Household and the conferring by the Crown of any honour or dignity.

**Section 38 Health and Safety** – information is exempt if its disclosure would endanger the physical health, mental health or safety of any individual.

**Section 39 Environmental information** – covers information that can be accessed via the Environmental Information Regulations.

**Section 42 Legal professional privilege** - information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.

**Section 43 Commercial interests** – information is exempt if it constitutes a trade secret or would prejudice or be likely to prejudice the commercial interests of any person or organisation.

## Checklist for the Review and Approval of Procedural Documents

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

Title of document being reviewed	YES/NO/Unsure	Comments
<b>1. Title</b>		
Is the title clear and unambiguous?	Yes	
Is it clear whether the document is a guideline, policy, procedure/protocol or plan?	Yes	
<b>2. Rationale</b>		
Are reasons for development of the document stated?	Yes	
<b>3. Development Process</b>		
Is the method described in brief?	Yes	
Are people involved in the development identified?	Yes	
Has relevant expertise has been used?	Yes	
Is there evidence of consultation with stakeholders and users?	Yes	
<b>4. Content</b>		
Is the objective of the document clear?	Yes	
Is the target population clear and unambiguous?	Yes	
Are the intended outcomes described?	Yes	
Are the statements clear and unambiguous?	Yes	
Is cross references accurate?	Yes	
<b>5. Evidence Base</b>		
Is the type of evidence to support the document identified explicitly?	Yes	
Are key references cited?	Yes	
Are the references cited in full?	Yes	
Are supporting documents referenced?	Yes	
<b>6. Approval</b>		
Does the document identify which committee/group will approve it?	Yes	
If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document?	Yes	