

HIGHTOWN SURGERY

Freedom of Information Act 2000 Policy

Policy Aim

This policy aims to set out the obligations of the Surgery to comply with the Freedom of Information Act (FOIA) 2000.

This policy should be read in conjunction with the FOIA procedure for handling FOIA requests set out appendix 1 below.

Statutory Background

The Freedom of Information Act 2000, referred to below as the Act or as FOIA, gives people the right to request, in writing, information from public authorities. It is intended to promote a culture of openness and accountability amongst public sector bodies, and therefore facilitate better public understanding of how public authorities carry out their duties, why they make the decisions they do, and how they spend public money.

In addition to the Act the following other legislation concerning access to information may also require consideration when dealing with matters concerning access to information:

- Data Protection Act 1998 – enables individual's access to information about themselves.
- Environmental Information Regulations 2004 (EIRs) – enables people access to environmental information. They apply to information held by and or on behalf of public authorities and those bodies carrying out a public function.

Information subject to the Act

Within the context of the Act, the term 'information' means every piece of information held by the surgery, whether paper or electronic. This includes all draft documents, agendas, minutes, emails, diaries and even rough handwritten notes.

All information created by Hightown Surgery (or by an employee in the course of carrying out his or her duties) is subject to the requirements of the Act provided that the surgery either:

- Retains possession of that information
- The information has been provided to another public authority
- The information is held on behalf of the surgery by a third party.

The Act also covers permanently transferred information from other healthcare providers.

Right of access to information

The Act gives individuals and organisations the legal right to;

- Ask if a public authority is holding information and if so;
- Obtain access to information held within 20 working days from the day after receipt of a written request giving the applicant's name and address.
- The corresponding duty on the surgery is to confirm or deny whether it holds the information and if it does to provide the information in the format requested.
- If information has been requested but is not held, it will normally be reasonable to inform the applicant of this fact. However, there may be some exceptional cases where it would not even be right to confirm or deny the information requested.

There is no need for the applicant to explain the reasons for their request, or that it is a request under the Act.

Requests for information must be made in writing which includes emails. The request must state the name and address of the person applying for the information and the required information.

In addition the surgery is required to proactively publish information by developing and maintaining a Publication Scheme.

Publication Scheme

Publication schemes are a requirement under the Act. It is the statutory duty of all public authorities, to adopt and maintain an approved publication scheme.

A publication scheme is both a public commitment to make certain information available, and a guide to how that information can be obtained. The scheme also details how much it will cost if there are any charges.

The surgeries publication scheme is currently being prepared and will be made available via our practice website or by request at the reception desk.

Exemptions

Overview of exempt information

While the Act governs all information created by the surgery, requesters are not entitled to be given all such information. "Exemptions" are set out in Part II of the Act. There are 23 exemptions from the right of access to information.

Overall there are two kinds of exemptions:

- Absolute exemptions. This is where the right to information is completely overridden by the exemption.
- Qualified exemptions - where the surgery identifies a possible exemption, but must weigh up whether it serves the interests of the public better, to withhold or disclose the information. This is known as the public interest test.

Some qualified exemptions applicable to the surgery are:

- Information intended for future publication
- Relations within the UK
- Investigations and proceedings
- Audit functions
- Formulation of government policy
- Prejudice to effective conduct of public affairs
- Health and safety
- Some personal information
- Legal professional privilege.

Some absolute exemptions applicable to the surgery are:

- Information reasonably accessible to an applicant by other means.
- Information supplied by or relating to bodies dealing with security matters
- Court records
- Personal information
- Information provided in confidence
- Information whose disclosure is prohibited by law.

Although there might be occasions when it is appropriate to rely on an exemption the surgery aims to disclose as much information as possible.

Duty

The surgery is required to tell the requester whether the information is held and if so provide it promptly, in the format required by the requester if reasonably practical, but no later than 20 working days after the day of receipt. In some cases a request may be refused. A refusal notice must be issued setting out the exemptions relied on and the reasons why. If the exemption is a qualified one then the public interest test reasoning must also be explained.

The notification must also explain how the requester can complain if they are not satisfied with the response received from the surgery.

The Handling of Freedom of Information Act Request

In compliance with its statutory duty under the Act, the surgery will inform the applicant in writing whether it holds the information requested and if so, communicate that information to the applicant, promptly, but not later than 20 working days after receipt of the request. If it is not possible to comply with the 20 day limit the requester will be informed and given an indication of when the information is likely to be provided. Requests for information will be acknowledged within 5 working days of receipt.

Fee Charging

Please see FOI Publication.

Complaints to Practice Manager

If the requester is not happy with the response they receive following their request they must first complain to the surgery in writing.

The Complaint should be addressed to the Practice Manager.

Any requester who is dissatisfied about the handling of his or her request by the surgery can make a complaint, to the Practice Manager on any of the following grounds:-

- Failure to provide the information you requested.
- Failure to respond to your request within 20 working days (or failure to explain why longer than 20 working days is needed).
- Failure to give you proper advice and help.
- Failure to give information in the form in which you requested it.
- Failure to properly explain any reasons for refusing the request.
- Failure to correctly apply an exemption under the Act.

If the Practice Manager does not comply with the above complaint or does not give a valid reason as to why the request has not been actioned please contact:

The Freedom of Information Act gives you the right to ask for official information from public authorities. If you think the surgery has wrongly withheld information, you can complain to;

Information Commissioner

Information Commissioner's Office, Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF

Tel: 08456 30 60 60 or 01625 54 57 45

Fax: 01625 524510

When Can You complain?

You can complain about the surgery if:

- We have failed to provide the information you asked for.
- We have failed to tell you whether or not we hold information.
- We have failed to respond to your request within time limits (normally 20 working days).
- We have failed to give you proper advice and help.
- We have failed to give information in the form in which you requested it.
- We have failed to properly explain the reasons for refusing the request.
- We have failed to correctly apply an exemption under the Act – in other words, we have refused to disclose information for the wrong reason.
- We have overcharged you for providing information.

Staff Responsibilities

The main responsibility of surgery staff is to forward all initial requests promptly. If requests are made verbally staff must ask the requester to put their request in writing.

Management Responsibilities

The Practice Manager has overall responsibility for the FOIA policy. The Practice Manager and IM & T Manager are responsible for ensuring implementation and compliance with the policy and procedures for handling requests and complaints.

Recording and Reporting of FOIA Requests

All internal recording of requests will be held and updated by the Practice Manager. For further details refer to the FOIA procedure.

Breaches of the Acts

In the event of a complaint from an individual that their request for information has not been dealt with satisfactorily, Section 51 of the Act enables the Information Commissioner to serve an information notice. This would require the surgery to provide information relating to the application. If the surgery failed to comply with this, the Commissioner can certify this in writing to the High Court.

Section 54 of the Act deals with the consequences for a non-compliant authority.

The non-compliance can be dealt with by the court as if the surgery had committed a contempt of court, punishment for which is fines, or the maximum penalty of 2 years imprisonment for the person accountable in the organisation.

The one criminal offence within the Act is under Section 77. If any person alters, defaces, blocks, erases, destroys or conceals any record held by the surgery with the intention of preventing the disclosure of information to an applicant who has made an individual request, he or she is guilty of an offence. If found guilty, the person will be liable on summary conviction to a fine or even imprisonment.

Related legislation, policies, procedures and guidelines

FOIA procedure

Data Protection Act 1998

Environmental Information Regulations 2004

Appendix 1

Procedure for handling Requests

Stage 1	Responsibility
<p>1. Requests must be made in writing which includes emails (appropriate assistance will be provided to requesters with access requirements (which may include non disability related needs)). The request must state the name and address of the person applying for the information and the information that is required. Telephone requests should be recorded in writing by the recipient and confirmed by the requester.</p>	<p>Requester</p> <p>The Surgery</p>
<p>2. If staff receive FOIA requests they must forward this immediately to the Practice Manager.</p>	<p>Staff that receive request</p>
<p>3. An acknowledgement letter/e-mail will be sent to the requester within 5 working days of receipt of the request to say that the request will be responded to within 20 working days from date after receipt of the request. If for any reason during the handling of the request it is not possible to comply with the 20 days time limit the requester will be informed and a revised date given for compliance.</p>	<p>The Practice Manager or IM & T Manager</p>
<p>4. The request will be sent to appropriate employee in the relevant team to consider and prepare a draft response and returned this to the Practice Manager</p>	<p>The Practice Manager or IM & T Manager</p>
<p>5. The responsible staff member who has been given the request to action must return the response to the Practice Manager in a timely manner.</p>	<p>Requested Employee</p>
<p>6. The response will be reviewed and clarified with the writer and or the clinical team as necessary</p>	<p>Requested Employee The Practice Manager or IM & T Manager</p>
<p>7. The response will then be returned to the requester within the 20 working day statutory period for compliance or within the agreed revised date.</p>	<p>The Practice Manager or IM & T Manager</p>

Stage 2 Review	Responsibility
1. Requests for reviews must be made in writing which includes emails. The request for review must state the name and address of the person applying for the review and the reason that the review is requested. Telephone requests for review should be recorded in writing by the recipient and confirmed by the requester.	Requester Surgery Staff
2. If staff, receive review requests they must forward this immediately to the Practice Manager or in her absence the IM & T Manager. The time frame for response begins from the date that the review request is received by the surgery.	Staff that receive review request.

*Requests for review where the requester is not satisfied with the initial response will be sent to the Practice Manager for action.

3. An acknowledgement letter/e-mail will be sent to the review requester within 5 working days of receipt to say that the request for review will be responded to within 20 working days. .	The Practice Manager or IM & T Manager
4. The review request will then be sent out to the appropriate staff member to undertake the review	Staff who receive review request for action.
5. Outcome of review to be notified to requester within 20 working days or agreed revised date	Staff who receive review request for action.

Stage 3 External	Responsibility
Any requester who is unhappy about the handling of his/her request by the surgery can make a complaint, to the Information Commissioner	Requester