

Barnet, Enfield and Haringey

Mental Health NHS Trust

A University Teaching Trust

Title:	Freedom of Information Act – Annual Report 2016 / 2017
Report to:	Trust Board
Date:	2 October 2017
Security Classification:	Public Board Meeting
Purpose of Report:	<p>This report provides an update to the Trust Board on the Trust's Freedom of Information (FOI) Act activity during the 2016 / 2017 financial year.</p>
Recommendations:	<p>The Trust Board is asked to note the work being carried out in order to comply with the Freedom of Information Act 2000.</p>
Report Sponsor:	Maria Kane, Chief Executive
Comments / views of the Report Sponsor:	The report to the Trust Board is to ensure that the Trust is meeting all its obligations under the Act.
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Report History:	This is an annual report to the Board.
Budgetary, Financial / Resource Implications:	Failure to comply with the FOI Act 2000 could lead to sanctions imposed by the Information Commissioner's Office including monetary penalties.
Equality and Diversity Implications:	Not applicable to this report.
Links to the Trust's Objectives, Board Assurance Framework and / or Corporate Risk Register	All public authorities are under a duty to comply with the Freedom of Information Act (FOIA) 2000.
List of Appendices:	None

Report

1. Introduction

- 1.1 This report provides an overview of the work undertaken during the 2016 / 2017 financial year in meeting the requirements of the Freedom of Information (FOI) Act (2000).
- 1.2 The FOI 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 1998.
- 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. The Trust can refuse to reply to a request as long as it can justify the reason based on any one of the 23 exemptions outlined in the Act.
- 1.6 The Information Commissioner's Office (ICO) has a general duty to investigate complaints from members of the public if they believe that the Trust has failed to respond correctly to a request for information. The ICO's complaints handling process provides the Trust with an opportunity to reconsider the request without the ICO taking any formal action.

2. Process for dealing with FOI requests

- 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 disclosed.

3. FOI Performance for the financial year April 2016 - March 2017

- 3.1 The total number of information requests received under the FOI Act between 1 April 2016 - 31 March 2017 was 388.
 - 3.1.1 95% of requests were dealt with within the statutory timeframe of 20 working days. An overview is provided in Table 1.
 - 3.1.2 During the previous year (2015 / 2016) the Trust received a total of 280 requests. 97% of responses were sent within the 20 working day timescale.
 - 3.1.3 The above demonstrates that there has been an increase of 38% in the number of FOI requests during 2016 / 2017. However response times have remained relatively consistent.

3.1.4 The ICO has used a threshold figure of 85% for monitoring FOI compliance, i.e. if a public authority fails to respond to 85% or more of the information requests it receives within the statutory deadlines it would be monitored. The ICO has recently considered whether the threshold rate should be increased to 90% or 95%. It was felt that increasing the threshold would send a message that the ICO regards the statutory obligations under the FOI Act as a serious issue. At a meeting of the ICO's Senior Management Team on 21 November 2016 it was agreed that the threshold be increased to 90% with a possibility that this could be increased further.

3.1.5 During the past three financial years, overall, the Trust has been meeting the ICO's compliance rate. Performance during 2016 / 2017 continues to meet the ICO's compliance rate, as shown below.

Table 1

	Total no of requests received	Requests dealt with within 20 days	Requests outside of 20 days	Percentage on time
Apr – Jun (Q1)	89	82	7	92%
Jul – Sep (Q2)	94	91	3	96%
Oct – Dec (Q3)	89	87	2	98%
Jan – Mar (Q4)	116	108	8	91%
Total	388	368	20	95%

3.2 Category of Requesters

3.2.1 Table 2 lists the number of requests by category of requester. Requests for information were usually received by email and came from a variety of sources. 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 2

Category of Requesters	Number of requests received each quarter				Total per category
	Q1 Apr-Jun	Q2 Jul-Sep	Q3 Oct-Dec	Q4 Jan-Mar	
Private	22	29	28	31	110
Commercial organisations	16	17	8	27	68
Media	13	8	26	15	62
Websites dedicated to FOI requests	7	19	6	10	42
Voluntary Organisations/ Campaign Groups/Unions	7	6	9	11	33
Members of the Public	5	5	5	10	25
Students/Academic institutions	7	4	6	5	22
NHS	7	6	1	4	18
Government/MPs	5	0	0	3	8
Total:	89	94	89	116	388

3.2.2 The majority of requests, as in the two previous years, continue to be from individuals or organisations classed as "private", followed by commercial organisations and the media.

3.3 Types of information requested

- 3.3.1 The subject matter of FOI requests varied considerably and it is difficult to accurately summarise these other than by very broad categories. Table 3 below provides a breakdown of requests received per quarter. It is also often the case that one request would have multiple elements/subject; however for recording purposes, the main subject is used.

Table 3

Category of Requests	Category of requests by each quarter				Total per category
	Q1 Apr- Jun	Q2 Jul- Sep	Q3 Oct- Dec	Q4 Jan- Mar	
Clinical Information	18	23	33	40	114
Information Technology/ Governance	17	18	9	17	61
Workforce	14	19	12	13	58
Patient Safety	11	8	7	12	38
Estates and Facilities	8	5	7	9	29
Agency Spend	5	5	2	3	15
CAMHs	5	2	5	4	16
Finance/Procurement	5	4	4	12	25
Corporate Information	4	9	9	3	25
Pharmacy	1	1	0	3	5
Communications	1	0	0	0	1
Transferred to other organisations	0	0	1	0	1
Total	89	94	89	116	388

- 3.3.2 Whilst these are very broad categories, most of the information requested related to clinical information and statistics such as waiting times, and numbers of referrals received in regards to Trust's services.
- 3.3.3 Requests are often tied in to current affairs. There was significant media reporting last winter of NHS shortage of inpatient beds. This was reflected in the increase in the number of requests during quarter 4 in the number of requests relating to out of area placements and delayed discharges. Information on children's mental health and eating disorders continue to be of interest.

3.4 Internal Reviews and Complaints

- 3.4.1 Two requesters were not satisfied with their responses and sought internal reviews. The Trust reviewed the information provided and the requests were resolved informally.
- 3.4.2 There were no new complaints made to the ICO during the 2016 / 2017 financial year.

3.5 Exemptions

- 3.5.1 Disclosure of information requested under the Act may be refused if the information falls under one or more of the 23 exemptions set out in the Act. During the 2016 / 2017 financial year the Trust applied exemptions on a total of 186 occasions. The most frequently used exemptions were Section 1 – 'the information was not held' and Section 21 – 'information reasonably available elsewhere'.

3.5.2 More than one exemption can be used within a single request due to requests having multiple strands/requests and therefore it has not been possible to accurately make comparisons with the number of requests received.

3.5.3 Table 4 below provides a breakdown of the number of exemptions used.

Table 4

Exemption	Description	Number of times applied	Reason
Section 1	Section 1(1)(a) of the Act requires the public authority to determine whether the information is held	51	Information is not recorded by the Trust
Section 8	Valid name	8	Multiple requests from an individual or organisation providing different names to avoid aggregating requests under the same/similar subject
Section 12	The request would exceed the cost limit as defined by the Act.	38	Locating, extracting and retrieving the information would exceed the cost limit
Section 21	Information accessible to applicant by other means	52	Already published as part of the Trust Publication Scheme on the Trust website
Section 22	Information intended for future publication	10	Documents in draft form that will be published in the near future
Section 31	Law Enforcement	2	This relates to the prevention or detection of crime, and can protect information on a public authority's systems which would make it more vulnerable to crime.
Section 40	Personal information	7	Personal data within the meaning of the Data Protection Act 1998
Section 44	Prohibitions on Disclosure	1	Disclosure is prohibited under other legislation
Section 43(2)	Commercial interests	18	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.

3.6.2 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 2016 / 2017 financial year.

4. Model Publication Scheme

4.1 The Trust continues to annually review and revise the content of its publication scheme on the website in line with the ICO's publication scheme, as well as targeting the information on the website in line with requests received via the Act.

5. Monitoring of FOI Requests

5.1 The Trust's Information Governance Forum continues to meet every two months and is chaired by the Chief Information Officer, who is the Trust's Senior Information Risk Officer (SIRO). The Information Governance 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

8.1 None.

Ends.