

## Freedom of Information Report: April 2013 – March 2014

### 1.0 Purpose of the Report

- 1.1 To provide an update on the number and detail of the FOI requests received between April 2013 and March 2014.

### 2.0 Terms / Acronyms Used in the Report

Abbreviation	In full
FOIA	Freedom of Information Act
EIR	Environmental Information Regulations
DPA	Data Protection Act

### 3.0 Background

- 3.1 The Freedom of Information Act (FOIA) and the Environmental Information Regulations 2004 (EIR) came into force in January 2005. Since their implementation NHS East & North Herts Clinical Commissioning Group (the CCG) has successfully processed its freedom of information requests in line with legislation. It has also established effective procedures for maintaining compliance.

### 4.0 Summary of the Legislation

#### Freedom of Information

- 4.1 The Act gives anyone the right to ask a public authority for information the information they have to be released to them or to be told why the information cannot be provided. Public Authorities are bound by the Act to:
- Reply to any request within 20 working days either providing the information or stating why it cannot be provided using the stated exemptions within the Act
  - Provide advice and assistance to the applicant in making the request
  - Must not charge for providing the information, other than photocopying, postage and related disbursements, unless the time that would be required to provide the information would exceed the ‘appropriate time limit’ of 18 hours.
  - Where a request has been declined, offer an appeals procedure prior to the requestor taking a complaint to the Information Commissioner.
- 4.2 In addition, under the Act there is also a requirement to publish the information held which is referred to as the “Publication Scheme”.

#### Environmental Information Regulations

- 4.3 The Environmental Information Regulations 2004 give enhanced access to environmental information, by giving members of the public and others the right to access environmental information held by public authorities.
- 4.4 Environmental information is divided into the following main areas:
- The state of the elements of the environment, such as air, water, soil, land, etc and the interaction among these elements

- Emissions and discharges, noise, energy, radiation, waste and other such substances
- Measures and activities such as policies, plans, and agreements affecting or likely to affect the state of the elements of the environment
- The state of human health and safety, contamination of the food chain
- Cultural sites and built structures (to the extent they may be affected by the state of the elements of the environment)

4.5 The provisions of the Freedom of Information Act and the Environmental Information Regulations are quite similar however; there are a number of differences which include:

- Requests for environmental information need not be in writing
- The definition of information held by a public authority includes information held on behalf of any other person
- An extension can be requested for EIR requests (up to 40 days)
- There are differences between the exceptions available under EIR and the exemptions available under FOIA
- No exception is made for requests that involve costs in excess of the 'appropriate limit'
- There is a requirement for public authorities have a complaints and reconsideration procedure to deal with representations alleging non-compliance with the EIR

## **5.0 Related legislation**

5.1 The Freedom of Information Act is closely linked with the provisions outlined in the Data Protection Act 1998 which gives (or prevents) access to personal data.

## **6.0 Procedures for ensuring compliance with the legislation**

6.1 The CCG has adopted a centralised model for the receipt and processing of FOI/EIR requests. The function operates in parallel with the process for handling requests under both the Data Protection Act and Subject Access Requests. This helps to ensure consistency and compliance.

6.2 The main functions of FOI team are to:

- Acknowledge, distribute and coordinate response to requests made under FOI, EIR and DPA legislation
- Consider the application of any exemptions/exceptions
- Provide advice and assistance to members of the public and others wishing to use the legislation
- Provide support and advice to staff responding to requests

- Implement the corporate FOI/EIR complaints (or appeals) procedures including the internal appeals panel and liaison with the Office of The Information Commissioner.

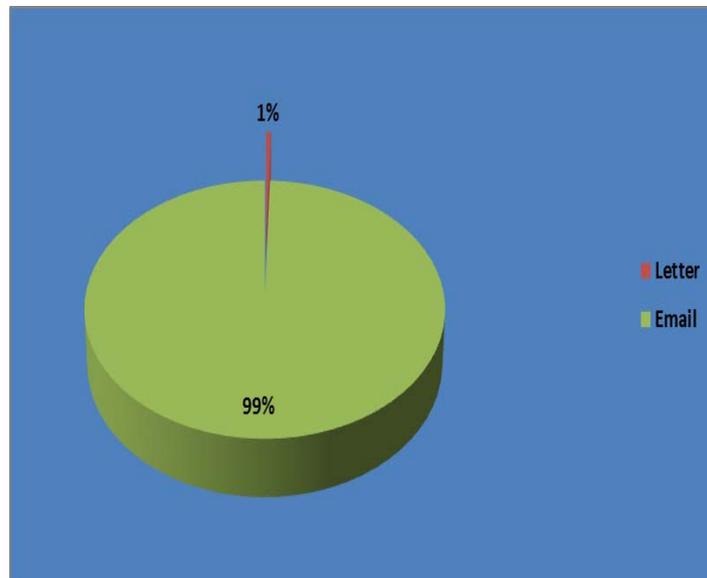
**7.0 Analysis of requests received**

7.1 Between April 2013 and March 2013 the CCG received 224 FOI requests and no EIR requests.

7.2 How and where requests were received by the CCG

7.3 The Freedom of Information legislation states that a requestor must provide a name and address for correspondence. The “address” can be an email address or even a twitter account. However, proof of name is not required. Most requests were received by email directly into the dedicated FOI email address.

7.4 Of the 224 requests received during this period 222 requestors were received via email and 2 requests were received by post. No requests were received by Twitter.



**Graph 1 – method of receipt of FOI requests**

7.5 Identification of Requestors / Subject of Request

7.6 There is no requirement under the FOIA of EIR for the requestor to detail the reasons for the request. As outlined above, a name and address is required for all requests.

7.7 The table below provides details of the requestor and is based on limited available information:

Requestor	April 2013 - March 2014	
	No.	%
General Public	53	24
Researchers	20	9
Legal / Solicitors	11	5
Charities	22	10
Media local and National	26	12
MPs / Councilors / Political researchers	20	9
Businesses Local and National	56	25
Campaigning Groups	3	1

Other Public Members	13	6
Total	224	100%

Table 1

7.8 The table above shows in particular a high volume of requests being submitted by the general public and businesses (at both a local and national level)

7.9 Subject of Request

7.10 The information below illustrates the directorate of the requests received

DIRECTORATE	April 2013 - March 2014	
	No.	%
Acute Trust/Community	22	9
Finance & Contracts	45	19
Pharmacy & Ophthalmology	36	15
Corporate/Commissioning	67	29
ICT	14	6
Public Health	10	4
Area Team	18	8
Estates	4	2
CECSU	19	8
TOTAL	235	100%

7.11 The subject of requests for information is wide ranging, with the Corporate/Commissioning Directorate showing the largest number of 67 requests. Requests in this Directorate reflect the CCG as a new organisation with significant numbers of requests for organisational structures received in the first few months of the organisation existence.

7.12 It is important to note that a number of requests have been multi-faceted and have involved multiple service areas, so the number of service areas shown above does not equal the number of requests received

7.13 Response Times

7.14 Between April 2013 and March 2014 99% of all FOI requests were responded to within 20 working days. This is a significant achievement particularly since there has been a noticeable increase in the length and complexity of requests, and some which involve multiple services.

**8.0 Fees Charged**

8.1 To date the CCG has not imposed an FOI charge.

**9.0 Application of Exemptions**

FOIA

9.1 The Act outlines 23 exemptions which prevents the release of information. The presumption of the Freedom of Information Act is that information will be released unless there is a good reason why it should be withheld.

9.2 Of the 224 requests received, no exemptions were applied.

- 9.3 Some requests were refused or only received partial replies because they were considered too wide or complex.

## EIR

- 9.4 Unlike with the FOIA, all the exceptions in the EIR (except those relating to personal data) are subject to a public interest test. As outlined about the CCG is yet to receive an EIR request.

## **10.0 Complaints/Review Procedures**

- 10.1 All responses to FOI or EIR requests contain details of the CCG complaints and appeals process.
- 10.2 Between April 2013 and March 2014 the CCG did not receive any complaints in this regard.
- 10.3 The current complaints process confirms that the Associate Director of Governance and Corporate Affairs would be responsible for any investigation and response.

## **11.0 Publication Scheme**

- 11.1 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.
- 11.2 The scheme must set out the organisation commitment to make certain classes of information routinely available, such as policies and procedures, minutes of meetings, annual reports and financial information.
- 11.3 There are seven classes of information an organisation should publish. The seven classes of information are broad and include headings like 'who we are & what we do, the services we offer'.
- 11.4 The classes cover all the more formal types of information the CCG hold, such as information about the structure of the organisation, minutes of meetings, contracts, reports, plans and policies.
- 11.5 Details of the CCG publication scheme can be found on the CCG website, [www.enhertscg/Freedom of Information](http://www.enhertscg/Freedom of Information)

## **12.0 Conclusion**

- 12.1 The majority of the requests (99%) for information received by the CCG were handled on time. However, in spite of best efforts, a very small percentage were not answered within the time limit because they have been complex or have involved large amounts of information.
- 12.2 The Freedom of Information Act and Environmental Information Regulations were intended to be tools for cultural change, providing new levels of openness and accountability in all areas of NHS organisations. It is important that these changes are utilised to examine the approach taken to the management and release of information to the public. The CCG's approach is to publish 'frequently asked questions' on its website to simplified the FoI process.

### **13.0 Plans for 2014/15**

13.1 The following action points have been identified for the current year:

- To ensure that staff and others providing services on NHS E&NHCCGs behalf remain aware of the requirements of the FOIA and EIR including timescales
- To maintain an awareness of the requirements of the Information Commissioner, and of best practice in the operation of the FOIA and EIR.
- Publication scheme – publishing Freedom of Information enquiries on the website. Work with the web person to ensure that the Publication Scheme aligns with the website structure
- Maintain the publication scheme and continue to publish the information it lists. Make sure a process is in place to review what information is being publish, ensure newly created information that falls within the scope of the scheme is available promptly and replace or update information that has been superseded.
- Ensure that Freedom of Information administrators maintain commitment and awareness of FOI and EIR through ongoing training and expand their knowledge of information governance