### Barrack Lane Medical Centre

## Freedom of Information Protocol

Version	Author	Owner	Notes
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#### 1. INTRODUCTION

This protocol supports staff to deal with requests for information so that Barrack Lane Medical Centre complies with the requirements of the Freedom of Information Act 2000 in line with the organisation's overall commitment to transparency.

The Freedom of Information Act 2000 ("the Act") gives anyone the right to make a written request (including an e-mail request) to see information held by public sector providers or organisations owned by public sector providers.

## 2. QUICK REFERENCE POINTS

- ✓ The FOI Act 2000 gives anyone the right to ask for information about Barrack Lane Medical Centre— such as facts and figures, minutes of meetings and staff salaries.
- √ These requests must be responded to promptly and in a supporting manner
- ✓ They can request all kinds of information digital records, post it notes, voice recordings
- ✓ There are a number of legitimate exemptions where information can be withheld
  from the requestor
- ✓ Requests should be promptly referred to the IG Lead

#### 3. KEY DEFINITIONS

#### **Personal Confidential Information**

This term is intended to cover information captured by the Data Protection Act 2018 / GDPR (identifiable information about the living), information covered by the Common Law Duty of Confidence / Tort of Misuse of Private Information and finally, information covered by

Article 8 European Convention for Human Rights.

4. SCOPE

See Information Governance Policy for key roles.

All staff, whether management or administrative, who create, receive and use Personal Confidential Information have responsibilities to ensure effective reporting and management of information risk for Barrack Lane Medical Centre. Employees have a contractual and legal obligation to read and comply with all company policies and to attend mandatory training to support the appropriate management of information.

## 5. KEY LEGISLATION / FRAMEWORK

- Freedom of Information Act 2000
- UK GDPR / Data Protection Act 2018
- Human Rights Act 1998

### 6. BACKGROUND AND REQUIREMENTS

- The Freedom of Information Act 2000 ("the Act") gives anyone the right to make a
  written request (including an e-mail request) to see information held by public sector
  organisations.
- The intention is to empower the public who are being served by those organisations through transparency so that they are engaged and aware of how public money and services are managed
- If the information is held by Barrack Lane Medical Centre, it must be disclosed. Any information can be requested, no matter how old it may be.

- This includes information contained within a variety of media such as emails, electronic filing systems and paper records.
- Requests do not have to specifically quote or mention the Act, nor do they have to provide a reason for requesting the information.
- Requests are "applicant blind", meaning Barrack Lane Medical Centre cannot take
  the identity of the applicant into consideration when releasing the information. An
  exception to this may be made if the applicant proves vexatious see Appendix A.
- Barrack Lane Medical Centre must respond to Freedom of Information requests within 20 working days. If not, Barrack Lane Medical Centre may be liable for action taken by the requestor.
- Barrack Lane Medical Centre must provide advice and assistance to everyone who
  makes a request, including where we do not hold the information, directing the
  requestor to the party that does hold it, where known.
- There are a small number of exemptions provided for under the Act which allow Barrack Lane Medical Centre To withhold information – see Appendix A.

## 7. REQUESTS FOR ROUTINE INFORMATION

- If someone requests you for information that you have to hand and normally give out (e.g. an information leaflet, details of opening times, etc.), you should continue to do so.
- These requests do not need to be logged as FOI disclosures.

# 8. REQUESTS FOR NON-ROUTINE INFORMATION

- Any employee may be contacted about an FOI request.
- You should be aware of the correct advice to give them and always refer to the Information Governance Lead to respond.
- If you are aware that the information being requested is available elsewhere, such as on Barrack Lane Medical Centre's website, you can refer them there.

- If the requestor is unable to use the website, or the information they want is not there, they must make a written request (this can be email).
- You should give them Barrack Lane Medical Centre's correspondence address and the name of the Freedom of Information Lead.
- Requests must be made in writing.
- If an applicant attempts to make a request over the telephone, they should be informed how to make their request in writing (see 5.3).
- All requests must contain the applicant's name and a way of contacting them with the organisation's written response.

### 9. HANDLING WRITTEN REQUESTS

- Because FOI is governed by strict timescales, it is important to refer the request to the Information Governance Lead within 24 hours.
- The date of receipt is the date the request is received at Barrack Lane Medical Centre, not the date it is passed to the FOI Lead or third party so you must act promptly.
- The CCG can offer additional support with FOI requests if necessary

#### 10. SUPPORTING THE GOVERNANCE LEAD

- Any employee may be contacted by the Information Governance Lead and asked for information regarding a request.
- If you are asked to provide information in response to a request, please do so as quickly as possible and by the date stated on the request form you have been sent.
- If you cannot provide information promptly, tell the IG Lead as soon as possible as they may need to advise the requestor

- Under section 16 of the Act, Barrack Lane Medical Centre has a duty to provide advice and assistance to applicants.
- The organisation will ensure it meets the duty of providing advice and assistance, so far as it would be reasonable to expect Barrack Lane Medical Centre to do so.
- If you cannot provide the exact information asked for, you may be able to suggest an alternative. You should discuss this with the IG Lead.
- If we do not hold the information within Barrack Lane Medical Centre, but you know which organisation *does* hold the information (ie, a Trust, the council, etc) you should inform the IG Lead as this part of the request may be able to be transferred.

#### 11. TRANSFERRING A REQUEST

- This will be done by the IG Lead.
- If Barrack Lane Medical Centre receives a request for information which it does not hold, within the meaning of section 3(2) of the Act, the FOI Lead will transfer the request and advise the applicant that it does not hold part, or all, of the requested information.

#### 12. PROCESSING A REQUEST

- If the information is not available through the publication scheme, and the IG Lead does not already hold the information, the request will be passed to the relevant department to locate and provide the information requested.
- If the information is not exempt, it will be collated, removal of Personal Confidential
  Data will be undertaken and the final response will be sent to the requestor within 20
  working days of receipt.
- If the information is exempt from disclosure, the applicant will be informed (in writing) which exemption applies. They will be given the right to appeal the decision.
- If the applicant is requesting a copy of their own health records they will be informed that their request is exempt under Section 40(1) of the Act, and advised how to make a Subject Access Request under the Information Rights and Access Protocol.

- Where the use of a qualified exemption is proposed, a Public Interest Test will be completed and approved by the FOI Lead.
- Consultation on the use of a qualified exemption must take place and be communicated to the requestor within the 20-working time limit.

#### 13. CHARGES AND FEES

- Information available on the Barrack Lane Medical Centre website is available to view online or download free of charge.
- Charges may be levied for hard copies of requested information, multiple copies, or copying onto media such as a CD-ROM. Charges will be in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees)
   Regulations 2004.

#### 14. INFORMATION MEDIA

 If a requestor asks for information in a specified format, this will be provided where practicable.

#### 15. APPEALS

- If a requestor wishes to appeal they should write or email Barrack Lane Medical Centre.
- If, after the requestor has appealed, they are still not satisfied they may appeal to the FOI/ EIR Case Reception Unit, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

#### 16. APPLICATION AND AUDIT

Compliance with this protocol will be audited and the results fed into the Plan, Do, Check, Act Cycle described in the Information Risk and Audit Protocol.

- ✓ All staff should be able to recognise and FOI requests to the right person
- ✓ Barrack Lane Medical Centre will keep a log of all FOI requests to ensure that we are responding in a consistent and timely way
- ✓ Staff must confirm that they have read and understood this protocol
- ✓ This protocol will be reviewed annually or sooner in the event of significant learning or change
- ✓ This protocol should be read in conjunction with the other protocols in the Data
  Protection and Security policy suite
- ✓ Subject Access Requests are covered in the Disclosures and Access Protocol

#### APPENDIX A: EXEMPTIONS TO RELEASE UNDER FOI

#### **FOI Absolute Exemptions**

- Section 21 Information accessible by other means (this often means it is already in the public domain, in which case the authority is obliged to direct you to where it is held.)
- Section 23 National Security Information supplied by, or relating to, bodies
  dealing with security matters (a certificate signed by a Minister of the Crown is
  conclusive proof that the exemption is justified. There is a separate appeals
  mechanism against such certificates)
- Section 32 Court Records
- Section 34 Parliamentary Privilege a certificate signed by the Speaker of the House, in respect of the House of Commons, or by the Clerk of the Parliament, in respect of the House of Lords is conclusive proof that the exemption is justified.

- Section 36 Effective Conduct of Public Affairs so far as relating to information held by the House of Commons or the House of Lords
- Section 40: Personal Information where the applicant is the subject of the information. The applicant already has the right of 'subject access' under the Data Protection Act 1998; where the information concerns a third party and disclosure would breach one of the data protection principles
- Section 41 Information provided 'In Confidence'
- Section 44 Prohibitions on disclosure where a disclosure is prohibited by an enactment or would constitute contempt of court.

#### **FOI – QUALIFIED EXEMPTIONS**

- Exemptions where the public interest test applies:
- Section 22: Information Intended For Future Publication Exemption
- Section 24: National security (other than information supplied by or relating to named security organisations, where the duty to consider disclosure in the public interest does not apply)
- Section 26: Defence
- Section 27: International relations
- Section 28: Relations within the United Kingdom
- Section 29: UK Economic Interests
- Section 30: Investigations and Proceedings Conducted By Public Authorities
- Section 31: Law Enforcement
- Section 33: Audit Functions
- Section 35: Formulation of government policy and Ministerial Communications
- Section 36: Prejudice to effective conduct of public affairs (except information held by the House of Commons or the House of Lords)
- Section 37: Communications with Her Majesty, the Royal Family or concerning honours
- Section 38: Health and Safety
- Section 39: Environmental Information as this can be accessed through the Environmental Information Regulations
- Section 40: Personal information relating to a third-party access request
- Section 42: Legal Professional Privilege
- Section 43: Commercial Interests