Freshney Pelham Care Ltd

FREEDOM OF INFORMATION POLICY

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Signed & Dated **Manager** **Clinical Governance Lead**	…… ……

UPDATE / AMENDMENTS RECORD			
Version	**Author**	**Nature of Change**	**Date authorised by Directors**
V1	N Ashton	New policy based on NHS policy and GDPR regulations	12/12/2019
V2	N Ashton	Review of policy	25/11/2021
V3	N Ashton	Review of policy; addition regarding SAR.	18/12/23

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1. INTRODUCTION

The Freedom of Information Act (FOIA) gives rights of public access to information held by public authorities.

It does this in two ways:

- Public authorities are obliged to publish certain information about their activities
- Members of the public are entitled to request information from public authorities

The Act covers any recorded information that is held by a public authority in England, Wales, Northern Ireland and by UK wide public authorities based in Scotland. Information held by Scottish public authorities is covered by Scotland's own FOI (Scotland) Act.

The Act does not give people access to their own personal data such as their health records. If a member of public wants to see information that a public authority holds about them, they have to make a subject access request under the Data Protection Act 2018 (DPA).

Compliance with the Act is a legal duty and is overseen by the ICO (Information Commissioner's Office). This policy and procedure sets out the principles which will guide FPC's response to requests under the FOIA and the approach to be taken to ensure requests are handled appropriately.

2. PURPOSE & SCOPE OF THE POLICY

The purpose of this policy and procedure is to ensure that FPC complies fully with its legal duties and adheres to its stated commitment to being an open and transparent organisation.

The procedure aims to ensure that requests for information are well coordinated and minimise the risk of people being provided with conflicting or inaccurate information.

3. FREEDOM OF INFORMATION ACT POLICY

Although a private limited company, FPC is funded by the NHS and works for the Freshney Pelham PCN and GP practices. FPC is committed to openness and transparency in its dealings with its patients and the public.

There is a wealth of information available on the FPC website and signposts people to this to support understanding of FPC and its services. The website contains an FOIA Publication Scheme, which includes information routinely available, for example policies and procedures and performance information.

FOIA also applies to information held in datasets, this is a collection of factual raw data, in electronic form that is gathered in the course of providing services.

Requests for information from any source will be dealt with promptly and in accordance with the requirements of the Act. The Act states that requests should be acknowledged within 2 working days and responded to within 20 working days. Where the cost of compliance with the Act exceeds the appropriate limits set out by the ICO, a charge *may* be applied for collating and copying materials.

This policy applies to written requests for specific information which is not routinely available via the FPC website. Written requests include those requests received via email.

A Freedom of Information Act does not give people access to their own personal data, such as health records, or HR records. If a member of the public, or an employee, wants to see the

information that a public authority or employer holds about them, then they should make a Data Subject Access Request.

4. ROLES & RESPONSIBILITIES

The CEO is responsible for the overall Leadership and Management of FPC and has ultimate responsibility for ensuring compliance with the DPA 2018, FOIA, GDPR, Human Rights Act 1998 and the Common Law Duty of Confidentiality. The CEO delegates aspects of their responsibility to relevant Directors and the Management Team.

The CEO also takes the role of Senior Information Risk Officer (SIRO).

The Operational Business Manager takes the role of Data Protection Officer and holds responsibility for all day to day Data Protection, Security and Confidentiality matters as well as all SAR's and FOIA requests.

The Clinical Lead Manager, Practice Educator, LTC Manager and Team Leaders are responsible for the implementation of this policy within their areas of responsibility.

All staff are required to maintain records in accordance with FPC policy on Information Governance (IG) and the retention and disposal of records.

Staff should refer requests which are (or appear to be) made under the FOIA legislation to the Operational Business Manager.

5. IMPLEMENTATION

This policy will be distributed amongst staff and held within the Policy Folders in the Training Library. IG training must be completed in accordance with FPC mandatory training requirements.

The FPC leaflet for patients (How we use your Health Records) contains key information published in this policy.

6. EVALUATION & REVIEW

This policy will be reviewed in 3 years unless a substantial change in policy or legislation takes place, where an earlier review will be undertaken.

This policy should be read in conjunction with:

- Disciplinary Policy
- Data Protection & Confidentiality Policy
- Subject Access Request Policy
- Records Retention Policy
- Data Security and Incident Management Plan
- Whistleblowing Policy
- Terms and Conditions of Employment
- Employee Privacy Statement

APPENDIX A

FOIA – Procedure for dealing with requests which may be covered by FOIA

- FPC maintains a publication scheme which makes a range of information about the organisation routinely available via FPC's website.
- All requests for information under the FOIA are dealt with by the Operational Business Manager.
- All written requests for information made to FPC should be dealt with under the FOIA.
- Requests for information under the general right of access must be made in writing; requests received via email are valid.
- The Operational Business Manager / Admin Team will maintain an electronic record of all requests and all transactions involved in facilitating the response.
- Requests for information received from the media will be notified to the Board of Directors on the day of receipt.
- Requests for information where Department of Health or other guidance exists will be processed in accordance with that guidance – e.g. Requests that relate to matters concerning Prevent or Extremism.
- All requests will be acknowledged within 2 working days to notify the applicant that their request is being dealt with and the date by which information will be provided in compliance with the 20 working day requirement.
- Where it is estimated that the cost of compliance with the request for information exceeds the appropriate limit set by the ICO fees regulations, requests can be refused. If information is to be provided, then the Operational Business Manager will notify the applicant in writing of the estimated cost and where possible, suggest ways of providing the information more cost effectively.
- Where information requested is exempt from disclosure under the FOIA; that information will be refused in line with the process set out in this policy. This may apply to only part of the request and the remainder of information will be provided within the timeframe.
- When making an FOIA request, the following information must be included:
    - Name
    - Contact details
    - A detailed description of the recorded information required

Exemptions

- The decision to refuse access to information requested under FOIA will be made by the CEO, or Director of FPC in their absence. Decisions must be made in accordance with the Act and

independent legal advice may be sought if required. All of part of a request may be refused if:

  - The information is exempt under the Act. Exemptions are listed and detailed on the ICO website.
  - The cost of compliance exceeds the appropriate limit.
  - There is evidence that the request is demonstrably vexatious or repeated.

- Exemptions may be absolute (where the ICO has ruled that in no circumstances would a public body be obliged to disclose such information) or qualified (where the public interest in withholding the information outweighs the public interest which would be served by disclosing the information).

- In some circumstances where it is deemed to be in the public interest to refuse to disclose information, FPC is obliged to disclose whether it holds the information unless doing so would not be in the public interest.

- Where information belongs to another organisation, FPC may refer to the request to that organisation or, if FPC holds a copy of the information may obtain permission from the other organisation to disclose.

Equality Impact Assessment Form

Step 1 – Identify the policy

Policy title	Freedom of Information Policy
Department responsible for the policy	FPC Ltd
New or previously approved policy?	Reviewed Policy 18/12/23
Date of approval / last review (if known)	25/11/2021
Name and role of Assessor(s)	Nicola Ashton – Operational Business Manager

Step 2 – Further information

1. Describe the main aims, objectives and purpose of the policy	The purpose of this policy and procedure is to ensure that FPC complies fully with its legal duties and adheres to its stated commitment to being an open and transparent organisation. The procedure aims to ensure that requests for information are well coordinated and minimise the risk of people being provided with conflicting or inaccurate information.
2. Who is expected to benefit from this policy?	All patients, stakeholders and staff employed by FPC Ltd and users and partners of the service
3. Who was consulted on this policy?	Senior Managers, Directors, NELCCG, NHS

Step 3 – Assess the impact on different groups of people

4. In the table below, please tick whether the policy affects particular groups of people – the Equality Target Groups below -- in different ways, compared to other groups. Here are some examples:

- **Positive impact:** a policy or practice where the impact on a particular group of people is more positive than for other groups, e.g., accessible website design. It can also include legally permitted positive action initiatives designed to remedy workforce imbalance, such as job interview guarantee schemes for disabled people.
- **Negative impact**: a policy or practice where the impact on a particular group of people is more negative than for other groups (e.g., where the choice of venue for a staff social occasion precludes members of a particular faith or belief group from participating).
- **Neutral impact:** a policy or practice with neither a positive nor a negative impact on any group or groups of people, compared to others.

Equality Target Group	Positive impact	Negative impact	Neutral impact	Reasons / comments

Men			x	This policy and procedure applies equally to all staff, regardless of gender, race, disability, sexual orientation, religion or age.
Women			x	As above
People from black and minority ethnic communities			x	As above
Disabled people			x	As above
Gay, Lesbian and Bisexual People			x	As above
Transgender people			x	As above
Older people (50+)			x	As above
Younger people (17 – 25)			x	As above
Faith or belief groups			x	As above

Signed by Assessor:

Date: