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# Freedom of Information

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## 1.0 PURPOSE:

The purpose of this policy is to provide guidance for staff in the event that a request for release of information is made by a consumer or member of the public.

## 2.0 SCOPE:

This policy applies to all information requests made at Nathalia District Hospital (NDH) and Nathalia Medical Clinic.

## 3.0 DEFINITION:

The *Victorian Freedom of Information Act 1982* gives a person the right to access written information held by Nathalia District Hospital about their personal affairs and the activities of Nathalia District Hospital and the right to request that incorrect or misleading information held by NDH about them is removed or amended. This includes client information such as medical records and pathology results, as well as all documentation gazetted through committee meetings.

Documents not accessible include internal working documents, documents covering legal professional privilege such as legal advice, personal information about other people and documents containing information provided to NDH in confidence.

The **Freedom of Information Officer** (FOI) at Nathalia District Hospital is the Chief Executive Officer. In his or her absence, the Director of Nursing will assume this responsibility.

## 4.0 POLICY STATEMENT:

As a government incorporated body listed under schedule 1 of the Health Services Act 1988, Nathalia District Hospital is required to comply with the *Victorian Freedom of Information Act 1982*. Its management of information is also guided by the *Information Privacy Act 2000* which excludes health information and the *Health Records Act 2001*.

In 2014 the Freedom of Information Professional Standards were released identifying the responsibilities for NDH under the Act. There are 6 principles which include:

1. Access to public sector information
2. Assessing and determining applications
3. Reviews and appeals
4. Complaints
5. File management and reporting
6. Education

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## 5.0 RISK MANAGEMENT:

- 5.1 Clinical: Security of Health Record: Risk Rating 4 (Low) measured by the number of applications completed correctly under FOI.

## 6.0 PROCEDURE:

### Access

- 6.1 Members of the community have the right of access to documents created by NDH or supplied to NDH by an external organisation or individual. Healthcare recipients or their authorised representative have the right to inspect a wide range of documents including emails, computer files and photographs, copy these documents ensuring they are complete and have an explanation provided of the content by an appropriately qualified person.
- 6.2 There is no age limit to be able to consent. The FOI Officer must be satisfied that the request was made as a conscious voluntary act, and the person making the request understands the nature and significance of making the request and that it is made because of a wish to obtain access to documents.
- 6.3 It may be of use to understand the motives of the applicant, as there are occasions when the information may be supplied outside the FOI process.

### Request

- 6.4 Staff refer all requests for access to patient documents and hospital records to the FOI Officer, who will provide the Freedom of Information Access Form.
- 6.5 Applications must be written on the FOI Access Form, evidence of the person's identity be provided (such as a driver's licence), include a clear description of the documents being requested, how the person wishes to access the documents and, where applicable, include the application fee. Processing will not begin until the required information is supplied.

### Costs

- 6.6 There are two costs associated with making an FOI request as set by the government regulations: an application fee and an access cost.
- 6.7 The application fee is a non refundable fee with exception that it may be waived if there is hardship or the person has a pension card, at the discretion of the FOI Officer.
- 6.8 The second cost is an access fee which includes a search charge, a supervision charge plus a per item photocopied cost applies. GST does not apply to fees. These fees change annually and are clearly defined in the FOI Access Form. If fees exceed \$50, NDH will notify the applicant and enquire if they wish to continue.

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## Refusal of Access

- 6.9 The FOI Act provides several categories of information exempt from release. Some of these include:
- Documents which relate to information about legal proceedings
  - If the FOI Officer determines that a person seeking their own medical information could be adversely affected by finding out the information contained in their medical file, the hospital may decide that disclosure should be made through a medical practitioner nominated by that person
  - If the FOI Officer determines that the documents which would impact unreasonably on another person
  - Information that was given in confidence
  - Is unlawful
  - Relates to a negligence claim
  - Documents containing information provided in confidence to an agency and it can be shown that it would be contrary to the public interest for Nathalia District Hospital to release such information
- 6.10 Where a request for access has been refused, the FOI Officer will provide a reason for the decision and complete a Notification of Refusal Form.

## Responses

- 6.11 Applicants will be informed in writing that NDH will provide access to the health information within seven days after payment of fees or 45 days after receiving the request. Time may be suspended if the request is substantial or unreasonable.
- 6.12 Decisions in response to FOI requests for access to documents will be made in writing within 45 calendar days from the request to access the documents.
- 6.13 Decisions in response to FOI requests for amendments to documents will be made in writing within 30 calendar days from the date NDH receives the applicant's request.
- 6.14 Decisions in response to FOI requests for internal reviews will be made and despatched within 14 calendar days from the date NDH receives the applicant's request.
- 6.15 NDH is mandated to undertake a thorough and diligent search for all relevant documents. If the documents requested cannot be found, or if the documents requested are said to not exist, the applicant will be informed of this.

## Corrections

- 6.16 Healthcare recipients or their authorised representative are entitled to request information be corrected should they believe, following access, that the information is incorrect. Requests for correction are required in writing using the Request to Correct Information Form.

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- 6.17 Upon receipt of a request for correction of information, the FOI Officer must complete the following:
- Verify that the person requesting the information is authorised to do so
  - Request supporting evidence to verify validation of the request
  - Corrected information should be attached as an addendum to the file where ever possible rather than deleting form the file
  - Incorrect information is to be filed to ensure it is not inadvertently used
  - Other organisations may need to be notified to the correction
  - A record of corrections is recorded on the Request to Correct Information Form.
- 6.18 NDH can refuse to correct the personal/health information if it is believed there is lack of supporting evidence. A statement provided by the person should be attached to state the correction was requested.
- 6.19 In this instance, the FOI Officer must complete a Notification of Refusal Form to notify the applicant of the decision. An exception to this would be if the disclosure would prejudice a legal investigation.

## Appeal

- 6.20 NDH will notify an applicant of their right of appeal to an independent body if access has been denied. An applicant is entitled to seek a review of the FOI Officer's decision by the FOI Commissioner at [www.foicommissioner.vic.gov.au](http://www.foicommissioner.vic.gov.au) or the Health Services Commissioner.
- 6.21 The role of the FOI Commissioner is the review decisions, handle complaints, monitor compliance by agencies to the prescribed professional standards and provide guidance and education to agencies on the FOI Act.
- 6.22 Following this, the applicant may lodge an appeal with the Victorian Civil and Administrative Tribunal (VCAT) within 60 days of receipt of the review decision at [www.vcat.vic.gov.au](http://www.vcat.vic.gov.au)

## Additional Information

- 6.23 Categories of information which may be released without formal FOI application include an employee's employment record, requests from police regarding information pertaining to an ongoing police investigation (see Release of Clinical Information to Police Policy), or patients who seek to transfer their medical history form Nathalia Medical Clinic to another clinic. In the later case this will, however, need the client's written consent.

## 7.0 REFERENCES:

*Freedom of Information Act 1982*  
*Information Privacy Act 2000*

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*Health Records Act 2001  
Freedom of Information Amendment (Freedom of information commissioner)  
Act 2012*

[www.foi.vic.gov.au](http://www.foi.vic.gov.au)

*FOI Procedure Manual 9<sup>th</sup> Edition, December 2013 (FOI Solutions)  
Boort District Health Service, "Freedom of Information Policy", 2015*

ACSQHS National Standard 1, Governance for Safety and Quality in Health  
Service Organisations  
Standards & Guidelines for Residential Aged Care 1.2, 1.8

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