

Trust-wide Policy Freedom of Information Requests Procedure	
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Division and/or department:	Corporate / IT Department
Lead author(s) job title:	Head of Information Governance / Data Protection Officer
Document summary:	This document sets out Great Western Hospitals NHS Foundation Trust's (the Trust) procedure for the required administrative practice to be followed when handling requests for information under the FOI Act (Ref 1) and the Environmental Information Regulations 2017 (EIR) [Ref 2]. Both types of requests are managed in the same way and the main differences are described in Appendix C.
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To be read in conjunction with:	<ul style="list-style-type: none"> • Freedom of Information Act 2000 (Ref 1) • Environmental Information Regulations 2017 (Ref 2) • Re-use of Public Sector Information Regulations 2015 (Ref 6)
Review period:	This document will be fully reviewed every three years in accordance with the Trust's agreed process for reviewing Trust-wide documents. Changes in practice, to statutory requirements, revised professional or clinical standards and/or local/national directives are to be made as and when the change is identified.

Version control history	
Please record brief details of the changes made alongside the next version number.	
Version	Brief summary of changes
5.0	Additional text to clarify s36 exemptions and delegating authority to determine its application

Contents

Instant Information – A short guide to the Freedom of Information Act 2000.....	4
Instant Information – Flowchart for Requests for Personal Data.....	5
1) Purpose and rationale.....	6
2) Scope.....	6
3) Definitions.....	6
4) Duties	6
4.1 Chief Executive.....	6
4.2 Ward Managers, Matrons and Managers for Non-Clinical Services.....	6
4.3 Document Author and Document Implementation Lead.....	6
4.4 All Trust Employees.....	7
4.5 Line Managers.....	7
4.6 Information Governance (IG) Team (FOI Lead and Co-ordinators)	7
4.7 IG Steering Group	7
5) Process	7
5.1 Receiving a Request	7
5.2 Logging a Request.....	8
5.3 Providing Advice and Assistance.....	8
5.4 Compiling Responses	8
5.4.1 Overview	8
5.4.2 Destruction of Requested Information	9
5.4.3 Disclosing Emails and Notes Made by Employees	9
5.4.4 Redacting Information	9
5.5 The 20-day Response Period.....	9
5.7 Dealing with Requests	10
5.7.1 Requests for Information not held by the Trust	10
5.7.2 Requests for Information Obtained from Third Parties.....	10
5.7.3 Requests for Copyrighted Information	10
5.7.4 Requests that Include Information on Individuals (employees or third parties).....	10
5.8 Re-use of Public Sector Information	11
5.9 Refusing or Responding in part due to an Exemption	12
5.10 Vexatious Requests.....	12
5.11 Complaints, Reviews and Appeals.....	12
5.11.1 Informal complaints.....	12

5.11.2	Internal Reviews	13
5.11.3	Complaints to the ICO and Appeals	13
5.12	Implementation and Administration.....	13
5.12.1	Records	13
5.12.2	Reporting	14
6)	Consultation	14
7)	Training and support.....	14
8)	Monitoring, compliance, and effectiveness of implementation	14
9)	Supporting documents.....	15
Appendices.....	Error! Bookmark not defined.	
Appendix A – Equality Impact Assessment		16
Appendix B – Freedom of Information Act Exemptions		17
Appendix C – Differences in FOI & EIR Request Handling.....		19

Instant Information – A short guide to the Freedom of Information Act 2000

Since 1st January 2005 the Trust, as a public authority, has had to answer all requests for information in accordance with the Freedom of Information Act 2000 (FOI Act). The only exceptions are:

- requests by individuals to access their own personal information ('subject access requests');
- requests for information which is routinely published by the Trust, or requests which are answered as part of normal business processes (e.g. routine correspondence, brochures, leaflets, press releases).

All recorded information held by or on behalf of the Trust is within the scope of the FOI Act, regardless of its age, format, origin or classification. The FOI Act covers files, letters, databases, loose reports, emails, office notebooks, videos, photographs, wall charts, maps etc. It extends to closed files and archived material as well as information in current use. In addition, information received from other organisations must also be considered when it is relevant to a request.

Requests for Information

A substantive response to any request for information must be provided promptly and in any event within 20 working days of receipt (excluding bank holidays and weekends). Requests must be made in writing (on paper or by email), must be legible, must give the applicant's name and an address for reply (postal or email address) and must include a description of the information required. There is no requirement for the request to mention Freedom of Information or the Act – the legislation applies regardless. The FOI Act places the Trust under a general duty to assist anyone who has made or is considering making a request; therefore employees must keep this in mind should they receive an approach from anyone.

Requests which are not for recorded information, but ask questions such as "please explain your policy on X" or "please explain your decision to do Y" are not requests for recorded information and therefore should be treated as routine correspondence. The 'rule of thumb' is that a request for information should be formally treated as a request under the Act:

- where any of the requested information is held and needs to be actively considered; or
- where it seems likely that the requested information cannot be disclosed.

The Trust is not obliged to create new information to answer a request, but the applicant should be helped to understand what relevant information is available.

Applying Exemptions (the Public Interest Test)

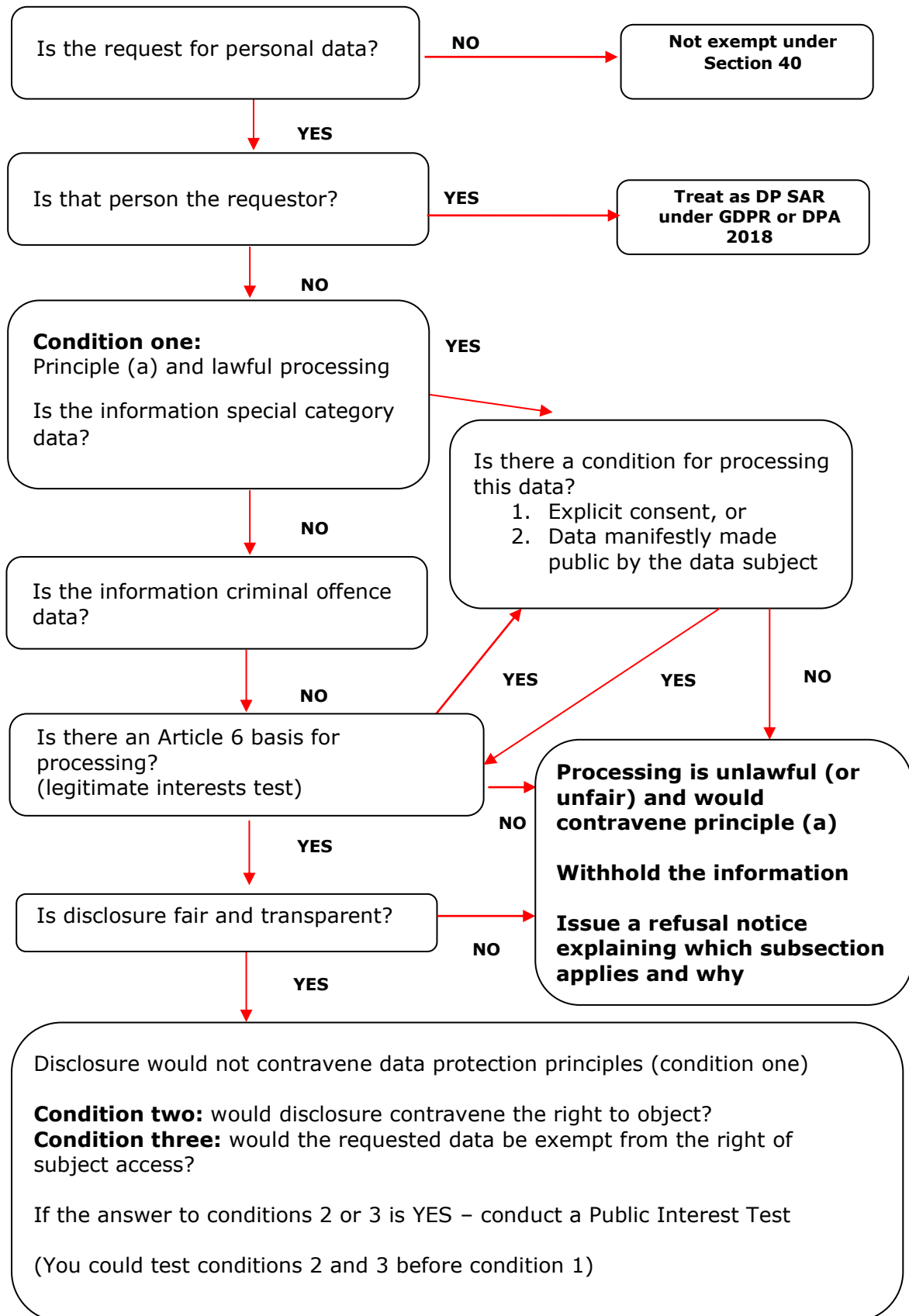
It is clearly not appropriate to make all information public and therefore the FOI Act recognises certain "exemptions" to releasing information. A few of these are "absolute" exemptions, meaning that the information can be withheld without needing to consider any public interest in disclosure. Most of the exemptions in the FOI Act are "qualified" exemptions, which means that the Trust must consider whether the public interest favours withholding or disclosing the information. Please see Appendix B of this document for a list of exemptions under the FOI Act and Section 2.9 for further information.

Redacting Information

The Act gives an entitlement to information, not copies of documents – though requested information often consists of a whole document. If a document is to be released in its entirety, any exempt information must first be removed (redacted); any information not relevant to the request may optionally be retained providing there is no sensitivity about its disclosure.

Instant Information – Flowchart for Requests for Personal Data

Please read Section 2.7.4 in conjunction with this flowchart



1) Purpose and rationale

Purpose:

The Freedom of Information Act (FOI Act) 2000 (Ref 1), which came into force at the beginning of 2005, deals with access to information held by public authorities. All public authorities are under a duty to comply with the FOI Act, which includes providing and maintaining a publicly accessible Publication Scheme and guide to information, providing advice and assistance to individuals seeking information, and providing information on request within the terms of the FOI Act.

2) Scope

This document applies to all staff employed by The Great Western Hospitals NHS Foundation Trust (whether on a permanent, temporary or honorary contract) who are involved in writing, reviewing or managing policy documents.

3) Definitions

The following terms and acronyms are used within this document:

DPA	Data Protection Act 2018
EIA	Equality Impact Assessment
EIR	Environmental Information Regulations 2017
FOI / FOIA	Freedom of Information / FOI Act 2000
ICO	Information Commissioner's Office
IG	Information Governance
IGSG	Information Governance Steering Group
IT	Information Technology
NCND	Neither Confirm Nor Deny
NHS	National Health Service
PALS	Patient Advice and Liaison Service
Publication Scheme	A means of providing access to information which is proactively published as part of a public authority's normal business activities.
RPSI	Re-Use of Public Sector Information
SIRO	Senior Information Risk Owner
UK	United Kingdom

4) Duties

4.1 Chief Executive

The Chief Executive is ultimately responsible for the implementation of this document.

4.2 Ward Managers, Matrons and Managers for Non-Clinical Services

All Ward Managers, Matrons and Managers for Non-Clinical Services must ensure that employees within their area are aware of this document; able to implement the document and that any superseded documents are destroyed.

4.3 Document Author and Document Implementation Lead

The document Author and the document Implementation Lead are responsible for identifying the need for a change in this document as a result of becoming aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives, and resubmitting the document for approval and republication if changes are required.

4.4 All Trust Employees

All employees must familiarise themselves with this procedure and ensure that they are aware of:

- How to distinguish between a routine enquiry and a FOI request,
- How to direct an applicant to an appropriate source of information (i.e. the FOI Publication Scheme on the internet website, or by submitting a written request to the FOI Lead), and
- On receipt of a written request, how to forward it to the FOI Lead.

Employees who are asked to supply any part of the information required to answer a FOI request must do so promptly, fully, concisely and professionally.

4.5 Line Managers

Line managers are to ensure that the employees for whom they are responsible complete their induction and mandatory training in Information Governance. Line managers are to check their employees' knowledge and awareness of relevant FOI matters when they complete regular IG Checklists.

4.6 Information Governance (IG) Team (FOI Lead and Co-ordinators)

The IG Team members are to administer requests for information on behalf of the Trust, ensure that they receive appropriate training in the FOI Act, and keep abreast of any changes in regulations and/or advice issued by the ICO.

4.7 IG Steering Group

The FOI team provide an FOI update at the IGSG meeting. This is an opportunity to discuss any particular trend, any ICO complaints or appeal and also raise concerns about and request where it has taken an individual or team too long to provide the FOI team with information.

5) Process

5.1 Receiving a Request

A request under the FOI Act can be made by anyone from anywhere (not just within the UK). This includes a request made by employees when enquiring in a non-professional capacity. To be valid the request does not have to mention 'Freedom of Information' or the Act, but it must:

- Be made in writing (i.e. on paper or by email),
- Be legible,
- Include the name of the applicant, including a surname,
- Include a valid address for reply (i.e. postal or email address), and
- Provide a description of the information required.

The requestor does not have to state the reason for their request; however, it is acceptable for the Trust to enquire about the requester's motives where the request is ambiguous or unclear, and knowing the reason for the request would help to identify the information the requester needs.

For those unable to write or type, requests can be made via the phone, provided the request is written down and read back to them and is confirmed as correct by the applicant.

To be processed under the FOI Act, requests must be for non-personal information, therefore if the applicant requests information about themselves, e.g. a request for health or personnel records, then the Data Protection Act 2018 (Ref 3) applies and they must be asked to make a Subject Access Request (refer to the Data Protection Policy, Ref. 4).

Not all requests need to be treated as formal FOI requests, e.g. if the information requested is routinely provided as part of the Trust's normal business processes. If an employee is unsure about responding, if they are concerned about the appropriateness of responding, or if the request is complex, they should ask the applicant to put their request in writing to the FOI Team.

Requests are logged and managed centrally through the FOI Team and therefore if an employee receives a request for information which cannot be managed as part of routine business, they should forward it to the FOI mailbox: gwh.foi@nhs.net

5.2 Logging a Request

Requests are logged into the FOI system, which holds full details of the request including the date of receipt, applicant name and contact details, brief description of the request and deadline response date.

5.3 Providing Advice and Assistance

The Trust must provide advice 'as far as would be reasonable to expect the Trust to do so', to applicants and prospective applicants. This will usually be advice about the type of information that the Trust holds and how to access it. Advice to applicants and prospective applicants is provided on the Trust's internet site.

If the applicant fails to make their request clear, then the Trust is expected to seek clarification. An explanation of the clarification required should be provided to the applicant, who will then have the opportunity to respond to this or to provide additional information which would help the Trust to provide a relevant response containing the information requested.

5.4 Compiling Responses

5.4.1 Overview

The Trust's FOI Team has responsibility for providing responses to requests made under the FOI Act. The team's role is to act as facilitators, therefore other staff in the Trust will be asked to provide relevant information which will enable the team to provide a suitable response.

Where a request is simple, straightforward and uncontentious, or the information is available from a previous request, the response may be issued by the FOI Team on receipt. If a request is particularly complex, the team may ask a senior member of Trust staff to review the response before it is sent to the applicant.

Applicants have two distinct rights under the FOI Act:

- The right to know if the Trust holds the information requested (the duty to confirm or deny), and
- The right to be provided with a copy of the requested information (the duty to communicate).

Responses are to address both rights where appropriate, e.g. where the information is known to be held but cannot be provided due to the excessive costs involved.

Upon receipt of a request, the FOI team will identify and contact the senior manager/s of areas that relate to the topic of the request and anyone else who should be involved in the response. When sharing the request, the name of the applicant will not be included. The requests are 'applicant blind' to ensure that someone's identity does not prejudice the response provided. The relevant staff will be asked to determine the initial feasibility of responding, and in particular:

- Whether time and effort to compile the response can be estimated from the request and if this is likely to exceed cost limits set in fee regulations, and
- Whether any applicable exemptions are clear at the outset (see Appendix B).

If the response is straightforward, then the relevant information should be sent to the FOI Team as soon as possible, or by the date stated in the team's request email. This may involve a search of electronic and paper records, identifying key employees so that they can search for relevant emails and notes they may have made, and/or identifying where the release of any of the information is a cause for concern, so that the possible application of relevant exemptions may be considered.

The FOI team will discuss the application of exemptions so that a joint decision may be reached. If there is disagreement or concern over the applicability of exemptions, the request will be sent to the executive lead for that area of the Trust to make a decision. Records of decisions made will be retained by the FOI Team in case the applicant queries this.

5.4.2 Destruction of Requested Information

Information requested may have been destroyed before a request was received, so the FOI Team will advise the applicant that it does not hold the information and explain why it was destroyed. At the same time, the team may advise the applicant of any other relevant, available information that it does hold which may be of use to the applicant.

All requested information should be kept for at least six months to allow for appeals to the Information Commissioner's Office (ICO) or for clarification to the applicant.

5.4.3 Disclosing Emails and Notes Made by Employees

Emails and notes (in notebooks, files etc) may be disclosed under the FOI Act if the text of the emails/notes contain the requested information. Employees involved in work relating to the request should be asked to search their emails and notes for relevant information. It is not easy to define what is relevant to a request, but two key principles may be applied:

- Any emails/notes contain discussion, consultation, decisions or job-related activities (such as agreement to carry out an action) about the topic of the request should be considered for disclosure,
- If the emails/notes are purely 'administrative' then they are unlikely to be required, e.g. an email confirming attendance at a meeting.

5.4.4 Redacting Information

The FOI Act refers to the release of information rather than documents and therefore it may be appropriate to release some of the information held within a document. Any potentially sensitive information not relevant to the request should be removed or "redacted". Employees should ask the FOI Team for help if they are unsure how to do this correctly.

5.5 The 20-day Response Period

The FOI Act allows 20 working days to respond to a request for information. Within the National Health Service (NHS), working days are considered to be Monday to Friday for FOI purposes, as most administrative functions operate a five-day working week, but do not include any UK Bank Holidays, including those just applicable to Scotland, Wales and Northern Ireland.

The 20-day clock starts on the first weekday after the request is received or, if clarification is sought, the day after further information is received from the applicant.

If the response is completed prior to the 20-day time period elapsing in full, then the response will be provided as soon as it is ready for despatch.

5.6 Charging Fees

If the estimated costs of responding to a request would exceed the appropriate limit of £450, then the Trust is not obliged to supply the requested information. It may still be necessary to state whether the information is held by the Trust (unless this would, by itself, exceed the appropriate limit). Estimated costs can include staff time spent in determining if the information is held, and in locating, retrieving and extracting the information. The costs of redacting any exempt information contained within the records/documents cannot be taken into account. As a general guideline this equates to 18 hours' work or approximately 2.5 days. This figure should be used to calculate whether the £450 limit for any request would be exceeded regardless of the pay rates of the staff involved.

5.7 Dealing with Requests

5.7.1 Requests for Information not held by the Trust

If the Trust does not hold all or part of the information requested, then the FOI Team will inform the applicant of this in the formal response.

The FOI Team will inform the applicant if some or all of the information they have requested is held by another organisation, suggesting that the applicant applies to the other organisation directly, and providing contact details if known.

5.7.2 Requests for Information Obtained from Third Parties

The Trust may receive a request for information which has been provided by a third party, for example, information held in a contract with a third-party supplier. In this case, the third party should be consulted about information held which falls into the scope of the request in order to consider whether information is suitable for disclosure. This may include:

- when requests for information relate to persons or bodies who are not the applicant and/or the public authority; or
- when disclosure of information is likely to affect the interests of persons or bodies who are not the applicant or the authority.

5.7.3 Requests for Copyrighted Information

If the Trust holds information which is copyrighted, either by the Trust or by another organisation, then it may be provided in response to an FOI request. Where copyrighted material is provided in response to a request, the following warning text should be included:

"Please note that the enclosed/attached information/document(s) is/are protected by copyright. Any further copying or distribution without the permission of the owner of the copyright may constitute a breach of copyright."

5.7.4 Requests that Include Information on Individuals (employees or third parties)

Requests that ask for or include personal data/information, i.e. anything which would allow the person to be identified either directly or indirectly, can be considered under the FOI Act. However, if the person making the request is asking for their own data, then this must be managed as a subject access request. Please refer to the Trust's Health Records Subject Access Requests Procedure (Ref 7) for further details.

If someone else, who is not the data subject(s), is requesting personal information the information may be exempt under Section 40(2) of the FOI Act. There are three conditions to this, as follows, but only one of these has to be met:

- i. Would disclosure contravene one of the data protection principles – this would usually be the first principle – “Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject”;
- ii. Would disclosure contravene the right to object? This gives the individual/s concerned the right to express concern or object to the disclosure; or
- iii. Would the requested data be exempt from the right of subject access? In other words if a copy of the information would not be provided to the data subject on request, then it should not be disclosed under FOI.

Conditions two and three require a public interest test to be conducted (see Section 2.9 of this procedural document).

The type of requests that the Trust is likely to receive will be for either patient or staff data. In the case of patient data, this would be ‘special category’ data and therefore to lawfully disclose under FOI, the Trust would have to:

- a. Gain explicit consent from the individual(s) concerned; or
- b. Ascertain that the personal data has clearly been made public by the individual concerned.

Please note that consent must be:

- i. explicit,
- ii. recorded, and
- iii. for the particular disclosure that is in relation to the FOI request.

Although legitimate interests, as described in the Data Protection Act 2018 (Ref 3), cannot be relied upon by the Trust in its role as a public authority and also a data controller, legitimate interests may be used under FOI as the basis for disclosure.

The ICO’s guidance about disclosure of staff data stated that even in relation to their public life there will be times when the employee will still have a reasonable expectation of privacy. An individual’s reasonable expectation will depend on several factors:

- a. how senior their role is;
- b. whether their role is public facing;
- c. whether they have responsibility for making decisions on how public money is spent;
- d. the nature of the information being requested.

A flowchart to assist with considering these types of request is included at the start of this procedural document (instant information).

5.8 Re-use of Public Sector Information

The Trust’s policy as regards re-use of the information that it holds is stated in the FOI pages of the Trust’s internet site. The Trust has not adopted the Open Government Licence for public sector information in respect of the free re-use of its information, but has retained the ability to charge for re-use.

The Trust asks that re-use requests are made in writing stating the purpose(s) for which the applicant wishes to re-use the information. Such requests are to be dealt with by the FOI Lead and are to be responded to within 20 working days. Employees receiving a request to re-use any information held by the Trust are to pass it to the FOI team or forward it to gwh.foi@nhs.net.

5.9 Refusing or Responding in part due to an Exemption

If it is determined that an exemption applies to the requested information (see Appendix B of this document), either in full or in part, then the response to the applicant should explain:

- The exemption claimed,
- Why the exemption applies (if not apparent in the response), and
- Whether there is a public interest in disclosing the information.

There are two types of exemption: absolute and qualified. “Absolute” exemptions mean that the information can be withheld without needing to consider any public interest in disclosure. However, most exemptions in the FOI Act are “qualified” exemptions, which means that the Trust must consider whether the public interest favours withholding or disclosing the information, this is known as a public interest test.

If a qualified exemption is to be used, the FOI Team will reach a decision based on the request in conjunction with the staff who have responsibility for the relevant information. They will jointly decide whether the public interest in disclosure outweighs the public interest in maintaining the exemption and will advise the applicant of the decision. A list of absolute and qualified exemptions is shown in Appendix B of this document.

The FOI Team will send the response formally in a letter which is known as a refusal notice.

5.10 Vexatious Requests

The Trust does not have to comply with requests that are ‘vexatious’. The following should be considered:

- Can the request fairly be seen as obsessive?
- Is the request harassing the Trust, or causing distress to its employees?
- Would complying with the request impose a significant burden of expense/distraction?
- Is the request designed to cause disruption or annoyance?
- Does the request lack any serious purpose or value?

If the request is considered vexatious, or repeated, the Trust does not have to provide any information or confirm or deny whether it holds it. However, a refusal notice must be issued to the applicant.

5.11 Complaints, Reviews and Appeals

5.11.1 Informal complaints

If, at any stage of the process, the applicant complains or expresses concern about the progress of the request and the response, then initially this is to be dealt with informally by the FOI team. If the team is unsuccessful in resolving the matter, then the applicant must be informed of the formal review process and how to contact the ICO.

In the response to the applicant, particularly if it is a refusal notice or partial response, the Trust must inform the applicant about its internal review procedure, as well as the right of appeal to the ICO.

The Trust must make it clear to the applicant that the ICO is unlikely to consider a complaint from an applicant who has not first attempted to resolve the issue with the Trust’s internal review procedure.

5.11.2 Internal Reviews

Applicants may request an internal review if they believe that any FOI exemptions have been wrongly applied, the costs estimate is incorrect or the Trust took longer than 20 working days to provide the response.

Applicants should make their complaint within two months of receiving the final response to their FOI request.

The review must be undertaken impartially by someone senior to the person who took the original decision, where practicable. Where this is impracticable, it is to be undertaken by someone different to the original decision-maker but who understands freedom of information.

Internal reviews are to be a one-stage process. A target time should be set for dealing with each requested review, and the complainant should be kept fully informed throughout the review process. It would be reasonable to expect completion within 20 working days of the receipt of a review request, or in exceptional cases, within 40 working days.

Records of all reviews made must be kept, together with their outcomes, and the FOI Team is to monitor its performance in administering reviews. The FOI Team will:

- Notify the complainant of the outcome promptly,
- Apologise to the applicant if procedures have not been properly followed,
- Provide an explanation if appropriate, and
- Take steps to prevent recurrence.

If the outcome is that information should be disclosed, then this is to be done as soon as possible. If the original decision is upheld, the FOI Team is to advise the applicant of their right of appeal to the ICO. Where the reviewer is unable to resolve the issue, the complaint/appeal is to be referred to the IG Steering Group for consideration.

5.11.3 Complaints to the ICO and Appeals

The applicant may complain to the ICO who will investigate the facts behind the complaint and may then issue a Decision Notice. This is the ICO's final view on whether the public authority has complied with the FOI Act. The ICO may ask the Trust to disclose some or all of the information or decide that information was correctly withheld.

The ICO takes a robust approach towards public authorities that repeatedly fail to meet their responsibilities through the use of Enforcement Notices and Practice Recommendations which are published on the ICO's website.

When an applicant complains to the ICO, the FOI Team is to notify both the internal reviewer of the case and the Information Governance Steering Group (IGSG) and keep them informed of developments. Any action to be taken in respect of a Decision Notice or Enforcement Notice is to be determined at the highest level within the Trust.

5.12 Implementation and Administration

5.12.1 Records

FOI requests are received primarily by email and retained in the FOI mailbox. Any letters received are scanned and saved into the FOI system which is used to manage requests and ensure timely responses. A record is kept of all Internal Reviews and of any subsequent correspondence with the ICO.

In line with the Records Management Code of Practice 2021 (Ref 5), FOI requests are retained for three years after full disclosure or 10 years if information has been redacted or if some/all of the information requested is not disclosed. Records of reviews undertaken and appeals to the ICO are also retained for 10 years.

5.12.2 Reporting

A quarterly statistical report is provided to the IG Steering Group, with an update at each meeting. In addition to statistical information, the report may describe any internal reviews, complaints made to the ICO and will document any current action plans to improve the prompt supply of FOI responses, if required.

6) Consultation

Below is a list of consultees who supported the formulating of this document.

Job title and department	Date approved
Head of IG and DPO	14 July 2024
Chief Executive (Appendix B wording for s36 exemption)	21 July 2024
IG Steering Group	09 August 2024

7) Training and support

- All staff to complete annual refresher training.
- Any new staff in the FOI team will complete on-the-job training.

8) Monitoring, compliance, and effectiveness of implementation

The arrangements for monitoring compliance are outlined in the table below:

Measurable policy objectives	Monitoring or audit method	Monitoring responsibility (individual, group or committee)	Frequency of monitoring	Reporting arrangements (committee or group the monitoring results is presented to)	What action will be taken if gaps are identified
Employee awareness of procedure for handling FOI request	IG Checklists	Ward & Department Managers	Half-yearly	IGSG via the IG Team	An action plan will be developed with identified tasks and completion dates which the IGSG will monitor.
Employee awareness of procedure for handling FOI request	Spot-checks	IG Team	Annually	IG Steering Group	
Feedback from applicants	Emails / letters retained	IG Team	Ad-hoc	IG Steering Group	

Complaints to the ICO	Log retained	IG Team	Ad-hoc	IG Steering Group	
Requests dealt with within the appropriate timescales	Register / quarterly reports produced	IG Team	Quarterly	IG Steering Group	

9) Supporting documents

The following is a list of other policies, procedural documents, or guidance documents (internal or external) which employees should refer to for further details:

Ref No.	Document title	Link to document location
1	Freedom of Information Act 2000	https://www.legislation.gov.uk
2	Environmental Information Regulations 2017	http://www.legislation.gov.uk
3	Data Protection Act 2018	http://www.legislation.gov.uk
4	Data Protection Policy	T:\Trust-wide Documents
5	Records Management Code of Practice 2021	https://transform.england.nhs.uk/information-governance/guidance/records-management-code/
6	Re-use of Public Sector Information Regulations 2015	https://www.legislation.gov.uk

Appendix A – Equality Impact Assessment

At this stage, the following questions need to be considered:			
1	What is the name of the policy, strategy or project? Freedom of Information Requests Procedure		
2.	Briefly describe the aim of the policy, strategy, project. What needs or duty is it designed to meet? Process for managing and responding to FOI requests		
3.	Is there any evidence or reason to believe that the policy, strategy or project could have an adverse or negative impact on any of the nine protected characteristics (as per Appendix A)?		No
4.	Is there evidence or other reason to believe that anyone with one or more of the nine protected characteristics have different needs and experiences that this policy is likely to assist i.e. there might be a <i>relative</i> adverse effect on other groups?		No
5.	Has prior consultation taken place with organisations or groups of persons with one or more of the nine protected characteristics of which has indicated a pre-existing problem which this policy, strategy, service redesign or project is likely to address?		No

Signed by the manager undertaking the assessment	M Arnold
Date completed	09 August 2024
Job Title	Head of IG and DPO

On completion of Stage 1: A full impact assessment will normally be required if you have answered YES to one or more of questions 3, 4 and 5 above.

[Link to document](#)

Appendix B – Freedom of Information Act Exemptions

The table below summarises FOI exemptions by Sections of the FOI Act - exemptions which may be relevant to the Trust are shown in bold text; all other exemptions which are unlikely to apply are shown in italics.

This is only a brief guide and the exemptions can be very complex to interpret and apply – discuss with the FOI Team, or refer to the relevant ICO guidance for further information.

FOIA Section	Description of Exemption	Absolute/ Qualified (A/Q)
21	Information accessible to the applicant by other means	A
22	Information intended for future publication	Q
22A	Information relating to an on-going research programme where disclosure may prejudice the programme or the interests of involved parties	Q
<i>23</i>	<i>[Information supplied by, or relating to, bodies dealing with security matters]</i>	A
<i>24</i>	<i>[Information needed for the purpose of safeguarding national security]</i>	Q
<i>25</i>	<i>[Certificates in relation to security or national security]</i>	Q
<i>26</i>	<i>[Information deemed exempt if disclosure may prejudice the defence of the British Islands or of any colony]</i>	Q
<i>27</i>	<i>[Information deemed exempt if disclosure may prejudice UK relations with another state or international organisation]</i>	Q
<i>28</i>	<i>[Information deemed exempt if disclosure may prejudice relations between any administrations in the UK]</i>	Q
<i>29</i>	<i>[Information deemed exempt if disclosure may prejudice the economic interests of any part of the UK]</i>	Q
<i>30</i>	<i>[Information relating to criminal or civil investigations and proceedings]</i>	Q
31	Information deemed exempt if disclosure may prejudice law enforcement	Q
32	Information relating to Court records, proceedings and administration (incl. tribunals, arbitration, public enquiries)	A
<i>33</i>	<i>[Information relating to audit functions (in auditing agencies)]</i>	Q
<i>34</i>	<i>[Information required to avoid infringing the privileges of either House of Parliament (Parliamentary privilege)]</i>	A
<i>35</i>	<i>[Information relating to formulation of Government policy]</i>	Q
36 *	Information deemed exempt if disclosure may prejudice effective conduct of public affairs (incl. the free and frank provision of advice or exchange of views)	A/Q
37	Information concerning communications with Her Majesty, or other members of the Royal Family (or the award of Honours)	A
38	Information deemed exempt if disclosure may endanger the physical, mental health or safety of an individual	Q
39	Environmental information covered under EIR	Q

FOIA Section	Description of Exemption	Absolute/Qualified (A/Q)
40(1)	Personal information where disclosure would contravene the DPA (information about the applicant)	A
40(2)	Personal information where disclosure would contravene the DPA (information about someone else)	A/Q
41	Information provided in confidence where disclosure would constitute an actionable breach of confidence	A
42	Information where legal professional privilege is claimed	Q
43	Information where disclosure may (1) prejudice commercial interests (including (2) trade secrets)	Q
44	<i>[Information where disclosure is prohibited by law or would constitute a contempt of court]</i>	A

* Where Section 36 is used, the Chief Executive, as the qualified person, is expected to approve the S36 exemption and ensure it is reasonable. Section 36 may be applied where the disclosure would prejudice the conduct of public affairs – this includes inhibiting the free and frank exchange of views and advice. The qualified person has authorised the delegation of this responsibility to the Medical Director and SIRO, as necessary.

Other Sections of the FOI Act that may need to be explicitly mentioned in the response are as follows.

FOIA Section	Description
1(1)(a)	Duty to confirm or deny that the information is held
1(1)(b)	Duty to supply the information
1(2)	Where more details are required from the applicant to identify and/or locate the information
8	Validity of requests (in writing, with name, address and description of information)
10	Time limit for complying with requests (20 days)
11	Means of communicating information
12	Exemption where cost of compliance exceeds appropriate limit (£450)
14	Vexatious or repeated requests
16	Duty to provide advice and assistance
17	Refusal of Request ('Refusal Notice')
19	Publication Schemes

Appendix C – Differences in FOI & EIR Request Handling

Environmental information covers a broad range of topics, such as:

- the environment itself, including air, water, earth, and the habitats of animals and plants,
- other things that affect the environment, such as emissions, radiation, noise and other forms of pollution, land development, pollution levels, energy production, and waste management.
- policies, plans and laws on the environment.

In this Trust requests for environmental information are handled alongside freedom of information requests, although it is recognised that there are some ways in which the FOI Act and the EIR differ and in which exemptions and exceptions apply. The ICO's website provides further detailed information. But here are the main points:

- Response times may be extended by a maximum of 40 working days in exceptional circumstances, where the complexity requires it,
- Requests can be submitted verbally,
- Applicants do not have to use their real name,
- Requests do not have to be answered if they are “manifestly unreasonable” regulation 12(4)(b), including vexatious requests or those with an unreasonable resource impact
- If a request relates to material that is still being completed, unfinished documents including drafts, or incomplete data, the Trust can refuse to provide the information under regulation 12(4)(d). The Trust must consider the status of the information at the time the request is made. This is subject to the public interest test.
- When a request is for information that is an internal communication, it can be refused under regulation 12(4)(e). The purpose of this exception is to allow personnel to discuss the merits of proposals and the implications of decisions internally without outside interference. This is subject to the public interest test. This does not apply when communicating with third parties.
- Requests apply to information held by a public authority, even if held on behalf of another person.
- The Trust can only confirm or deny if it holds the relevant information where there is public safety exclusion.
- The Regulations go further than the Freedom of Information Act in allowing the requester to specify the form and format of the information.
- A fee can be charged for making the information available. Any charge should be ‘reasonable’ – it should not exceed the costs in making the information available or be used as a deterrent. It may cover the cost of the paper for photocopying or printing the information and a covering letter and the cost of postage. It may also include the cost of staff time in identifying, locating or retrieving the information from storage.