

# OP90 Freedom of Information Policy V4

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[Protocol 1 – Freedom of Information Process](#)

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[Protocol 3 – Publication Scheme and Disclosure Log Process](#)

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## 1.0 Policy Statement

- 1.1 The Freedom of Information (FOI) Act 2000 & Environmental Information Regulations 2004 (EIR) gives members of the public a general right to request access to all types of recorded information held by public authorities, promoting a culture of openness and accountability across the public sector.
- 1.2 This Policy provides a framework within which the Trust to ensure compliance with the requirements of the Acts, and underpins any operational procedures and activities connected with the implementation of the Act.

## 2.0 Definitions

FOI –Freedom of Information

EIR – Environmental Information Regulations

## 3.0 Accountabilities

- 3.1 **Chief medical officer** has designated executive responsibility for ensuring the Trust is compliant with its obligations under the FOI Act 2000.
- 3.2 **All executives or designated deputies** have responsibility for assigning all FOI requests to the relevant staff with specialist knowledge within their portfolios of work who will be able to provide the information requested, together with the responsibility to finally approve the response for release.
- 3.3 **FOI Coordinators** have the responsibility of acknowledging FOI requests received, entering them onto the FOI database, progress chasing, drafting responses and liaising with the IG Manager where required to in relation to the application of exemptions.
- 3.4 **Information Governance Steering Group** has the responsibility to receive and review quarterly reports in relation to timescales and exemptions of FOIs, and to agree the Trust's position in relation to compliance with the Data Security and protection Toolkit.
- 3.5 **The Information Governance (IG) Manager** has operational responsibilities for FOI which include:
  - Receiving, recording and acknowledging FOI requests;
  - Analysing the information requests received under the Act and identify whether the information requests fall within the Act or one of the Act's exemptions;
  - Providing advice to Heads of Service/Senior Managers on exemptions under the Freedom of Information Act;
  - Co-ordinating the release of the information requested within 20 days of the request;
  - Liaising with other departments/organisations to process the requests.
- 3.6 **Divisional Governance**  
Has the responsibility for monitoring compliance of timescales with the requirements of this policy.

**3.7 Heads of Service/Senior Managers/Directorates**

Must have systems in place to respond to requests promptly within the timescale given. They must ensure that their staff are aware of their responsibilities and adhere to this policy, and they must ensure that they monitor their areas within the publication scheme and forward any updated documentation to the FOI Coordinators.

**3.8 Managers/nominated lead identified to respond to FOIs**

Must ensure that they respond to the FOI Coordinator (within Information Governance department) within the given timeframe provide the relevant information.

**3.9 All Trust Staff and contractors – (including third party contractors)**

Must be aware of their responsibilities and comply with the protocols issued by the Trust under this policy. Only third-party elements will be managed through contracts clauses.

**4.0 Policy Detail**

The FOI Act means that the Trust must disclose corporate information when people ask for it, (unless there is a good legal reason not to or an exemption that applies), and the Trust must respond within 20 working days.

The Act requires the Trust to have an approved publication scheme, which is a means of providing access to information which an authority proactively publishes using a model publication scheme which outlines the information the Trust will routinely make available to the public - such as minutes of meetings, annual reports or financial information.

[Protocol 1 – Freedom of Information Request Process \(including flow charts\)](#)

[Protocol 2 – Exemptions Guidance](#)

[Protocol 3 – Publication Scheme and Disclosure Log Process](#)

[Protocol 4 – Freedom of Information Complaints Process](#)

**5.0 Financial Risk Assessment**

1	Does the implementation of this policy require any additional Capital resources	No
2	Does the implementation of this policy require additional revenue resources	No
3	Does the implementation of this policy require additional manpower	No
4	Does the implementation of this policy release any manpower costs through a change in practice	No
5	Are there additional staff training costs associated with implementing this policy which cannot be delivered through current training programmes or allocated training times for staff.	No
	Other comments No current financial risk has been identified.	



## 6.0 Equality and Diversity Risk Assessment

An assessment has been undertaken, no adverse effects have been identified for staff, patients or the public as a result of implementing this policy.

## 7.0 Maintenance

The Information Governance Steering Group will monitor compliance with this policy and review will be undertaken within the next 3 years, or sooner if required through any changes in legislation.

## 8.0 Communication and Training

General awareness of FOI will be provided at Trust Induction and within Mandatory Training under the umbrella of Information governance.

Additional training in FOI will be available from the IG Manager on request.

## 9.0 Audit Process

Criteria	Monitoring Method	Frequency	Group	Lead
FOI Timescales	Report	Quarterly	Information Governance Steering Group	Information Governance Manager
Review FOI scheme	Report	Annually	Information Governance Steering Group	Information Governance Manager
FOI Timescales	Report	Quarterly	Quality Governance Assurance Committee	Medical Director
FOI Timescales	Divisional Governance Reports	Quarterly	All Directorates	Governance Team

## 10.0 References

[OP13 – Information Governance & Data Protection Policy](#)

[OP07 – Health Records Policy](#)

Freedom of Information Act 2000

[http://ico.org.uk/for\\_organisations/freedom\\_of\\_information](http://ico.org.uk/for_organisations/freedom_of_information)

<b>Reference Number and Policy name:</b> <b>OP90 Freedom of Information Policy</b>	<b>Version: 4.0</b> <b>February 2024</b>		<b>Status: Final</b>	<b>Author: IG Manager</b>  <b>Director Sponsor: Medical Director</b>
<b>Version / Amendment History</b>	<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Reason</b>
	1	Nov-11	IG Manager	New Policy
	2	Sept 14	IG Manager	Review
	2.1	June 2019	IG Lead	Reviewed by Medical Director – extended to December 2019 pending full review
	2.2	April 2020	IG Lead	Reviewed by Medical Director – extended to August 2020 pending full review
	3	August 2020	IG Manager	Review
	4	Nov. 2023	Head of information governance/DPO & IG manager	Review
<b>Intended Recipients: All Staff</b>				
<b>Consultation Group / Role Titles and Date:</b> Information Governance Action Group				
<b>Name and date of Trust level committee where reviewed</b>			Information Governance Action Group November 2023 Trust Policy Group February 2024	
<b>Name and date of final approval committee</b>			Trust Management Committee February 2024	
<b>Date of Policy issue</b>			March 2024	
<b>Review Date and Frequency</b> [standard review frequency is 3 yearly unless otherwise indicated]			3 yearly – February 2027	

<p><b>Training and Dissemination:</b> Available on Intranet, FOI training is incorporated as part of the Trust's annual information governance training.          FOI Leads are updated of changes through the IGSG and IGAG.</p>	
<p><b>To be read in conjunction with:</b> <a href="#">OP13 Information Governance Policy</a></p>	
<p><b>Initial Equality Impact Assessment [all policies]:</b> Completed Yes  <b>Full Equality Impact assessment [as required]:</b> Completed Yes  <u>If you require this document in an alternative format e.g., larger print please contact Central Governance Department on Ext 5114.</u></p>	
<b>Contact for Review</b>	IG Manager
<b>Implementation plan / arrangements [Name implementation lead]</b>	IG Manager
<b>Monitoring arrangements and Committee</b>	Information Governance Steering Group
<p><b>Document summary / key issues covered:</b></p>	

**VALIDITY STATEMENT**

**This document is due for review on the latest date shown above. After this date, policy and process documents may become invalid. The electronic copy of this document is the only version that is maintained. Printed copies must not be relied upon to contain the latest updates and amendments.**

## Protocol 1 – FOI Request Process

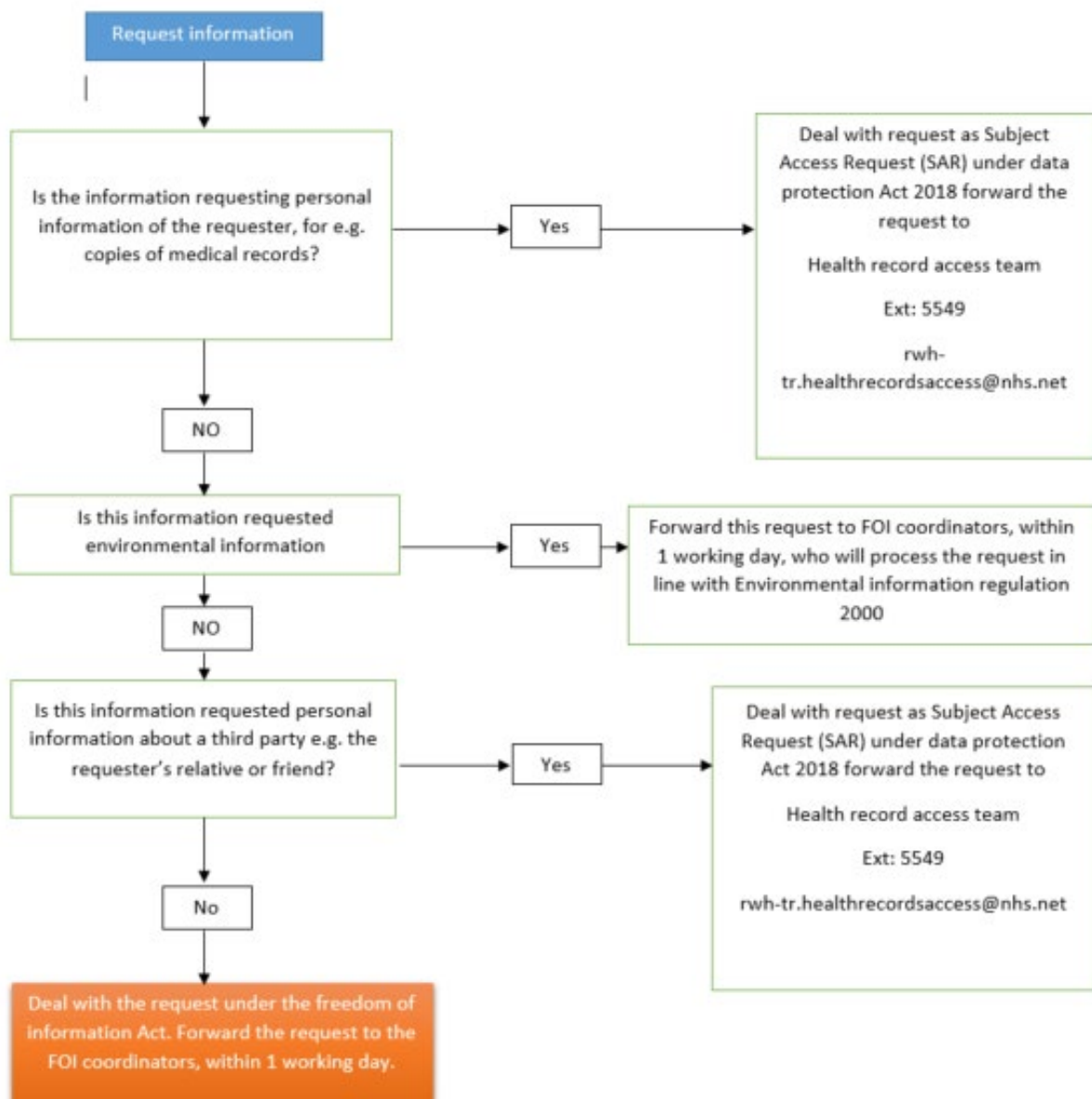
### 1. Where to send requests you receive:

All requests for information must be registered and handled by the FOI Coordinators within the Data Security and Protection Team As the clock starts from the date the information is received by the Trust, staff must send through requests received within 1 working day using the following processes:

Website: <https://www.royalwolverhampton.nhs.uk/about-us/freedom-of-information/>

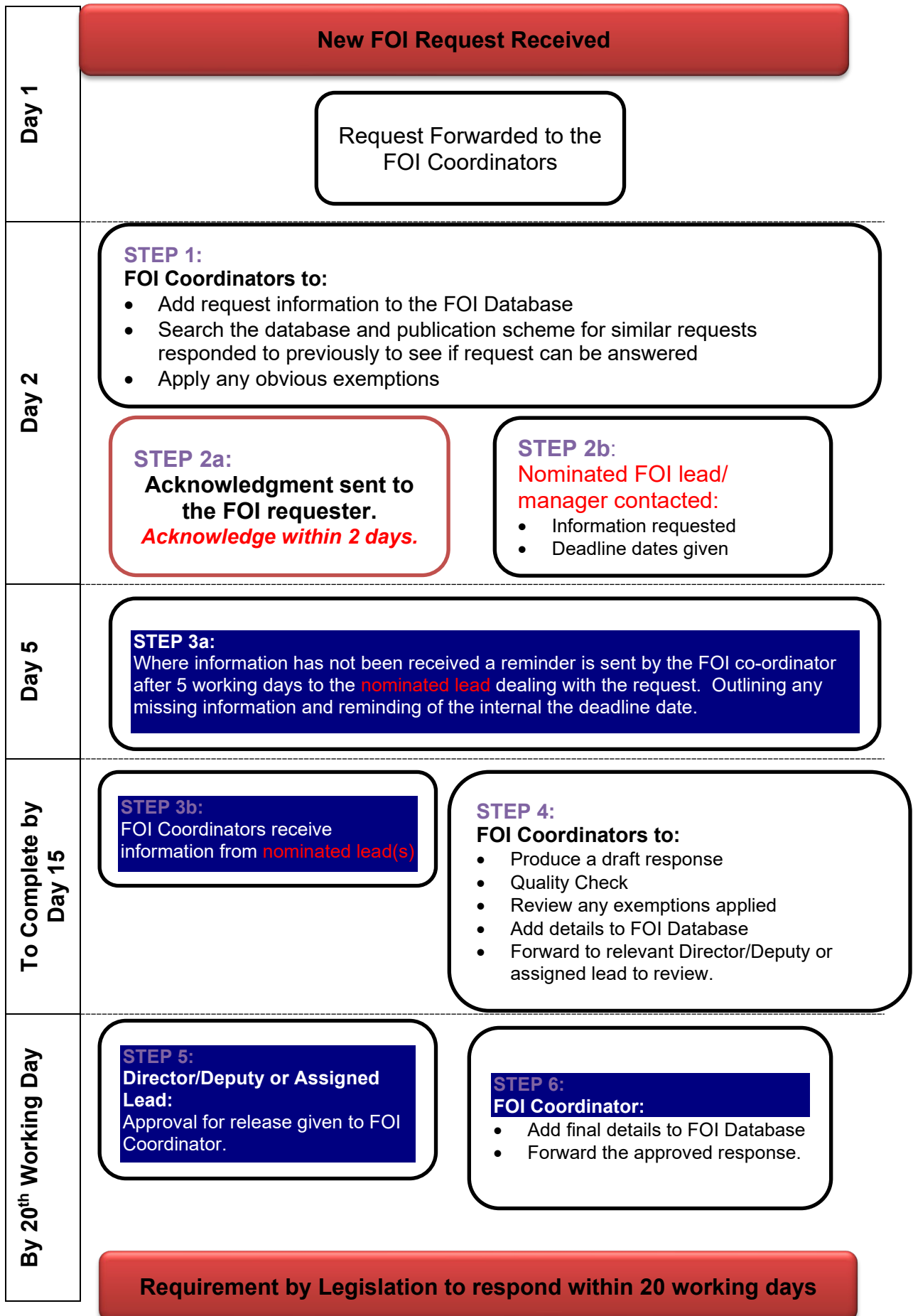
Email address: [rwh-tr.foi@nhs.net](mailto:rwh-tr.foi@nhs.net)

Internal Post: FOI Coordinators, Governance Services, Room F101 Building 12: Corporate & Clinical Skills Building, New Cross Hospital





Process for handling FOI requests



**FOR GUIDANCE:**

**Examples of information covered by The Freedom of Information Act 2000 and the Environmental Information Regulations 2004**

**The Freedom of Information Act 2000**

**The list is not exhaustive; it is an example of the types of information covered**

**Who we are and what we do**

- Organisational information, structures locations and contacts
- How we fit into the NHS structure
- Details of board members and other key personnel, including internal structure of the Trust and how the structure relates to roles and responsibilities
- Lists of and information relating to organisations with which the Trust works in partnership
- Location and contact details for all **public facing departments** (named contacts will be given in addition to numbers, emails)

**What we spend and how we spend it**

- Annual statement of accounts, budgets & variance reports.
- Financial audit reports & standing financial instructions
- Capital programme & information on all major plans for capital expenditure
- Staff and Board members allowances & expenses
- Funding
- Procurement & tendering procedures
- Details of contracts currently being tendered
- List and value of contracts awarded & their value

**Our priorities and how we are doing**

- Annual report
- Annual business plan
- Targets, Aims and Objectives
- Strategic plans
- Performance framework/KPIs, clinical statistics
- Annual checks
- Audit reports
- Service user surveys

**How we make decisions**

- Board Papers, agenda, supporting papers and minutes
- Minutes of similar meetings where decisions are made about the provision of services
- Stakeholder involvement strategy
- Consultation exercises/processes

**Policies & procedures**

- Policies & procedures relating to the conduct of business and the provision of services
- Policies & procedures relating to HR recruitment and employment
- Codes of practice, memos of understanding and similar information.
- Standing financial procedures

**The Freedom of Information Act 2000**

**The list is not exhaustive; it is an example of the types of information covered**

- Standing orders
- Complaints and other customer service policies and procedures
- Data protection/information governance (including information security policies, records retention etc.)
- Estates management

**Lists & registers**

- Main contractors/suppliers
- Asset registers and information asset registers
- Capital asset registers
- Any register of interests (declarations of interest held)
- Register of gifts and hospitality
- Disclosure log

**The Services we offer**

- Clinical services provided and/or commissioned
- Non-clinical services
- Patient information leaflets and other booklets/newsletters
- Patient Advice & Liaison Service (PALs)
- Advice and guidance
- Corporate communications & media releases

**Environmental Information Regulations 2004**

**The list is not exhaustive; it is an example of the types of information covered**

**Any information in written, visual, aural, electronic or any other material such as:**

- Plans
- Policies
- Programme or project documentation
- Reports on the implementation of environmental legislation;
- Cost-benefit and other economic analyses
- Measures and activities data

**Information relating to the state of the elements of the environment, such as:**

- Air and atmosphere
- Water
- Soil
- Land
- Landscape and natural sites
- Substances
- Energy
- Noise
- Radiation or waste
- Emissions, discharges and other releases into the environment
- Human health and safety
- Conditions of human life
- Contaminants

**Environmental Information Regulations 2004**

**The list is not exhaustive; it is an example of the types of information covered**

- Cultural sites
- Built structures that could affect the environment

## Protocol 2 – Exemptions Guidance

### EXEMPT INFORMATION UNDER PART II OF THE FREEDOM OF INFORMATION ACT 2000

There are two types of class exemption:

- **Absolute**, which do not require a test of prejudice or the balance of public interest to be in favour of non-disclosure;
- **Qualified**, by the public interest test, which require the public body to decide whether it is in the balance of public interest to not disclose the information.

With the exception of Section 21 (Information available by other means) and Section 22 (information intended for future publication), the exemptions apply not only to the communication of information but also to the duty to confirm or deny, if that itself would disclose information that it is reasonable to withhold.

The absolute exemptions under the Act are:

- **Section 21**, Information accessible to applicant by other means
- **Section 23**, Information supplied by or relating to bodies dealing with security matters
- **Section 32**, Court Records
- **Section 34**, Parliamentary Privilege
- **Section 36**, Prejudice to effective conduct of public affairs (so far as relating to information held by the House of Commons or House of Lords)
- **Section 40**, Personal Information (where disclosure could contravene the Data Protection Act 1998)
- **Section 41**, Information provided in confidence
- **Section 44**, Prohibitions on disclosure

The exemptions that are qualified by the public interest are:

- **Section 22**, Information intended for future publication
- **Section 24**, National security
- **Section 26**, Defence
- **Section 27**, International relations
- **Section 28**, Relations within the United Kingdom
- **Section 29**, The economy
- **Section 30**, Investigations and proceedings conducted by public authorities
- **Section 31**, Law enforcement
- **Section 33**, Audit functions
- **Section 35**, Formulation of Government policy
- **Section 36**, Prejudice to effective conduct of public affairs (for all public authorities, except the House of Commons and the House of Lords)
- **Section 37**, Communications with His Majesty etc.
- **Section 38**, Health and safety
- **Section 39**, Environmental information
- **Section 42**, Legal professional privilege
- **Section 43**, Commercial interests

More information on the exemptions can be found on the Information Commissioners website at <https://ico.org.uk/about-the-ico/what-we-do/legislation-we-cover/freedom-of-information-act/>

## Protocol 3 – Publication Scheme and Disclosure Log Process

To ensure that the publication scheme meets the definition document for Health Bodies in England.

In particular to:

1. Ensure that the required information, where held, is made available;
2. Decide how the information will be made available and if a charge will be made;
3. Update the guide to information where and when appropriate.

The following procedures have been agreed to ensure timely updates are made to newly created or outdated information.

### Responsibilities

#### FOI Coordinators

- Loading documentation released through FOI requests onto the relevant Publication Scheme Category.
- Maintaining a log of all documentation made available via the Scheme.
- Reviewing web-links on a regular basis to ensure that these remain valid.
- Updating the disclosure log to include information that:
  - Has high public interest;
  - May be made available by the media;
  - Has been requested on multiple occasions.

#### Department Managers/nominated leads

- Forwarding new public documentation to the FOI Coordinators for inclusion within the Publication Scheme.
- Reviewing information available on the publication scheme on a quarterly or annual basis and forwarding any updated documentation to the FOI Coordinators to load onto the Scheme.

#### IG Steering Group

- Annual Review of the publication scheme to ensure that this remains compliant with the ICO model publication scheme.

#### Publication Scheme

The Publication Scheme is broken down into two sections; Introduction and Classes of Information. The introduction provides information on freedom of information, what the publication scheme is and how information can be requested. The Classes of Information used by the Trust are those set out within the ICO Model Publication Scheme:

- Who we are and what we do;
- What we spend and how we spend it;
- What are our priorities;
- How we made decisions;
- Our policies and procedures;
- Lists and registers;

- The services we offer.

Within the classes of information the information is made freely available to download in a read-only format. The FOI Coordinators review all documents received in line with the FOI exemptions and upload to the publication scheme where no exemptions apply.

The Trust has set information that it must make available to the public, links to this information are available within the relevant classes of information.

### **Disclosure Log:**

The [Disclosure Log](#) provides information that has been disclosed via direct FOI Requests. The disclosure log is split into topics or department names for example; Finance, Human Resources, Car Parking and Female Genital Mutilation. Within each topic the following information is provided:

- FOI reference number(s);
- Request summary (the request title or description);
- Information disclosed; providing the questions and answer provided as part of the FOI Request;
- Date disclosed (month and year);
- Document link; this is the link to additional documents or information available on the publication scheme or other websites.

The following information must **not** be published within the disclosure log:

- Requester's personal information; name; contact details;
- Information which has been exempt from disclosure.

The FOI Coordinators within the Data Security and Protection Team update the disclosure logs and maintain the version control history.

## Protocol 4 – FOI Complaints Protocol

### Complaint Received

Forward to Data security and protection Team Team on [rwh-tr.foi@nhs.net](mailto:rwh-tr.foi@nhs.net)

### Acknowledge Complaint

FOI Lead to acknowledge complaint and provide timescale for response

### Complaint Received

Forward to Data security and protection Team on [rwh-tr.foi@nhs.net](mailto:rwh-tr.foi@nhs.net)

### Independent Reviewer Identified

Senior manager not involved with original request or response required to review the request and provide draft response to complaint. i.e. complaint **Upheld** or **Reversed**  
Return to [rwh-tr.foi@nhs.net](mailto:rwh-tr.foi@nhs.net)

### Response provided to complainant

If “reversed” – complainant advised when the information will be made available to them.

If “upheld” – and the internal review finds in favour of the department the applicant **must** be made aware of their further rights of appeal to the Information Commissioner’s Office. You must also ensure that full contact details for the Information Commissioner’s Office are provided to the applicant.

### Outcome Recorded

Outcome must be recorded on the FOI Database.



## What are the timescales?

Internal reviews have to be completed in a reasonable timescale. As a matter of best practice it is recommended that:

- Simple considerations will be dealt with within 2 weeks of receiving the complaint.
- Complex reviews - in particular where it is necessary to reconsider the public interest test - will be dealt with within 6 weeks of receiving the complaint.

If it becomes clear at any stage of the internal review that you will not be able to meet the deadline you set, for which you made the applicant aware, you will ensure that the applicant is kept fully informed. You will also set a secondary deadline by which you will respond, and every effort must be made to ensure that this is kept to. This will be managed by the FOI coordinator.