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AMENDMENT HISTORY

Version No.	Date of Issue	Page/Selection Changed	Description of Change	Review Date

Does this document meet the requirements of the Equality Act 2010 in relation to Race, Religion and Belief, Age, Disability, Gender, Sexual Orientation, Gender Identity, Pregnancy & Maternity, Marriage and Civil Partnership, Carers, Human Rights and Social Economic Deprivation discrimination? Yes

Document for Public Display: Yes

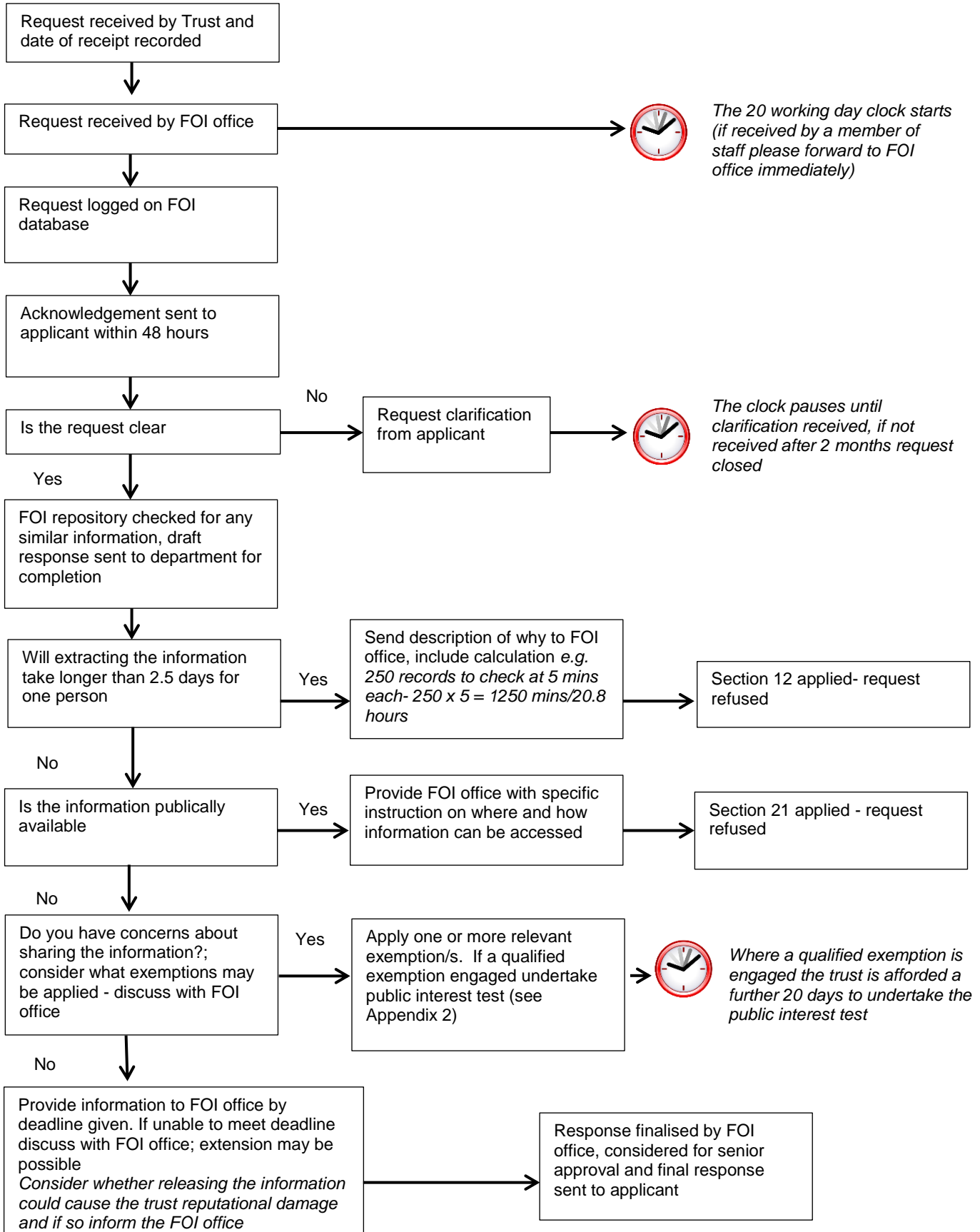
Evidence reviewed by Library Services N/a

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FOI process flowchart



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1. SUMMARY

The Freedom of Information Act 2000 (FOIA) provides general right of access to recorded information held by public authorities, subject to certain conditions and exemptions.

In cases where information is exempted from disclosure, except where an absolute exemption applies, there is a duty of public authorities to:

- Inform the applicant whether they hold the information requested, and
- Communicate the information to him or her, unless one or more of the FOIA exemptions apply and the public interest in maintaining the exemption in question outweighs the public interest in disclosure

The focus of The Freedom of Information Act is to promote greater openness in the public sector.

FOIA is intended to achieve this by enabling members of the public to question decisions of public authorities more closely and ensure that services provided by the public sector are more efficiently/properly delivered. Every public authority is required to have procedures in place to provide advice to applicants under this Act. Applicants are not required to make requests to one single point of contact and therefore all staff are expected to have knowledge of the Act and know how to deal with the application.

The 'Information Commissioners Office' determines whether the practice of a public authority conforms to the Act. This process is initiated by the applicant if they are dissatisfied with the Trust's response. If a public authority fails to comply with an information notice, the Commissioner may certify in writing to the Court that the public authority has failed to comply with that notice. To that end the Trust should make reasonable efforts to ensure responses are comprehensive.

2. PURPOSE

This procedural document has been designed to ensure the Trust uses all appropriate and necessary means to comply with the Freedom of Information Act 2000.

The purpose of this document is to ensure that the provisions of the Freedom of Information Act are adhered to by all Trust staff in that:

- The Trust Publication Scheme ensures that appropriate information is readily available to the public and staff
- The procedure for managing requests is adhered to
- Information not included within the publication scheme is readily available on request
- In cases where information is covered by an exemption, consideration is given as to whether the information should be released

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3. SCOPE

The policy applies to all staff working in the Trust regardless of their seniority, including voluntary and contract staff. All members of staff are required to adhere to the principals involved as outlined within this document together with any related procedures.

4. POLICY

4.1 Publication Scheme

The Trust has adopted a model Publication Scheme developed by the NHS Freedom of Information Project Board and approved by the Information Commissioner. This is permissible under Section 20 of the Act and ensures compliance with Section 19 of the legislation.

The Publication Scheme details information which the Trust publishes or intends to publish in the future. It also details the format in which the information is available and whether or not a charge will be made for the provision of that information. The Publication Scheme will be available in hard copy on request and through the Trust's website. It will be subject to regular review in terms of content by the owners of the information and will be formally reviewed by the Information Commissioner's Office.

4.2 General rights of access to information

The Act gives the public a general right of access to recorded information held by public authorities, subject to certain conditions and exemptions. Any person making a request for information to the Trust is entitled to be informed of whether the Trust holds the information requested, and if the Trust does hold the information, to have that information communicated to them (subject to any applicable exemptions).

The majority of requests are submitted by applicants directly to the FOI office who will liaise with relevant staff and co-ordinate responses. However, in accordance with Section 8 (1) of the Act, a request for information can be submitted to anyone in the Trust. As such it is important that all Trust staff are able to recognise a request which would fall under the remit of FOIA. The request must state the real name of the applicant (or the organisation they represent), include an address for correspondence (this can be an email address) and must clearly describe the information required. The 20 working day response time does not start until Section 8 (1) is clearly abided by. Where requests have been clearly made under a pseudonym the Trust does not need to comply until confirmation of the applicant's real name has been provided. If a request is submitted directly to a staff member it should be discussed with the FOI office in the first instance.

4.3 Conditions and Exemptions

The Freedom of Information Act contains a number of exemptions that allow the Trust to withhold information from a requester. In some cases it will allow the Trust to refuse to confirm or deny whether we hold the information.

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There are [26 exemptions in the act](#) but many do not apply to the healthcare sector. Please see part 6 of [Appendix 1](#) (pg12) for detail of exemptions commonly used at the Trust. Exemptions fall into two categories; absolute and qualified. Where absolute exemptions are engaged information is withheld and no further action is necessary. Where qualified exemptions are engaged we need to undertake a '[public interest test](#)'. This involves considering whether prejudice would be caused to the Trust or a third party by making the information public then considering whether it is in the public's best interest to disclose or withhold the information. When a qualified exemption is engaged the Trust is allowed up to a further 20 days to consider the public interest.

The duty to confirm or deny whether the information is held by the Trust is subject to certain conditions and exemptions. The duty to confirm or deny whether the Trust holds the information requested does not arise where the Trust:

- Reasonably requires further information in order to identify and locate the information requested; In accordance with section 1 (3) the Trust will make reasonable efforts to contact the applicant for additional information pursuant to their request should further information be required
- Has informed the applicant of that requirement
- Considers that confirming whether or not the information exists would be in breach of one of the FOI exemptions and detrimental to the Trust (or third parties we work with)

The Trust is not obliged to comply with a request for information if the request appears to be vexatious in nature - if you suspect there is malicious intent behind a request or if you feel the request is designed to waste Trust resource please inform the FOI office. [Click here for further information.](#)

The Trust is not obliged to comply with a request for information if the request is 'substantially similar' to a previous request from the same applicant. NB - the same question but covering a different time period would not be classed as 'substantially similar'. [Click here for further information.](#)

If you are not comfortable releasing information and/ or are not sure which of/whether these exemptions can be applied please contact the FOI office.

4.4 Time limits for compliance with requests

The Trust has established systems and procedures to ensure that it complies with the duty to provide the information requested within 20 working days of a request in accordance with [section 10](#). This is calculated from the day following receipt of the request. In the event that the Trust is unable to meet this deadline, the applicant should be advised as soon as possible. All staff no matter their seniority are required to comply with the requirements of the procedures. Failure to do so may result in disciplinary action. Internally, the deadline given for staff to assist with requests is 5 working days. This can be extended on request by contacting the FOI office; this process is in place to ensure progression in gathering information.

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4.5 Means by which information will be conveyed

Where an applicant expresses a preference for communication by any one or more of the following means, namely:

- The provision of hard copy information via electronic or written means
- The provision of a reasonable opportunity to inspect a record containing the information
- The provision of a summary of the information in permanent form or in another form acceptable to the applicant, where the information is in technical or professional language which may not be readily understood

The Trust shall so far as reasonably practicable give effect to that preference in accordance with section 11 of the Act.

4.6 Refusal of a request

If the Trust chooses to refuse a request for information, the applicant will be informed of the reasons for this decision within 20 working days. As set out in [section 17\(7\)](#) the applicant will also be informed of the procedures for making a complaint about the discharge of the duties of the Trust under the Act and of the right conferred by [Section 50](#) of the Act. If refusing due to cost of compliance the applicant should be informed of what information would reasonably be possible.

4.7 Duty to provide advice and assistance

The Trust will ensure systems and procedures are in place to meet the duty of the public authority to provide advice and assistance to applicants, so far as it would be reasonable to expect the Trust to do so. All staff will be required to comply with the requirements of the procedure. All staff must abide by Section 16 of the Freedom of Information Act (2000) by advising and assisting the requester in their pursuit of information.

4.8 Public sector contracts

It will be the duty of every member of staff when entering into contractual terms to ensure provisions of the Act are taken into consideration. Departments should ensure lines of communication for timely provision of:

- Data held by third parties on behalf of the Trust
- Response to queries regarding potential commercial confidentiality.

When entering into contracts with other public authorities, it should be noted that no terms should be accepted which restrict the disclosure of information held by that authority. Public authorities cannot 'contract out' of their obligations under the Act. The Trust will be obliged to disclose that information in response to a request regardless of the terms of the contract.

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When entering into contracts with non-public authority bodies the Trust may be under pressure to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance will be exempt from disclosure. The Trust should reject such clauses wherever possible. Where, exceptionally, it is necessary to include non-disclosure provisions in a contract, an option could be to agree with the contractor a schedule of the contract which clearly identifies information which should not be disclosed. Staff will need to take care when drawing up any such schedule, and be aware that any restrictions on disclosure provided for could potentially be overridden by their obligations under the Act as described in the paragraph above.

Any acceptance of confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioner's Office.

4.9 Implementation and compliance

Responsibilities of all staff

All staff including contractors, volunteers and non-Executive Directors are obliged to adhere to this policy. A failure to adhere to this policy and associated procedures may result in disciplinary action. Managers at all levels are responsible for ensuring that staff for whom they are responsible are aware of, and adhere to this policy. They are also responsible for ensuring that staff are updated in regard to any changes in the policy.

Information owners

Various managers will be responsible for the information in the Publication Scheme and when a general right to access information has been made. The manager will ensure the information is updated at regular intervals and that additional information is provided in the correct format when requested.

Corporate oversight

The Medical Director will oversee the implementation of this policy on behalf of the Trust.

Awareness for staff

Guidance material is published on the intranet for staff and circulated with requests for information. Managers are responsible for ensuring this material is made available to any staff who do not have access.

4.10 Re-use of public sector information

Regulations apply in respect of the 're-use' of information where LTH holds the intellectual property/copyright of information and where re-use has been requested by a body that is not a public authority.

The regulations require organisations to publish details of information available for re-use. Information that LTH publishes as part of its Publication Scheme can be considered as the list of information available for re-use. Any published document

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can be re-used without charge, provided LTH is quoted as the source and retains copyright.

Requests for re-use will be granted or denied by the Service Lead in conjunction with the Head of Information Governance and in consultation with NHS England Subject Matter Experts. Following the completion of a response to a request for information that is not covered by the Publication Scheme, consideration will be made as to whether this information should become part of the Publication Scheme.

If a request to re-use information provided by another organisation is received, LTH will advise applicants of this and will be directed to that organisation.

4.11 Monitoring

The Information Governance Team will routinely report a summary of FOI activity to the Information Governance Records Committee & Technical Services Divisional Board, including the number of requests exceeding 20 working days to complete and the number of internal reviews requested. The number of complaints will be monitored and reviewed by the FOI Review Panel.

An ongoing satisfaction questionnaire, sent to every requestor during one selected month each year, will provide an indication of how successfully the Trust is fulfilling its FOI obligations.

5. AUDIT AND MONITORING

Aspect of compliance or effectiveness being monitored	Monitoring method	Individual responsible for the monitoring	Frequency of the monitoring activity	Group/ committee which will receive the findings/ monitoring report and act on findings	Group/ committee/ individual responsible for ensuring that the actions are completed
Compliance of requests	Review of activity for all requests	Information Governance Team	Monthly	Information Governance Records Committee	Information Governance Team

6. TRAINING

TRAINING		
Is training required to be given due to the introduction of this policy? No		
Action by	Action required	Implementation date

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7. DOCUMENT INFORMATION

ATTACHMENTS

Appendix Number	Title
Appendix 1	Procedure for dealing with requests
Appendix 2	Freedom of Information FAQs
Appendix 3	Determining what is personal data
Appendix 4	Equality, Diversity & Inclusion Impact Assessment Form

OTHER RELEVANT / ASSOCIATED DOCUMENTS

Unique Identifier	Title and web links from the document library

SUPPORTING REFERENCES / EVIDENCE BASED DOCUMENTS

References in full

Number	References
1	National Archives – Full list of exemptions
2	Information Commissioner’s Office – FOI guidance
3	Freedom of Information Act 2000
Bibliography	

DEFINITIONS / GLOSSARY OF TERMS

Abbreviation or Term	Definition
FOI	Freedom of Information

CONSULTATION WITH STAFF AND PATIENTS

Enter the names and job titles of staff and stakeholders that have contributed to the document

Name	Job Title	Date Consulted
Sam Hodson	Freedom of Information Officer	August 2019
Information Governance Records Committee	All members	September 2019

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DISTRIBUTION PLAN	
Dissemination lead:	Information Governance Records Committee
Previous document already being used?	Yes
If yes, in what format and where?	Policy format on the intranet
Proposed action to retrieve out-of-date copies of the document:	Current policy will be removed from the intranet and replaced with this policy
To be disseminated to:	
Document Library	Yes
Proposed actions to communicate the document contents to staff:	Include in the LTHTR weekly procedural documents communication– new documents uploaded to the document library

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Appendix 1 - Procedure for dealing with requests

1. Application for information

Requests will normally be sent directly to the FOI office. If they arrive elsewhere in the Trust, they must be passed over the FOI office immediately with confirmation of the date they were first received at the Trust.

Where an individual is unable to submit their request in writing, staff must ensure the appropriate assistance is given to enable that person to make a request for information. This may include offering to take a note of the request over the telephone. If this should occur, the request should be returned to the applicant for confirmation of the content prior to forwarding to Trust headquarters. The statutory time limit for response would commence on the date the written confirmation is then received.

2. Receipt of the request

Any requests received by post in the Trust should be date stamped and forwarded to Freedom of Information Team at the below address and followed up with a phone call to inform the FOI office that a request is in the post.

Internal

Freedom of Information Office
Room 116
Preston Business Centre

External

Freedom of Information Office
Lancashire Teaching Hospitals NHS Foundation Trust
C/o The Medical Director's Office
Royal Preston Hospital
Sharoe Green Lane
Fulwood
Preston
PR2 9HT

Requests received by email should be forwarded to the FOI email address freedomofinformation@lthtr.nhs.uk

Acknowledgement of receipt of the request will be sent to the applicant by the FOI office.

3. Clarification of the request

Where the request received is ambiguous or the applicant does not describe the information sought in a way that readily enables the Trust to respond appropriately under Section 8 (1) (c) of the Act, clarification will be required.

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The 20 working day deadline is placed on hold until the request is clear and [Section 8 \(1\)](#) of the Act is satisfied.

The aim of clarifying the information sought is to ensure the applicant is provided with the appropriate information in a timely manner. It is not to determine the aims or motivation of the applicant and all efforts should be made to avoid this impression being given.

It is important that the applicant is contacted as soon as possible, preferably by telephone or email (if details are provided) to clarify information sought.

If the applicant still fails to describe the information requested in a way which enables the Trust to respond appropriately, the staff member dealing with the request is not expected to seek further clarification. The Trust will disclose any information relating to the application which has been successfully identified. An explanation will be provided to the applicant as to why the Trust cannot take the request any further. Details of the Trust's complaints procedure will be provided.

4. Time limits

Requests must be answered within a 20 working day period unless a qualified exemption is being considered or engaged. Where a qualified exemption is being considered and a public interest test is required the Trust is allowed up to a further 20 working days to provide response.

When an FOI request is forwarded to an individual or department for collation of evidence or information, staff should respond promptly to the request or identify any issues with regard to feasibility of fulfilling the request within the timeframe, assessing the need for any possible exemptions, lack of information or time constraints due to quantity of information requested. Where staff are unable to provide information when requested they should inform the FOI office as soon as possible.

Staff within the Trust have five working days to return information to the Freedom of Information office. This can potentially be extended by contacting the FOI office. All requests for information should be dealt with promptly. Failure to comply with this will result in escalation to Divisional Directors, the Medical Director and the Chief Executive.

It is recognised that there will be some instances where it will not be possible to deal with a request within twenty working days due to reasons such as leave/sickness etc. In these instances, the FOI office must be provided with a realistic and reasonable timescale in which departments will be able to provide the information (so that the applicant can be informed).

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5. Requests for information not held by the Trust/is available elsewhere

Under section 16 (1) the Trust has a duty to provide advice and assistance to the requester. If any requested information is not held by the Trust the requester is still entitled to a formal response including an explanation and how the Trust could, if possible, help further.

If the specific information requested is already available elsewhere in the public domain the Trust can refuse response under section 21 but specific instruction must be given on where the information is located and instruction on how the applicant can extract it.

If the information is not held by us but by another public authority, the requester should be given the contact details for the other organisation so the request can be made to the correct authority.

If the information is held, but is planned to be published widely at a later date, where there would be detriment to the Trust in early release, the information can be withheld under [section 22](#).

6. Exemptions

There are [26 exemptions in the Act](#) but many do not apply to the healthcare sector; please see below information on the 6 exemptions commonly applied by the Trust. Exemptions fall into two categories; absolute and qualified. Where absolute exemptions are engaged information is withheld and no further action is necessary. Where qualified exemptions are engaged we need to undertake a '[public interest test](#)'. This involves considering whether prejudice would be caused to the Trust or a third party by making the information public then considering whether it is in the public's best interest to disclose or withhold the information. **When a qualified exemption is engaged the trust is allowed up to a further 20 days to consider the public interest.**

Section 12 – over 2.5 day time limit (absolute exemption)

If the request is for a large amount of information, you should consider whether answering the request would exceed the 'appropriate limit' of 18.5 hours/2.5 working days for one person to collate. If this applies we can refuse to provide the information requested under section 12 of the Act. However, we do have a duty to help the requester narrow or refine the request so that it can be answered within the 2.5 days so please let the FOI Office know what information could realistically be provided within the time limit when you respond.

Where section 12 has been engaged it is good practice to provide evidence of the decision making process in the response. This should take the form of an estimate based on the amount of time taken to process a small sample of the data; e.g., "to collate this information would require manual extraction from

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patient notes, each record takes one minute to check and the service saw 5,000 patients over the time period. $5,000/60 = 83.3$ hours”.

[Click here for the legislation](#)

[Click here for further ICO guidance](#)

Section 21 – Information is accessible by other means (absolute exemption)

If the specific information requested is already available in the public domain we can refer the applicant on but must provide a link to the specific location of information and description on how to access it.

[Click here for the legislation](#)

[Click here for further ICO guidance](#)

Section 31 – law enforcement/cyber security (qualified exemption - public interest and prejudice test required)

Could criminals use the information requested to identify weaknesses in a Trust system; e.g., if somebody requests a list of stolen items/details of cyber security attacks they would be able to identify whether a theft/attack had been detected.

[Click here for the legislation](#)

[Click here for further ICO guidance](#)

Section 40 – personal information (absolute exemption)

Should be applied when information has been requested which meets the definition of personal data under the Data Protection Act 2018.

If the request refers to a named individual other than the applicant, it is rejected under section 40 of the Act. If it is a request for personal data of the requester, it is rejected under FOI but forwarded to Access to Records, the Workforce Team or the Complaints department as a Subject Access Request. The applicant is notified of such.

Section 40 can be applied where the information requested does not relate to a named individual, but could be combined with other information (which is “reasonably accessible” to the applicant) to discover the identity of an individual.

Section 40 should not be applied to information relating to the public function of senior members of staff, i.e., contact details for junior members of staff

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would be withheld under section 40 but should normally be provided for senior staff (band 8 or above).

[Click here for the legislation](#)

[Click here for further ICO guidance](#)

Section 43 (2) – commercial interests (qualified exemption, public interest and prejudice test required)

Section 43 should be applied when releasing the information could put the Trust at a commercial/financial disadvantage. It mainly applies to information about the workings of a business such as pricing structures etc. It would not normally apply to total contract values.

[Click here for the legislation](#)

[Click here for further ICO guidance](#)

*****If you are not comfortable releasing information and/or are not sure if an exemption can be applied please contact the FOI office.*****

7. Consultation with third parties

In some cases the disclosure of information may affect the legal rights of a third party, for example where information is subject to the common law duty of confidence or where it constitutes “personal data” within the meaning of the Data Protection Act. If you are unsure whether information qualifies as personal data under the DPA please refer to the ‘determining what is personal data’ in [Appendix 3](#).

7.1 Third party contracts

The Trust should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the authority’s functions and it would not otherwise be provided. In addition, staff should not agree to hold information received from third parties ‘in confidence’ which is not confidential in nature. Again, acceptance of any confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioners Office.

Departments should ensure lines of communication for timely provision of:

- Data held by third parties on behalf of the Trust
- Response to queries regarding potential commercial confidentiality

When entering into contracts with other public authorities, it should be noted that no terms should be accepted which restrict the disclosure of information held by that authority. Public authorities cannot ‘contract out’ of their

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obligations under the Act. The Trust will be obliged to disclose that information in response to a request regardless of the terms of the contract.

When entering into contracts with non-public authority bodies the Trust may be under pressure to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance will be exempt from disclosure. The Trust should reject such clauses wherever possible. Where it is necessary to include non-disclosure provisions in a contract, an option could be to agree with the contractor a schedule of the contract which clearly identifies information which should not be disclosed. Staff will need to take care when drawing up any such schedule, and be aware that any restrictions on disclosure provided for could potentially be overridden by their obligations under the Act as described in the paragraph above.

Any acceptance of confidentiality provisions must be for good reasons and capable of being justified to the Information Commissioners Office.

8. Refusal of a request

Where a request for information is refused in reliance on an exemption, the applicant should be notified of which exemption has been claimed **and the reasons for applying the exemption**. Where refusal is due to the cost of compliance the applicant should be informed of what information would reasonably be possible. Please ensure explanation of why an exemption has been engaged is provided to the FOI office.

9. Complaints

Any applicant who wishes to make a complaint should do so using the Trust's FOI review procedure directly to the Trust in the first instance. If unhappy with the Trust's response, complaints are then referred to the Information Commissioners Office. Complaints can be made against refusal of access to information and how the request has been handled. Appeals are dealt with by the Information Tribunal and both the Trust and applicant have the right to appeal.

10. Re-use of public sector information

Some information disclosed by the Trust may be subject to copyright protection. If an applicant wishes to use any such information in a way that would infringe copyright, e.g., by making multiple copies, or issuing copies to the public, he or she would require a license from the copyright holder.

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Appendix 2 - Freedom of Information FAQs

What is a Freedom of Information Request

A request to access any recorded information held by the Trust other than patient records.

The Trust has a legal obligation to provide response within 20 working days. The Trust must respond to 90% of requests received within 20 days, if not then the Information Commissioner's Office can place the Trust under special measures.

What information does the act cover

Any information held in any recorded form by a public authority (or held by another on behalf of a public authority) relating to the day to day function of the Trust.

If the requester is asking for your opinion on an issue or asking you to create information which is not already recorded, this is not a Freedom of Information Act request.

Requests to access medical records are not covered by the FOIA; such requests should be processed as a Subject Access Request under the Data Protection Act via the [Health Records team](#).

Any request regarding a named individual to access information from their medical record, HR record or complaint file should be submitted as a Subject Access Request under the Data Protection Act via Access to Records, Workforce department or the Complaints teams.

Further guidance

https://ico.org.uk/media/for-organisations/documents/1144/awareness_guidance_12_info_caught_by_foi_act.pdf

Am I the appropriate person to answer the FOI

If you have received a request and you feel you are not the appropriate person to answer please let the FOI Office know the reason why as soon as possible.

Requests are generally asked of the Trust as a whole; please make the FOI Office aware of any other departments/members of staff they would need to contact as soon as possible.

If you have received a request and you feel you are not able to answer please contact the FOI Office on extension 4761 or via email as soon as possible.

Is the request clear

The FOI office will always ask for clarity from applicants where there is an apparent need. We are not always aware where clarity is required as we don't hold area

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specific knowledge. When clarification is required from the applicant the request is put on hold, if no clarification is received after 3 months the request is closed. Quite often FOI requests are round robin emails and we don't receive clarification when requested.

How long will answering the request take

If the request is for a large amount of information or is time consuming to extract, you should consider whether answering the request would exceed the 'appropriate limit' of 18.5 hours/2.5 working days for one person. If this applies we can refuse to provide the information requested under section 12 of the Act. However, we do have a duty to help the requester narrow or refine the request so that it can be answered within the 2.5 days so please let the FOI office know what information could realistically be provided within the time limit when you respond.

When section 12 has been engaged it is good practice to provide evidence of the decision making process in the response. This should take the form of an estimate based on the amount of time taken to process a small sample of the data, e.g., "to collate this information would require manual extraction from patient notes, each record takes 1 minute to check and the service saw 5,000 patients over the time period. $5,000/60 = 83.3$ hours".

Can I release the information

This depends on whether an exemption in the Freedom of Information Act applies, for example if:

- Any of the information qualifies as [personal information under the Data Protection Act](#)
- The information is [now, or will soon be publicly available](#) and there will be a detriment to the Trust or third parties in releasing early
- Any of the other exemptions in the Act apply

Note: Where names and contact details are requested the seniority of the staff should be considered; we need to provide this information when requested for any staff band 8 and above who would reasonably expect details of their position to be in the public domain.

What are the exemptions and public interest test

There are [26 exemptions in the Act](#) but many do not apply to the healthcare sector. Exemptions fall into two categories; absolute and qualified. Where absolute exemptions are engaged information is withheld and no further action is necessary. Where qualified exemptions are engaged we need to undertake a '[public interest test](#)'. This basically involves considering whether prejudice would be caused to the Trust or a third party by making the information public then considering whether it is in the public's best interest to disclose or withhold the information.

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The most common exemptions used at LTHTR are

- Section [12](#) – Over 2.5 day time limit (absolute exemption)
- Section [21](#) – Information is accessible by other means (absolute exemption)
- Section [31](#) – Law enforcement/cyber security (qualified exemption - public interest and prejudice test required)
- Section [40](#) – Personal information (absolute exemption)
- Section [43](#) (2) – Commercial interests (qualified exemption, public interest and prejudice test required)

A full list of exemptions is available at

<http://www.nationalarchives.gov.uk/documents/information-management/freedom-of-information-exemptions.pdf>

More detailed information on when they should be applied is available at

<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/refusing-a-request/>

If you have any doubts or queries the FOI Officer is contactable [via email](#) or on (01772 52) 4761

Does the information belong to the Trust

Where the information requested has been obtained from or impacts on a third party you should obtain their views before making a decision about providing it. Consultation should be completed in time to respond within 20 working days. Consultation will normally only be required when a qualified exemption is being applied, most commonly this will be for section 43 commercial interests.

How long do I have to respond

The Trust has a legal obligation to reply to all requests within 20 working days. Within this time we need to:

- Decide who might hold the information
- Decide whether we hold the specific information requested
- Retrieve the information
- Decide whether any exemptions should be applied
- Compile the response
- Gain first approval
- Gain approval from the Communications Team
- Gain final approval from the Chief Executive
- Respond

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There is a standard deadline of 5 working days for departments to return the necessary information. This can be extended depending on the complexity of the request, current workload etc. Please contact the FOI office in these circumstances to discuss.

In most circumstances when a qualified exemption is applied a public interest test should be undertaken. If we are carrying out a public interest test and require more time to complete the work, we must advise the requester of this, indicating the exemption that applies and the date by which they can expect to receive a full response, this should be no later than 20 days.

Dos and don'ts

We appreciate that receiving an FOI request may be far from welcome but we have a legal obligation to respond as a Trust. The request may appear daunting at first but meeting our obligations under the Act may not be as time consuming as first appeared.

If you have any concerns or queries regarding a request you have received the FOI Officer will be happy to discuss on (01772 52) 4761

<u>Do</u>	<u>Don't</u>
<ul style="list-style-type: none"> • Respond within the timeframe stated in the request for information email. You don't necessarily need to respond with all the information within this time but we do need to know whether the request is being processed, whether we need to contact other departments etc. • Contact the FOI Officer via email or telephone about any requests where you have concerns and explain why - it may be that an exemption applies and we don't need to provide information • Let us know straight away if you are unable to help with a request so we can redirect it or apply exemptions as necessary • Consider whether the question is asked of the trust as a whole or just your area then respond from the relevant perspective 	<ul style="list-style-type: none"> • Not respond to requests for information and chase emails/calls • Reply to say you can't help without any further detail/suggesting who can etc. • Send documents which contain personal information of staff/patients as part of the response without highlighting to the FOI Team • Respond without addressing each part of the request relevant to your area of work, we need to know where information isn't held with a very brief explanation of why so we can inform the applicant or redirect the query

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Appendix 3 – determining what is personal information

1. Can a living individual be identified from the data, or, from the data and other information your possession, or likely to come into your possession
 - Yes - go to question 2
 - No - the data is not personal data for the purposes of the DPA

2. Does the data 'relate to' the identifiable living individual, whether in personal or family life, business or profession
 - Yes - the data is 'personal data' for the purposes of the DPA
 - No - the data is not 'personal data' for the purposes of the DPA. Unsure
See questions 3 to 8 below

3. Is the data 'obviously about' a particular individual
 - Yes - the data is 'personal data' for the purposes of the DPA
 - No - go to question 4

4. Is the data 'linked to' an individual so that it provides particular information about that individual
 - Yes - the data is 'personal data' for the purposes of the DPA
 - No - go to question 5

5. Is the data used, or is it to be used, to inform or influence actions or decisions affecting an identifiable individual
 - Yes - the data is 'personal data' for the purposes of the DPA
 - No - go to question 6

6. Does the data have any biographical significance in relation to the individual
 - Yes - the data is likely to be personal data for the purposes of the DPA
 - No - go to question 7. If you are unsure go to question 7

7. Does the data focus or concentrate on the individual as its central theme rather than on some other person, or some object, transaction or event
 - Yes - the data is likely to be personal data for the purposes of the DPA
 - No - go to question 8. If you are unsure go to question 8

8. Does the data impact or have the potential to impact on an individual, whether in a personal, family, business or professional capacity
 - Yes - the data is 'personal data' for the purposes of the DPA
 - No - the data is unlikely to be 'personal data'

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Equality, Diversity & Inclusion Impact Assessment Form

Department/function	Information Governance Department			
Lead assessor	Alison Stockton			
What is being assessed	Freedom of Information Policy and Procedure			
Date of assessment	19/07/2018			
What groups have you consulted with; include details of involvement in the Equality Impact Assessment process	Equality of Access to Health Group	<input type="checkbox"/>	Staff Side Colleagues	<input checked="" type="checkbox"/>
	Service Users	<input type="checkbox"/>	Staff Inclusion Network/s	<input type="checkbox"/>
	Personal Fair Diverse Champions	<input type="checkbox"/>	Other (Inc. external orgs)	<input type="checkbox"/>
	Please give details: IG Records Committee			

1) What is the impact on the following equality groups?

1) What is the impact on the following equality groups?		
Positive:	Negative:	Neutral:
<ul style="list-style-type: none"> ➤ Advance Equality of opportunity ➤ Foster good relations between different groups ➤ Address explicit needs of Equality target groups 	<ul style="list-style-type: none"> ➤ Unlawful discrimination, harassment and victimisation ➤ Failure to address explicit needs of Equality target groups 	<ul style="list-style-type: none"> ➤ It is quite acceptable for the assessment to come out as Neutral Impact. ➤ Be sure you can justify this decision with clear reasons and evidence if you are challenged
Equality Groups	Impact (Positive / Negative / Neutral)	Comments:
Race (All ethnic groups)	Neutral	<ul style="list-style-type: none"> ➤ Provide brief description of the positive / negative impact identified benefits to the equality group. ➤ Is any impact identified intended or legal?
Disability (Including physical and mental impairments)	Neutral	
Sex	Neutral	
Gender reassignment	Neutral	
Religion or Belief (includes non-belief)	Neutral	
Sexual orientation	Neutral	
Age	Neutral	
Marriage and Civil Partnership	Neutral	

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Pregnancy and maternity	Neutral	
Other (e.g. caring, human rights, social)	Neutral	

2) In what ways does any impact identified contribute to or hinder promoting equality and diversity across the organisation?	N/A
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3) If your assessment identifies a negative impact on Equality Groups you must develop an action plan **to avoid discrimination and ensure opportunities for promoting equality diversity and inclusion are maximised.**

- This should include where it has been identified that further work will be undertaken to further explore the impact on equality groups
- This should be reviewed annually.

ACTION PLAN SUMMARY		
Action	Lead	Timescale
N/A		

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HOW THE NHS CONSTITUTION APPLIES TO THIS DOCUMENT

WHICH PRINCIPLES OF THE NHS CONSTITUTION APPLY? Click here for guidance on Principles	Tick those which apply	WHICH STAFF PLEDGES OF THE NHS CONSTITUTION APPLY? Click here for guidance on Pledges	Tick those which apply
1. The NHS provides a comprehensive service, available to all. 2. Access to NHS services is based on clinical need, not an individual's ability to pay. 3. The NHS aspires to the highest standards of excellence and professionalism. 4. The patient will be at the heart of everything the NHS does. 5. The NHS works across organisational boundaries. 6. The NHS is committed to providing best value for taxpayers' money. 7. The NHS is accountable to the public, communities and patients that it serves.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	1. Provide a positive working environment for staff and to promote supportive, open cultures that help staff do their job to the best of their ability. 2. Provide all staff with clear roles and responsibilities and rewarding jobs for teams and individuals that make a difference to patients, their families and carers and communities. 3. Provide all staff with personal development, access to appropriate education and training for their jobs, and line management support to enable them to fulfil their potential. 4. Provide support and opportunities for staff to maintain their health, wellbeing and safety. 5. Engage staff in decisions that affect them and the services they provide, individually, through representative organisations and through local partnership working arrangements. All staff will be empowered to put forward ways to deliver better and safer services for patients and their families. 6. To have a process for staff to raise an internal grievance. 7. Encourage and support all staff in raising concerns at the earliest reasonable opportunity about safety, malpractice or wrongdoing at work, responding to and, where necessary, investigating the concerns raised and acting consistently with the Employment Rights Act 1996.	<input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
WHICH AIMS OF THE TRUST APPLY? Click here for Aims	Tick those which apply	WHICH AMBITIONS OF THE TRUST APPLY? Click here for Ambitions	Tick those which apply
1. To offer excellent health care and treatment to our local communities. 2. To provide a range of the highest standard of specialised services to patients in Lancashire and South Cumbria. 3. To drive innovation through world-class education, teaching and research.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	1. Consistently deliver excellent care. 2. Great place to work. 3. Deliver value for money. 4. Fit for the future.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

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