



University Hospitals Sussex

NHS Foundation Trust

FREEDOM OF INFORMATION

ANNUAL REPORT 2022/23



The purpose of this Freedom of Information Annual Report is to provide an overview of University Hospitals Sussex NHS Foundation Trust's performance and compliance relevant to the Freedom of Information Act (2000) and the Environmental Information Regulations (2004) in the financial year 2022/23.

Introduction

The Freedom of Information Act (FOIA) and similarly, the Environmental Information Regulations (EIR), provide public access to information held by public authorities, including NHS organisations such as ours. They do this in two ways: public authorities are obliged to publish certain information about their activities and members of the public are entitled to request information.

Public authorities are required by the FOI Act to:

- reply to any request within 20 working days; either by providing the information they hold or stating why it cannot be provided subject to the 23 exemptions outlined in the Act
- provide advice and assistance to applicants making requests under section 16 (*duty to assist*)
- not charge for providing information, other than photocopying, postage and related disbursements; unless the time that would be required to provide the information would exceed the 'appropriate limit' of 18 hours, in which case a 'fees notice' can be issued
- offer a complaints (internal review) procedure when a request has been declined or the applicant is not satisfied with the response they received, prior to the applicant escalating a formal complaint to the Information Commissioner
- maintain a 'model publication scheme' on their website which provides access to seven classes of information, as directed by the Information Commissioner's Office

Under FOIA and EIR legislation individuals have a right to request any *recorded* information held by a public body, including printed documents, computer files, letters, emails, notes, photographs and sound or video recordings. Both the FOIA and EIR promote transparency and allow members of the public to hold public authorities to account, both on how their money is being spent and how decisions are made which may affect their lives.

While they certainly bring additional work to already stretched resources, the FOIA and EIR can bring about improvements in procedures and reporting across the organisation as a result of requests that highlight inefficiencies and poor practice.

This annual report covers the processing of requests for information under the FOIA and EIR received by the Trust during the period 1 April 2022 to 31 March 2023.

Freedom of Information Function

The FOI Office, which sits within Corporate Governance, was responsible for ensuring compliance with the FOIA and EIR in 2022/23. This involved the processing of all FOI/EIR requests received by the Trust in line with the section 45 FOI code of practice, guidance from the Information Commissioner's Office (ICO) and Trust policy. The FOI Office was managed by the FOI Manager who was also responsible for implementing the corporate FOI/EIR complaints process and acted as liaison with the ICO over this period.

The FOI Office had a staff complement of 2.6wte initially over this period until October 2022 when the final member of the team was recruited. The FOI Office now has a full complement of 3.6wte staff which includes a FOI Manager, FOI Deputy Manager and two FOI Assistants. During 2022/23 the FOI Office processed **855** requests for information, provided advice and assistance to approximately **302** applicants wishing to submit a request, as well as the provision of regular advice and support to staff across the Trust regarding requests and FOIA and EIR legislation.

During 2022/23 a total of **852** FOI requests and **3** EIR requests were received by the Trust from members of the public (including local residents and service users), national and local media, universities, NHS organisations, charities, Members of Parliament and their staff, private

companies and whatdotheyknow.com. This was an increase of 104 requests over a total of 751 requests received in 2021/22. The table below shows the number and percentage of requests received by category of applicant over this period.

Category of Applicant	Requests Received	% of Requests
Public/Private	262	31%
Commercial	223	26%
Media/Journalism	132	15%
FOI Portal (whatdotheyknow.com)	115	13%
NHS	38	4%
Academic	31	4%
Campaign Groups	19	2%
Charities	19	2%
Government/MP	7	1%
Union/Professional Body	7	1%
Legal	2	<1%

Performance

The FOIA and EIR require that requests for information are responded to within 20 working days or 40 working days in exceptional circumstances. In 2022/23, **98%** of requests received by the Trust met this target. This is a significant improvement on the Trust's performance of 92% in 2021/22. The table below indicates the quarterly performance over this period.

2022/23	Requests Received	% Compliant
Quarter 1	184	96%
Quarter 2	220	99%
Quarter 3	199	98%
Quarter 4	252	98%
Total	855	98%

Of the **855** requests received in 2022/23, **19** requests (**2%**) did not receive a response within the statutory deadline. Most breaches were due to delays in receiving information from services or in obtaining approvals which ensured that responses were both accurate and complete. Whenever possible, applicants were informed in advance of any likely delay and this helped to avoid escalation when a response was overdue. The FOI Office monitored performance and supported staff in responding to requests within the statutory time frame, ensuring breaches were kept to a minimum.

Performance since the Trust was formed in April 2021:

Year	Requests Received	% Compliant
2021/22	751	92%
2022/23	855	98%

Section 16 [Duty to Assist]

Under section 16 [*duty to assist*] of the FOIA public authorities are required to provide assistance to applicants regarding their FOI requests where possible and reasonable to do so. The FOI Office provides assistance when:

- applicants are unable to submit their request in writing (e.g. due to a disability)
- applicants have provided insufficient information to process their request
- a request is unreasonable in scope
- a request primarily seeks exempt information

Of the **855** requests received by the Trust in 2022/23, the FOI Office contacted **302** applicants (**35%**) to provide advice or request clarification. Where requests were too broad in scope or would require too much staff time to fulfil, the FOI Office would contact the relevant services in the first instance to establish the nature of information that could be more easily provided, which was communicated to applicants and more reasonable requests were then agreed or alternative information was provided.

Request Processing

The information requests received over this period covered a wide-range of topics, many of which required information from more than one service. In line with the Trust's FOI standard operating procedure, there are a number of FOI lead staff within Divisions or Departments across the Trust that assist with processing requests relevant to their service area and the FOI Office is grateful for their support. The following table provides a breakdown of the main areas where requests were sent and processed in 2022/23.

Division/Department	Requests Processed	% Total Requests
Human Resources	122	14%
Information/Coding Teams	111	13%
Pharmacy (CSS)	91	11%
Finance	88	10%
Facilities and Estates	80	9%
Corporate	61	7%
IT	58	7%
Women and Childrens	56	7%
Clinical Support Services	55	6%
Procurement	47	5%
Cancer	42	5%
Clinical Governance	30	4%
Surgery (SRH/WH)	29	3%
Surgery (RSCH/PRH)	27	3%
Specialist	25	3%
Medicine (RSCH/PRH)	23	3%
Medicine (SRH/WH)	21	2%
Complaints/PALS	10	1%
Capital Development	9	1%
Information Governance	8	1%
Clinical Administration	5	1%

In addition to the breakdown of requests indicated in the table, the FOI Office processed **145** requests (**17%**) without referral to other staff through the provision of assistance to applicants, the application of exemptions or by providing previously released information.

Response Outcomes

The table below indicates the response outcomes associated with the 855 requests received over this period.

Response Outcomes 2022/23	Number of Requests	% of Requests
All Information Disclosed	247	29%
Partially Disclosed/Part Exempt	244	29%
No Response to Clarification Request (S16)	176	21%
Request Revised	62	7%
Information Not Held	52	6%
Partially Disclosed/Part Not Held	36	4%
Fully Exempt	29	3%
Request Withdrawn	9	1%

Information was disclosed in response to **527** requests (**62%**) received over this period. Applicants did not reply to assistance correspondence or revised or withdrew **247** requests (**29%**), and exemptions were applied in full to just **29** requests (**3%**).

Exemptions/Exceptions

While the FOIA and EIR were introduced with the aim of increasing transparency, there are certain circumstances where it is appropriate to withhold the information requested. The FOIA outlines 23 exemptions and the EIR outlines 14 exceptions which prevent the release of information. The following table indicates the nature and frequency of exemptions that were applied in full or in part to FOI requests in 2022/23. More than one exemption may have been applied to a single request. No exceptions were applied to the 3 EIR requests received.

Exemptions Applied 2022/23	Number of Requests	% of Requests
S.12 Provision [<i>Cost Limit</i>]	87	10%
S.14 [<i>Vexatious</i>]	3	<1%
S.21 [<i>Accessible Elsewhere</i>]	16	2%
S.22 [<i>Future Publication</i>]	3	<1%
S.24 [<i>Safeguarding National Security</i>]	2	<1%
S.31 [<i>Law Enforcement</i>]	8	1%
S.36 [<i>Prejudice Public Affairs</i>]	2	<1%
S.38 [<i>Health & Safety</i>]	4	<1%
S.40 [<i>Personal Information</i>]	199	23%
S.41 [<i>Provided in Confidence</i>]	4	<1%
S.43 [<i>Commercial Interests</i>]	31	4%

Section 12 provision [*cost limit*] can apply when an applicant asks for information that will require an unreasonable amount of staff time to 'locate, retrieve and extract' (defined as >18 hours); the provision is intended to mitigate the amount of additional work created by FOI requests. **Section 12** provision was applied to some extent to **87** requests (**10%**) received by the Trust; **section 14** was applied to **3** commercial requests that were repeated or burdensome; **section 21** exemption was applied to **16** requests (**2%**) where information was reasonably accessible by other means, usually via the Trust's website; **section 22** exemption was applied to **3** requests where information

was intended for future publication on the Trust's website; **section 24** was applied where disclosure could expose vulnerabilities to the NHS (e.g. cyber security measures); **section 31** was applied to **8** requests (**1%**) where disclosure would likely prejudice the prevention of crime such as theft or fraud; **section 36** was applied where disclosure would prejudice the effective conduct of Trust affairs; **section 38** was applied where disclosure would likely endanger the safety of patients and/or staff; **section 40** exemption was applied to **199** requests (**23%**) in order to prevent the disclosure of personal, confidential information relating to patients or Trust staff; **section 41** was applied to requests for information held in deceased patient records; **section 43** exemption was applied to **31** requests (**4%**) to protect the commercial interests of the Trust or a supplier.

Complaints/Internal Reviews

Applicants who are unhappy with the response they receive or the way in which their request was processed can submit a formal complaint, which initiates a process called an Internal Review. When a complaint is received a lead officer is nominated by the FOI Manager to carry out an impartial review of the processing of the request. The lead officer is usually the Company Secretary, who considers the rationale, public interest, timeliness, and decisions made. The lead officer then produces a written response on conclusion of the review which outlines whether the Trust's original decision is upheld, reversed or modified. Where the outcome of a review is that information should be disclosed which was previously withheld, the information in question is then disclosed as soon as possible.

If an applicant remains dissatisfied with the outcome of the internal review, they can then submit a complaint to the Information Commissioner's Office (ICO). The ICO will then formally review the Trust's handling of the request and subsequent internal review and can issue a legally binding Decision Notice which outlines the ICO's decision about what action, if any, the Trust is required to take to resolve the complaint. Decision Notices are published on the ICO's website and are used to publicly highlight compliance issues. In the event that the Trust does not comply with the steps specified by the Commissioner in a Decision Notice, this could result in the Trust being found in contempt of court.

In 2022/23, the Trust received **4** formal complaints which were resolved to the satisfaction of the applicants. Of the 4 internal reviews carried out, the provision of additional information was found warranted in **1** case, while the Trust's original response was upheld in **3** cases. The Trust did not receive any correspondence from the ICO in relation to a complaint escalated to their attention over this period.

Publication Scheme

Public authorities are required to proactively publish and maintain a Publication Scheme under Section 19 of the Freedom of Information Act. The Publication Scheme sets out an organisation's commitment to make certain classes of information routinely available, such as policies and procedures, minutes of meetings, annual reports and financial information; in line with seven classifications outlined by the ICO's 'model publication scheme'. The Trust's Publication Scheme was maintained in line with the ICO definition document and is hosted on the Trust's website – [Publication scheme - University Hospitals Sussex NHS Foundation Trust \(uhsussex.nhs.uk\)](https://www.uhsussex.nhs.uk/publication-scheme)

Information continues to be identified for routine publishing and a new Disclosure Log is being developed by the FOI Office which will become part of the Publication Scheme and will include information released through the FOIA and EIR where it is considered of significant public interest. The new Disclosure Log will be introduced later in 2023.

Alignment to the Trust's Strategy / Patient First

Patient First encapsulates the Trust's vision, values and strategy deployment methodology including the Trust's improvement approach supporting the Trust's core focus: the patient first and foremost. The FOI Office supports these values and strategic themes in the following ways:

- Goes above and beyond where possible in helping patients and the public in getting the answers and information they need when requests for information fall outside the remit of FOIA/EIR processing
- Promptly redirects requests for health records sent to the FOI Office in error – in 2022/23 the FOI Team logged, acknowledged and redirected 164 Subject Access Requests to the Trust's SAR Team, ensuring these could be processed without delay
- Shares information with Directors and Managers that comes to light through the processing of requests that may improve reporting or patient experience
- Supports our Patient Advice and Liaison Service (PALS) colleagues with information and contacts that assist them in answering queries from patients and the public
- Liaises with FOI colleagues in other NHS Trusts through a forum that facilitates the sharing of advice and information which helps ensure consistent responses to FOI/EIR requests across the region
- Supports staff with their FOI/EIR work so that requests are processed efficiently, maximising the time staff can focus on patient services

Further information about the Trust's Patient First programme can be found on our website – [Patient First - University Hospitals Sussex NHS Foundation Trust \(uhsussex.nhs.uk\)](https://www.uhsussex.nhs.uk/patient-first)

Conclusion

The FOIA and EIR are intended to be tools for cultural change, providing new levels of accountability in public sector organisations such as the NHS. The additional scrutiny associated with the FOIA/EIR process has enabled the Trust to understand the nature of information that is important to our communities and patients, which has led to improvements in the way information is conveyed and made available proactively via our website. University Hospitals Sussex NHS Foundation Trust will continue to learn and grow through engagement with this process. This annual report provides assurance that the Trust met its legal obligations under the FOIA/EIR in 2022/23 and confirms its commitment to openness and transparency.

For further information about this annual report or other FOIA/EIR matters please contact:

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Further information about FOI/EIR request processing can be found on the Trust website – [Freedom of Information - University Hospitals Sussex NHS Foundation Trust \(uhsussex.nhs.uk\)](https://www.uhsussex.nhs.uk/freedom-of-information)