



University Hospitals Sussex

NHS Foundation Trust

FREEDOM OF INFORMATION

ANNUAL REPORT 2023/24

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 2023/24.

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, which must be carried out prior to the applicant escalating a formal complaint to the Information Commissioner's Office (ICO)
- maintain a 'model publication scheme' on their website which provides access to seven classes of information

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 the FOIA and EIR bring additional work to already stretched resources, they can also bring about changes in procedures and reporting across the organisation as a result of requests that highlight issues where there is scope for improvement.

This annual report covers the processing of requests for information under the FOIA and EIR received by the Trust during the period 1 April 2023 to 31 March 2024.

Freedom of Information Function

The FOI Office, which sits within Corporate Governance, was responsible for ensuring compliance with the FOIA and EIR in 2023/24. 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.

Unlike the previous two years, the FOI Office had a full staff complement of 3.6wte over this period, which included a FOI Manager, FOI Deputy Manager and two FOI Assistants. During 2023/24 the FOI Office processed **1,026** requests for information (compared to 855 in 2022/23), provided advice and assistance to approximately **303** 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/EIR legislation.

Over this period the FOI Office also introduced a Disclosure Log on the Trust's public website where information disclosed through the FOI/EIR process is published if it is considered to be in the wider public interest. The FOI Office also added a Satisfaction Survey to response correspondence with the aim of further improving the service, as well as hosting a FOI quiz competition for staff based on information disclosed over the last year to enhance staff awareness and engagement with the FOI/EIR process.

Summary of Activity

During 2023/24 a total of **1,024** FOI requests and **2** 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 **171** requests (**+20%**) over a total of 855 requests received in 2022/23. 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	292	28%
Commercial	288	28%
Media/Journalism	147	14%
FOI Portal (whatdotheyknow.com)	124	12%
NHS	51	5%
Academic	31	3%
Government/MP	31	3%
Campaign Groups	26	3%
Charities	17	2%
Legal	12	1%
Union/Professional Body	7	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 2023/24, **99%** of requests received by the Trust met this target. This is a slight improvement on the Trust's performance of 98% in 2022/23. The table below indicates the quarterly performance over this period.

2023/24	Requests Received	% Compliant
Quarter 1	221	99%
Quarter 2	266	99%
Quarter 3	236	100%
Quarter 4	303	98%
Total	1026	99%

Of the **1,026** requests received in 2023/24, **10** requests (**1%**) 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.

While 10 requests breached over this period, all 10 requests received responses within one month of the missed deadline.

2023/24 Processing Breaches	Requests
Total Requests That Breached	10
Breaches Less Than 1 Month	10
Breaches Longer Than 1 Month	Nil

Performance since the Trust was formed in April 2021:

Financial Year	Requests Received	% Compliant
2023/24	1026	99%
2022/23	855	98%
2021/22	751	92%

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 have provided insufficient information to process their request
- a request is unreasonable in scope
- a request primarily seeks exempt information
- information is not held in the format requested, but alternative data is available
- applicants are unable to submit their request in writing (e.g. due to a disability)

Of the **1,026** requests received by the Trust in 2023/24, the FOI Office contacted **303** applicants (**30%**) to provide advice, request clarification or suggest alternative information. 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 were complex. A total of **306** requests required information from 2 or more services. 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 2023/24.

Division/Department	Requests Processed	% Total Requests
Human Resources	169	16%
Finance	120	12%
Business Intelligence/Coding	106	10%
Pharmacy (CSS)	103	10%
Corporate	77	8%
Clinical Support Services	75	7%
Women and Children	71	7%

Facilities and Estates	67	7%
IT	60	6%
Procurement	41	4%
Clinical Governance	39	4%
Medicine (RSCH/PRH)	36	4%
Cancer	32	3%
Specialist	31	3%
Surgery (RSCH/PRH)	27	3%
Medicine (SRH/WH)	21	2%
Surgery (SRH/WH)	20	2%
Information Governance	16	2%
Clinical Administration	11	1%
Complaints/PALS	11	1%
Capital Development	6	1%

In addition to the breakdown of requests indicated in the table, the FOI Office processed **191 requests (19%)** 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 1,026 requests received over this period.

Response Outcomes 2023/24	Number of Requests	% of Requests
Information Disclosed in Full	300	29%
Information Partially Disclosed/Part Exempt	266	26%
No Further Assistance Required (S16)	189	18%
Request Revised	75	7%
Information Withheld in Full	67	7%
Information Not Held	65	6%
Information Partially Disclosed/Part Not Held	49	5%
Request Withdrawn	9	1%
Referred to External Body	6	1%

Information was disclosed in response to **615 requests (60%)** received over this period. After assistance was provided to applicants under section 16 [*duty to assist*], which included advice about the information we hold, offers of alternative data, requests for clarification and details about any applicable exemptions, no further action was required for **189 requests (18%)**. Applicants revised **75 requests (7%)** and withdrew **9 requests (1%)**. It was appropriate for exemptions to be applied in full to just **67 requests (7%)**.

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 2023/24. More than one exemption may have been applied to a single request. No exceptions were applied to the 2 EIR requests received over this period.

Exemptions Applied 2022/23	Number of Requests	% of Requests
S.12 Provision [<i>Cost Limit</i>]	130	13%
S.14 [<i>Vexatious</i>]	9	1%
S.21 [<i>Accessible Elsewhere</i>]	31	3%
S.22 [<i>Future Publication</i>]	10	1%
S.24 [<i>Safeguarding National Security</i>]	2	<1%
S.31 [<i>Law Enforcement</i>]	13	1%
S.36 [<i>Prejudice Public Affairs</i>]	4	<1%
S.38 [<i>Health & Safety</i>]	1	<1%
S.40 [<i>Personal Information</i>]	251	24%
S.41 [<i>Provided in Confidence</i>]	6	1%
S.43 [<i>Commercial Interests</i>]	37	4%
S.44 [<i>Prohibitions of Disclosure</i>]	3	<1%

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 **130** requests (**13%**) received by the Trust; **section 14** was applied to **9** repeat or burdensome commercial requests; **section 21** exemption was applied to **31** requests (**3%**) where information was reasonably accessible by other means, usually via the Trust's website; **section 22** exemption was applied to **10** requests where information was intended for future publication on the Trust's website; **section 24** was applied where disclosure could expose vulnerabilities to the Trust's systems (e.g. cyber security measures); **section 31** was applied to **13** 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 **251** requests (**24%**) in order to prevent the disclosure of personal, confidential information relating to patients or staff; **section 41** was applied to **6** requests for information held in deceased patient records; **section 43** exemption was applied to **37** requests (**4%**) to protect the commercial interests of the Trust or a supplier; **section 44** was applied to **3** requests where disclosure was prohibited under the Public Contracts Regulations 2015.

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 taken. 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 2023/24, the Trust received **4** formal complaints, **3** of which were resolved to the satisfaction of the applicants. Of the **4** internal reviews carried out, the provision of alternative information was found to be appropriate in **1** case, while the Trust's original response was upheld in all **4** cases. In **1** case the applicant escalated a formal complaint to the ICO. The Commissioner subsequently issued a Decision Notice [Reference: IC-255095-H4P4] which upheld the Trust's response and the Commissioner required no further action.

Publication Scheme and Disclosure Log

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, in line with seven classifications outlined by the ICO's 'model publication scheme'. This includes information such as policies and procedures, minutes of meetings, annual reports and financial information. The Trust's Publication Scheme was maintained in line with the ICO definition document and information continues to be identified for routine publishing. Our Publication Scheme is hosted on the Trust's website – [Publication scheme - University Hospitals Sussex NHS Foundation Trust \(uhsussex.nhs.uk\)](https://uhsussex.nhs.uk)

A new Disclosure Log was introduced this year, which provides a collection of information disclosed under the Freedom of Information Act or the Environmental Information Regulations where it is considered to be in the wider public interest. Our Disclosure Log is hosted on the Trust's website – [Disclosure log - University Hospitals Sussex NHS Foundation Trust \(uhsussex.nhs.uk\)](https://uhsussex.nhs.uk)

Alignment to the Trust's Strategy / Patient First

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

- assists patients and the public where possible 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 2023/24 the FOI Team logged, acknowledged and redirected 93 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 patient experience
- supports our Patient Advice and Liaison Service (PALS) colleagues in coordinating replies to complaints that include a FOI element, ensuring responses are comprehensive and consistent
- 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://uhsussex.nhs.uk)

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 (e.g. our new Disclosure Log). 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 2023/24 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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Additional 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)