

# Procedures for dealing with the Freedom of Information Act 2000 and the Environmental Information Regulations 2004

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## EQUALITY STATEMENT

Barnet, Enfield and Haringey Mental Health NHS Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the Equality Act (2010) including the Human Rights Act 1998 and promotes equal opportunities for all.

This document has been assessed to ensure that no employee receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the member of staff has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

Barnet, Enfield and Haringey Mental Health NHS Trust embraces the four staff pledges in the [NHS Constitution](#) and this policy is consistent with these pledges. The Trust is also committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and expects all staff and volunteers to share this commitment.

## CONSULTATION RECORD OF PROCEDURAL DOCUMENT FORM

Name and Title of Individual	Date Consulted
Katia Louka, Assistant Trust Secretary	May 2020
Name of Committee	Date of Committee
Information Governance Group	18 June 2020

## Version Control Summary

Version	Date	Section	Author	Comments
1.0	Feb 2014	All	KL	New policy and protocol
2.0	Feb 2017	All	KL	Includes reference to Environmental Information Regulations throughout document Expanded Complaints section
3.0	June 2020	All	FC	Updated timeframes for complaints, clarifications and retention. Inclusion of EIR exemptions. Amendments to job titles, policy titles, email addresses and web links.

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## **1. Policy Statement**

Barnet Enfield and Haringey Mental Health NHS Trust has approved policies, procedures and guidelines to form a framework that will inform and support the work of staff.

## **2. Introduction**

2.1 The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) give rights of public access to information held by public authorities. They help people get a better understanding how public authorities carry out their duties, make decisions and spend public money. Since 1 January 2005, the public have had a right to ask for any information held by the Trust (except for personal information on individuals which is covered by the Data Protection Act). The general principle of FOIA and EIR is that any information requested should be provided except where it falls under the exemptions in the FOIA or an exception under EIR.

2.2 In accordance with the FOIA, the Trust will proactively make information about the organisation publicly available via a Publication Scheme on its website. A written request can be made to the Trust for any information not already available on the website. This request must be in writing, but does not need to reference the Act.

2.3 Requests under EIR do not need to be made in writing, however monitoring the timeliness of responses is easiest when requests for information are in writing. Where requests for environmental information are made otherwise than in writing (i.e. by telephone or in person) the Trust will make a written note of the request and will ask the applicant to confirm its accuracy.

2.4 The Trust will respond to all requests within 20 working days providing the information requested, unless the request falls under one of the exemptions of FOIA or exceptions under EIR.

2.5 Both FOIA and EIR ensure corporate information is readily available to members of the public. Requests for personal information, including Health Records, cannot be released under the FOIA/EIR as this information falls under the Data Protection Act 2018. Requests for health records information must be sent to the Trust's Medical Records Manager as follows:

Health Records Manager  
Medical Records Department  
St Ann's Hospital, St Ann's Road  
London N15 3TH.  
Email: [beh-tr.records@nhs.net](mailto:beh-tr.records@nhs.net)

2.6 FOIA/EIR requests should be sent to the Trust FOI Manager who will acknowledge, review and respond to the request in liaison with the relevant Director/service. Any member of staff who receives a FOIA request must forward it (within 48 hours) to the Trust FOI Manager.

The contact details for the Trust Lead are:

Trust FOI Manager

Trust Headquarters, Orchard House

St Ann's Hospital, St Ann's Road, London N15 3TH

Email: beh-tr.foi@nhs.net

### **3. Aims**

These procedures summarise the Trust's approach in managing requests under FOIA and EIR. They outline the Trust's commitment to being an open and transparent organisation and to complying with all elements of the FOIA/EIR.

### **4. Scope**

The procedures apply to all Trust services, staff and Non-Executive Directors.

### **5. Purpose and Outcome**

FOIA and EIR apply to corporate records and information, and the emphasis is on granting access to information. These procedures are a statement of how the Trust complies with the legislation to ensure that:

- There is a clear process in place to respond to requests in a timely and helpful manner.
- The Trust has an open culture and attitude towards sharing relevant information with the public.
- The Trust is clear about what information cannot be shared under FOIA/EIR and what is covered under the Data Protection Act.
- The Trust has an FOI Publication Scheme in place.

### **6. Definitions**

See Appendix 1

### **7. Duties**

#### **7.1 Information Commissioner**

The Information Commissioner is responsible for promoting compliance with FOIA/EIR and has powers of enforcement. The Commissioner is independent from the Trust and is responsible directly to Parliament.

#### **7.2 Chief Executive**

The Chief Executive has ultimate responsibility for ensuring the Trust complies with the FOIA and EIR.

#### **7.3 Trust FOI Manager**

7.3.1 The Trust FOI Manager is the Trust Lead for FOIA/EIR. They are responsible for coordinating responses to requests received throughout the Trust, acknowledging any requests received, undertaking a review of the request to determine if the information is already publicly available/exempt from release, liaising with the appropriate Directors/Services where relevant to ensure the request is fully responded to and that the response is sent within the timescales set out in FOIA/EIR.

7.3.2 The Trust FOI Manager is also responsible for maintaining records to inform a summary of all requests received, content of the response, the timescales responded, exemptions/exceptions used and fees. The Trust FOI Manager in conjunction with the Communications Team will publicise and promote information to Trust staff outlining the importance of adhering to FOIA/EIR.

#### **7.4 Directors**

Directors are responsible for ensuring any information required as part of a request in relation to their services is prepared and submitted to the Trust FOI Manager within the stated timescales.

#### **7.5 All Staff**

All staff are responsible for passing on any information requests received to the Trust FOI Manager and for providing any information required as part of a request as determined by the Trust FOI Manager and the responsible Director. All staff are accountable under FOIA/EIR and compliance is a legal requirement. Individual members of staff should practice good record management with all the information they process in preparation for requests so that corporate information can be located rapidly and in a presentable manner if necessary.

### **8. Culture of Openness**

8.1 FOIA/EIR reflects a national policy shift from a culture of confidentiality to one of openness. The underlying principle is that all information held by a public body should be freely available except for a small number of clearly defined exemptions/exceptions. The Trust considers itself to be an open organisation. Board meetings are held in public and members of the public may attend to observe the decision making process. The Trust also aims to involve local stakeholders, partnership organisations, service users and carers in its decision making in relation to the planning and delivery of services.

8.2 The Trust and its staff are aware of their responsibilities under FOIA/EIR and that:

8.2.1 Penalties for non-compliance with or breach of the Act/Regulations apply to the organisation, Chief Executive and possibly individual staff.

8.2.2 If an organisation unlawfully obstructs a member of the public from accessing the requested information for corporate reasons which are not

sufficiently justified, or a request is ignored, or information disposed of due to a request which could have a negative effect on the organisation, then the organisation could be fined, or if pursued by the requester, they could face a law suit.

8.2.3 Under no circumstances should information requested under the legislation be destroyed to hide evidence. This is an illegal action and a fine can be charged to the individual as a consequence.

8.2.4 The Act is fully retrospective. Accountable Officers face a maximum punishment of two years imprisonment for offences under FOIA/EIR.

## **9. Making a Request**

9.1 Any individual, anywhere in the world, has the right to:

- Be informed whether the Trust holds certain information.
- Obtain a copy of that information (if it is not exempt).

9.2 All requests for information under FOIA must be made in writing and addressed to the Trust. This can be in any written form, such as a letter or e-mail. The requester must include their name and address (email will suffice). Requests under the EIR do not need to be made in writing; however a written record will be made of any verbal requests that are received.

9.3 Requests in writing also include social media such as Facebook and Twitter. When using Twitter, some responses will require more than 140 characters and therefore requesters will be asked to provide an alternative address for responses, such as an email address.

9.4 The request does not have to specifically state that it is being made under FOIA/EIR. Organisations should be aware of their responsibilities to provide information under FOIA/EIR without explicit mention of the legislation.

A request can be for:

- A copy of the information.
- An opportunity to inspect the records.
- A summary of the information.

9.5 The Trust is obliged and wishes to help members of the public in making a request. For example, if a request is made verbally by an individual who is unable to read or write then the Trust will assist the applicant in writing down their request and encourage them to verify with a family member or representative that the written request is in fact what is required. A similar approach will be taken with requesters who do not speak English as their first language and who need assistance in writing down their request.

## **10. Timescales**

10.1 Public organisations must respond to a request for information within 20 working days of receiving it. Within these 20 working days, the Trust must:

- Give the person the information they have asked for: or
- Tell them if the information will not be available within the 20 working days or
- Tell them that the information will not be released because of exemptions.

10.2 Where a delay in reaching a decision beyond this period is expected to occur due to the consideration of the public interest test (PIT), the Trust will give a realistic and reasonable estimate of when a decision will be reached. This revised estimate must be complied with unless there is a valid reason for not doing so. If this estimate is exceeded, the applicant should receive an apology and an explanation for the delay. It is imperative that the applicant is informed if the estimate is proving unrealistic. Under the EIR no extension can be applied.

## **11. Responding to a Request**

11.1 Each request will be considered on an individual basis and the Trust will respond appropriately within the legislation.

11.2 Any member of staff receiving a written request should forward it within 48 hours of receiving it to the Trust FOI Manager.

11.3 The Trust FOI Manager will review the request, acknowledge it, and coordinate the response, linking in with relevant Directors/Services as required in order to send a response within 20 working days.

11.4 The relevant Director/Service lead will nominate an appropriate individual on a request by request basis to assist the Trust in coordinating a response. The Trust FOI Manager will endeavour to provide the information in the format requested by the person asking for it. It is permissible that the requester can view the information on Trust premises at a prearranged time if it is inappropriate or not possible to send a copy, for example the document is very large.

11.5 If the Trust requires further clarification to enable it to identify the information requested, then the 20 working days timelines will be restarted when the requester has provided that clarification. If no response has been received within two months of seeking clarification then the request will be considered void.

11.6 Information requests can only be transferred where the Trust receives a request for information which it does not hold, but which is held by another public authority. When transferring a request, the applicant will be given the details of who holds the information and provided with the details of the transferring agency.



## 12. Fees and Charges

12.1 The Trust aims to provide as much information as possible free of charge on its website.

12.2 Authorities are permitted to charge reasonable fees to meet some of the cost for providing information. The Trust may charge for reasonable incurred costs to:

- Inform the applicant whether the Trust holds the information.
- Communicate the information to the requester.
- Putting the information into the preferred format.

12.3 Fees may include:

- The cost of putting information into the requested format (e.g. USB memory sticks).
- Photocopying and printing costs (set at no more than 10p for each page).
- Postage or other transmission costs.

12.4 The FOIA provides an exemption from a public authority's obligation to comply with a request for information where the cost of compliance is estimated to exceed the appropriate limit. Charges for information are currently set centrally and defined in regulations. There is no charge for information that costs the Trust less than £450\* to produce, although the Trust may charge for costs incurred in retrieval, photocopying and postage charges as above.

*\*The fee of £450 has been set by the Information Commissioner's Office*

12.5 Charges cannot be made for time deciding whether an exemption is applicable.

12.6 Where it would cost more than £450 to respond to a request then the Trust may decline to answer the request. In order to estimate whether the cost of meeting a particular request would exceed the £450 limit, Trusts are allowed to take into account the costs of employing staff to:

- Find out whether the information is held.
- Locate and retrieve the information.
- Extract the information.

12.7 In line with national guidance, the Trust uses an hourly rate of £25.00 per person per hour to estimate these costs.

12.8 The Trust will make it clear to the requester from the start if it will be charging for the information and specify the fee. The 20 working day response time is then put on hold until the fee is received. The Trust does not have to respond where the applicant refuses to pay the fee. If the fee has not been paid within two months then the Trust will assume that the applicant no longer wants to have the information and does not need to respond to the request.

12.9 The appropriate limit of £450 does not apply to requests under EIR. Under EIR, when a public authority is able to make a charge, it may only do so if the charge

is a reasonable one.

### **13. Consultation with Third Parties**

13.1 There may be circumstances where requests for information are made that relate to persons other than the applicant or the Trust, or relate to disclosure of information that is likely to affect the interests of persons other than the applicant or the Trust.

13.2 The Trust understands that unless a valid exemption or exception is applicable it will be obliged to disclose the requested information about a company, public authorities or individual(s) in response to a legitimate information request.

13.3 In general it will be necessary/courteous to consult third parties about the prospect of disclosing information regarding them. Their views will be important if it is necessary to assess the balance of the public interest in the disclosure of information.

### **14. Withholding or Refusing Information**

14.1 The Trust will usually supply the information where it is held unless:

14.1.1 It is held by another organisation in which case the Trust will advise the requester who holds the information so that they can approach them.

14.1.2 The information falls under one of the absolute exemptions – see Section 16).

14.1.3 The information falls under one of the qualified exemptions (Section 16) and it has applied a PIT which shows that there would be more harm done to the public interest in publishing the information than in withholding it. In such cases the rationale for refusing the information will be made clear to the requester.

### **15. Redaction**

The legislation gives an entitlement to information rather than documents. Therefore if part of a document is exempt, the Trust is required to redact the appropriate sections (edit the requested information to remove exempt material). It will release the remainder of the information.

### **16. Freedom of Information Act Exemptions**

16.1 There are 23 categories of information under which it is permissible not to release information under the FOIA. Some of the exemptions are absolute exceptions in which case the Trust can automatically withhold the information. No reason needs to be given for non-disclosure other than quoting the relevant

exemption.

### 16.2 Absolute exemptions under the FOIA:

Section of the Act	Exemption Name
Section 12	Cost of compliance exceeds appropriate limit
Section 14	Vexatious requests
Section 21	Information accessible by other means
Section 23	Information supplied by, or related to, bodies dealing with security matters
Section 32	Court records and transcripts
Section 34	Parliamentary privilege
Section 36	Prejudice of effective conduct of public affairs (information held by House of Parliament)
Section 37(1)a, aa & ab	Communications with the Monarch, the heir to the throne and the second in line of succession to the throne
Section 40(1)	Personal Information where the applicant is the data subject
Section 40(2)	Personal Information where the applicant is a third party
Section 41	Information provided in confidence
Section 44	Prohibitions on disclosure

16.3 Qualified exemptions under the FOIA are listed below. These require a PIT to be applied.

Section of the Act	Exemption Name
Section 22	Information intended for future publication
Section 24	National security
Section 26	Defence
Section 27 (1 and (2))	International relations
Section 28	Relations within the UK
Section 29	The economy
Section 30(1)	Criminal investigations and proceedings conducted by the authority
Section 30(2)	Relating to civil or criminal investigations and proceedings which use confidential sources
Section 31	Law enforcement
Section 33	Audit functions
Section 35(1)a-d	Formulation of government policy, ministerial communications, law officers' advice and operation of Ministerial Private Office
Section 36	Prejudice of effective conduct of public affairs
Section 37(1)(ac)	Communications with other members of the Royal Family not on behalf of those covered by a-ab
Section 37(1)(ad)	Communications with the Royal Household not on behalf of

	those covered by a-ab
Section 37(1)(b)	Honours
Section 38	Health and Safety
Section 39	Environmental Information (as this can be accessed through EIR)
Section 42	Legal professional privilege
Section 43(1)	Trade secret
Section 43(2)	Commercial interests

16.4 Consideration of the PIT may take longer than 20 working days in which case the requester will be kept informed of when they are likely to receive a response.

16.5 If an exemption is used, the requester must be informed which one has been used and the reasons for applying the exemption.

16.6 Exempted information will be kept under review in case it is possible to release it in future. This may include information provided to third parties, given with the expectation that it would be held in confidence, such as tenders for contracts before the contract has been awarded. When the contract has been awarded, it may be possible to release the successful and unsuccessful tenders if a request has been made.

## 17. Environmental Information Regulations Exceptions

Under the EIR there are exceptions which allow authorities to refuse disclosure of information. All exceptions are subject to the PIT apart from personal information which as per the FOIA is absolute and allow authorities to withhold information only if the public interest in maintaining the exception outweighs the public interest in disclosing the information.

Regulation	Exception Name
12(5)(a)	International relations, defence, national security or public safety
12(5)(b)	Course of justice, ability of a person to receive a fair trial or ability of a public authority to conduct a criminal or disciplinary enquiry
12(5)(c)	Intellectual property rights
12(5)(d)	Confidentiality of proceedings provided by law
12(5)(e)	Confidentiality of commercial or industrial information provided by law to protect a legitimate economic interest
12(5)(f)	Interests of person who provided information where that person (i) was not under a legal obligation to supply it to that or any other authority, (ii) circumstances of supply are not such that any authority is entitled apart from EIR to disclose it and (iii) has not consented to its disclosure
12(5)(g)	Protection of the environment to which the information relates

## **18. Vexatious Requests**

The Trust can refuse to comply with requests that are vexatious. According to the Act, vexatious requests are those that are likely to cause a disproportionate or unjustifiable level of distress, disruption or irritation. When assessing whether a request is vexatious, the Trust will take into account the context and history of a request, including the identity of the requester and any previous contact with them, bearing in mind that it is the request that is considered vexatious, not the requester.

## **19. Complaints**

19.1 Section 45 of the FOIA states that public authorities must have a procedure in place for dealing with complaints both in relation to its handling of requests for information and in relation to the authority's publication scheme. Furthermore, Regulation 16 of the EIR states that each public authority must have a review procedure in place.

19.2 The Trust will deal with complaints informally if possible, but if complaints cannot be resolved easily, swiftly and satisfactorily on an informal basis, this process should be followed:

19.2.1 A written communication from a person who has previously made a request for information under the FOIA or EIR which expresses dissatisfaction with an authority's response to a request for information will be treated as a complaint.

19.2.2 Complaints can be made within 40 working days from the date of the initial FOI or EIR response and this is made clear in the response to the requester. The Trust is not obliged to accept complaints after this date.

19.2.3 Applicants will be notified how to make a complaint when any decision made to refusing a request is communicated, or in reliance of an exemption provision.

19.2.4 Any written communication from a person who considers that the authority is not complying with its publication scheme is also to be treated as a complaint.

19.2.5 Such communications should be handled in accordance with the Trust's complaint procedures, even if the applicant does not expressly state his or her desire for the Trust to review its decision in its handling of the application.

19.2.6 Complaints will be acknowledged within 2 working days.

19.2.7 The Trust will complete its review within twenty working days.

19.2.8 Where it is apparent that the review of the complaint will take longer than twenty working days, the applicant will be informed and the reason for the delay will be explained. The time taken to conduct reviews will not exceed 40 working days.

19.2.9 Where the complaint concerns a request for information under the general rights of access, the review should be undertaken by someone senior to the person who took the original decision and who was not involved in the original decision.

19.2.10 The reviewer will undertake a full re-evaluation of the case, taking into account the matters raised in the complaint. They will be provided with all the information and records relating to the original request and will undertake an impartial, thorough and swift review of handling issues and of decisions taken, including decisions taken about where the public interest lies in respect of exempt information. They will make a fresh decision, taken on a reconsideration of all the factors relevant to the issue.

19.2.11 Records will be kept of all complaints and of their outcome.

19.2.12 The complainant will always be informed of the outcome of his or her complaint, whether the review found that there had been a failure in compliance or not.

19.2.13 If the outcome of the review was that the Trust has not complied with the requirements of the FOIA/EIR the response to the complainant should state this, the action decided to be taken to comply and the period within which that action is to be taken.

19.2.14 Where the outcome of the review of a complaint is a decision that information should be disclosed which was previously withheld, the information in question should be disclosed as soon as is practicable, but no later than 20 days.

19.2.15 Irrespective of the outcome, the complainant will always be informed of his or her right to apply to the Information Commissioner's Office, and be given details of how to contact it. They will consider whether their request for information has been dealt with in accordance with the requirements of the FOIA or EIR. The Information Commissioner will expect the Trust's internal review process to have been exhausted first.

19.2.16 Where the outcome of a complaint is that existing procedures have not been properly followed, the complainant will receive an apology and appropriate steps will be taken to prevent similar errors occurring in future.

19.2.17 A regular review will take place to monitor and review complaints and how they have been handled.

## 20. Media Requests

It is important to liaise with the Trust's Communications Team on requests received from the media. The Communications Team will advise on how best to deal with these requests and escalate them as appropriate.

The Communications Team can be contacted as follows:

Email: [beh-tr.communications@nhs.net](mailto:beh-tr.communications@nhs.net)

## 21. Record Keeping

21.1 The Trust FOI Manager will keep a register of requests received which will record the following details:

- Date request is received
- Name/details of person requesting the information
- Subject of information requested
- Date response is due and date response sent
- Outcome (including any delays or exemptions)

21.2 The Trust FOI Manager will provide regular summary reports to the Information Governance Meeting and will submit annual reports which are published on the trust website. An individual electronic file will be kept for each request which will be retained in line with NHS records management:

- Three years from closure of the request in cases where there has been no complaint made thereafter.
- Six years from closure in cases where there has been an internal review requested.

## 22. Data Protection Act 2018

22.1 In accordance with the Data Protection Act and Caldicott principles sensitive person identifiable information must be kept confidential. Requests for patient health records/personal records will continue to be administered under the Data Protection Act and should be referred to the Trust's Medical Records Manager – see page 4.

22.2 Employees Subject Access Requests i.e. requests for personal data held in staff records, should be directed to the Information Governance Manager as follows:  
By email: [beh-tr.information.governance@nhs.net](mailto:beh-tr.information.governance@nhs.net)

22.3 The Caldicott Guardian has overall responsibility for ensuring all information related to patients and users of the service is used confidentially and handled with appropriate safeguards. The Trust' Caldicott Guardian is the Medical Director.

## **23. Freedom of Information Publication Scheme**

The Trust's website has an area detailing the Publication Scheme and is in line with the Information Commissioner's Model Publication Scheme. The Trust's Publication Scheme can be found at: <http://www.beh-mht.nhs.uk/foi-publication-scheme.htm>  
It includes information on the following sections:

- Who we are and what we do
- What we spend and how we spent it
- What our priorities are and how we are doing
- How we make decisions
- Our policies and procedures
- Lists and registers
- The services we offer

## **24. Associated Trust Documents**

- Data Protection Policy
- Records Management / Information Life Cycle Policy
- Communications Policy
- Email Policy
- Information Risk Policy
- Information Security Policy
- Information Sharing Policy

## **25. Monitoring Compliance and Effectiveness**

The Information Governance Meeting will monitor these procedures to ensure that the Trust is complying with the FOIA/EIR.

## **26. Dissemination and Implementation**

This document will be made available on the Trust's website.

## **27. Training**

All staff are required to undertake information governance training via e-learning or an alternative approved method of learning.

## **28. Contributors**

- Trust FOI Manager
- Information Governance Manager
- Information Governance Group



## **29. References**

These procedures have been prepared with reference to the documents listed below and should be read in conjunction with this document.

The Freedom of Information Act 2000

<http://www.legislation.gov.uk/ukpga/2000/36/contents>

Information Commissioners Office provides an easy read guide to the Act:

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

Freedom of Information Code of Practice

<https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

Regulation 16 Code of Practice – Discharge of obligations of public authorities under the EIR

<https://ico.org.uk/media/for-organisations/documents/2013835/eir-regulation-16-code-of-practice.pdf>

Code of Practice on Records Management issued under section 46 of the FOI Act

<https://www.nationalarchives.gov.uk/documents/foi-section-46-code-of-practice.pdf>

Data Protection Act 2018

<https://www.gov.uk/data-protection/the-data-protection-act>

**APPENDIX 1**

**DEFINITIONS**

The following terms are used throughout this document.

Freedom of information Act 2000	An Act of Parliament that introduces a public “right to know” in relation to public bodies.
Freedom of Information Publication Scheme	The FOIA requires public authorities to have an approved publication scheme which is a means of providing access to information which an authority proactively publishes without a member of the public having to request it. The information required under the scheme is determined by the Information Commissioners Office and is usually published on an organisation’s website.
Environmental Information Regulations 2004	Regulations that give rights to public access to environmental information held by public authorities
Information Commissioner’s Office	The Information Commissioner’s Office is the UK’s independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.
Requester	The individual(s), group or organisation requesting access to information under the FOIA/EIR.
Data Protection Act	This is different legislation – separate to the FOIA and EIR which refers to personal data, with the emphasis being on confidentiality.
Caldicott Principles	The Caldicott Committee was established in 1997 following increasing concern about the ways in which patient information was being used in the NHS and the need to ensure that confidentiality was not undermined. The Committee’s resulting report developed a set of 6 general principles for the safe handling of personal-identifiable information and these principles are the guidelines to which the NHS works.
Absolute Exemption	Applied to information that does not have to be released to the requester as they are exempt from the FOIA. The Trust can automatically withhold the information. No reason needs to be given for non-

	disclosure other than quoting the relevant exemption.
Qualified Exemption	When a public organisation has to consider the balance of public interest in deciding whether to withhold the information, these are known as 'qualified' exemptions.
Exception	Under EIR there are exceptions which allow authorities to refuse disclosure of information. All apart from one are qualified and require the Public Interest Test to be carried out.
Public Interest Test (PIT)	When a public organisation wishes to withhold information under a qualified exemption, it must carry out a two-stage process. Firstly, it must decide that the exemption is engaged i.e. the exemption applies to the requested information. Then it must carry out the public interest test, which means that it must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF PROCEDURAL DOCUMENTS FORM

1.	How will the document be monitored? (please circle as appropriate)	Audit		<u>Review</u>	Other, please specify;
		Methodology:			
2.	What is the process for reviewing results of monitoring?	Information Governance Group Meeting			
3	Report to:	SIRO			
4.	Who is responsible for conducting the monitoring? (please circle as appropriate)	<u>Group / Committee</u>		Individual	
		Name / Title (also include position of individuals):  Information Governance Group			
5.	How often will the document be monitored? (please circle as appropriate)	Monthly	<u>6 Monthly</u>	Yearly	Other, please specify; <u>Every three years</u>
		Comments: A review of the procedures will take place if there are changes in legislation.			
6	Responsibility for action planning after review				

## EQUALITY IMPACT ASSESSMENT AND ANALYSIS FORM

1. Please indicate the expected impact of your proposal on people with protected characteristics					
Characteristics (where relevant)	Significant +ve	Some +ve	Neutral	Some -ve	Significant -ve
Age:			X		
Disability:			X		
Ethnicity:			X		
Gender re-assignment:			X		
Religion/Belief:			X		
Sex (male or female)			X		
Sexual Orientation:			X		
Marriage and civil partnership			X		
Pregnancy and maternity			X		
The Trust is also concerned about key disadvantaged groups even though they are not protected by law					
Substance mis-users			X		
The homeless			X		
The unemployed			X		
Part-time staff			X		
Please remember just because a policy or initiative applies to all, does not mean it will have an equal impact on all.					
2. Consideration of available data, research and information.					
Not applicable					
	<b>Key questions (supports EDS Goals)</b>	<b>Your Response</b> <i>Please reference data, research and information that you have reviewed which you have used to form your response</i>			
2.1	What evidence, data or information have you considered to determine how this development contributes to delivering better health outcomes for all?	<b>Freedom of Information Act 2000</b> <b>Environmental Information Regulations 2004</b> <b>Guidance issued by the Information Commissioner's office</b>			
2.2	What evidence, data or information have you considered to determine how this development contributes to improving patient access and experience?	<b>Freedom of Information Act 2000</b> <b>Environmental Information Regulations 2004</b> <b>Guidance issued by the Information Commissioner's office</b>			
2.3	What evidence, data or information have you considered to determine how this change/development/plan/policy contributes to delivering a representative and well supported workforce?	<b>Freedom of Information Act 2000</b> <b>Environmental Information Regulations 2004</b> <b>Guidance issued by the Information Commissioner's office</b>			
2.4	What evidence, data or information have you considered to determine how this change/development/plan contributes to inclusive leadership and governance?	<b>Freedom of Information Act 2000</b> <b>Environmental Information Regulations 2004</b> <b>Guidance issued by the Information Commissioner's office</b>			

**3. It is Trust policy that you explain your proposed development or change to people who might be affected by it, or their representatives. Please outline how you plan to do this.**

Group	Methods of engagement
Staff	Staff will be regularly briefed via electronic means and information will be placed on the Trust's intranet.
Members of the Public	To ensure openness and transparency these procedures will be placed on the Trust's website.

**4. Equality Impact Analysis Improvement Plan**

If your analysis indicates some negative impacts, please list actions that you plan to take as a result of this analysis to reduce those impacts, or rebalance opportunities. These actions should be based upon the analysis of data and engagement, any gaps in the data you have identified, and any steps you will be taking to address any negative impacts or remove barriers. The actions need to be built into your service planning framework. Actions/targets should be measurable, achievable, realistic and time framed.

Negative impacts identified	Actions planned	By who
	Not applicable	

**6. Sign off and publishing**

Once you have completed this form, it needs to be 'approved' by Service Director, Clinical Director or an Executive Director or their nominated deputy. If this Equality Impact Analysis relates to a policy, procedure or protocol, please attach it to the policy and process it through the normal approval process. Following this sign off by the Policy Review and Monitoring Committee your policy and the associated EqlAn will be published by the Trust's policy lead on the website.

If your EqlAn related to a service development or business /financial plan or strategy, once your Director or the relevant committee has approved it please send a copy to the Equalities Team ([equalities@beh-mht.nhs.uk](mailto:equalities@beh-mht.nhs.uk)), who will publish it on the Trust's website. Keep a copy for your own records.

**I have conducted this equality Impact analysis in line with Trust guidance**

<b>Your name:</b> Faye Cording	<b>Position:</b> Trust FOI Manager
<b>Signed:</b>	<b>Date:</b>
<b>Approved by:</b>	
<b>Your name:</b>	<b>Position</b>
<b>Sign:</b>	
<b>Date</b>	