

Freedom of Information Act 2000 disclosure log entry

Reference

19-20157

Date sent

20/08/2019

Subject

Internal Review: Withholding Consultants Listing - Case 19-20132 Refers.

Details of enquiry

I am disappointed that you are unable to provide this information, as other mental health trusts in the UK that I have approached have provided me with a list of Consultant names and clinic locations.

Names of consultants and their clinic location are not protected under the Data Protection Act or GDPR as this would interfere with GP referrals and patients' right to choice.

Please reconsider your response as I am requesting the Trust to undertake an internal review of my application

Response Sent

Laure Thomas, Director of Marketing & Communications was appointed to conduct this internal review. Ms Thomas investigated the response provided to you, for its accuracy and appropriateness of detail, and her findings and rationale for conclusions drawn are attached for your information. The attached report describes the Trust's policy on releasing names and contact details of staff, and addresses the alleged contractual requirement to provide this to potential patients to inform their choice of consultant led team to treat them. I hope that you can see from the attached report that we sincerely wished to support your request, and supply you with as much of the information you require as we can.

The outcome of the findings of the internal review upheld the Trust's original response to you, and confirms that no remedial actions are required. The original response provided to you was found to be on time, accurate and an appropriate adherence to Trust policy. Furthermore the investigator received an assurance from the Head of Contracts that services provided by this Trust are in line with our NHS contractual requirements; ie patients are only considered for acceptance upon GP referral to a named discipline/department, and specified consultant led teams cannot be selected by name.

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Timeline:

1. 18/07/2019 Initial FOI request received from Dr XX requesting listing of medical Consultants, by name and department/location,
2. 01/08/2019 **FOI 19-20132**: Original FOI response sent 10 working days following its receipt, contents signed off by Board Director. Includes the Trust FOI policy in attachment, to illustrate Trust policy for releasing staff names.
3. 06/08/2019 Request for internal review received from Dr XX. Alleges that requested data is not protected under DPA/GDPR which would interfere with GP referrals and patients' right to choice. Applicant requests that the Trust conducts an internal review to investigate further and to follow the example of other MHTs and supply the requested data.
4. 08/08/2019 **FOI 19-20157**: Medical Director appoints Ms Laure Thomas, Director of Communications, to undertake the internal review, to investigate the handling and response, and provide a recommendation for any next steps.
5. 14/08/19 Ms Thomas concludes the internal investigation, and reports, in her findings to the Medical Director, that the original response should stand and no further action is required.

Appendices:

1. Exchange of Email Correspondence from initial enquiry and request for internal review
2. Trust FOI Procedure.

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14th August, 2019

1. Application of Trust's published FOI procedure

I checked the Trust's FOI procedure, and found that the response provided to this FOI enquiry was in line with said procedure.

Explicitly, it observed the stipulation in paragraph 2. a) in the **Annex to Appendix 6 Disclosure of Staff Information** that staff names and job titles below Director level need not be disclosed.

2. *Normally Non-Disclosable Staff Details*

a) *Non Director* the Trust recognises that a distinction based on

AFC Band 8 grade alone will not always be appropriate. It is

And under unlikely that details of those who do not deal directly with the public will be disclosed, eg

1. *Names, Job titles, work email addresses, work telephone numbers*
2. *Salary details of individuals*
3. *Photographs and/or biographical details*

2. Trust's Contractual Obligations to reveal Consultants Personal Details

I also checked our contractual obligations with the Head of Contracts, specifically whether we must provide GPs and patients with Consultants information to inform patient choice. I was advised that services within the Tavistock and Portman NHS Foundation Trust are not consultant-led and referrals to our Trust are done at service-level rather than consultant level. As such, the explicit instruction in our FOI Procedure not to systematically disclose personal information about staff below Director level has no bearing on GPs' or patients' right to choose.

3. Findings

Given the above, I believe our decision to withhold this information is justified.

4. Summary

I feel I have been thorough in my examination of the procedure followed here and our obligations under our contracts, our corporate procedure, and FOI regulations. As a lay person I have done this to the best of my ability. No remedial steps required, and the original response is upheld.

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Appendix 1

– Email Correspondence, initial FOI enquiry, its response, request for internal review

From:

Sent: 06 August 2019 11:16

To: Freedom of Information Requests <FOI@tavi-port.nhs.uk>

Subject: RE: RESPONSE TO FOI ENQUIRY: 19-20132 Request for List of Medical Consultants Names, Depts, Location

Dear Sandy

I have just returned from leave last week, so I have only just seen your email below.

I am disappointed that you are unable to provide this information, as other mental health trusts in the UK that I have approached have provided me with a list of Consultant names and clinic locations.

Names of consultants and their clinic location are not protected under the Data Protection Act or GDPR as this would interfere with GP referrals and patients' right to choice.

Please reconsider your response as I am requesting the Trust to undertake an internal review of my application.

I look forward to hearing from you soon.

Best wishes

----- original message -----

From: Freedom of Information Requests <FOI@tavi-port.nhs.uk>

Sent: 01 August 2019 18:51

To:

Subject: RESPONSE TO FOI ENQUIRY: 19-20132 Request for List of Medical Consultants Names, Depts, Location -

Dear

FREEDOM OF INFORMATION ACT 2000 - INFORMATION REQUEST

Your request for information, as detailed in your email below, has been considered in line with the requirements of the FOI Act 2000, and the Trust's response to the information requested is as follows:

The Trust cannot release a listing of its consultants names, as we do not publish these nor indeed the personal details of any other staff at or below Director level. Our reasons for this are that:

- b) we restrict access to the names of our staff (which includes consultants') by external sources, to uphold employees' human rights to a private and family life.
- c) Patients can always look up details of consultant/s treating them, on the GMC website, where they are publicly listed by name

For further information on what constitutes the staff personal data we withhold, we refer you to page 17 (section 15 appendix 6) of our FOI procedure, available at [Freedom of information procedure](#)

The Tavistock and Portman NHS Foundation Trust is a specialist mental health Trust which provides outpatient psychotherapy services only. Please also note that this Trust does not provide acute services within primary care settings and it accepts referrals from a UK-wide geographical area.

Please note that the information provided under FOI is information held at the date on which the request was made. If you wish to discuss any of the above please contact me, quoting the reference details in the subject header of this email.

Re-use of Information

The information provided above is given in response to a request received under the Freedom of Information Act 2000, and is Trust copyright. You may re-use this Tavistock and Portman NHS Foundation Trust copyright information in accordance with the Open Government Licence: <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/2/> (Please note that re-use of personal data is not allowed under this license.)

For information which is not Tavistock and Portman NHS Foundation Trust copyright, e.g. external websites, please contact the named party directly.

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If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review of our decision, you should write to: David Wyndham Lewis – Director of Transformation and Technology, The Tavistock and Portman NHS Foundation Trust, 120 Belsize Lane, NW3 5BA, or via email to: dwyndhamlewis@Tavi-Port.nhs.uk

If you are not content with the outcome of your complaint or review, you may apply directly to the Information Commissioner for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by the Trust. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 08456 30 60 60 or 01625 54 57 45 . The ICO website can be reached at www.ico.org.uk.

Yours sincerely,

Sandy Benson
Freedom of Information Officer

-----original message-----

From:
Sent: 18 July 2019 14:14
To: Freedom of Information Requests <FOI@tavi-port.nhs.uk>
Subject: FOI Tavistock and Portman NHS Foundation Trust

Dear Sir/Madam

I would be grateful if you could send me an up to date list of medical Consultants, by name and department/location, working within your trust. I have searched your website and cannot seem to find the most current information I am looking for.

Alternatively, please direct me to your online Consultant listing, if you can confirm that this information is updated regularly (NOT NHS Choices please as this is often years out of date, thanks!).

I look forward to hearing from you in email form and thank you, in advance, for your assistance.

Best wishes

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**Appendix 2 –
Trust FOI Procedure**

The Tavistock and Portman 
NHS Foundation Trust

Freedom of Information Procedure

Version:	4
Bodies consulted:	Information Commissioner's Office Guidance, Trust IG Workstream
Approved by:	Executive Management Team
Date approved:	19 March 2019
Lead manager:	FOI Officer
Responsible director:	Senior Information Risk Owner (Deputy Chief Executive and Director of Finance)
Date issued:	March 2019
Review date:	February 2024
Intranet	Yes
Extranet	Yes



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1. Introduction

- 1.1. The Tavistock and Portman NHS Foundation Trust, (“the Trust”) is committed to the principles of openness, transparency and accountability embodied in the Freedom of Information Act 2000 (“FOIA”) and Environmental Information Regulations 2004 (“EIRs”). This procedure establishes a framework which underlines the Trust’s commitment. It provides policy statements to underpin the Trust’s detailed guidance and procedures in the areas of Freedom of Information and Environmental Information, providing a benchmark against which implementation can be audited.
- 1.2 This procedure has been developed and implemented in the context of other Trust policies and guidelines, national legislation and codes of practice, and sectoral/professional standards.

2. Purpose

- 2.1 This procedure has been established to ensure that the Trust meets its legal obligations under the legislation, and related statutory codes of practice. It also enables the Trust to meet the requirements of the Data Security and Protection Toolkit.
- 2.2 To ensure that this procedure and the SOP which implements it comply with the FOIA, EIRs and associated codes of practice, of which the key requirements are that:
 - 2.2.1 Information and data sets routinely published by the Trust are made available in accordance with the Trust’s Freedom of Information Publication Scheme (see point 6.3, Publication Scheme)
 - 2.2.2 Information which is not covered by the Publication Scheme is made available to applicants on request, promptly and within 20 working days, unless a valid exemption or limit applies (see point 7.1, Requests for Information)
 - 2.2.3 A fair and efficient appeals’ procedure is administered (see Appendix 5 - Internal Review Procedure)

3. Scope

- 3.1 The legislation, and therefore this procedure, applies to all recorded information held by the Trust and its staff, directorates, service lines, departments, agents and contractors, regardless of format, storage, medium or age. It also applies to recorded information held by other organisations or individuals on behalf of the Trust. Information “held” by the Trust includes not only information created by the Trust, but also information in the Trust’s possession which originated from other organisations, such as

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NHS Clinical Commissioning Groups, professional regulators, contractors, tenderers and suppliers.

3.2 Under the FOIA, this procedure covers all information held by the Trust, including information provided to the Trust by outside organisations such as contractors, tenderers, suppliers, other Trusts, NHS bodies and regulatory bodies.

3.2.1 The Trust will consult with outside organisations whenever information which they have supplied to the Trust is the subject of a request. These organisations have a duty under the terms of their contracts to assist and cooperate promptly with the Trust in responding to requests under the regulations.

3.2.2 Where a contract pre-dates the legislation this obligation is implied into the existing contract.

3.2.3 The Trust wishes to maintain a good working relationship with its contractors and suppliers, but ultimately any decision to disclose information rests with the Trust, in line with FOIA regulations

3.3 Not all information held by the Trust is disclosable, and this procedure includes the application of FOIA exemptions, to withhold requested information, and/or refuse to confirm or deny what it holds. Some of these are straight forward to apply, whilst others require the undertaking of a public interest test. (points 7.8 to 7.11)

4. Definitions

4.1. FOIA	Freedom of Information Act 2000
4.2. EIR	Environmental Information Regulations 2004
4.3 GDPR 2018	General Data Protection Regulations
4.4 DPA 2018	Data Protection Act
4.5 Applicant	The individual/s, group, organisation requesting access to information under the legislation.
4.6 Recorded Information	All information held by the Trust, Not just limited to official documents, it covers, drafts, emails, and notes (both electronic and handwritten), recordings of telephone conversations and CCTV recordings. Nor is this limited to information created within the Trust, as it also relates, for example, to documents received from external sources, such as other organisations or members of the public, though there may be a

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| | valid exemption for not releasing them. |
| 4.7 Data Sets | For these purposes, a data set is a collection of factual, raw and/or processed data, held in electronic form and gathered as part of providing services and delivering the Trust's functions. |
| 4.8 Information Commissioner | The Information Commissioner's Office (ICO), a UK independent authority which oversees compliance with GDPR, DPA, FOIA and EIR. |
| 4.9 Publication Scheme | A guide with electronic links to data which is routinely published on the Trust's website, in line with the ICO guidance for a model publication Scheme |

5. Procedural Statements

- 5.1. Regular monitoring of the compliance level and effectiveness of this procedure will be via review at the Quarterly IG Workstream Meeting by:
 - 5.1.1. Identifying and assessing any flaws and/or improvements in the ways information is gathered and processed. Reviewing the number of requests that breach the statutory deadline
 - 5.1.2. Reviewing the general response times to requests
 - 5.1.3. Analysing requests, to identify any trends or themes, with a view to improvement of the publication scheme content.
- 5.2 The Trust regularly reviews its procedures and systems to ensure their compliance under section 46 of the Freedom of Information Act

6. Duties and responsibilities

- 6.1 The FOI Officer is the operational Trust Lead on all FOI matters and is responsible for logging and responding appropriately to all incoming FOI enquiries in a timely manner to meet statutory submission deadlines.
- 6.2 The Trust's Directors and/or their appointed delegates are responsible for supplying to the FOI Officer, in a timely manner and upon request, relevant and accurate data in response to FOI enquiries received, unless there are reasons why these should not be supplied, to meet corporate and statutory submission deadlines. Any refusals should be explained and discussed with the FOI Officer, as appropriate.

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- 6.3 The Trust has a corporate responsibility to ensure that it complies with and implements the FOIA and EIRS. The Trust is accountable to the ICO for its compliance with the regulations.
- 6.4 The Trust is required by the FOIA to produce, maintain and make available a Publication Scheme covering the information which the Trust routinely publishes or intends to publish. The Publication Scheme is available on the Trust's website at <https://tavistockandportman.nhs.uk/about-us/contact-us/freedom-of-information/tavistock-and-portman-nhs-trust-publication-scheme/> It describes the classes of information which the Trust publishes, and provides links to that information.
- 6.5 The Trust has adopted the model publication scheme and definition document approved by the Information Commissioner for Health Bodies in England. The Trust will keep the Scheme up to date, which will be done by periodic review and updating of the Scheme by the Trust's FOI staff.
- 6.6 The Trust's Senior Information Risk Owner (SIRO) has overall responsibility for the correct and timely implementation of this procedure.
- 6.7 Directors and their appointed delegates for FOI are responsible for provision and sign off of accurate response information, for submission to the FOI Officer/s to format into agreed templates for dispatch, in a timely manner to meet the corporate and statutory submission deadlines.
- 6.8 All staff are responsible for complying with the provisions of FOIA 2000 and the EIRs and for making themselves aware of their obligations. The Trust provides regular awareness training to assist staff with this as part of their mandatory annual IG Security Compliance Training.
- 6.9 Staff must ensure that, when asked to do so, they provide the FOI Officer/s with their best advice and assistance for the purpose of responding to requests. Assistance could include suggesting an alternative member of staff who may hold the information, advising that certain information should not be disclosed along with the reason for this, and advising whether provision of the information was likely to take over 18hours ("the appropriate limit") and if so then explaining the reasons for this, advising on any relevant 3rd party contacts.
- 6.10 Staff should note that deliberate concealment, amendment or destruction of information which has been the subject of a request, in order to prevent its disclosure, is a criminal offence under the FOIA 2000 and EIRs for which individual staff, as well as the Trust, can be held liable.
- 6.11 The Trust Lead on responses to Freedom of Information requests is the FOI Officer. They are responsible for timely administration of the FOI

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process flow, from receipt of a request through to dispatch of the response, with active involvement in all interim stages.

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7. Procedures

- 7.1. Requests for information not covered by the Trust's Publication Scheme can be made by individuals within or outside the Trust, and from anywhere in the world, under the FOIA and EIR regulations. Individuals can request any information that is held by the Trust, except for medical or staff records. The FOIA regulations provide the public with the right to be informed whether the information is held by the Trust, and if so, to have the information communicated to them unless an exemption or limit applies.
- 7.2. The Trust is committed to processing requests for information in accordance with the requirements of the FOIA regulations, to ensure that
 - 7.2.1. requests under FOIA are processed in accordance with the code of practice (known as the Access Code) issued by the Secretary of State for Constitutional Affairs under section 45 of the Freedom of Information Act.
 - 7.2.2. requests under the EIR are processed in accordance with the code of practice issued by the Department for Environment, Food and Rural Affairs.
- 7.3. Procedures and systems for dealing with information requests have been developed to promote compliance with these codes and the regulations, and are accompanied by appropriate training.
- 7.4. The Trust has a formal procedure for dealing with requests for internal reviews from correspondents who may be dissatisfied with the response given to their FOI or EIR request. (see Appendix 5 Charging for Information). The FOIA and its secondary legislation impose a statutory limit (the "appropriate limit") on the amount that can be spent on locating, extracting, and collating the information required to answer a request. This does not include time spent on redaction, ie censoring or obscuring part/s of text or data for legal or security or confidentiality purposes.
- 7.5. The "appropriate limit" for the Trust is currently £450.00, which is statutorily deemed to be a notional rate for 18 hours staff time. Where the Trust receives a request which is estimated to require resources over the "appropriate limit", the Trust will, in all cases, refuse to comply with the request. In such cases it will provide the applicant, where possible, with reasonable advice and assistance to help narrow the scope of the request to within the limit. Applicants whose requests are refused on these grounds will be provided with an explanation as to how the limit would be exceeded.
- 7.6. When processing an FOI request, the Trust may charge only for postage, copying, printing, other forms of reprographics or external media. These charges must be reasonable and the applicant asked to forward

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payment before any information is copied and sent out. The Trust cannot charge for redacting any information (point 7.4 above refers)

- 7.7. The EIRs do not impose a statutory limit on the amount that can be spent on locating and extracting the information required to answer a request. The Trust may however refuse to comply with those requests that are “manifestly unreasonable” or “too general”, in accordance with the Regulations. As with requests under the FOIA, the Trust has a duty to advise the applicant on how to re-focus the request to one that would be acceptable.
- 7.8. Exemptions. Although the Trust upholds the principle that information should be accessible wherever possible, there are times when we will withhold information to protect our legitimate interests and those of other organizations and individuals. There are 23 exemptions in the FOIA, some of which are absolute exemptions and can be applied to an entire class of information, whilst others require a public interest test, conducted via the relevant appointed Director or their delegate, to determine whether disclosure of the subject matter is likely to cause actual harm, and whether the public interest in maintaining the exemption outweighs the public interest in releasing the information.
- 7.9. The Trust will refuse to disclose information in response to a request:
- 7.9.1. If a valid exemption applies under FOIA , or
 - 7.9.2. If a valid exception applies under the EIRs, or
 - 7.9.3. if the “appropriate limit” would be exceeded, as explained in 7.8 above.
 - 7.9.4. If, in doing so, it would breach another Act or statutory instrument.
- 7.10. When refusing a request for information under FOI or EIRs, the Trust will take into account the guidance issued by the Information Commissioner, and inform applicants of the relevant exemption, why the Trust believes it applies, and provide them with details of the Trust’s internal review procedure, as set out in Appendix 5.
- 7.11. Should the original applicant be dissatisfied with the content of the Trust’s response to their request, they may submit a request, in writing, for internal review. Should this occur, then the Trust will follow the Internal Review process as set out in Appendix 5

8. Training Requirements

- 8.1. Directors to ensure that they and their nominated FOI delegates who supply the data for their directorate’s response to relevant FOI questions, are provided with adequate training on FOIA 2000 by the FOI Officer/s and are made aware of their obligations with regards to this procedure.

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- 8.2. All staff will receive basic training on FOI and EIR at Induction and INSET as well as annually, as part of their mandatory basic IG and Security Compliance Training.
- 8.3. The lead FOI Officer will receive advanced training and actively participate in the London FOI Network, for ongoing expert peer support.

9. Process for monitoring compliance with this procedure

- 9.1. The quarterly Information Governance Workstream Meeting will oversee the management of this procedure and will receive performance reports on a quarterly basis from the FOI Officer/s.
- 9.2. The quarterly Information Governance Workstream Meeting will consider all reports of breaches to the FOI procedure in respect of meeting timescales. Any issues of compliance will be escalated to the Executive Management Team by the Data Security and Protection Manager

10. References

- 10.1. Freedom of Information Act 2000 (FOIA 2000) <https://www.legislation.gov.uk/ukpga/2000/36/contents>
- 10.2. Information Commissioner's Office Guidance Documentation on FOIA 2000 and EIR 2004 Regulations <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/>
- 10.3. Environmental Information Regulations 2004 (EIR 2004) <http://www.legislation.gov.uk/uksi/2004/3391/contents/made>
- 10.4. The Privacy and Electronic Communications (EC Directive) Regulations 2003 <http://www.legislation.gov.uk/uksi/2003/2426/contents/made>

11. Associated documents

- 11.1. Information Governance Policy
- 11.2. Publication Scheme
- 11.3. Corporate Records Procedure
- 11.4. Health Records Procedure
- 11.5. Retention and Disposal Schedule
- 11.6. Confidentiality Code of Conduct

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12 Equality Analysis

Completed by	Sandy Benson
Position	FOI Officer
Date	22nd February 2019

The following questions determine whether analysis is needed	Yes	No
Is it likely to affect people with particular protected characteristics differently?		X
Is it a major policy, significantly affecting how Trust services are delivered?		X
Will the policy have a significant effect on how partner organisations operate in terms of equality?		X
Does the policy relate to functions that have been identified through engagement as being important to people with particular protected characteristics?		X
Does the policy relate to an area with known inequalities?		X
Does the policy relate to any equality objectives that have been set by the Trust?		X
Other?		X

If the answer to *all* of these questions was no, then the assessment is complete.

If the answer to *any* of the questions was yes, then undertake the analysis below:

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	Yes	No	Comment
Do policy outcomes and service take-up differ between people with different protected characteristics?			
What are the key findings of any engagement you have undertaken?			
If there is a greater effect on one group, is that consistent with the policy aims?			
If the policy has negative effects on people sharing particular characteristics, what steps can be taken to mitigate these effects?			
Will the policy deliver practical benefits for certain groups?			
Does the policy miss opportunities to advance equality of opportunity and foster good relations?			
Do other policies need to change to enable this policy to be effective?			
Additional comments			

If one or more answers are yes, then the policy may be unlawful under the Equality Act 2010 –seek advice from Human Resources (for staff related policies)
or the Trust’s Equalities Lead (for all other policies).

13 Appendix 4: Glossary of Terms

- 13.1. **Absolute exemption** – applied to information that does not have to be released either through the Trust’s publication scheme or through the rights of access under the FOIA. Information to which an absolute exemption applies does not require the Trust to take a test of prejudice of the balance of public favour of non- disclosure. Reference to absolute exemptions can be found in Part I , Section 2 and Part II of FOIA
- 13.2. **Duty to confirm or deny** – any person making a FOIA written request for information to the Trust is entitled to be informed in writing whether the Trust holds the information specified in their request.
- 13.3. **Environmental Information Request** – a request made under the Environmental Information Regulations 2004 for any information held by the Trust relating to the environment. This does not need to be writing, and may be made verbally, ie by telephone call
- 13.4. **Fees Notice** – a written notification issued to the applicant stating that a fee is payable and exempts the Trust from its obligation to disclose information until the fees have been paid,. The applicant will have three months from the date of notification to pay the fee before their request lapses.
- 13.5. **Fees Regulations** – national regulations that prohibit fees with regards to certain types of request, set an upper limit on amounts that may be charged and prescribe the manner in which the fees are to be calculated.
- 13.6. **Freedom of Information Request** – a request under the general right of access in the Freedom of Information Act 2000 (FOIA 2000) to any information held by the public authority that does not relate to living individuals
- 13.7. **General right of access** - Section 1 of the Act confers a general right of access to information held by the Trust. Applicant have a right to be advised whether the information requested is held by the Trust, and if so, to have it communicated to them. Provisions limiting the Trust’s duty under Section 1 appear in Sections 1(3), 2, 9, 12, and 14 and in Part II of the Act. The grounds in Sections 9, 12, and 14 relate to the request itself and the circumstances in which the Trust is not obliged to comply with it. The provisions made in Part II relate to the nature of the information requested.
- 13.8. **Information Commissioner** – The Information Commissioner’s Office is an independent supervisory authority reporting directly to the UK Parliament has a national and international role. Its duties include the promotion of good information handling and the encouragement of codes of practice for data controllers. The ICO enforces and oversees:
- 13.8.1. the Data Protection Act 2018,
 - 13.8.2. the General Data Protection Act 2018,
 - 13.8.3. the Freedom of Information Act 2000,
 - 13.8.4. the Environmental Information Regulations 2004
 - 13.8.5. The re-use of Public Sector Information Regulations 2015.
- 13.9. **Publication Scheme** – a scheme specifying the classes of information it publishes or intends to publish, the manner of publication and whether that information is available to the public free of charge.
- 13.10. **Qualified exemption** – Information to which a qualified exemption

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Applies. This requires the Trust to undertake a prejudice test to demonstrate whether the balance of public interest is in favour of non-disclosure. FOIA Part 1, Section 2 and Part II relates to this.

13.11. Frequently used exemptions- FOIA contains 23 exemptions which the Trust can consider as the basis for withholding or refusing to disclose information. The most commonly considered exemptions are:

- 13.11.1. s.12 Provision of the information would take over 18 hours or cost more than £450
- 13.11.2. s.14 Request is vexatious or repeated
- 13.11.3. Information accessible to the applicant by other means
- 13.11.4. Information intended for future publication
- 13.11.5. s.24 Safeguarding National Security
- 13.11.6. s.31 Prevention and detection of Crime
- 13.11.7. s.40 Personal information
- 13.11.8. s.43 Commercial interests

15.1 Introduction

This describes the Trust's FOI appeal process where applicants request an internal review due to their dissatisfaction with the way their request for information under the FOIA was handled by the Trust.

- 14.1.1 The Trust takes its FOI responsibilities very seriously and welcomes the opportunity to resolve issues locally. While it will usually be quicker to resolve issues together the applicant may subsequently appeal directly to the Information Commissioner if they remain dissatisfied with the Trust's response to their appeal.
- 14.1.2 Anyone who has requested information under FOIA from the Trust, in writing, and is dissatisfied with the way it has dealt with their request, or believes that the Trust is not complying with its Publication Scheme, can use the appeals process to have the matter reviewed.
 - 14.1.2.1 If such person cannot or is unable to make the request for an internal review themselves, they can nominate a deputy to appeal on their behalf, and the applicant should make it clear that they are doing so.
- 14.1.3 Requests for an internal review could be about the range, amount and format of information sent in response to an FOI or EIR request. Applicants can also appeal about the way a request was handled – for example, the time it took to respond, or the way the response was worded.

14.2 How to Make a Request for an Internal Review

To make a request for internal review of the way in which an FOI or EIR request was handled, the applicant should write to the Trust, setting out their reasons for dissatisfaction, quoting the reference details contained in the heading of the response. Requests may be sent by post or email to:

EITHER

Freedom of Information – Appeals

Or

Environmental Information Regulation – Appeal

Tavistock and Portman NHS Foundation Trust

Tavistock Centre, 120 Belsize Lane, London NW3 5BA

OR

Via email to: FOI@tavi-port.nhs.uk

14.3 Conducting an Internal Review

- 14.3.1 Upon receipt of the applicant's written request for internal investigation into the response they received, the Trust's FOI Officer will ask the Executive Director of the department concerned to appoint an impartial senior staff manager, hitherto uninvolved with the FOI in question, to conduct/chair the investigation. This can be either the director themselves, or a senior member of their management team.

Any public interest test relevant to the initial FOI response will be reviewed by an independent panel of Trust Directors or their delegates not involved in the initial FOI response.

14.3.2 The internal investigation should be concluded and findings written up within 15 working days of receiving the request.

14.3.3 . The Executive Director will review the findings and sign off a formal reply, attaching an account of the investigation and its findings. This will explain the Trust's decision to uphold or deal otherwise with the original response. The response should be sent to the applicant within 20 working days of receipt of the request for an internal appeal.

14.3.4 In exceptional circumstances, if the Trust is unable to complete the review within this timescale, it will contact the applicant to explain why and give a revised date by which they will receive the response.

14.3.5 The outcome of the review will be either:

a) If the Trust finds that its original response was correct, it will explain why we consider this is so and inform the applicant of their options (see 14.3.5 b) below).

Or

b) If it finds that the Trust did not comply with FOIA, or has otherwise failed follow the Trust's FOI Procedure, the Trust will make the necessary correction/s. So, if, for example, the Trust failed to confirm whether it held certain information, or applied an exemption incorrectly, it will, where appropriate provide the applicant with the information requested.

14.3.6 If the applicant remains dissatisfied with the outcome of the internal review, they may contact the Information Commissioner's Office (ICO), who may investigate the matter on behalf of the applicant. The ICO's contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Tel: 0303 123 1113 website: <http://ico.org.uk/>

14.3.7 The ICO will decide whether they will investigate the concerns and contact the applicant to provide information on how they may be able to assist them. The Trust will cooperate fully with the ICO investigation by providing information the ICO requests, fully and in a timely manner.

14.3.8 Applicants should be made aware that the ICO will not normally investigate their concerns regarding FOI requests for information unless they have first asked the Trust to review its original response via an internal review – as outlined in this procedure.

15 Appendix 6 – Disclosure of Staff Information

- 15.1 This appendix to the Trust’s FOI procedure provides guidance on how requests for the disclosure of information about the Trust’s staff are handled under FOI 2000. It does not apply to the disclosure of anonymised, aggregated or other information that does not identify individual employees.
- 15.2 The Trust receives enquiries under FOIA 2000 for the disclosure of information about its employees and recognises that withholding information about its staff without good reason, would constitute a failure to deliver the intended benefits of FOIA 2000. Whilst fully committed to public openness, the Trust also recognises that it holds a great deal of sensitive, personal information about its employees, often provided in confidence, and which would be inappropriate to release into the public domain, whether in response to a request made under FOIA 2000 or otherwise.
- 15.3 Personal information is exempt from disclosure under FOIA if disclosure would lead to a breach of Data Protection principles, for example if disclosure would be unfair to an employee. This exemption is intended to ensure that greater public openness does not compromise personal privacy. FOIA 2000 contains other exemptions that could protect information about Trust staff from disclosure. For example, information will not be disclosed if this would constitute a breach of confidence or would endanger any employee. The Trust is also bound by human rights principles. This means that it must respect its employee’s right to respect for their private and family life in deciding whether to disclose information about them.
- 15.4 The Trust will advise any employees concerned, before making any decision/s on whether to disclose any information about them. An employee’s objection to any such disclosure would be taken into account. However, if disclosure is in the public interest, does not breach human rights or data protection principles and does not fall within an exemption in FOIA 2000, its disclosure will take place despite an employee’s objection to it.
- 15.5 The annex which follows describes the various types of information that the Trust holds about its employees. This is divided into categories, according to the likelihood of the information being released when a request for its disclosure is made.
- . With this distinction in mind, the annex is divided into 2 sections.
 - a) section 1: applies to information about Directors of the Trust, and staff representing the public face of the Trust.
- The Trust will normally disclose work-related information about senior staff or those in a public-facing role. Information that is genuinely personal, sensitive or not work related, will not normally be disclosed
- b) Section 2: applies to less senior staff, i.e. AfC Band 8 and below, however the Trust recognises that a distinction based

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on grade will not always be appropriate. It is less likely that information about these staff and/or those who do not deal directly with the public will be disclosed

Annex to Appendix 6 Disclosure of Staff Information

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Information about staff which is held by the Trust can be categorised into that which the Trust would and would not normally release into the public domain.

The lists which follow are not intended to be exhaustive, they serve to provide a generic breakdown of the types information the Trust typically holds about its employees and which would normally be releasable and non-releasable.

1. Normally Disclosable Staff Details

- a) **Directors:** this constitutes part of information already published about them by the Trust such as
1. their salaries, professional qualifications
 2. their names, job titles, work email address, work telephone numbers
 3. , position in corporate structure, roles, duties, work related responsibilities
- b) **Public Facing:** eg CCIO, Data Protection Officer, Safeguarding Lead, their names, job titles, work email address, work telephone numbers, position in corporate structure, roles, duties, work related responsibilities. Salary levels or pay bands (not net salary)

2. Normally Non-Disclosable Staff Details

- a) **Non Director AFC Band 8 And under** the Trust recognises that a distinction based on grade alone will not always be appropriate. It is unlikely that details of those who do not deal directly with the public will be disclosed, eg
1. Names, Job titles, work email addresses, work telephone numbers
 2. Salary details of individuals
 3. Photographs and/or biographical details
- b) **Personal:**
1. information provided to the Trust as part of the recruitment process, e.g. CVs, content of job applications forms
 2. references, non work-related qualifications, work histories
 3. Home addresses/contact details, next of kin information, personal interests
 4. Details of non work related exams, training or qualifications
 5. Security Clearance Information
 6. Years in post, and previous positions held at the Trust

7. Photographs and biographical information of staff whose role means that they are NOT likely to be the subject of publicity, unless they have consented to this.
8. Information that is not work-related, eg personal financial details, eligibility for benefit, sickness records, accident book entries, other medical information, individuals associated with them e.g. , family members
9. Details of appraisals and other staff interviews, e.g. disciplinary proceedings
10. Net salaries and specified information about pension entitlements or other financial benefits
11. Home addresses, contact details, next of kin information, personal interests and other non work-related information
12. Details of non-work related examinations, qualifications or training undertaken whilst employed at the Trust or previously
13. Annual leave records, details of hours worked, leave or special leave

3. Direct Marketing

Under FOIA, the Trust receives marketing enquiries about decision maker/s for specified products/services and/or heads of departments. The Trust will normally comply with these requests by providing name and contact details of the responsible Director, (but not staff below that level). Before responding, the FOI Officer will check, on each occasion, whether the named director wishes to receive direct marketing materials from the applicant. This is in line with the Privacy and Electronic Communications (EC Directive) Regulations 2003. Should the director indicate no wish to receive direct marketing on that occasion, the FOI Officer would advise this to the applicant within the formal FOI response, explaining further that the Trust will normally formally complain to the ICO if the FOI requestor disregards those wishes.