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<td><strong>Endorsing Body:</strong></td>
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i) Consultation and Distribution Record

| Contributing Author / Authors | • Communications Department |
| Consultation Process / Approval: | • Information Governance Committee  
• Corporate Management Team |
| Distribution: | • NHS Lanarkshire Intranet: Firstport  
• NHS Lanarkshire website |

ii) CHANGE RECORD

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<tr>
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<td>Linda Brownlie</td>
<td>Reviewer altered and depute reviewer added</td>
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<tr>
<td>02/02/15</td>
<td>Linda Brownlie</td>
<td>Reviewer name altered</td>
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|            | Linda Brownlie    | 1.3 and 3.6 Re-use regulations added  
3.3 Invalid request wording added  
4.3 and 4.4 Clarification wording added  
5.3 Escalation wording added        | 5           |
| 13/04/17   | Linda Brownlie    | Reviewer and depute reviewer name altered                             | 6           |
| 02/02/18   | Linda Brownlie    | Responsible lead director amended  
6.2 Depute reviewer name amended  
7.1 and 7.3 monitoring arrangements amended | 7           |
| 03/04/18   | Linda Brownlie    | 6.2 Reviewer and depute reviewer names altered                         | 8           |
1. **Background**

1.1 The Freedom of Information (Scotland) Act 2002 (FOISA) gives people rights to access recorded information held by public authorities, subject to certain conditions and exemptions contained in FOISA. The purpose of the Act is to drive forward openness in Scottish public authorities.

1.2 Alongside FOISA, the Environmental Information (Scotland) Regulations 2004 (the EIRs) provide a separate right of access to the environmental information that we hold. Environmental information includes, for example, information on the air, water, soil and land and about energy, noise, radiation, waste and other things that may affect the earth.

1.3 The Re-use of Public Sector Information Regulations 2015 became mandatory in July 2015. These regulations enable individuals to ask to re-use information.

1.4 Any individuals or organisations can request information or ask to re-use information. The details must be provided promptly and within **20 working days** of receiving the request. Requests require to be made in writing (or verbal in the case of EIRs) or other permanent form such as email. FOISA also places a duty on public authorities to provide advice and assistance to applicants requesting information at all stages in the process.

1.5 This paper outlines the procedure for dealing with requests under FOISA, the EIRs and the re-use regulations. All requests will be handled by the Freedom of Information (FOI) Officer, with cover provided by the Communications Department.

1.6 The NHS Lanarkshire FOI Officer’s contact details are as follows:-

   Linda Brownlie  
   Kirklands  
   Fallside Road  
   Bothwell  
   G71 8BB

   Tel: 01698 858110  
   Email: Linda.Brownlie@lanarkshire.scot.nhs.uk

2. **Information Requests**

2.1 **Information requested**

The majority of information we hold must be made available whether it is in paper or electronic form – including emails. It does not matter how long ago the information was created.
Our publication scheme sets out the type of information that we make routinely available. If information is requested that is available under that scheme it can be released without implementing FOISA or the EIRs. If there is, however, any doubt about releasing all the information – or not all the information requested is available – the request should be forwarded to the FOI officer for advice.

NHS Lanarkshire does not have to comply with information requests where the information requested is exempt under the provisions of FOISA or the subject of an exception under the EIRs. There are certain categories of exempt information. This includes information that is due for publication or where the cost of compliance with the request would exceed the limit established in the Fees Regulations.

Personal and confidential information protected under the Data Protection Act is also an example of exempt information.

2.2 Routes requests are received

Requests received under FOISA or the EIRs will be referred to as freedom of information requests as the dealing of the requests is broadly similar and the majority of the requests received will be dealt with under FOISA. If, however, a request is being dealt with under the EIRs advice should be sought from the Freedom of Information Officer or Communications Manager throughout the processing of the request as there are differences in the two pieces of legislation which could affect the way we deal with the request.

Freedom of Information requests could be received by anyone in the organisation. The applicants do not need to say why they want the information. We have an obligation under FOISA to help applicants seeking information. The majority of requests are made through the following channels:

- The Freedom of Information Officer
- The Press Office
- Offices of the Chief Executive and Divisional Directors
- The NHS Lanarkshire website
- Patient Affairs/Complaints

Requests are made by:

- The media
- MSPs/MPs
- Companies
- Individuals
- Solicitors
- Voluntary organisations/charities

2.3 What is a request?

- Anything in writing (or verbal for EIRs) that asks for information
- The applicant does not have to give a reason for wanting the information
Freedom of Information Protocol

- They do not have to mention laws
- They can be received by anybody in the organisation

2.4 Request to Re-use Information

- Applicant can request re-use in writing
- Must state purpose for which information is to be re-used

3. Your responsibility

3.1 Each FOI request requires to be logged on the day of receipt. Responses must be issued within a maximum of 20 working days. If you receive a request for information you must pass this on to the FOI Officer. It is important to act promptly.

3.2 Failure to comply with this 20 working day deadline, or to provide the information requested (unless exempt), is a breach of the law under FOISA.

3.3 A request may be invalid under the legislation if, for example, solicitors ask for information but do not say who their client is. In these cases the FOI officer will either write to the applicant or discuss the situation with them by telephone. Once the request is made valid the normal process is then followed.

3.4 It is imperative that all requests are dealt with consistently and timeously. Several departments can be involved in gathering information to respond to one request, therefore, early responses to the FOI Officer ensure a co-ordinated approach, allowing for the final response to be scrutinised for accuracy.

3.5 When you are sent the request you will be given the final date of response. You are required to send back requested information to the FOI Officer promptly and at least ten working days prior to the response requiring to be issued to allow a response to be drafted, any questions clarified or context added and approval to be sought from the relevant service director.

3.6 It is the responsibility of the relevant senior manager/head of department to ensure compliance with the request. This includes ensuring information is gathered and returned to the FOI Officer ten working days prior to the deadline for response. This may mean ensuring that appropriate measures are in place to cover when an FOI contact or responsible person is on annual or sickness leave. This would include the checking of emails through the use of the authorised delegates of the corporate management team, heads of corporate functions, general managers and any other relevant person to ensure that freedom of information documentation is not left unattended until the individual returns to work.

3.7 Where a request to re-use information has been received the service/executive director will be asked to comment. If you have concerns about re-use please contact the FOI Officer to discuss.

3.8 All responses will be signed off and approved by an executive director.
3.8 Notification of issues of interest to other health boards and the Scottish Government will be the responsibility of the FOI Officer.

4. **Clarification**

4.1 Where the applicant has provided insufficient information to enable the identification and location of the information sought, it is important that clarification is requested from the applicant as soon as possible. Appropriate help should also be given to the applicant to advise and assist them in making the request. This may be by giving examples of the type of information we hold or explaining terminology used by NHS Lanarkshire.

4.2 If you do not understand what the applicant is asking or, you should contact the FOI Officer immediately and the need for clarification can be discussed. Requesting clarification, however, must be done within five days of receipt of request.

4.3 Where an applicant has not responded to the request for clarification within 20 working days from date of receipt of the request submission, a reminder is sent to them asking for the clarification again and explaining that we cannot process the request until that is received.

4.4 Where an applicant does not respond to the request for information within 40 working days of the request submission (review period) a further letter is sent to them closing the request and advising that if they want any information they will require to submit a fresh request.

5. **Handling Requests**

5.1 All relevant information should be provided. If there are any concerns, including searching, locating or retrieving the information, discuss with the FOI Officer immediately. Do not withhold the information.

5.2 Information should be checked by the service for accuracy before being returned to the FOI Officer.

Where information has not been received from a service within 10 working days the FOI officer will send out a reminder or contact the service by telephone where appropriate.

5.3 If a reply has not been received from the service the FOI officer will send a further reminder to the service and escalate the matter to the relevant executive director.

5.4 Further information may be requested or explanations required if it is felt necessary to provide context around the response, to help an applicant understand what is being provided, or if the answer returned could create media/political interest.

5.5 Even if the information requested is not held, we have a duty to provide advice and assistance and as a minimum an explanation of why we don’t have the information. If appropriate, advice on who would hold the information would be given.
6. **Reviews/Appeals Process**

6.1 If someone is dissatisfied with a response – or does not receive a response on time – the person has a right to seek a review of any decision and if still dissatisfied an appeal.

6.2 Reviews are carried out by the Board Secretary who will re-consider the response against the original request. If he is unable to carry out a particular review, the General Manager eHealth/ICT will undertake that review.

6.3 The reviewer may confirm the decision, substitute a different decision or reach a decision where no decision has been reached.

6.4 Appeals are heard by the Scottish Information Commissioner who has powers to enforce individual’s rights under the Act.

7. **Reporting/Monitoring Arrangements**

7.1 Weekly reports are sent to the Head of Communications.

7.2 Quarterly reports are submitted to the Information Governance Committee, the Health and Social Care Partnerships and the Acute Divisional Management Team.

7.3 Annual reports are submitted to the Corporate Management Team.

8. **Maintaining and Destroying Records**

8.1 It is illegal to destroy information that has been requested. It is essential that all staff adhere to the NHS Lanarkshire Records Management Policy, which provides guidance on good record keeping and retention and destruction procedures.

9. **Procedure for dealing with FOI requests**

9.1 The procedure for dealing with FOI requests received by NHS Lanarkshire is detailed below.
FOI /EIR Request

Request for information received in writing or other permanent form such as email (or verbal in the case of EIRs)

Requests received from:
- MSPs/MPs
- Media
- Individuals
- Companies
- Solicitors
- All others

Stage 1
Day 1 request received:
- Pass to: FOI Officer in Communications Department for logging on to master database and acknowledging receipt of the request.
- Request sent from the Communications Department to relevant senior/general manager of service.
- Deadline for return of information provided by the Communications Department

Stage 2
Days 2-5
- Senior/general manager responsible for ensuring information is gathered.
  The request should then be passed to person(s) responsible for gathering information. The following information should be fed back to the FOI officer as soon as possible:
  - If the request is clear and the information can be located
    How long it will take to gather the information
    How much it might cost to make the information available
    If the information is confidential
    If there are any concerns about the information requested
  - The FOI officer will then be able to either seek clarification from the requestor advise if any exemption is applicable to the request
  - Communication at this stage is important as it helps to prevent any potential problems when the deadline for response is imminent.
Stage 3  
**Days 5-10**  
- The information should be collated and sent to the FOI officer as soon as possible together with any context to the response.  
- Any queries or concerns should be discussed with the FOI officer who will provide advice and support.

Stage 4  
- Min 10 working days to issue of final response  
- Senior/general manager to return information to the FOI officer to check and draft response

Stage 5  
**Min 2 working days to issue of final response**  
- Final draft of response sent to executive director and relevant senior/general manager for approval prior to release.  
- Signed off by Executive Director  
- FOI Officer will then issue response

### Timescale  
It is a legal requirement to complete the above stages within a maximum of 20 working days.

### 10. Communication Plan

10.1 The protocol will be posted on the NHS Lanarkshire Intranet – Firstport.

10.2 The protocol will be posted on the NHS Lanarkshire website.

### 11. Monitoring and Review

11.1 The document will be reviewed at regular intervals in line with the NHS Lanarkshire policy governing review of policies, procedures and guidelines.

11.2 Review may also be required to ensure the protocol is in line with legislation and guidance issued by the Scottish Information Commissioner.

### 12. Equality and Diversity Impact

12.1 This policy meets NHS Lanarkshire’s EDIA

✔️
This policy and procedure applies equally to all employees within NHS Lanarkshire irrespective of gender, age, race, sexual orientation, marital status, transgender status, ethnic origin, disability, religious belief and position in the organisation.