

## Freedom of Information Policy

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1.3	28/04/2025	SCW CSU	Final	Appendix reordered; added reference to EIR and referred to appendix; updated reference to DPA to include GDPR.
2.0	08-05-25	ICB	Final	Moved onto the ICB policy template

## Equality Statement

NHS Frimley Integrated Care Board (ICB) 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.

Throughout the development of the policies and processes cited in this document, the ICB has:

- Given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who have shared a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it;
- Given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that services are provided in an integrated way where this might reduce health inequalities.

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

The ICB embraces the four staff pledges in the NHS Constitution. This policy is consistent with these pledges.

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# 1 Introduction

The purpose of this policy is to provide the Integrated Care Board (ICB) with guidance in relation to the compliance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) Appendix 1. It is a statement of the framework within which the ICB will work to ensure the organisation meets its obligations under FOIA and EIR.

## 1.1 Background

FOIA replaces the non-statutory 'Code of Practice on Openness in the NHS'; it is part of the Government's commitment to greater openness and transparency in the public sector and enables the public to question the actions and decisions of public authorities more closely. Section 1 of the FOIA gives a general right of access to recorded information held by a public authority, subject to certain conditions and exemptions.

The main features of the FOIA are:

- a duty on every public authority to maintain a publication scheme.
- a general right of access to recorded information held by public authorities.
- the introduction of the office of Information Commissioner to promote good practice and with wide powers to enforce the rights created by the FOIA.

EIR provides public access to information about the activities of public authorities that relate to or affect the environment. The Regulations do this in two ways:

- public authorities must make environmental information available proactively.
- members of the public are entitled to request environmental information from public authorities.

## 1.2 Principles

This policy supports the principle that openness, and not secrecy, should be the rule in public life. The ICB intends to create openness and dialogue with all stakeholders and improve access to information about the ICB and supports the following:

- Individuals have a right to privacy and confidentiality. This policy does not overturn the common law duties of confidence or statutory provision that prevent the disclosure of personal identifiable information under the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 (DPA) (See 'Procedure for the disclosure of records under the GDPR/DPA and Access to Health Records Act 1990').
- Public authorities should be allowed to discharge their functions effectively. The ICB will use the exemptions contained within the FOIA where an absolute applies, or a qualified exemption can be reasonably applied in terms of the public interest of disclosure (see Appendix 2 - Exemptions).
- Staff should have access to advice and training to support their understanding of FOIA and EIR.

## 2 Purpose

All public authorities in England, Wales and Northern Ireland are covered by the FOIA and EIR. In addition, any company that is wholly owned by a public authority is also covered by the FOIA. EIR also extends to some private organisations that carry out public administrative functions or provide public services related to the environment, including water companies and port and harbour authorities.

## 3 Scope

This policy provides a framework for the ICB to ensure compliance with FOIA and EIR, and applies to:

- all employees of the ICB
- contracted third parties, including hosted organisations and agency staff
- students and trainees
- staff on secondment and other staff on placement within the ICB.

The policy applies to all recorded information the ICB holds, which is information which has been created, received and maintained by staff in the course of their work. This can be held in a number of different media such as paper, electronic (including text and e-mail), audio and video.

## 4 Definitions

In both the FOI Act and the EIRs, “information” is defined as any item of recorded material held by or on behalf of a public authority in paper or electronic form. This includes but is not limited to, all draft documents, agendas, minutes, emails, diaries, handwritten notes, text messages, messaging Apps (e.g., WhatsApp, MS Teams), personal email accounts and messages (where used in a work context) and all other recorded information, such as audio-visual.

Environmental Information is defined in Regulation 2(1) of the EIR, and can be summarised as any information about, concerning or relating to the environment. Information does not need to directly refer to the environment to constitute environmental information.

## 5 Roles and Responsibilities

**Accountable Officer** – has ultimate accountability for the strategic and operational management of the organisation, including ensuring all policies are adhered to.

**Frimley ICB Board** – is responsible for ensuring that all policies in use in the organisation are ratified by the ICB Board.

All line managers should ensure their staff are aware of the obligations of the ICB under FOIA and EIR; of the rights of individuals making requests and of the process for dealing with requests.

By law, all staff are responsible for any requests they receive. Therefore, it is the responsibility of all staff to be aware of the obligations of the ICB and of their individual obligations, which may involve locating, retrieving, and extracting (including redacting) the information requested. Staff should also have knowledge of

the rights of individuals making requests under the FOIA/EIR and of the process for dealing with requests.

Guidance for staff is set out in the 'Staff procedure for handling Freedom of Information enquiries' available on the ICB intranet.

FOI Function within NHS South Central and West Commissioning Support Unit  
The FOI function is managed by the Freedom of Information team which sits within the Specialist Services of NHS South Central and West Commissioning Support Unit (SCW CSU). It serves to ensure that legislation is appropriately and effectively implemented, and the specific roles are:

- Freedom of Information Manager - is responsible for the day-to-day management of all requests made to the ICB under FOIA/EIR and provides advice on the model publication scheme.
- Freedom of Information Officer - is responsible for the day-to-day handling and response of all requests made to the ICB under FOIA/EIR.

## **6 The Subject matter of the policy – Handling Freedom of Information Enquiries**

Any member of staff in the ICB may be approached and asked for information under this legislation. Section 16 of the FOIA states public authorities have a duty to provide advice and assistance to applicants, therefore every member of the ICB's staff has a legal duty to assist someone in making a request. Guidance for staff is set out in 'Staff procedure for handling Freedom of Information enquiries'

### **6.1 Verbal Requests**

Under the terms of the FOIA enquiries must be written (letter or e-mail), however, if a verbal request is received ICB staff have a duty to advise that requests must be written (letter, fax or e-mail) to the address in section 4.3 and include a full name and correspondence address (this can be an e-mail address). Staff should also inform the enquirer of the e-mail and postal addresses for the SCW CSU FOI team (see below).

### **6.2 Written Requests**

Written requests may come from any source and be directed to any member of staff. If the request for information is not classified as a complaint, solicitor's letter, request for access to personal records, or anything which could be classed as 'business as usual', it should be considered as a possible Freedom of Information enquiry and should be forwarded to:

E-mail: [SCWCSU.FOI@nhs.net](mailto:SCWCSU.FOI@nhs.net)

The FOIA gives a right of access that is not based on 'need to know' and therefore the ICB does not have the right to question an applicant on the reason or purpose of their request. The ICB can, however, request the applicant to provide further detail or clarification to define a vague or broad request.

### 6.3 Requests for Information Received by Staff

Any member of staff receiving a request for information is expected to follow the staff process for handling requests. Guidance for staff is set out in 'Staff procedure for handling Freedom of Information enquiries'

### 6.4 Requests for Information Received by the Freedom of Information Team

The Freedom of Information team will follow the relevant processes for handling requests as set out in the Procedure following receipt of an enquiry made under FOIA 2000'.

### 6.5 Timescales

The FOIA requires requests are responded to by the twentieth working day following the date of receipt. If the ICB decides to apply an exemption (Appendix 2 - Exemptions) to withhold information, the applicant will be informed within 20 working days.

The 20-working day timescale may be extended only if the ICB:

- requests further clarification relating to the enquiry from the applicant, in which case the 20-working day deadline restarts from the beginning once a reply is received
- advises the applicant it is unable to complete the enquiry within the 20 working days and a revised timescale is agreed between the enquirer and the ICB
- issues a fees notice, in which case the 20 working days is suspended until payment is received by the ICB
- considers a qualified exemption applies, in which case, in exceptional circumstances, the response may be extended by a further 20 working days to consider the Public Interest Test.

### 6.6 Public Interest Test

Where a qualified exemption is thought appropriate, requiring the consideration of the Public Interest Test (PIT), this will be agreed between the persons/departments holding the information and the FOI team. Final approval of the PIT will rest with the Chief Executive of the ICB. The ICB may extend the timescale for response by up to 20 working days if necessary and will advise the applicant in this circumstance.

### 6.7 Charging and Fees

In accordance with the FOIA (Appropriate Limit and Fees) Regulations 2004, the ICB will not charge for information which costs less than £450 to provide, calculated at a rate of £25 per person per hour. The table below illustrates what activities will and will not be included in this calculation:

Activities Included	Activities Not Included
Determining whether the requested information is held	Checking that the request is valid
Locating the information	Considering whether the request is repeated or vexatious

Retrieving the information	Considering whether the information may be exempt
Extracting the information (including editing or redacting)	Obtaining authorisation to send out the information
	Calculating any fee to be charged
	Providing advice and assistance

Additionally, where the ICB considers it appropriate to charge a fee it will also consider the additional charge for non-staff costs or disbursements, such as photocopying, printing or postage.

Where two or more requests are received for the same or similar information from the same person, or different people acting together or as part of a campaign, within a 60-day period, the ICB will aggregate the requests and charge in accordance with the fees regulations.

If the fee or charge is not paid within three months from the day on which the applicant receives the Fees Notice or is informed of the charge, the enquiry will be closed.

#### **6.8 Complaints / Reviews Requests**

SCW CSU in conjunction with the ICB will deal with complaints and requests for review to ensure that the requirements of the FOIA and Environmental Information Regulations 2014 (EIRs) are met.

#### **6.9 Information Format**

Information will be provided in the applicant's preferred format (so far as this is reasonably practicable). The ICB will notify the applicant of the reasons if it considers it is not practicable to comply.

#### **6.10 Low Volume Data**

A response to an FOI enquiry is effectively a provision of information to the public and not to one individual. The ICB has an obligation to maintain patient confidentiality under GDPR/DPA. Therefore, the ICB will generally adhere to guidance provided by the 'Code of Practice for Official Statistics' (UK Statistics Authority) and advice on using low volume data and maintaining confidentiality from the Association of Public Health Observatories, generally suppressing data with counts of less than five.

Release of staff information, as detailed above, information relating to a member of staff is exempt from disclosure, however, the more senior a member of staff, the greater the understanding and expectation information relating to them in their senior role will be made available under FOI. The ICB will ensure it meets its legal obligation under GDPR/DPA, by being clear and transparent to staff on the information which is released.

### **6.11 Vexatious or Repeated Requests**

The ICB will not facilitate requests from applicants if that request could be considered vexatious or repeated, which will be identified by monitoring data.

### **6.12 Public Sector Contracts**

Contracts entered into by the ICB will not include contractual terms which restrict the disclosure of information held by the ICB or SCW CSU on its behalf, beyond the restrictions permitted by FOIA, unless an exemption provided for under the FOIA is applicable. All contracts entered into by the ICB will include appropriate FOI clauses to ensure that both parties are aware of their responsibilities under the FOIA.

When entering contracts, the ICB may be under pressure to accept confidentiality clauses so that information relating to the terms of the contract, its value and performance will be exempt from disclosure. As recommended by the Lord Chancellor's Department, the ICB will reject such clauses wherever possible.

Under exceptional circumstances, where it is necessary to include non-disclosure provisions in a contract, the ICB will investigate the option of agreeing with the contractor a schedule of the contract that clearly identifies information that should not be disclosed. The ICB will take care when drawing up any such schedule and will be aware that any restrictions on disclosure provided for could potentially be overridden by obligations under the Act, as described in the paragraph above. Any acceptance of such confidentiality provisions must be for good reasons and capable of being justified to the Commissioner.

The ICB will not agree to hold information 'in confidence' which is not in fact confidential in nature. Advice from the Lord Chancellor's Department indicates that the exemption would only apply if disclosure of the information constitutes a breach of confidence actionable by that, or any other person.

### **6.13 Accepting Information 'In Confidence' from Third Parties**

The ICB will only accept information from third parties 'in confidence' if it is necessary to obtain that information in connection with the exercise of any of the ICB's functions and it would not otherwise be provided.

The ICB will not agree to hold information received from third parties 'in confidence' which is not confidential in nature. Again, acceptance of any confidentiality provisions must be for good reasons, capable of being justified under the terms of the FOIA.

### **6.14 Consultation with Third Parties**

The ICB recognises in some cases the disclosure of information pursuant to a request may affect the legal rights of a third party, for example where information is subject to the common law duty of confidence or where it constitutes 'personal data' within the meaning of GDPR/DPA. Unless an exemption provided for in the Act applies in relation to any information, the ICB will be obliged to disclose that information in response to a request.

Where a disclosure of information cannot be made without the consent of a third party (for example where information has been obtained from a third party and in the circumstances the disclosure of the information without their consent would constitute

an actionable breach of the confidence such that the exemption at Section 41 of the Act would apply), the ICB will consult that third party with a view to seeking their consent to the disclosure, unless such a consultation is not practicable, for example because the third party cannot be located or because the costs of consulting them would be disproportionate. Where the interests of the third party that may be affected by a disclosure do not give rise to legal rights, consultation may still be appropriate.

Where information constitutes 'personal data' within the meaning of the DPA, the ICB will have regard to Section 40 of the Act, which makes detailed provision for cases in which a request relates to such information and the interplay between the Act and the DPA in such cases.

The ICB may consider that consultation is not appropriate where the cost of consulting with third parties would be disproportionate. In such cases, the ICB will consider the most reasonable course of action for it to take in light of the requirements of the Act and the individual circumstances of the request.

The fact that the third party has not responded to consultation does not relieve the ICB of its duty to disclose information under the Act, or its duty to reply within the time specified in the Act. In all cases, it is for the ICB, not the third party (or representative of the third party) to determine whether information should be disclosed under the Act. A refusal to consent to disclosure by a third party does not mean that information should be withheld.

### **6.15 Transferring Requests for Information**

A request can only be transferred where the ICB receives a request for information which it does not hold, within the meaning of Section 3(2) of the Act, but which it believes is held by another public authority:

- it is held by the authority, otherwise than on behalf of another person, or
- it is held by another person on behalf of the authority.

The ICB recognises that 'holding' information includes holding a copy of records produced or supplied by another person or body (but does not extend to holding a record on behalf of another person or body as provided for in Section 3(2)(a) of the Act).

Upon receiving the initial request for information, the ICB will process it in accordance with the Act in respect of such information relating to the request as it holds. The ICB will also advise the applicant that it does not hold part of the requested information, or all of it, whichever applies. Prior to doing this, the ICB must be certain as to the extent of the information relating to the request that it holds itself.

If the ICB believes that some or all of the information requested is held by another public authority, the organisation will consider what would be the most helpful way of assisting the applicant with his or her request. This will generally involve either transferring the enquirer to that organisation having once gained their approval to do so or responding to the enquirer suggesting that they contact the other public authority themselves.

Where the ICB is unable either to advise the applicant whether it holds or may hold, the requested information or to facilitate the transfer of the request to another authority (or

considers it inappropriate to do so) it will consider what advice, if any, it can provide to the applicant to enable them to pursue their request.

### **6.16 Records Management**

The ICB has a Records Management Policy that meets the requirements of the Code of Practice issued under Section 46 of the FOIA. Together with the records management function this will serve to ensure that effective records management is undertaken within the organisation, thereby enabling the speedy location and retrieval of requested information.

Although by its nature, e-mail seems to be less formal than other written communication, the same laws apply. Therefore, it is important that ICB staff are aware of the legal risks of e-mail.

An e-mail is an electronic record; a printed copy of an e-mail is a hard copy record. Information contained in an e-mail may be disclosed either in part or in whole to the public through the FOIA and whilst exemptions exist, the ICB will not be able to guarantee confidentiality of correspondence conducted by e-mail.

Staff should be made aware that under no circumstances should they deliberately alter, deface, block, erase or destroy information which has been requested, in order to prevent its release. Doing so is a criminal offence under the FOIA and EIR, for which staff could be held individually responsible.

### **6.17 Re-Use and Copyright**

If there are concerns about information reaching a wider audience, without sufficient briefing relating to the circumstances surrounding the production of the data/document, or its context, then the ICB may indicate the information is being supplied only for the use of the initial enquirer, and cannot be re-used or reproduced in any format, or relayed on to other people, without the organisation's consent. ICB information supplied under the FOIA continues to be protected by the Copyright, Designs and Patents Act (CDPA) 1988.

Other forms of re-use, for example publishing the information, would need the permission of the organisation or person who owns the copyright. Information produced by government departments and agencies can be re-used under the Open Government Licence. Advice about this can be found via:

<http://www.nationalarchives.gov.uk/doc/open-government-licence/opengovernment-licence.htm>. If, however, the copyright is identified as belonging to somebody else, then permission will need to be applied for. Information about how to obtain permission from a third party can be found on the Intellectual Property Office's website at:

<http://www.ipo.gov.uk/>

Publishing information or issuing copies may be subject to the provisions of the Re-use of Public Sector Information Regulations 2005 and will require ICB permission and maybe a fee.

### **6.18 Review and Reiteration**

The ICB (via the FOI team at SCW CSU) will log all requests via a database. This will be regularly reviewed to determine the type of request received and the originator.

Information that is regularly requested will then be considered for routine publication in the publication scheme.

By making information routinely available the ICB will be able to proactively meet the public's information needs and reduce the requests made under the FOIA.

## 7 Statutory Requirements

This policy aims to have a positive impact for people protected under the Equality Act 2010 on the grounds of their age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation. By following the guidance set out in this policy ICB staff will meet the general equality duty.

So that people requesting information under the Freedom of Information Act are not discriminated against, and equal opportunities are advanced, ICB staff should be aware of the following equality issues:

When a Freedom of Information request is received staff must ask whether the information is required in an alternative format to make it accessible (section 4.10 Information Format). This might include a need for large print, braille, audio file or translation into another language. If so, a quotation must be obtained to decide whether providing the requested information is practicable. Staff should contact the ICB Communications and Engagement team for advice.

Under the Gender Recognition Act 2004 it is illegal (without explicit consent) to disclose information about whether an individual has applied for a gender recognition certificate or disclose someone's gender prior to the acquisition of a gender recognition certificate. Although the FOIA prohibits disclosure of personal data such as this, ICB staff must be careful not to break this additional law when meeting FOI requests

FOI requests may be for equalities monitoring data. As stated in this policy (section 4.11 Low Volume Data) counts of less than five must be suppressed due to the risk of identifying individuals

**Bribery Act 2010** – the ICB has a responsibility to ensure that all staff are made aware of their duties and responsibilities arising from The Bribery Act 2010. The Bribery Act 2010 makes it a criminal offence to bribe or be bribed by another person by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly performed. The penalties for any breaches of the Act are potentially severe. There is no upper limit on the level of fines that can be imposed and an individual convicted of an offence can face a prison sentence of up to 10 years. For further information see <http://www.justice.gov.uk/guidance/docs/bribery-act2010-quick-start-guide.pdf>.

Due consideration has been given to the Bribery Act 2010 in the review of this policy and no specific risks were identified.

### **Data protection legislation – (as defined in the Data Protection Act 2018) –**

When responding to an FOI request, there will be instances where a release of information could result in the disclosure of personal data, so careful consideration needs

to be given to the release of documentation, and seek advise on the application of an exemption.

## **8 NHS Constitution**

The ICB is committed to:

Designing and implementing services, policies and measures that meet the diverse needs of its population and workforce, ensuring that no individual or group is disadvantaged.

This Policy supports the NHS Constitution as follows:

*“The NHS aspires to the highest standards of excellence and professionalism in the provision of high-quality care that is safe, effective and focused on patient experience; in the planning and delivery of the clinical and other services it provides; in the people it employs and the education, training and development they receive; in the leadership and management of its organisations; and through its commitment to innovation and to the promotion and conduct of research to improve the current and future health and care of the population.*”

## **9 Dissemination/Publication**

This policy will be made available to staff via the ICB intranet pages. IG awareness/surveys will make staff aware of this policy.

## **10 Monitoring**

The ICB will regularly audit its FOI practices for compliance with this policy. The audit will:

- Maintaining an FOI Dashboard, which will be reported to the Audit Committee on the ICB’s compliance with the ICB legal obligations.
- Undertaking awareness sessions amongst staff on how to recognise a FOI request.
- Spot check staff to see if the FOI request is forwarded to the FOI team.

## **11 Review and Revision**

This policy will be reviewed every three years by the Document Author to ensure continued validity and relevance, with a schedule of proposed amendments presented to the Audit Committee for approval. “

*NB More frequent review may be required if there are significant changes in practice or law.*

## **12 Training Considerations**

Ad hoc training will be provided on request by the Freedom of Information team.

Attendance at any training session carried out as a consequence of the policy implementation must be formally recorded and documented. “

### **13 Stakeholder/Consultation Information**

The policy should reflect the diverse perspectives and insights gained through consultation. This will involve:

- Compiling feedback and comments received from stakeholders.
- Reviewing and analysing the feedback to identify common themes and significant concerns.
- Incorporating relevant feedback into the final policy document to ensure it addresses the needs and expectations of all stakeholders.
- The goal of stakeholder engagement is to foster collaboration, enhance policy effectiveness, and ensure that the policy remains relevant and responsive to the needs of those affected by it.

### **14 References**

- [Freedom of Information Act 2000](#)
- [Environmental Information Regulations 2004](#)
- [Data protection legislation](#)
- [Human Rights Act 1998](#)

## 15 Appendix 1 - Environmental Information Regulations 2004 (EIR)

An EIR request may be made verbally as well as in writing and will be a request for environmental information if it is information in written, visual, aural, electronic or any other material form on:

- a. the state of the elements of the environment - such as air, atmosphere, water, soil, land, landscape and natural sites such as wetlands, coastal and marine areas, biological diversity and the interaction of these elements
- b. factors affecting (or likely to affect) the environment - including energy, noise, radiation, waste, emissions, discharges and other releases into the environment
- c. measures - such as policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect the elements and factors referred to above
- d. reports - on the implementation of environmental legislation
- e. economic analyses - including cost benefit and other analyses and assumptions used within the framework of measures and activities referred to in (c) and
- f. the state of human health and safety - including the contamination of the food chain, conditions of human life, cultural sites and built structures insofar as they are or may be affected by the state of the elements of the environment.

Under the EIR, information is held by the ICB if it has been produced or received by it; is held by another person on its behalf; or is information which the ICB holds on behalf of a third party.

The EIR places various rights and duties on public authorities which include:

- a duty to actively disseminate environmental information
- a duty to make information available on request. Information requests must be answered within 20 working days, unless the ICB reasonably believes that it is impracticable to answer the request in that timescale due to its complexity and volume, in which event the ICB may have 40 days in which to provide the information
- a duty to provide advice and assistance to applicants
- a right to charge for information provided. Under the EIR, there is no cost limit beyond which information requests need not be answered. The EIR states that a charge may not exceed 'an amount which the public authority is satisfied is a reasonable amount'

Exceptions - Under the EIR there is an express presumption in favour of disclosure.

- All of the exceptions to EIR are subject to the public interest test, which means that the ICB must weigh the benefits of disclosure against any potential harm when deciding whether to withhold information. If the public interest is in favour of disclosure, the information must be released, even if one or more of the above exceptions applies. Most of these exceptions cannot be used to withhold information relating to emissions.

EIR: Regulation 12(4)(a)	Information that is not held
EIR: Regulation 12(4)(b)	Manifestly unreasonable requests
EIR: Regulation 12(4)(c)	Formulated in too general a manner
EIR: Regulation 12(4)(d)	Unfinished Material
EIR: Regulation 12(4)(e)	Internal communications
EIR: Regulation 12(5)(a)	International relations, defence, and security
EIR: Regulation 12(5)(b)	Justice and fair trials
EIR: Regulation 12(5)(c)	Intellectual property rights
EIR: Regulation 12(5)(d)	Confidentiality of proceedings

EIR: Regulation 12(5)(e) Confidentiality of commercial or industrial information  
EIR: Regulation 12(5)(f) Interests of the person who provided the information  
EIR: Regulation 12(5)(g) Protection of the environment  
EIR: Regulation 13 Personal data

## 16 Appendix 2 - Exemptions under the Freedom of Information Act 2000

There are two types of class exemption:

- Absolute, which do not require a test of prejudice or the balance of public interest to be in favour of non-disclosure.
- Qualified by the public interest test, which require the public body to decide whether it is in the balance of public interest not to disclose information.

With the exception of section 21 (information available by other means) absolute exemptions apply not only to the communication of information but also to the duty to confirm or deny, if that itself would disclose information that it is reasonable to withhold.

The absolute exemptions under the FOIA are:

Section 21	Information accessible to the applicant by other means
Section 23	Information supplied by, or relating to, bodies with security matters - this is aimed at the Security Services, Government Communications Headquarters and the National Criminal Intelligence Service.
Section 32	Court records - covers documents in the custody of a court, created by a court or served on or by a public authority for court proceedings.
Section 34	Parliamentary privilege - to avoid infringing the privileges of either House of Parliament.
Section 40(1)	Personal information of the requester - Information which is personal to the person making the request.
Section 40(2)	Personal information - Information which is personal to any person other than the person making the request, and which would contravene data protection principles if released.
Section 41	Information provided in confidence - if the disclosure of the information would constitute a breach of confidence that could lead to action against the ICB.
Section 44	Prohibitions on disclosure - information is exempt if its release is prohibited under any enactment, it is incompatible with Community obligation or would constitute contempt of court.

The exemptions that are qualified by the public interest test are:

Section 22	Information intended for future publication - covers information held with a view to publication by the public authority or another person at some future date.
Section 22A	Research Information - Where information which has been obtained or derived from research which is due to be published.

Section 24	National security - information can be exempt if it is required to safeguard national security.
Section 26	Defence - information can be exempt if its release would affect the defence of the British Isle, any British colony or the capability and effectiveness of the armed forces.
Section 27	International relations - information is exempt if its release would prejudice relations with another state, international organisation, international court or the interests of the UK abroad.
Section 28	Relations within the United Kingdom - covers information that would prejudice the economic interest of the UK or of any administration in the UK.
Section 29	The economy - covers information that would prejudice the economic interest of the UK or of any administration in the UK.
Section 30	Investigations - Information held for the purposes of investigations which the organisation is required to carry out. Sections 30 and 31 are mutually exclusive.
Section 31	Law Enforcement - Information which would or would be likely to prejudice the prevention or detection of crime. Sections 30 and 31 are mutually exclusive.
Section 33	Audit Functions - Information which would or would be likely to prejudice the audit functions of the organisation.
Section 35	Formulation Of Government Policy - Information relating to the formulation of government policy. Can only be claimed by government departments and the Welsh Assembly Government. NHS England is not permitted to rely on section 35. Sections 35 and 36 are mutually exclusive.
Section 36	Effective Conduct of Public Affairs - Information which would or would be likely to prejudice the effective conduct of public affairs. Sections 35 and 36 are mutually exclusive.
Section 37	Communications With the Royal Family and The Conferring of Honours - Communications with members of the Royal family other than the monarch, the heir to the throne and the second in the line of succession. Also, information on the conferring of honours.
Section 38	Health And Safety - Information which would or would be likely to endanger the mental or physical health of any individual.
Section 39	Environmental Information - Information which relates to the environment. Such information should instead be processed under the terms of the EIRs.
Section 42	Legally Privileged - Information which is protected by legal privilege.
Section 43	Trade Secrets and Commercially Sensitive Information - Information which constitutes a trade secret or would otherwise prejudice the commercial interest of any organisation.