



Freedom of Information Statement

December 2022

Policy Reference Information

Status	Approved
Author	Jane Ferguson
Approval	
Date of Last Review	December 2022
Date of Next Formal Review	December 2024

Related Policies

Policy Title
Governing Document Charter Annual Report and Accounts Published Governance Documents

INTRODUCTION

The Freedom of Information Act (Scotland) 2002 (“FOISA”) came into effect on 1st January 2005, establishing a general right of access to all types of recorded information held by public authorities.

1. Exemption

- 1.1 NHS Lothian Charity is exempt under FOISA:
- 1.2 NHS Endowment Charities are not listed within the FOISA: Schedule 1, Part 4: The National Health Service. Charities by themselves are not bound by FOISA unless they are carrying out a public function. NHS Lothian Charity does not fund core functions which the NHS is obliged to provide to the public, and the board of NHS Lothian does not direct the charity’s activities (ie what trustees fund).
- 1.3 Section 5 of FOISA allows the Scottish Government to designate any organisation including charities as a public authority for the purposes of FOISA, forcing it to comply with the legislation. However, the organisation must meet two tests: first the organisation must be performing services under contract with an existing public body, and second the service provided must be one which said authority has the function of providing. NHS Lothian Charity does not perform services under contract with NHS Lothian, and those activities carried out by the Charity are specifically and explicitly not those core functions which NHS Lothian provides.

2. Information Available Elsewhere

- 2.1 Section 25 of the FOISA specifically exempts the release of information where that information is freely available to the public through other means. In the interest of transparency and good governance we publish a range of information about our work:
 - A link to our Governing Document, the National Health Service (Scotland) Act 1978 and the Charter of NHS Lothian Charity
 - Our Annual Report and Accounts is available on our website, and we will supply a print copy of the latest accounts on request
 - A searchable directory of our grants and funds, which is regularly updated
 - A number of key governance documents and policies, regularly updated

3. NHS Lothian

- 3.1 Freedom of Information requests related to information held by NHS Lothian are not covered by this policy. All such requests must be made to NHS Lothian under its own [Freedom of Information policy and process](#)

4. Review

- 4.1 FOISA requires the Scottish Government to undertake biennial reviews of the legislation, including Section 5 powers, informed through an ongoing cycle of consultation and review. For this reason, our Freedom of Information Policy will also be reviewed biennially.