

# How to request an FOI / EIR internal review from the NHS Business Services Authority

This document explains how you can request an internal review from the NHS Business Services Authority (NHSBSA).

This document does not cover:

- How to exercise your information rights as a data subject – more information is included on our website: [www.nhsbsa.nhs.uk/our-policies/privacy](http://www.nhsbsa.nhs.uk/our-policies/privacy)
- The NHS Pensions formal complaints process – for information on this go to [www.nhsbsa.nhs.uk/nhs-pensions](http://www.nhsbsa.nhs.uk/nhs-pensions)
- The NHSBSA formal complaints process – more information on this is included in the full complaints policy go to <https://www.nhsbsa.nhs.uk/contact-us/complaint>

## Internal review policy

The FOI Act 2000 and the EIR 2004 provide a right of access to information held by public authorities such as the NHSBSA by:

- Obliging us to publish certain information about our activities via our Publication Scheme.
- Allowing members of the public to request recorded information held by us.

The NHSBSA aim to ensure that information rights are answered promptly and professionally, and that its Publication Scheme is kept up to date.

Under the EIR, the NHSBSA has a legal obligation to have a process in place for internal reviews. The FOI Code of Practice recommends that a procedure is also in place.

If you are not satisfied with how your request was handled, you can request an internal review of:

- the outcome or response you received,
- how your request was handled,
- our Publication Scheme.

If you are unhappy with the implications of the information provided to you, for example, the information is correct, but you are unhappy with what it means, then we will direct you to the service within the NHSBSA.

## **The outcome of your request**

You can request an internal review of the outcome of your request. This includes where we have refused to provide all or some of the information you have requested.

## **The way your request was handled**

An internal review can be requested where we have not:

- provided you with the requested information within the relevant time (up to 20 working days) or have not explained why additional time is needed. The date you should expect a response from the NHSBSA is contained in the initial email sent to you.
- offered you proper advice or assistance when handling your request.
- provided the information to you in the format you have requested.
- explained whether the NHSBSA does or does not hold the information you have requested.
- explained the reasons for refusing the request.
- correctly applied an FOI exemption or EIR exception.
- correctly interpreted your request.

## **Our Publication Scheme**

You can ask for an internal review where we have not included information in our Publication Scheme or the information contained in it is out of date.

## How to request an internal review

You should respond to our reply to your request within 40 working days. Requests made after this time may not be considered.

You should explain clearly the reasons why you are requesting an internal review and provide any supporting documentation. If you think an FOI exemption or EIR exception has been applied incorrectly, you should provide an explanation why. Any information you provide will be helpful when carrying out the internal review.

### Our next steps

1. We will acknowledge your request as soon as possible and provide a date where we aim to respond to you.
  - a. For FOI, this will be within 20 working days from when we receive your request unless we explain that we need longer. This usually is where your request is considered complex, requires discussion with third parties or the information is high volume.
  - b. For EIR, this will be as soon as possible but within 40 working days of your request and in accordance with the Information Commissioner's Office (ICO) guidance.
  - c. For our Publication Scheme, this will be within 20 working days from when we receive your request.

2. Where we need clarification, we will explain this to you. The 20 working days response period will not start until we have received this clarification.
3. The review will be carried out fairly and thoroughly. The colleagues who handle your internal review will not have been involved with your original request and have the relevant training, experience and understanding of the relevant legislation.
4. The internal review panel will
  - a. Look at your request based on all the information that was available when you originally submitted your request.
  - b. Evaluate the handling of your request including whether the decision issued to you was correct.
  - c. Make a decision on the validity of any FOI exemptions or EIR exceptions applied including whether we have fulfilled our obligations when applying them.
  - d. Consider other FOI exemptions and EIR exceptions.
  - e. Investigate any issues or concerns you have raised except where these relate to the implications of the data you have received.
5. The panel may need to speak with the original staff member who handled your request. Where this is the case, this will be for background information only.
6. The panel will contact you in writing to explain the outcome of its review providing a full explanation. Possible outcomes are:
  - a. Information previously withheld should be disclosed or partially disclosed. Where this is the case we will provide it to you, usually, at the same time as our decision or tell you when you will receive it.
  - b. Procedures were not followed. Where this is the case, we will identify appropriate steps to ensure that lessons are learnt and our processes are improved.

- c. Update our Publication Scheme. We will update this as soon as possible with the relevant information as well as identifying lessons learnt.
- d. Original decision is upheld. We will advise you of our reasons for this.

## Appeal to the ICO

The ICO oversees information rights and is independent of the NHSBSA. You can appeal to the ICO and ask them to review our responses, but they will usually advise you to contact us first for an internal review. The ICO will ask that you contact us in the first instance about your review.

The ICO can be contacted as follows:

Information Commissioner's Office  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire,  
SK9 5AF

[ICO complaints portal](#)

Telephone: 0303 123 1113