

## Freedom of Information Request

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**Reference Number:** Ref EPUT.FOI.21.2056

**Date Received:** 14<sup>th</sup> June 2021

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### Information Requested:

I'm writing to enquire about your trust's process for drug formulary inclusion.

1. Can you please send me a list of all of the members (names, roles and NHS email addresses) that sit on the Drugs and Therapeutics Committee (or equivalent) within your trust.

The Trust is unable to provide the information you have requested. This is because the Trust considers the staff names to be personal information which is exempt under Section 40 (Personal Information) of the Act.

In addition Trust policy states that personal information will only be given for those staff with public facing roles:

- 14.1 - Staff who occupy positions of seniority (Band 8 and above) with public profiles and responsibilities for major (policy) decisions and expenditure of public funds should expect that their details (names and contacts), which are already in the public domain will be shared under FOI and may not be considered personal information.

The Trust is also unable to confirm the Bands of the members is as this information not held centrally and some members are not EPUT staff

2. Additionally, can you also please provide information on the process for getting a new product approved on the trust formulary?

This information can be found in the following Trust policy (Safe & Secure Handling Of Medicines – ALL STAFF MH CLPG13-MH Appendix 5).

The Trust believes that this Policy is available on its public website and is therefore unable to provide you with this information direct as the Freedom of Information Act prohibits the re-release of information that is already published within the public domain. The Trust is therefore applying Section 21 Exemption (Information accessible to applicant by other means).

However in an effort to be helpful we can provide you with the link on where to locate the Policy you have requested: <https://eput.nhs.uk/publication-category/clp13-safe-and-secure-handling-of-medicines/>

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### Applied Exemption:

**Section 21 (Information accessible to applicant by other means):**

- (1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information
- (2) For the purposes of subsection (1)—
  - (a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and
  - (b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.
- (3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme

**Section 40 (Personal information):**

- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
- (2) Any information to which a request for information relates is also exempt information if—
  - (a) it constitutes personal data which do not fall within subsection (1), and
  - (b) either the first or the second condition below is satisfied.
- (3) The first condition is—
  - (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 2018, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—
    - (i) any of the data protection principles, or
    - (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and
  - (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 2018 (which relate to manual data held by public authorities) were disregarded.
- (4) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 2018 the information is exempt from section 7(1)(c) of that Act (data subject's right of access to personal data).
- (5) The duty to confirm or deny—
  - (a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and
  - (b) does not arise in relation to other information if or to the extent that either—

- (i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 2018 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or
  - (ii) by virtue of any provision of Part IV of the Data Protection Act 2018 the information is exempt from section 7(1)(a) of that Act (data subject's right to be informed whether personal data being processed).
- (6) In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 2018 shall be disregarded.
- (7) In this section— “the data protection principles” means the principles set out in Part I of Schedule 1 to the Data Protection Act 2018, as read subject to Part II of that Schedule and section 27(1) of that Act;
  - “data subject” has the same meaning as in section 1(1) of that Act;
  - “personal data” has the same meaning as in section 1(1) of that Act

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#### Publication Scheme:

As part of the Freedom of Information Act all public organisations are required to proactively publish certain classes of information on a Publication Scheme. A publication scheme is a guide to the information that is held by the organisation. EPUT's Publication Scheme is located on its Website at the following link <https://eput.nhs.uk>