

Date 24/02/2026
Your Ref
Our Ref 11083R

Enquiries to Richard Mutch
Extension 35687
Direct Line 0131 465 5687
loth.freedomofinformation@nhs.scot
richard.mutch@nhs.scot

Dear

FREEDOM OF INFORMATION REVIEW - COMPLAINTS PROCESS

I write in response to your request for review of NHS Lothian's response to your Freedom of Information request about a complaints investigation. Having discussed your request and our response of 23 January 2026, I can respond as follows:

Original Request and Response:

- I am making a request for information under the Freedom of Information (Scotland) Act 2002 in relation to NHS Lothian's handling and investigation of complaint reference ~~~~~, received on ~~~~~ 2025.

This request concerns governance, process, and documentary records relating to the investigation and complaint handling. It does not seek personal medical records.

Please provide the following information:

1. Investigation and Decision-Making Roles

The professional roles and job titles of individuals involved in:

- investigating complaint ~~~~~,
- drafting the response issued on ~~~~~ 2025,
- drafting the subsequent response issued following the reopening of the complaint,
- reviewing, approving, or signing off each response.

2. Staff Accounts Considered

Confirmation of which staff members' accounts were obtained or relied upon during the investigation, including whether accounts were sought from:

- the ~~~~~ who was the subject of the complaint,
- the ~~~~~ who received the clinical handover,
- any other clinical staff involved in the episode of care.

3. Evidence Reviewed

A list of the categories of evidence reviewed during the investigation, including:

Headquarters
Mainpoint
102 West Port
Edinburgh EH3 9DN

Chair Professor John Connaghan CBE
Chief Executive Professor Caroline Hiscox
Lothian NHS Board is the common name of Lothian Health Board

- clinical records,
- written patient documentation,
- staff accounts,
- relevant policies or guidelines.

Please confirm whether the written ~~~~~ provided by the complainants was reviewed as part of the investigation.

4. Internal Correspondence

Copies of internal correspondence created between ~~~~~ 2025 and the date of the most recent response relating to:

- the investigation of complaint ~~~~~,
- management of response timescales,
- decisions to extend the Stage 2 response timeframe,
- the decision to reopen the complaint,
- preparation and issue of the further response following reopening.

5. Governance, Risk, or Legal Involvement

Confirmation of whether NHS Lothian's governance, risk, or legal teams were consulted in relation to complaint ~~~~~, including:

- the stage or stages at which consultation occurred,
- the purpose of that consultation.

6. Timescale Management

Records documenting decisions to extend the Stage 2 complaint response timescale beyond 20 working days, including:

- dates on which extensions were agreed,
- reasons recorded for those extensions.

7. Complaint Handling Guidance

Copies of the complaint-handling procedures, guidance, or flowcharts relied upon when managing complaint ~~~~~, including those relating to reopened complaints.

Answer:

I must advise that the information requested is considered exempt under Section 38(1)(a)(b) – personal information and that it would be more appropriate for you to access this via a Subject Access Request - loth.sarteam@nhs.scot. The specific nature of your request in relation to a single complaint means that any release under FOI(S)A would be so heavily redacted that it would be meaningless.

It is also the case that as the complaint process is not at this time complete the information requested is considered exempt under Section 30(b)(c) of the Freedom of Information (Scotland) Act 2002 - Prejudice to effective conduct of public affairs. The complaint can still be progressed via the Scottish Public Services Ombudsman (SPSO) - <https://www.spsso.org.uk/>.

Review Request:

I write to request an internal review under Section 20 of the Freedom of Information (Scotland) Act 2002 in relation to NHS Lothian's response dated 23 January 2026 (Our Ref 10979).

I do not accept that the application of Sections 38(1)(a)/(b) and 30(b)/(c) justifies a blanket refusal of the information requested. My request concerns governance and complaints-handling processes relating to complaint reference [1979], not the disclosure of personal medical records.

While I acknowledge that Section 38 may apply to certain personal data, this does not exempt NHS Lothian from its duty to consider partial disclosure. The response does not demonstrate that NHS Lothian has appropriately separated disclosable information (e.g. professional roles/job titles, categories of evidence reviewed, timescale management records, and complaint-handling procedures/flowcharts) from any exempt personal information, nor does it explain why anonymised disclosure is not possible.

I also dispute the reliance on Section 30(b) and (c). The response does not set out specific and credible prejudice that would be likely to result from disclosure, nor does it evidence the required public interest assessment. In particular, it is unclear how disclosure of high-level governance and process information could prejudice the effective conduct of public affairs, especially where the Board has issued final complaint responses and signposted SPSO escalation.

Accordingly, I request that the review

Review Response:

I have been provided with the following by our Patient Experience Team:-

- Request for disclosure will be given to the person affected – ie if the patient themselves asks for the information.
- The complaints handling procedure is on our website <https://www.nhslothian.scot/yourrights/patient-experience-team-tell-us-about-your-experience/how-to-give-feedback/nhs-lothian-complaints-handling-procedure/>
- We have previously shared our stage 2 complaints process <http://intranet.lothian.scot.nhs.uk/Directory/PatientExperienceAndFeedback/TheComplaintsProcedure/Documents/Stage%20%20Flowchart.pdf> Page 2 of this includes details of the role of the Complaints Commissioner who would ask for local investigators to investigate – these roles are likely to be clinical nurse manager / clinical service managers (enclosed).



This information is exempt under Section 25 of the Freedom of Information (Scotland) Act 2002 - Information otherwise accessible

(1) Information which the applicant can reasonably obtain other than by requesting it under section 1(1) is exempt information.

- Clinical records, scans, lab results etc would be reviewed (as appropriate) as part of a complaint investigation
- Our Complaints Annual reports are published on the website

In relation to the other information requested we maintain our reliance on the exemptions listed previously, for the reasons stated.

If you are not satisfied with this response you still have the right to make a formal complaint to the Scottish Information Commissioner who you can contact at the address below or using the Scottish Information Commissioner's Office online appeals service at <https://www.foi.scot/appeal>. If you remain dissatisfied with the Commissioner's response you then have the option to appeal to the Court of Session on a point of law.

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews, Fife
KY16 9DS
Telephone: 01334 464610
Fax: 01334 464611
e-mail: enquiries@foi.scot

Yours sincerely

**Freedom of Information Reviewer/
NHS Lothian**
cc: Executive Nurse Director
Enc.