

Dear

FREEDOM OF INFORMATION REVIEW – CORPORATE MANAGEMENT TEAM IMATTER

I write in response to your request for review of NHS Lothian's response to your Freedom of Information request about NHS Lothian's Corporate Management Team iMatter staff survey.

Having discussed your request and our response of 23 January 2026 further, I can respond as follows:

Original Request and Response:

Question:

Under the FOI legislation I would like copies of the CMT team - and management reports imatter score and action plans for last five years including the most recent one.

Answer:

The iMatter reports are confidential to the individual teams, and contain sensitive information. As per the nationally agreed iMatter governance model, these reports can only be shared with authorisation from the entire team. Further, the CMT is not a team for iMatter purposes. So, there is no report for the CMT, nor an action plan.

Under the Freedom of Information Act NHS Lothian is not required to create new records to enable it to respond to your enquiry. This information is not collated or held in aggregate form and it would be necessary to review to contact and review the information relating to staff over the period you have requested to assemble the information you seek. Even if NHS Lothian did this – and there would be significant cost implications in doing so – it would be unable to respond in full to your request. The information requested is therefore exempt under section 12.1 – Cost.

Review Request, 16/02/2026:

In your response, you state that there is no report or action plan relating to the CMT as it is "not a team for iMatter purposes". I would ask that this interpretation is reconsidered. My request was intended to capture whichever senior leadership grouping the Chief Executive's direct reports were included within for iMatter purposes during the relevant

period. If the term “CMT” has been interpreted too narrowly, I would be grateful if the request could instead be applied to the appropriate equivalent team or reporting structure.

I also note the reliance placed on the nationally agreed iMatter governance model and confidentiality arrangements. While I recognise the sensitivities of staff experience data, staff governance arrangements do not override statutory obligations under Freedom of Information or data protection legislation. Where information is held, consideration should instead be given to appropriate disclosure, including redaction or anonymisation where necessary, rather than refusal in principle.

In addition, the application of section 12 (cost of compliance) would benefit from further clarification. It is not clear from the response what steps were taken to determine whether relevant information is already held in recorded form, nor whether partial disclosure within cost limits was considered.

If, following review, the Board maintains its position, I would be grateful for confirmation of the reasoning so that I may consider referral to the Scottish Information Commissioner.

I would appreciate acknowledgement of this request and confirmation of the expected timescale for completion of the internal review.

Additional review request 25/04/2026 following interim communication:

My request is not for the identification of individual staff members, nor for individual survey responses. It is for recorded information held by the Board, namely iMatter team or management reports and associated action plans relating to the Chief Executive’s direct reports or equivalent senior leadership grouping.

The response of 16 April appears to confirm that a 2025 iMatter team report exists for the Chief Executive’s direct reports group. If that information is held by NHS Lothian, it falls to be considered under the Freedom of Information (Scotland) Act 2002. Internal governance arrangements, including the iMatter governance model or any requirement to seek participant permission, cannot in themselves displace the statutory duties under FOISA. If NHS Lothian considers that any exemption applies, it should identify the relevant provision of FOISA and explain its application.

I also do not accept that the fact of a different Chief Executive, or different membership of the relevant group in earlier years, is sufficient reason to refuse the request. The request concerns information held by NHS Lothian as a public authority. It is not dependent on the identity of the current or former Chief Executive.

In relation to section 12, the explanation provided remains insufficient. NHS Lothian has not clearly set out what searches would be required, where the information is held, how the

cost estimate has been calculated, or whether any relevant reports or action plans can be disclosed within the cost limit. I would expect the review to consider whether partial disclosure is possible, including the most recent report and any reports already held in recorded form.

I am also concerned that the review process itself does not appear to have been completed within the statutory timescale. The request for review was submitted on 16 February 2026, and an overdue reminder was sent on 1 April 2026. The response of 16 April 2026 appears to be an interim position rather than a formal review outcome.

Please now provide a formal internal review response which addresses the following points:

1. Whether NHS Lothian holds the 2025 iMatter report for the Chief Executive's direct reports group.
2. Whether NHS Lothian holds equivalent reports or action plans for any of the previous five years.
3. Whether any information can be disclosed with redactions or anonymisation, rather than withheld in full.
4. If NHS Lothian is relying on section 12, the basis of the cost estimate and whether partial disclosure has been considered.
5. If NHS Lothian is relying on any other exemption, the specific FOISA exemption and reasoning.
6. Confirmation that this response constitutes the formal outcome of the internal review.

Review Response:

Question:

1. Whether NHS Lothian holds the 2025 iMatter report for the Chief Executive's direct reports group.

Answer:

As previously detailed, in accordance with s16(1) we can confirm NHS Lothian holds an iMatter Team Report for the Chief Executive's Direct reports in 2025. This is accessed via the online system provided by Webropol commissioned by Scottish Government for the purposes of running the annual survey and a copy is provided to team members for their own personal reference and retention.



Question:

2. Whether NHS Lothian holds equivalent reports or action plans for any of the previous five years.

Answer:

Again, in accordance with s16(1) we can confirm previous years' iMatter reports are held within and accessible via the online system provided by Webropol commissioned by Scottish Government for the purposes of running the annual survey. These will also have been provided to the team members at that time for personal reference and retention.

Question:

3. Whether any information can be disclosed with redactions or anonymisation, rather than withheld in full.

Answer:

Because the national governance model for iMatter permits selected others than the teams themselves to review high level data, we can disclose the overall Employee Engagement Index (EEI) and participation rate percentage for this group, which has not been static in terms of its membership, over the past five years. This is as follows:

iMatter Employee Engagement Index, Chief Executive's Direct Reports, NHS Lothian		
Year	Employee Engagement Index	Overall response
2025	81	86%
2024	87	92%
2023	88	92%
2022	87	88%
2021	82	93%

Question:

4. If NHS Lothian is relying on section 12, the basis of the cost estimate and whether partial disclosure has been considered.

Answer:

The basis of our Section 12 cost estimate is the expectation that it could take considerable time to try and contact the former employees of NHS Lothian who participated in previous years' surveys, prior to 2025.

Question:

5. If NHS Lothian is relying on any other exemption, the specific FOISA exemption and reasoning.

Answer:

We believe that Section 38 applies to (i) questions in the report relating to the participants' perceptions of the current Chief Executive, who is identifiable as 'my manager' across several questions in the report, and (ii) the use of 'my team' in other questions, which essentially describes views on participants known to be part of this group.

Whilst these responses could be redacted, it is also clear from questions raised by some colleagues asked for permission to share the 2025 report that they believed that iMatter team reports were confidential to teams. This is in keeping with the national governance principle highlighted in previous correspondence, which has been confirmed by Scottish Government in response to a request made by NHS Lothian in order to inform this response.

We therefore also believe that Section 30(b)(ii) applies, where information is exempt from disclosure if its release would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation. The disclosure of iMatter survey reports could inhibit such exchanges by identifying individuals or small groups, which may undermine staff confidence in the confidentiality of the process and inhibit future participation and open dialogue.

Question:

6. Confirmation that this response constitutes the formal outcome of the internal review.

Answer:

This response constitutes the formal outcome of our review. However, as Section 30(b)(ii) is a qualified exemption, we have considered the public interest in disclosing the information versus the public interest in applying the exemption.

We acknowledge that there is a public interest in transparency, accountability, and informing public debate. However, we consider that there is a greater public interest in maintaining a safe space for internal deliberation by employees, where views can be exchanged freely and frankly to support sound decision-making and planning. We have therefore concluded that, beyond the summary details shared above, the public interest lies in withholding the requested information.

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.



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Yours sincerely

**Freedom of Information Reviewer/
Deputy Chief Executive**