



Redaction Guidance

This guidance is based on “*The National Archives Redaction toolkit - Editing exempt information from paper and electronic documents prior to release*”. This ‘Redaction Toolkit’ is aimed at all authorities subject to the Freedom of Information Act (FOIA), Data Protection legislation (GDPR and DPA 2018) and the Environmental Information Regulations (EIRs). For more detailed advice and guidance see:

https://www.nationalarchives.gov.uk/documents/information-management/redaction_toolkit.pdf

1. What is redaction?

Redaction is the separation of disclosable from non-disclosable information by blocking out individual words, sentences or paragraphs or the removal of whole pages prior to the release of the document.

2. Principles of redaction

- Redaction should always be reversible and never result in permanent removal of text; therefore when dealing with hard copy documents, redaction should always be carried out on copies, never on original documents.
- Redaction is carried out in order to edit exempt details from a document. It should be used when one or two individual words, a sentence or paragraph, a name, address or signature needs to be removed.
- If so much information has to be withheld from a page that the document becomes nonsensical, the entire page should be removed. In such cases it is for those creating redacted documents for release to use their judgement as to what is necessary to present requested information.

- Redaction should be performed or overseen by staff that are knowledgeable about the records or nature of the records and can determine what material is exempt. If those staff identifying such material do not carry out redaction themselves, their instructions must be specific e.g. 'Memo dated ..., paragraph no..., line starting... and ending...' etc.
- Decisions need to be recorded with reasons for withholding information. This may mean keeping a copy of the released (redacted) information with a note explaining the reasons for redaction. It is the responsibility of the Service to retain a copy of the redactions and the reasons for these (exemptions applied).

3. Identifying material for redaction

- Each service area should ensure that all relevant professional staff are identified to carry out the review of records.
- Staff should have a good knowledge of the records or nature of the records being reviewed for release and be able to identify information that may be exempt. This is usually the professional who has an understanding of the information and the context of the notes.
- Staff should be aware of the categories of information that should not be released under the relevant legislation (see below sections on 'personal information'; 'corporate information'; and 'environmental information').
- To comply fully with requests for information, staff must redact exempt material only. A whole sentence or paragraph should not be removed if only one or two words are nondisclosable, unless release would place the missing words in context and make their content or meaning clear.
- Take great care to ensure that the non-disclosable material cannot be deciphered from the location pattern, length (e.g. of a name), the associated un-redacted text (i.e. within the context of other information released). This may mean disguising the size and shape of the redacted (blacked out) content.
- Reviewers should also check records for other copies or entries of the same information / same documents so that they carry out redaction consistently throughout (i.e. do not redact exempt information in one part of a file but disclose it in another section).

4. How to Redact

There is a range of redaction methods for hard copy records. The end result must ensure that the redacted material cannot be seen or guessed due to incomplete redaction. This means checking to make certain that words cannot be made out when the document is held up to light or that the ends, top or bottom of text are not visible. The Southern HSC Trust has specialist software to enable redaction of notes. Guidance on the use of this Redaction Software can be found on the following [link](#). Please contact the Information Governance Department for access to the software (contact details at the end of this document). A record of why each redaction is taking place is required to inform the requestor, and the exemption listed. An example of an audit log can be found in Appendix 1.

Electronic Redaction - The Trust has specialist software for the redaction of records. This software can be used by staff (once a license has been allocated). An electronic version of the record is required, this can be a Word, Outlook or Excel document or a pdf scan of paper records. This software also creates a log of the redaction and the reasons why each redaction has been performed.

Blocking out – the most common method is to photocopy the original document and use a black marker pen on the photocopy to block out the sensitive material. Take care when using black markers on double-sided pages to ensure you do not inadvertently redact disclosable information on the other side of the page. The redacted version should then be photocopied again to produce an access version. This further photocopy is necessary as information redacted using marker pen can still be read when held up to light. Always check this even after photocopying a second time.

Cover-up tape – alternatively, use a high quality cover-up tape that can be placed on the document over the areas to be redacted (e.g. name, sentence, paragraph...), taking care that no parts of words are showing; then photocopy. Check that the redacted material cannot be seen.

What to redact – redact any third party information (information about other people –not including staff) contained in the record or information which is likely to cause harm to the individual (a harm test must be carried out).

5. Redaction of electronic records

The redaction of born-digital records is an area of records management practice which raises unique issues and potential risks.

Never redact the original or master version of an electronic record - redaction must always be carried out on a new copy of the record (e.g. 'save as' a working version to carry out the redaction on).

It is essential that any redaction technique is secure to eliminate the possibility of redacted information being recovered. Redaction must irreversibly remove the required information from the redacted copy of the record. The information must be completely removed from the bit stream, not simply from the displayable record. The Southern Trust has Redaction Software which can be used to electronically redact documents. Guidance on the use of Redaction Software can be found at [Redaction Training](#)

- For electronic records, which can be printed as a hard copy, traditional redaction techniques as described above can be applied to the printed hard copy, however the use of the Redaction Software is preferred.

6. Personal Information (Subject Access Requests)

6.1 The legislation

- The General Data Protection Regulation (GDPR)
- Data Protection Act 2018 (DPA)
- Access to Health Records NI Order 1993 (AHR)

There is a fundamental right under data protection legislation allowing individuals with the right to access and receive a copy of their own personal information. This applies to all information of a personal nature, including information relating to service users and employees. Requests can be from the 'data subject' (the person the information is about); or by someone with authority to act on their behalf. Someone requesting access to another

individual's personal information (e.g. a solicitor or family member) must have the appropriate authority to do so (usually written consent) and be seen to be acting on behalf of and in the best interests of that person. Please refer to Section D of the Trust application form (Request for Access to Patient / Client Records forms) for details on who can apply for the health records of a living individual.

An application for access to records relating to a deceased patient/client can be made under AHR Order by the legally appointed personal representative of the deceased or by anyone having a claim arising out the death. As the duty of confidentiality remains after death, careful consideration should be given to any request for access to a deceased patient's personal information. Please refer to Section E of the Trust application form (Request for Access to Patient / Client Records Form) for details of documents required before a request can be processed. In the absence of these documents, formal access cannot be provided under this legislation. Family members will not always be entitled to full unfettered access to their deceased relative's sensitive health records.

In all occasions when releasing an individual's sensitive healthcare or social care notes and records to a 3rd party, the information disclosed should be limited to what is necessary for the required purpose. Any information provided in confidence by or relating to other parties should be identified and redacted by the service area / professional staff prior to release (see 6.3 below re Third Party data).

6.2 Exceptions

There are limited exceptions to the right of access to personal information. Access can be denied or restricted for the following reasons:

- Third Party Information: - the information relates to, or was provided by an individual other than the patient who could be identified from that information and who has not given consent for disclosure.
- Detriment: - in the view of the appropriate HSC professional, disclosure of the restricted information would cause serious harm to the physical and/or mental health of the patient / client or other individual(s);

- the patient / client has expressly requested that some or all of the information should not be disclosed (e.g. in general or to named persons)
- Based on professional opinion and knowledge of the case: the 3rd party applicant is not acting in the patient's/client's best interests or is not authorised to access the requested information
- Under AHR (deceased person's records) - access may only be given to those with the appropriate documentation showing legal authority to access the records (see 6.1 above). Where authority is in place, access will also be limited to information which is relevant to any claim. AHR legislation does not provide a right of access to Social Care Records .

It should be noted that these exceptions may not apply if the information has been requested either by the PSNI using the Form 81 or by the Court

Each service area should ensure that all relevant staff are identified and review records prior to their release.

All personal health and social care records should be reviewed and authorised for release by the person in charge of patient/client care and treatment (e.g. Consultant, team manager, key-worker and/or other professional staff currently involved with the patient/client). Other staff that had previous involvement in the case may be consulted by the person in charge of patient/client care and treatment for their views on release.

Where a staff member has left the Trust it is the responsibility of those with current responsibility of that service area to approve release of the notes and records.

For Multi-Disciplinary records each staff group / profession should review the relevant section of records. Hospital notes and records should be reviewed by all relevant staff, for example the Consultant, Doctor, Nursing in Charge, Ward Manager, Head of Department.

Notes and records should also be checked by each service area for accuracy in terms of correct filing. Any misfiled information (e.g. relating to a different patient) should be removed by the service and brought to the immediate attention of the Ward / Team Manager.

6.3 Third Party data

A decision on whether to release or redact information, particularly third party data, should be taken on a case-per-case basis and based on the individual circumstances and knowledge of the case and associated records; however the following points are a guide to the type of issues to consider:

- Is there information relating to / about someone else?
- Is there consent from the third party to disclose?

In the absence of consent of the other individual:

- Is it reasonable to disclose in the circumstances (for the purposes of an investigation)?
- Is there a duty of confidentiality owed to the third party?
- Has consent been refused and valid reasons given?
- Can you redact the third party information?

Also consider:

- What is already known to the applicant?
- Legislative considerations – Children (Northern Ireland) Order 1995
- Anonymity of complainants
- What is the risk of 'jigsaw attack' i.e. piecing together bits of information to create a more complete picture of someone?
- Has the information been provided in confidence by a third party?
- Does the information constitute legal advice or correspondence? (not to be disclosed)
- Is the information likely to cause serious harm to the physical or mental health of any person, if disclosed?
- The names of senior staff or staff involved in a person's healthcare or social care are unlikely to be redacted

7. Corporate Information

Exemptions under the Freedom of Information Act 2000 (FOI)

The FOI Act applies mainly to 'corporate' or 'business related' information. There are 23 exemptions which provide discretionary exceptions to the public's right of access to information under the terms of the Act. For further advice see the Information Commissioner's (ICO) website (link below).

Absolute Exemptions

Exemptions that are wholly exempt in their application include:

- **Section 21** Information accessible to the applicant by other means
- **Section 23** Information supplied by, or relating to, bodies dealing with security matters
- **Section 32** Information relating to Court records
- **Section 34** Parliamentary privilege
- **Section 41** Information provided in confidence
- **Section 44** Information prohibited from disclosure by any other piece of legislation or enactment

Exemptions that are absolute only in part include:

- **Section 36** Information that would prejudice the effective conduct of public affairs *
- **Section 40** Personal information

Qualified (conditional) Exemptions

If information falls within a qualified exemption, it must be subject to a public interest test. A decision on the application of a qualified exemption operates in two stages. First, a public authority must determine whether or not information is covered by an exemption and then, even if it is covered, the authority must disclose the information unless the application of a public interest test indicated that the public interest favours non-disclosure. Where a public authority considers that the public interest in withholding the information requested outweighs the public interest in releasing it, the authority must inform the applicant of its reasons, unless to do so would mean releasing the exempt information. Qualified exemptions are either class-

based covering information in particular classes, or harm-based* covering situations where disclosure of information would be liable to cause harm.

Exemptions requiring the application of a public interest test include:

- **Section 22** Information intended for future publication
- **Section 24** National Security
- **Section 30** Investigations and proceedings conducted by public authorities
- **Section 35** Formulation of Government Policy
- **Section 37** Communications with Her Majesty and honours
- **Section 38** Health and Safety *
- **Section 39** Environmental information – see ‘Environmental Information Regulations’
- **Section 42** Legal professional privilege

Exemptions requiring the application of a public interest test and/or a prejudice test include:

- **Section 26** Defence *
- **Section 27** International relations *
- **Section 28** Relations within the United Kingdom *
- **Section 29** The economy *
- **Section 31** Law enforcement *
- **Section 33** Audit Functions *
- **Section 43** Commercial Interests *

Refer to the ICO website for more detailed guidance on the FOI Exemptions:

www.ico.org.uk/for-organisations/guide-to-freedom-of-information/refusing-a-request/

8. Environmental Information

Exceptions under the Environmental Information Regulations 2004 (EIR)

The Environment Information Regulations apply to information ‘relating to the environment’.

A public authority may refuse to disclose information in certain exceptional situations and

where the public interest in maintaining the exception outweighs the public interest in the information's disclosure.

A request for information can be refused (or part of the information withheld) if:

- Information is not held (then there is a duty to refer the request on)
- The request is manifestly unreasonable
- The request is too general (after fulfilling duty to advise and assist)
- The request is for unfinished documents or data (in which case estimated time for completion must be given)
- The request is for internal communications

A public authority may also refuse to disclose information or withhold part of it in order to protect the following:

- Confidentiality of proceedings
- International relations / public security / defence
- The course of justice and right to fair trial
- Commercial confidentiality
- Intellectual property rights
- Personal / voluntary data
- Environmental protection

If information relates to emissions, a public authority cannot refuse to disclose it on grounds of confidentiality of proceedings, commercial confidentiality, personal / voluntary data or environmental protection.

All the exceptions under EIR are subject to a public interest test.

If the request has been forwarded by the Medico-Legal Department in relation to a Subject Access Request eg from a solicitor or PSNI, please contact them for guidance in terms of the context of the request:

Medico.Legal@Southerntrust.hscni.net

If the request has been forwarded by the Litigation Department in relation to a claim against the Trust, please contact:

Litigation.Department@southerntrust.hscni.net

Or Telephone – 3756 3377 / 3378 / 3375

If the request has been forwarded by the Information Governance Department and you require further advice please contact:

FOI.Team@SouthernTrust.hscni.net

Or telephone:

028 37561458

Redaction Guidance

SHSCT Information Governance Department

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APPENDIX 1

Redaction Decision Record

Sample Requester

Identification Number 00000

Document Title & Date	Page Number / Descriptor	Reason for redaction
Case Conference report 16/4/1986	Extracts from pages 4,6 & 7	Third party information
21/5/1986	Letter	Sensitive information in relation to requester applied SW Modification Order to prevent harm
Contact Sheet	1/10/2000	Extract from record of meeting Sensitive information regarding sibling
Case Plan Review	Parents section restricted	Personal information in relation to deceased parent

Editing Rules - Sample

In response to the records request, based on the detail contained in the request and following review of file/record content. The following editing rules have been applied;

Remove all third party information.

Remove information of a sensitive nature likely to cause harm.

Remove names of professionals employed by other agencies.

Remove current court reports. Remove Trust file auditing tools.

In light of this process there is no professional reason to believe release of these redacted records would cause harm