

Governance Review
Supporting Appendix
Public Board
30 January 2025

Guidance on Matters Reserved for the Formal Board Workshop
(agenda item 14.2)

Public Board
26 March 2020

Presented for:	Approval
Presented by:	Jo Bray, Company Secretary
Author:	Jo Bray, Company Secretary
Previous Committees:	Previous agreement by LTHT Board. Agreement of working practices across the West Yorkshire Acute Association of Trusts (WYAAT)

Trust Goals	
The best for patient safety, quality and experience	✓
The best place to work	✓
A centre for excellence for research, education and innovation	✓
Seamless integrated care across organisational boundaries	✓
Financial sustainability	✓

Key points	
1. The Board is asked to re-confirm, guidance on matters reserved to a formal Board Workshop (Private) meetings.	Re-confirm

1. Summary

Leeds Teaching Hospitals NHS Trust (LTHT) is governed by the rules and regulations defined within our Standing Orders (SO), Standing Financial Instructions (SFIs) and Scheme of Delegation. As an NHS statutory body, funded by public money, there is a duty placed on the Board of Directors, where possible to consider business with its public Board meetings.

The Trust Board will hold a private workshop during the morning of the day of Board meetings, in keeping with (Section 1 (2) of the Public Bodies (Admission to Meetings) Act 1960), press and other members of the public are excluded from this meeting, having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest.

2. Guidance on Matters Reserved to a Formal Board Workshop (Private)

As a matter of principle, the Board intends for all matters to be discussed in public unless there is a special reason as outlined below.

- Discussion of any matter which contains confidential, personally identifiable information relating to a member of staff or a service user or carer.
- Discussion of any matter which contains commercially sensitive information relating to the Trust of a third party.

Determination

Within the NHS Providers' guidance *The Foundations of Good Governance: A Compendium of Best Practice 2011* and NHS Leadership Academy's *The Healthy NHS Board 2013 – Principles for Good Governance*, it recommends that when determining which matters should be reserved for Workshop (Private) consideration, the Trust should consider whether the information to be discussed would be exempt from disclosure under the Freedom of Information Act (FOI) 2000.

The below table outlines the exemptions most likely to apply to information considered by the Trust Board, as a point of reference.

The final decision on whether items shall be discussed in public or Workshop (private session) shall be made by the Chair, having taken advice from the Chief Executive, the Company Secretary and the Data Protection Officer/Freedom of Information Lead, and in accordance with the principles set out in this paper and agreed working practices across the West Yorkshire Acute Association of Trusts (WYAAT).

FOI section	Reason for exemption
Section 14 14(1) Vexatious Requests	<p>The Act does not oblige the Trust to comply with a request for information if the request is vexatious.</p> <p>Section 14(1) may be used in a variety of circumstances where a request, or its impact on a public authority, cannot be justified.</p>

Section 22* Information intended for future publication	Drafts of documents not in final form that have firm plans for future publication that can be advised to the requestor e.g. <ul style="list-style-type: none"> - The Annual Report and accounts which can only be made public once has been laid before parliament - Draft consultation documents
Section 24 Safeguarding National Security	The information is exempt if it is required for the purposes of safeguarding national security e.g. Cyber
Section 31 31(1)(a), (b), (c) and (f) 31(1)(g)*, 31(2)(b) * or (j) Law enforcement	<ul style="list-style-type: none"> - Disciplinary or legal investigations of members of staff or the Trust. - Processes for identifying any improper conduct. - Serious incident reports.

FOI Section	Reasons for exemption
Section 32 Information contained in court records	Information that we hold that was created explicitly for or was used in any court proceedings.
Section 36 36(2)(b)(i)*, (b)(ii)* and (c)(*) Free and frank discussion and the effective conduct of public affairs	Exemption may only be considered if the Trust's qualified person (Chief Executive) has provided a written opinion that disclosing the information would prejudice the Trust's affairs. Information discussed could include: <ul style="list-style-type: none"> - Matters in the initial stages of enquiry. - Early stages of strategic thinking. - Sensitive 'live' issues. - Draft minutes of meetings. - Recommendations from external organisations. - Professional advice obtained. - Options papers. - Discussions about future public consultations.
Section 38 Health & Safety	Matters in relation to the health and safety of staff members, service users, carers or other members of the public.
Section 40 40(2) Personal data	Information containing the personal data of including staff members, service users, carers or other members of the public where the disclosure would not be fair to that person. This exemption only applies to the living, and consent to the disclosure being considered will not have been given and that the other legal bases for disclosure, as set out in the Data Protection Act, will need to be considered.

Section 41 Information provided in confidence	Information provided in confidence from another person or organisation, if releasing that information would lead to a claim for breach of confidence.
Section 42* Legal professional privilege	Legal advice including communications with law firms.
Section 43* 43(2)* Commercial interests	Disclosure of the information would be likely to damage the Trust's commercial interests or those of a third party. The Trust must be able to demonstrate exactly how the requested information would prejudice the Trust's or another party's interests.
Section 44 Prohibitions on disclosure	Information which is prohibited to be disclosed by law, stating which law prohibits the release of the information and why.

Exemptions subject to the public interest

3. Communication and Involvement

Authors of Board papers will be sent the guidance set out above on matters reserved for consideration in the Board Workshop (private agenda) as guidance.

4. Equality Analysis

This guidance will be readily available to all staff.

5. Publication Under Freedom of Information Act

This paper has been made available under the Freedom of Information Act 2000.

6. Recommendation

The Board are asked to;

Approve the guidance on matters reserved to a formal Board Workshop (Private) meetings.

Jo Bray
Company Secretary
11 February 2020