

9th June 2026

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Further to your recent request for information made under the Freedom of Information Act (FOIA) 2000, I now set out our answers to your specific questions, and any clarifications sought and provided, as follows:

Freedom of Information Act Request: Determination of ceilings of care and escalation of respiratory support as at May 2020.

- 1) **Please provide me with copies of any clinical pathways, decision-making tools and policy guidance which were in place at your Trust in May 2020 regarding:**
 - a) **Determining ceilings of care for hospital inpatients (including patients suffering from COVID-19); and**
 - b) **Escalation of respiratory support for hospital inpatients, including determining whether non-invasive or invasive respiratory support would be provided. (For example, this may include clinical pathways for management of acute respiratory failure).**
- 2) **I understand that CRITCON levels 0 – 4 were applied during the COVID-19 pandemic to determine the level of capacity in intensive care units and measures to be taken in response. In connection with this, please confirm the CRITCON level(s) declared by your organisation during May 2020.**

In responses to these questions you will appreciate that in May 2020, the country was grappling with the first six weeks of the COVID-19 pandemic and NHS organisations up and down the country, including our Trust, East Sussex Healthcare NHS Trust (ESHT), were rapidly and continually adapting to a regular flow of ever-evolving guidance from the Government and NHS England, in relation to the delivery of effective care for an incredibly diverse range of health conditions, to keep patients, staff and visitors safe.

The regular and ever-evolving guidance received by ESHT was co-ordinated by our central Incident Room, resulting in decisions being made by senior leaders about care protocols and pathways on a regular and ever-changing basis as we continued to learn about COVID-19. Given this, we did not amend existing policies or develop new ones as this would have been counter-intuitive in a climate of quick and constant change and where we were learning how COVID-19 was affecting particular existing health conditions patients had.

Once we were out of the worst of COVID-19, we were able to stand down our central Incident Room, but the legacy of COVID-19 remained uppermost in our future planning mindset. To

that end, and in the vastness of guidance issued at the height of the COVID-19 pandemic, I regret we do not readily have to hand the answers you seek in this FOI. Additionally, many of the staff who enabled our central Incident Room and may have been able to locate some of the answers you seek have left the Trust.

To enable the Trust to establish what information is held, there would need to be a request made to all senior leaders and associated staff to conduct a manual trawl of emails, electronic and paper records to try and locate the required documents. This may be hindered by the fact some records may have been archived and are no longer available, and records may be incomplete/unavailable if received solely by staff who have left the Trust. We estimate this would take in excess of 18 hours. We are therefore applying Section 12(1) to your request.

Section 12(1) of the Act allows a public authority to refuse to comply with a request for information if the authority estimates that the cost of compliance would exceed the 'appropriate limit', as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Regulations). These state that this cost limit is £450 for public authorities which are not part of central government or the armed forces. The costs are calculated at £25 per hour per person regardless of the rate of pay, which means that the limit will be exceeded if the work involved would exceed 18 hours. The Trust estimates that the cost of complying with this request would significantly exceed the above limit.

I trust this information is helpful in its detail or explanation however, if you are dissatisfied with the response, then you have the right to request an internal review. If you wish to seek an internal review, please write to the Freedom of Information Team at esh-tr.foi@nhs.net quoting the above FOI reference number, within 40 working days. Please note the Trust is not obliged to accept a request for an internal review after this time period.

Yours faithfully

Freedom of Information (FOI) Team
East Sussex Healthcare NHS Trust
0300 131 4716
Core Hours of Business: Monday to Friday 9.00am to 4.00pm