

## Can information refuse to be provided?

Information can be withheld under Data Protection laws. The two main reasons are; where it may cause harm or where it relates to a third party.

In terms of information requested under the Access to Health Records Act 1990, disclosures will be reviewed on an individual basis, to ensure that the rights of the deceased in relation to confidentiality are adhered to. This may mean that not all information held by the Trust will be disclosed, especially where there is Information held about the wishes of the patient in relation to that information.

Under the Freedom of Information Act 2000 and Environmental Information Regulations 2004, there are a number of circumstances when the organisation is not required to disclose information. We will inform you in our response if any of these exemptions apply.

Full details of the reasons for non-disclosure can be found on the Information Commissioner's Office website:

<https://ico.org.uk/>

## What if I am unhappy with the response?

If you are not satisfied with the Trust's response to an application for information, you can appeal the decision. A review of the request and the information released will be undertaken by a senior member of staff. The review will be completed within 28 days and the outcome will be shared with you in writing.

If you are then not satisfied with outcome of the appeal, you can contact the Information Commissioner's Office who will review the request on your behalf.

For more information please see the following documentation on our website:

- Subject Access Request Form and Guidance
- Privacy Notice

[www.torbayandsouthdevon.nhs.uk](http://www.torbayandsouthdevon.nhs.uk)

### Data Access & Disclosure Office

Torbay Hospital  
Kitson Hall  
Lowes Bridge  
Torquay  
Devon, TQ2 7AA  
(01803) 654868

Email: [dataprotection.tsdf@nhs.net](mailto:dataprotection.tsdf@nhs.net)

# How To Access Information

## What you need to know

*This leaflet explains how to access information that is held by Torbay and South Devon NHS Foundation Trust*



*This includes requests made under the **Data Protection Act 2018, Access To Health Records Act 1990, Freedom of Information Act 2000** and the **Environmental Information Regulations 2004***

The Data Access and Disclosure Office deal with the disclosure of information outside the Trust. As an organisation, we are statutorily responsible for responding to requests for information made under the Data Protection Act 2018, Access to Health Records Act 1990, Freedom of Information Act 2000, and Environmental Information Regulations 2004.

Each of the above Acts enables the public to access information which Torbay and South Devon NHS Foundation Trust holds. They also provide guidance on how organisations must manage these requests.

## How do I access records of a deceased person?

The Common Law Duty of Confidentiality extends to an individual after death. Therefore access to the records of the deceased is strictly controlled and comes under the Access to Health Records Act 1990. A Subject Access Request form must be completed and must include evidence of the right of the requestor to view the deceased's records and details of the claim being made arising from the patient's death.

There is no time limit under the Access to Health Records Act 1990; however we aim to ensure compliance within **one calendar month**, depending on the availability of the records



## How do I access my personal information?

Data Protection laws states that every living person, or their authorised representative acting on behalf of the individual, has the right to apply for access to records relating to them which are held by organisations. In order to ensure that we provide information appropriately and in line with the legislation, we will ask for specific information that is required to progress the request.

A request can be made in writing (either through a letter or email), or by using our Subject Access Request form. Depending on the information required and who is requesting the information, further verification may be required so that all Data Protection principles are being met.

All requests for personal information held by the Trust must be made via the Data Access and Disclosure Office whose information is overleaf.

As an organisation, we are statutorily responsible for responding to Data Protection Act 2018 requests within **one calendar month**.

*For Your Information: In line with the requirements of Data Protection laws there is no charge for obtaining copies of records unless your request is deemed unfounded or excessive.*

## How do I access information about the Trust?

On our Trust website you will find information relating to locations of services and departments, documentation and contact details. We also have a publication scheme and will regularly publish details of Board Meetings, our Annual Reports and future plans.

If you cannot find the information you require on our website, you can make a Freedom of Information request, in writing to the Data Access and Disclosure Office. The request can either be made using the form on our web site or a letter, but it must be in writing. Anyone can make a request for information and you are not required to tell us the purpose of the request.

In order for us to process the request, we will need your name, either a postal address or email address so that we can send our response and, if possible, a contact number in case there are any queries with the request. There is no fee for these requests and we will respond to your request within **20 working days**.

You may also make a request for information under the Environmental Information Regulations (EIR) 2004. Requests under EIR relate to information about land use, waste, energy, food contamination, pest control, pollution, refuse, waste management, and dog patrol. We should respond within **20 working days**, however for complex requests this may be extended to **40 working days**.

