PERSONAL FILES PROCEDURE

If you require a copy of this policy in an alternative format (for example large print, easy read) contact the Accessible Information team on 0300 456 8373 who will be able to advise you

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Date of Issue:	January 2016	**Next Review Date:**	November 2026
Version:	1.5	**Last Review Date:**	November 2024
Author:	Employee Relations team		
Directorate:	People and Education Directorate		
Approval Route			
Approved By:		**Date Approved:**	
For Information Only: JCNC, LNC & LCNC		21 October & 23 October 2014	
Links or overlaps with other policies:			
Leavers Procedure			
Induction Policy and Procedure (T2)			

Amendment History

Issue	Status	Date	Reason for Change	Authorised
1.2	Approved	3.12.14	Detail on info to keep after employee leaves	Deputy Director of Workforce & OD
1.3		5.1.16	Revision of Trust Logo and removal of requirement to keep AL cards if on ESR	Deputy Director of Workforce & OD
1.4	Approved	July 2021	Updated wording around People Hub Team & People Directorate / contact details / logo / Version / date	People Hub
1.5	Approved	November 2024	General review and updated wording to Employee Relations Team.	Employee Relations team

Rapid (E)quality Impact Assessment (EqIA) *(for use when writing policies)*

Please contact the Equalities team for guidance: For Torbay and South Devon NHS Trusts, please call 01803 656676 or email pfd.sdhct@nhs.net **This form should be published with the policy and a signed copy sent to your relevant organisation.**

Policy Title (and number)	Personal Files Procedure	**Version and Date**	v1.5 November 2024
Policy Author	Employee Relations Team		

An (e)quality impact assessment is a process designed to ensure that policies do not discriminate or disadvantage people whilst advancing equality. Consider the nature and extent of the impact, not the number of people affected.

Who may be affected by this document?

Patients/ Service Users ☐	Staff ☒	Other, please state… ☐

Could the policy treat people from protected groups less favorably than the general population?
PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below

Age	Yes ☐ No☒	Gender Reassignment	Yes ☐ No☒	Sexual Orientation	Yes ☐ No☒
Race	Yes ☐ No☒	Disability	Yes ☐ No☒	Religion/Belief (non)	Yes ☐ No☒
Gender	Yes ☐ No☒	Pregnancy/Maternity	Yes ☐ No☒	Marriage/ Civil Partnership	Yes ☐ No☒

Is it likely that the policy could affect particular 'Inclusion Health' groups less favorably than the general population? (substance misuse; teenage mums; carers[1]; travellers[2]; homeless[3]; convictions; social isolation[4]; refugees)	Yes ☐ No☒

Please provide details for each protected group where you have indicated 'Yes'.

VISION AND VALUES: Policies must aim to remove unintentional barriers and promote inclusion

Is inclusive language[5] used throughout?	Yes ☒ No☐ NA ☐
Are the services outlined in the policy fully accessible[6]?	Yes ☒ No☐ NA ☐
Does the policy encourage individualised and person-centered care?	Yes ☒ No☐ NA ☐
Could there be an adverse impact on an individual's independence or autonomy[7]?	Yes ☐ No☐ NA ☒

EXTERNAL FACTORS

Is the policy a result of national legislation which cannot be modified in any way?	Yes ☒ No☐

What is the reason for writing this policy? (Is it a result in a change of legislation/ national research?)

To ensure that personal files comply with the requirements of the Data Protection Act.

Who was consulted when drafting this policy?

Patients/ Service Users ☐	Trade Unions ☒	Protected Groups (including Trust Equality Groups) ☐
Staff ☒	General Public ☐	Other, please state… Health and Safety ☒

What were the recommendations/suggestions?

Does this document require a service redesign or substantial amendments to an existing process? ***PLEASE NOTE: 'Yes' may trigger a full EIA, please refer to the equality leads below***	Yes ☐ No☒

ACTION PLAN: Please list all actions identified to address any impacts

Action	**Person responsible**	**Completion date**
None required		

AUTHORISATION:
By signing below, I confirm that the named person responsible above is aware of the actions assigned to them

Name of person completing the form	ER Team Lead	
Validated by (line manager)	ER Service Manager	

Consider any additional needs of carers/ parents/ advocates etc, in addition to the service user
[2] Travelers may not be registered with a GP - consider how they may access/ be aware of services available to them
[3] Consider any provisions for those with no fixed abode, particularly relating to impact on discharge
[4] Consider how someone will be aware of (or access) a service if socially or geographically isolated
[5] Language must be relevant and appropriate, for example referring to partners, not husbands or wives
[6] Consider both physical access to services and how information/ communication in available in an accessible format
[7] Example: a telephone-based service may discriminate against people who are d/Deaf. Whilst someone may be able to act on their behalf, this does not promote independence or autonomy

Contents

1 Statement 5
2 Purpose 5
3 Scope 5
4 Equality and diversity statement 5
5 Manager's responsibilities 5
6 One personal file for each employee 6
7 Contents of the personal file 7
8 Retention of personal file when an employee leaves the Trust 10
9 Summary of personal file when an employee leaves the Trust 11
10 Confidentiality 11
11 Requests to view a personal file 12
12 Training and awareness 12
13 Contact details 12
14 Monitoring, audit and review procedures 12
15 Appendix 1 – tips for organising personal files 13
16 Appendix 2 – personal files checklist 14
17 Appendix 3 – person to contact in case of emergency 15

1 Statement

1.1 In keeping with the principles of the Data Protection Act 2018 information stored manually and on computers should only contain information which is collected for a legitimate purpose and is neither excessive in detail nor kept for any longer than is necessary.

2 Purpose

2.1 The aim of this procedure is to ensure that personal files comply with the requirements of the Data Protection Act. Employees have the right to see their personal files, both manual and automated under the Data Protection Act 2018. It is concerned with information that the Trust might collect and keep on any individual who might wish to work, work or have worked for us.

3 Scope

3.1 This policy applies to all employees of Torbay and South Devon NHS Foundation Trust.

4 Equality and diversity statement

4.1 The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): sexual orientation; gender; age; gender re-assignment; pregnancy and maternity; disability; religion or belief; race; marriage and civil partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.

4.2 The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis.

5 Manager's responsibilities

5.1 Managers should comply with this policy and ensure that only relevant data is maintained and is kept accurate and up to date.

5.2 Managers should note that the employee has the right to:

- Access to information that is kept about them;
- Know what is being processed;
- Know why the data is being processed;
- Know who might receive the data;
- Be told the source of the data, except in limited circumstances;
- Know the logic involved in decision making where data is processed automatically (e.g. psychometric tests) and the right not to have significant decisions made based on the results of this processing;
- Prevent processing likely to cause damage or distress;
- Prevent processing for direct marketing.

6 One personal file for each employee

6.1 Where an existing or past employee applies for a new post the appointing manager should locate and retrieve their existing/previous personal file where it is still available.

6.2 Where staff are on a secondment or have split posts a decision should be made as to who holds the personal file. Normally this will be the manager that is responsible for the achievement review (appraisal).

6.3 Tips for organising personal files can be found at appendix 1.

7 Contents of the personal file

7.1 The personal file to include the following from the start of employment:

Item	Additional information/detail
Personal file checklist	See appendix 2 in this policy.
Application form	-
Interview notes	-
Proof of identity	For example, birth certificate, passport, driving licence.
Proof of right to work in the UK	Further detail can be found on the GOV.UK website here
References	Where appropriate one should be from the employee’s current line manager.
Offer letter	-
New starter form	-
Contract	Signed by employee.
Occupational Health clearance	Stating fit to work or with appropriate advice/recommendations.
Disclosure and Barring Service (DBS) check (if appropriate)	Completed by the Resourcing team.
Proof of professional registration (if appropriate)	Proof of professional registration should be checked with the professional body prior to commencement of employment. A number of professional checks can now be done online or via the telephone.
Proof of qualifications (as appropriate)	Copies to be retained on file.

Induction plan	This could include Trust and local induction requirements. Managers may wish to include the induction checklist that is contained within the Induction Policy and Procedure (T2).
Job description	A copy of the current job description. The annual achievement process can act as a trigger for reviewing job descriptions, which should be agreed with the employee concerned. It is useful to keep copies of old job descriptions.
Current address	The current address of the employee must always be kept up to date. A change of circumstances form should be completed to update payroll and ESR.
Emergency contact details	Details should be kept up to date – using appendix 3 in this policy.
Deductions	Details of authorisations for deductions should be kept on file, signed and dated, e.g. lease car arrangements, salary sacrifice schemes.
Change of circumstance forms	Change of circumstance forms to indicate agreement for a change, e.g. in hours, pay band, base or temporary to permanent posts. They should also be consecutive in date if extending temporary contracts. Change of circumstance forms effectively amend an individual's terms and conditions of employment, although each minor change does not mean the individual requires a new contract, e.g. change in hours. However, where terms and conditions of employment have altered significantly it may be advisable to consider issuing a new contract. Contact the Resourcing team for advice if you think an individual may need a new contract.
Correspondence	Any correspondence (formal or informal) in respect of payroll, pensions or employee relations queries should be included e.g. relating to behaviour, sickness or conduct.
Achievement reviews	All achievement reviews should be filed, including personal development plans.
Training courses	All relevant information should be filed. This will form part of the employee's continuing professional development (CPD).
Sickness records	Copies of all correspondence relating to sickness absence, e.g. self-certification forms, fit notes, return to work forms, keeping in touch information and all formal letters, must be filed.

Annual leave records	These records need to be retained only for two years and only if not available through ESR.
Special leave records	All requests and correspondence must be retained for three years.
Supervision or one-to-one notes	Notes from supervision or 121's should be retained on file.
Records of disciplinary action	Formal warnings expire after a set period of time and should be destroyed once expired. Contact the Employee Relations team for advice if required.

8 Retention of personal file when an employee leaves the Trust

8.1 The termination of an employment relationship does not mean that all records should be deleted; there may be a real business need to retain some of them (see point 8.4 below). For example, it may be necessary to retain some information with which to enable references to be provided in the future or in respect of the employee's pension arrangements. It is important to retain information on the personal file that is still needed; eliminate personal information that is no longer of any relevance.

8.2 Ex-employee files should be kept for six years after individual leaves the Trust.

8.3 Ensure that information that is to be disposed of is securely and effectively destroyed.

8.4 The following is a guide to information to be retained on the personal file:

Record	Statutory retention period	Statutory authority
Accident records/reports	3 years from the date of the last entry (or, if the accident involves a child/ young adult, then until that person reaches the age of 21).	The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) (SI 1995/3163) as amended, and Limitation Act 1980. Special rules apply concerning incidents involving hazardous substances (see below).
Statutory Maternity Pay records, calculations, certificates (Mat B1s) or other medical evidence	3 years after the end of the tax year in which the maternity period ends	The Statutory Maternity Pay (General) Regulations 1986 (SI 1986/1960) as amended
Records relating to working time	2 years from date on which they were made	The Working Time Regulations

Recommended (non-statutory) retention periods:

Record	Recommended retention period
Application forms and interview notes (for unsuccessful candidates)	6 months to a year. (Because of the time limits in the various discrimination Acts, minimum retention periods for records relating to advertising of vacancies and job applications should be at least 6 months. A year may be more advisable as the time limits for bringing claims can be extended. Successful job applicants documents will be transferred to the personnel file in any event

Record	Recommended retention period
Assessments under health and safety regulations e.g. workplace risk assessments	Indefinite
Personnel files and training records (including disciplinary records, capability, PDR, sickness records, contract documentation, last annual leave card and time cards/flexible working documents e.g. flexi leave)	6 years after employment ceases
Statutory Sick Pay records, calculations, certificates, self-certificates	6 years after employment ceases

9 Summary of personal file when an employee leaves the Trust

9.1 It is recommended that managers comply with the retention periods above and keep the following information after the employee leaves:

- Application form (to reference employment history);
- Copy of contract;
- Latest change of circumstances form (if relevant);
- Job description;
- Final achievement review paperwork;
- Up to date sickness record;
- Final annual leave record or record from ESR;
- Copy of the termination form;
- Copy of resignation letter (if relevant);
- Copy of MARS agreement (if relevant);
- Copy of employee references provided by the Trust (if relevant);
- Documentation relating to any ‘live’ warning’s on file.

9.2 The individual has the right of access to this summary using a subject access request.

9.3 Handwritten notes relating to management observations, conversations, reminders etc. should be kept separately where necessary in manager’s own notes or diary or if no longer relevant can be destroyed.

10 Confidentiality

10.1 Personal files should never be left in areas where others could access them and should be kept securely in a locked filing cabinet.

11 Requests to view a personal file

11.1 Requests for access to personal files must be made in writing. Further details can be found on the Information Governance pages here

11.2 Full information regarding Data Protection and Freedom of Information Laws and how to submit a request can be found here

12 Training and awareness

12.1 All individuals with be responsible for completing mandatory Information Governance Training.

12.2 Advice and support will be provided by the Employee Relations team to support staff and managers in adhering to this procedure

12.3 The Information Governance team will provide advice and guidance regarding Data Protection and Freedom of Information laws.

12.4 The Employee Relations team will raise awareness of this policy through the publication of information on ICON and to advise staff of changes to the procedure through the staff bulletin and ratification processes.

13 Contact details

13.1 Any queries regarding this policy should be directed to the Employee Relations team within the People and Education Directorate:

- Email – tsdft.employeerelations@nhs.net or
- Advice line – 01803 655754 (ext. 55754)

14 Monitoring, audit and review procedures

14.1 This policy will be monitored and audited on a regular basis. A full review will take place every two years by the People and Education Directorate unless legislative changes determine otherwise.

15 Appendix 1 – tips for organising personal files

Managers are welcome to design their own system for organising the personal files of their staff however they may find the following tips useful.

- File contents in date order with the earliest document first.
- Have separate sections for different items, for example:
  - General correspondence
  - Change of circumstances forms
  - Training and study leave details
  - Achievement review records
- Using cardboard files with clips on both sides and dividers will help separate the contents.
- When destroying the contents of personal files ensure you treat them as confidential waste.
- On the front of each file detail the employee's name, current base, and start date with the Trust.
- Files for existing employees and employees that have left the Trust should be kept separately, in surname order.
- Start a new file for each new individual.

- Include a photograph of the employee if you have one.

16 Appendix 2 – personal files checklist

Personal file checklist	In file – Yes or No
Application form	
Advert	
Proof of identity	
Proof of right to work in the UK	
References	
Offer letter	
New starter form	
Contract	
Occupational Health clearance	
Disclosure and Barring Service (DBS) check (if appropriate)	
Proof of professional registration (if appropriate)	
Proof of qualifications (as appropriate)	
Induction plan	
Job description	
Current address and telephone numbers	
Emergency contact details	
Achievement reviews	
Annual leave records	

17 Appendix 3 – person to contact in case of emergency

PRIVATE AND CONFIDENTIAL

In order that we are in a position to contact someone in case of an emergency, please provide details of your next of kin or a person to be contacted

Employee name:	
Department:	
Name of contact:	
Relationship to employee:	
Address of contact:	
Telephone numbers:	Home: Mobile: Work:
Email address:	

Signed: ____
(Employee)

Date: ____

This form should be handed to your manager for your personal file as soon as you commence in post or updated as needed