



**Blackpool Teaching
Hospitals**

NHS Foundation Trust

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		Status: Ratified
Target Audience: Information Governance, Data Access and all staff involved in facilitating SARs		Divisional and Department: Information Governance
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Blackpool Teaching Hospitals NHS Foundation Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that they are not placed at a disadvantage over others. The Equality Impact Assessment Tool is designed to help you consider the needs and assess the impact of your policy in the final Appendix.		

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1 PURPOSE

To provide clear and concise instructions for Blackpool Teaching Hospitals staff that process, facilitate or receive requests for personal data from staff, patients and 3rd parties under The Data Protection Act 1998 (DPA) and Access to Health Records Act 1990 (AHR) and The Medical Reports Act 1988 (MRA).

2 TARGET AUDIENCE

This is an Information Governance Departmental Procedure, however all employees in departments within the Trust who are asked to participate in the facilitation of such requests should be made aware of the content in order to comply with The Data Protection Act 1998, Access to Health Record Act 1990 and The Medical Reports Act 1988.

2.1 Law and legislation

The Data Access Team (DAT) is responsible for facilitating requests for personal information under the following legislation to ensure that Blackpool Teaching Hospitals NHS Foundation Trust is complying with the law.

Under The Data Protection Act 1998 (DPA), living individuals have the right to access their personal information which is held by any organisation. This right can also be exercised by an authorised representative on the individual's behalf. Subject access requests are covered under this legislation.

On 25th May 2018 The DPA will be replaced by The General Data Protection Regulations (GDPR) this will be supported by a The Data Protection Bill.

The Access to Health Records Act 1990 (AHR) grants specified persons access to a deceased individual's health records (this does not include any other record i.e. personnel records) The person who is requesting this information must be the deceased's personal representative or have a valid claim arising from the patient's death. Requests for information under this legislation do not come under subject access and are dealt with on a case to case basis.

The Medical Reports Act 1988 (MRA) gives individuals the right for to have access to reports relating to themselves provided by medical practitioners for employment or insurance purposes.

3 PROCEDURE

A subject access request (SAR) is a written request made by or on behalf of an individual for personal information they are entitled to under section 7 of the Data Protection Act 1998.

A SAR must be made in writing, either by email, post or hand delivered. DAT provides a standard form for access to personal information; this can be found [here](#) along with additional methods of sending a SAR.

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Personal data can be determined using the following guidance: [Determining what is personal data](#)

Various exemptions from the right of subject access apply in certain circumstances or to certain types of personal data. They can be found here: [Exemptions](#)

3.1 Address for Requests

All requests for personal information should be emailed promptly to the Data Access inbox: bfwh.data.access@nhs.net or posted to The Data Access Team, Home 15, Blackpool Victoria Hospital, Whinney Heys Road, Blackpool, FY3 8NR. A number of departments are able to facilitate a request for information without contacting DAT. A full list of the departments can be found in Appendix A).

3.2 Receiving a Request

Requests for personal information should be retrieved in post format from the local post room and in electronic format from the Data Access Team inbox at the beginning of each working day. They should then be date stamped and distributed to the team to process.

3.3 Validating a Request

In order for the request for information to be valid, the following specific criteria must be established:

1. The request must be in writing
2. The request must be accompanied by the appropriate fee Please see 3.9 Fees for information regarding fees under GDPR.
3. The Data Controller must be satisfied as to the identity of the requester
4. The Data Subjects consent must be confirmed where appropriate
5. A Lasting Power of Attorney is valid for access to health information

Requests will be monitored for:

1. parental responsibility
2. child competency
3. Mental Capacity
4. Safeguarding

Where a request states that litigation or potential litigation is intended against the Trust, the request must be sent directly without delay to the Legal Team to facilitate.

Staff may seek advice form the DAT or the Information Governance Team if there are any concerns over the validation of a request.

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3.4 Ulysees Requests for Information (RFI) System

All requests are logged and managed using the RFI system. All actions and correspondence must be recorded in the system, with clear messages, staff names and the corresponding dates when the action took place. Information must always be attached such as PDFs, emails etc.

3.5 Status of the Request

The system has a variety of statuses that should be used throughout the process in order to identify progress and helps to identify where the request is up to at a glance.

3.6 Registering a Request

All requests (except those with litigation intended) must be logged onto the Ulysees (RFI) system along with any additional information necessary in the notes box of the system. The original request must be scanned and attached to the request.

3.7 Clock

The clock will start when a request is registered. It can be stopped at any point in the process e.g. when more information is required to validate the request. The clock is restarted when all sufficient information is received.

3.8 Timescales

Under the Data Protection Act 1998, Blackpool Teaching Hospitals NHS Foundation Trust (BTH) is obliged to facilitate all SARs within 40 calendar days (subject to payment where applicable – see item 3.9, Fees for more information).

Under GDPR, BTH must provide the requested information without delay within one month of receipt of a SAR. BTH is able to extend the period of compliance by a further two months where requests are complex and numerous. If this is the case BTH must explain to the individual within one month why an extension is necessary.

Under The Access to Health Records Act 1990 BTH is obliged to facilitate requests for deceased individuals' health records within 40 days.

Under GDPR, the timescale to comply with a request under AHR will be reduced to 30 days.

A data subject or personal representative who wishes to view personal information will be provided with a suitable appointment within the appropriate timescales or otherwise by agreement.

3.9 Fees

Fees are dependent on the information requested and the method of access. All fees include postage costs.

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Fees for copies of personal information:

- Electronically held information £10.00.
- Paper held information only £50.00.
- Combination of information held electronically and in paper format £50.00.

If the data subject or personal representative wishes to view personal information:

- a maximum fee of £10 regardless of format
- if the records have been added to within the 40 days prior to the request there will be no charge.

Under GDPR, BTH must provide a copy of requested information for a SAR or a request under AHR free of charge. However, BTH can charge a reasonable fee when a request is manifestly unfounded, excessive or if further copies of the same information are requested. The fee must be based on the administrative cost of providing the information. Each request will be assessed on an individual basis.

3.10 Invoicing and Receipting

Invoices will be generated using a template in the RFI system.

3.11 Fees Received

The Accounts Department notify DAT of fees received. When confirmation of payment has been received in DAT the status is amended to reflect this and the clock started again.

3.12 Retrieving Information

DAT will be responsible for identify the information and timely retrieval for the following information.

If the information required is held off site (BTH) DAT will locate and request the information form the relevant service area. All staff will be expected to facilitate any request from the DAT in a timely manner.

3.13 Permissions

DAT will seek permission to release from the health professional in charge of the patients care for each of the episodes requested.

3.14 Photocopying

DAT are responsible for photocopying Acute Health Records. Community Service Areas are responsible for photocopying records for their own service areas and providing these copies to DAT to check and disclose to the requester.

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3.15 Third Party Review

DAT are trained to review health records for third party information. Any concerns will be raised with the health professionals responsible for the episode of care.

3.16 Redaction

The DAT have a professional redaction tool which must be used at all times if information is to be withheld. Any redacted documentation must be accompanied by a valid reason for non-disclosure.

3.17 Dispatch

All addresses will be checked by the DAT before dispatch. All information must be sent using recorded delivery. Tracking information is held by the Post Room.

Information sent by email must be sent securely in line with the Trust Email Policy.

All information sent by post will be placed in a non-reusable polylope marked 'Private and confidential' 'To be opened by the addressee only'

Data subjects or their nominated representative may pick up their information in person facilitated by the DAT and other approved areas in Appendix A.

3.18 X-Rays

The X-ray Department is responsible for administering their own SAR's for X-rays where no other information has been requested.

If a request contains health records and X-rays, the DAT will liaise with the X-ray Department to facilitate the request within the time frame.

3.19 Breaches

Breaches are monitored and recorded on the DAT departmental database. All breaches are investigated and the cause is recorded. Breaches are reported to the Information Governance Risk Assurance Group (IGRAG) and the Health Informatics Committee (HIC) via the Information Governance key indicators.

3.20 Training and Manuals

Trust wide training and awareness around Subject Access Requests is included in staff mandatory training that is completed annually.

3.21 Standard Operating Procedures (SOPs)

Departmental Standard Operating Procedures (SOP's) are held in the Information Governance Department, and will be reviewed at regular intervals or when there is a change in process or legislation. SOPS will be reviewed to comply with GDPR.

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3.22 Blocking, Rectifying and Deleting Data

Where a request is made to rectify, block, erase or delete their personal data this will be facilitated by the DAT in conjunction with the appropriate Health Professional. A record of annotations, removal, blocking or any other actions undertaken will be held by DAT.

3.23 Records Management

The information held on RFI and copies of documents collated as part of this procedure is kept in line with Records Management NHS Code of Practice.

3.24 Access Control

The RFI system is managed by the Risk Management Team. Requests for access to the system should be directed here.

3.25 Business Continuity and System Downtime

DAT is expected to manage the workload (including cover in the absence of their colleagues) and adhere to this procedure at all times.

During RFI downtime an email is circulated from the Risk Management Department via Trust Communications to inform users of downtime. DAT will revert to Standard Operating Procedures during downtime.

4 ATTACHMENTS	
Appendix Number	Title
Appendix A	Departments that facilitate their own Subject Access Requests within the Trust
Appendix B	Equality Impact Assessment Form

5 PROCEDURAL DOCUMENT STORAGE (HARD AND ELECTRONIC COPIES)
Electronic Database for Procedural Documents
Held by Procedural Document and Leaflet Coordinator

6 LOCATIONS THIS DOCUMENT ISSUED TO		
Copy No	Location	Date Issued
1	Intranet	14/03/2018
2	Wards, Departments and Service	14/03/2018

7 OTHER RELEVANT / ASSOCIATED DOCUMENTS	
Unique Identifier	Title and web links from the document library
CORP/POL/064	Data Protection 1998 Policy - http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-POL-064.docx

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7 OTHER RELEVANT / ASSOCIATED DOCUMENTS	
Unique Identifier	Title and web links from the document library
CORP/POL/068	Email and Instant Messaging (IM) Policy- http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-POL-068.docx
CORP/POL/554	Email Retention Policy http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-POL-554.docx
CORP/POL/666	Safeguarding Adults Guidance and Procedures (Including Adults who find themselves in situations that make them vulnerable and in need of safeguarding and protection) http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-PROC-666.docx
CORP/PROC/116	Disclosure of Information to the Police Procedure - http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-PROC-116.docx
	Access to Information http://fcsp.xfyldecoast.nhs.uk/l/ig/Pages/AccessstoInformation.aspx

8 SUPPORTING REFERENCES / EVIDENCE BASED DOCUMENTS	
References In Full	
Crown. (1988). Access to Medical Reports Act 1988. Available: https://www.legislation.gov.uk/ukpga/1988/28/contents . Last accessed 23/02/2018.	
Crown. (1998). Data Protection Act 1998. Available: https://www.legislation.gov.uk/ukpga/1998/29/contents . Last accessed 23/02/2018.	
Crown. (1990). Access to Health Records Act 1990. Available: https://www.legislation.gov.uk/ukpga/1990/23/contents . Last accessed 23/02/2018.	
Crown. (2017 - 2019). Data Protection Bill [HL] 2017-19. Available: https://services.parliament.uk/bills/2017-19/dataprotection.html . Last accessed 23/02/2018.	
European Union Law. (27/04/2016). Regulation (EU) 2016/679 Of The European Parliament And Of The Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). Available: http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32016R0679 . Last accessed 23/02/2018.	
Information Commissioners Office. Subject Access exemptions: https://ico.org.uk/for-organisations/guide-to-data-protection/exemptions/ Last accessed 08/02/2018	
Information Commissioners Office. Determining what is personal data https://ico.org.uk/media/for-organisations/documents/1554/determining-what-is-personal-data.pdf . Last accessed 08/02/2018	
NHS Digital. (2016). Records Management Code of Practice for Health and Social Care 2016. Available: https://digital.nhs.uk/article/1202/Records-Management-Code-of-Practice-for-Health-and-Social-Care-2016 . Last accessed 23/02/2018.	

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9 CONSULTATION / ACKNOWLEDGEMENTS WITH STAFF, PEERS, PATIENTS AND THE PUBLIC		
Name	Designation	Date Response Received
Hayley Atkinson	Information Governance Manager	
Nick Lane	Head of Therapies	09/04/2018
Vicky Buddo	Head of Sexual Health Services	09/04/2018
Lorraine Koratzitis	Head of Blackpool Locality	09/04/2018

10 DEFINITIONS / GLOSSARY OF TERMS	
AHR	The Access to Health Records Act 2000
BTH	Blackpool Teaching Hospitals NHS Foundation Trust
DAT	The Data Access Team
Data Subject	An individual who is the subject of personal information
DPA	The Data Protection Act 1998
GDPR	General Data Protection Regulations
HISS	Hospital Information Support System
IG	Information Governance
MRA	The Medical Reports Act 1988
PAS	Patient Administration System
RFI	Requests for Information
SAR	Subject access request

11 AUTHOR / DIVISIONAL / DIRECTORATE MANAGER APPROVAL			
Issued By	Rachael Boothroyd	Checked By	
Job Title	Data Access Manager	Job Title	Health Informatics Committee
Date	23/02/2018	Date	14/03/2018

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APPENDIX A: LIST OF DEPARTMENTS THAT FACILITATE THEIR OWN SUBJECT ACCESS REQUESTS WITHIN THE TRUST

Occupational Health

Cardiology (ECGs)

X-ray

Payroll

Safeguarding – Please refer to

<http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-PROC-666.docx>

Legal Department

Hospital Safety Team

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APPENDIX B: EQUALITY IMPACT ASSESSMENT FORM					
Department		Service or Policy		Date Completed:	
GROUPS TO BE CONSIDERED Deprived communities, homeless, substance misusers, people who have a disability, learning disability, older people, children and families, young people, Lesbian Gay Bi-sexual or Transgender, minority ethnic communities, Gypsy/Roma/Travellers, women/men, parents, carers, staff, wider community, offenders.					
EQUALITY PROTECTED CHARACTERISTICS TO BE CONSIDERED Age, gender, disability, race, sexual orientation, gender identity (or reassignment), religion and belief, carers, Human Rights and social economic / deprivation.					
QUESTION	RESPONSE		IMPACT		
	Issue	Action	Positive	Negative	
What is the service, leaflet or policy development? What are its aims, who are the target audience?	No				
Does the service, leaflet or policy/ development impact on community safety • Crime • Community cohesion	No				
Is there any evidence that groups who should benefit do not? i.e. equal opportunity monitoring of service users and/or staff. If none/insufficient local or national data available consider what information you need.	No				
Does the service, leaflet or development/ policy have a negative impact on any geographical or sub group of the population?	No				
How does the service, leaflet or policy/ development promote equality and diversity?	No				
Does the service, leaflet or policy/ development explicitly include a commitment to equality and diversity and meeting needs? How does it demonstrate its impact?	No				
Does the Organisation or service workforce reflect the local population? Do we employ people from disadvantaged groups	No				
Will the service, leaflet or policy/ development i. Improve economic social conditions in deprived areas ii. Use brown field sites iii. Improve public spaces including creation of green spaces?	No				

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Does the service, leaflet or policy/ development promote equity of lifelong learning?	No			
Does the service, leaflet or policy/ development encourage healthy lifestyles and reduce risks to health?	No			
Does the service, leaflet or policy/ development impact on transport? What are the implications of this?	No			
Does the service, leaflet or policy/development impact on housing, housing needs, homelessness, or a person's ability to remain at home?	No			
Are there any groups for whom this policy/ service/leaflet would have an impact? Is it an adverse/negative impact? Does it or could it (or is the perception that it could exclude disadvantaged or marginalised groups?	No			
Does the policy/development promote access to services and facilities for any group in particular?	No			
Does the service, leaflet or policy/development impact on the environment <ul style="list-style-type: none"> • During development • At implementation? 	No			
ACTION:				
Please identify if you are now required to carry out a Full Equality Analysis		Yes	No	(Please delete as appropriate)
Name of Author:		Date Signed:		
Signature of Author:				
Name of Lead Person:		Date Signed:		
Signature of Lead Person:				
Name of Manager:		Date Signed:		
Signature of Manager				

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