

How to access health or non-health records held by Surrey and Borders Partnership NHS Foundation Trust.

This guidance explains more about the different types of record that are kept and why, and how you can apply to access your own records or the records of someone else (in certain circumstances)



About records

What do we mean by 'records'?

We make a record every time someone receives care, support, or treatment from us. There are different types of record that we use:

- A **health record** is written information relating to the physical or mental health of a person who uses our services. This information has been compiled by a health or social care professional. For example, this might be information about a period of time you spent being supported by one of our teams, medications you were prescribed, and about any changes to your mental health.
- A **non-health record** is any other information about you and your treatment. For example, this might include emails, staff records, or CCTV.

Why do we keep healthcare records?

It is our responsibility to record, report and keep information about the treatment somebody has received from us. This means that any health and social care professional who is involved with your care has accurate information about your health and about the care you have received. This helps staff, in partnership with you, to assess and meet your needs.

After you have finished receiving care from us, we will keep the information we hold about you for a period of time – at the moment the Department of Health recommends we keep it for a maximum of 20 years.

Who can see your healthcare records?

Only a health or social care professional who is involved with your care, or who is providing support to those caring for you, may see details of your care. For example, mental health workers and some administrative staff in the team supporting you would be able to see your records. All our staff are trained to keep to strict rules about how to use information and how to keep it confidential.

We would not normally share information about you with anyone who is not involved with your care, but there are times when we are legally obliged to do this. The Trust leaflet about Information Sharing tells you more about these situations.

What can you access?

Different pieces of legislation cover what you can request from our records about you:

- **The Data Protection Legislation** gives people who use our services the right of access to your own health records held both electronically and in a manual form. However, if the health or social care professional responsible for your clinical care believes information is likely to cause serious harm to your physical or mental health (or harm to others) then they can hold that information back. They do not have to tell you that they have done this. We also cannot release to you information from or about another person without their written consent. For example, if your records include information about a family member then we cannot give you that information.
- **The Access to Health Records Act 1990** covers accessing information about someone who is deceased. We keep records for 8 years after someone has passed away. Applications can be made by the deceased persons' representative or by any person who may have a claim arising out of that person's death. For example, the relative of someone who has died might apply to see the deceased person's information. There are strict rules about what information can be shared, and sometimes requests may be denied.

If you are not sure about what you can apply to access, or feel your application has not been treated fairly, please contact us – the details are at the back of this document.

What can you request?

Like all NHS organisations, there is strict legislation about the information we can hold about people using our services, our staff, and about Trust members. This legislation gives you 'data rights' about how we can use your information.

- **The right of access.** This means you have the right to know whether we have personal data concerning you and if so, gives you the right to access it.
- **The right to rectification.** If the information we hold on you is wrong, then you have the right to have it corrected. Please note this does not mean you can apply to have medical opinions or diagnoses changed.

- **The right to erasure.** This is sometimes called the right to be forgotten and is about whether you can ask for your information to be deleted. Please note that other legislation may mean we have to keep your information for a number of years.
- **The right to restriction of processing.** This means you have a right to limit the way we use your personal data, however there are rules and exceptions.
- **The right to be informed.** This is the right to ask “who gets to see my personal data”.
- **The right to data portability.** This means if we need to be able to provide you with your data in a reusable format, however there are rules and exceptions
- **The right to object.** This does indeed mean what it says: if you don't want it used for, e.g. research, you can say so.
- **Rights relating to automated decision making and profiling.** This is about using computer programs to make decisions. We do not currently use your data in this way.

When you apply for access to your records you can specify whether you're applying for any of these reasons.

Can you apply on someone else's behalf?

Yes – you can apply to access someone else's records, but you will need to give us that person's consent in writing and provide suitable identification documents. For example, a parent or guardian, representative or advocate, or a person appointed by a court can apply to see someone else's records but in all cases you will also need permission from that person. If a person does not have capacity then we will make the decision with the person health care professional.

Where someone has died, their next of kin or executor may also apply if there is a claim arising from the person's death, or if they have a legitimate reason for applying and have the evidence to support their request. Please provide this on the form for us to help your request.

Can you apply to see a young person's records?

Parents or guardians may request access to a young person's records, and a young person usually over the age of 13 can apply to see their own records. In all cases the young person must be able to give informed consent to accessing records, which means they must understand what they are asking for.

There are standard ways for us to work out whether a young person is capable of giving consent, and this process is often called **Gillick Competence**. We may use this to work out whether they are able to make an informed decision.

If the young person is under 13, or is not able to make an informed decision, then the Trust will decide whether releasing the information is in the young person's best interest.

Can Employers see my health records?

No, not without your consent. Health records are confidential and only you or your authorised representative have the right to access them.

Accessing records

How can you access the records?

To request access to your records please complete our form and send it, with any documents that support your application, to us. The form explains what you need to send in with your application.

The form can be downloaded from the Trust website once you have completed the form, you can return it by:

- **Email.** Download the form from the Trust website and email it back, with copies of your documents, to: Records.Team@sabp.nhs.uk. Once we receive your information we will keep it secure.
- **Post.** Send your completed form and documents to **Records Management, Central Records Library, Surrey & Borders Partnership NHS Foundation Trust, 18 Mole Business Park, Leatherhead, Surrey KT22 7AD**

If you find it difficult to complete the form then we can send you a larger print, Braille, or Easy Read version, or you may want to contact your local Citizens Advice Bureau for some help.

How long will it take for my application to be processed?

The different pieces of legislation have different deadlines for us to process your request.

- **Data Protection Act 2018:** we have **one month** from the date we receive your application to provide your information. However we may contact you first to make sure we know exactly what you are asking for, and if your request is particularly complex we are allowed to take a **total of three months** to provide the records.

- **Access to Health Records Act 1990:** we have 40 days to give you access to the records unless new entries have been made in the record in which case we need to respond in 21 days We can also provide copies in larger print, Braille and Easy Read if this is what you need.

Is there a cost for accessing my records?

No. However, we can charge you a reasonable fee if your request is repetitive or excessive.

What can I do if I am not satisfied with the outcome of my application?

Our aim is to ensure that you are satisfied with the ways in which we look after your healthcare records and provide access to them. However if you are unable to resolve your concerns or would like to take the matter further, please contact:

<p>Caldicott Guardian</p> <p>Surrey and Borders Partnership NHS Foundation Trust</p> <p>18 Mole Business Park</p> <p>Leatherhead</p> <p>Surrey KT22 7AD</p> <p>Tel: 0300 555 5222</p>	<p>you can also contact:</p> <p>The Information Commissioner</p> <p>Wycliffe House</p> <p>Water Lane</p> <p>Wilmslow</p> <p>Cheshire SK9 5AF</p>
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