

Date 07/05/2025
Your Ref
Our Ref 10069

Enquiries to Richard Mutch
Extension 35687
Direct Line 0131 465 5687
loth.freedomofinformation@nhs.scot
richard.mutch@nhs.scot

Dear

FREEDOM OF INFORMATION – PERSONAL INFORMATION

I write in response to your request for information in relation to personal information.

Question:

I'd like to submit a freedom of information request and request who has accessed my personal health records and data. I'd also like a reason as to why it has been accessed on each instance.

Answer:

I must advise you that the information you have requested comes under Section 38 of the Freedom of Information Act (Scotland) 2002 – Personal Information. The Act says:

- Where the person making the request has asked for information about themselves – or someone they are the legal guardian/Power of Attorney for (Section 38(1)(a)). There is an absolute exemption where the information constitutes personal data of which the person is subject. This is known as a subject access request and falls under the remit of the Data Protection Act (2018). The rules under the DPA will determine whether the person has a right to the information. The application cannot be considered under the FOI(S)A 2002. The effect of the exemption is not to deny individuals a right to access information about themselves but to ensure the right is exercised under the DPA.
- Where the person making a request has asked for information about a third party – Absolute Exemption. There is an absolute exemption if the disclosure would breach any of the Data Protection Principles (Section 38(1)(b)). There is also an absolute exemption for personal census information and a deceased person's health records, although these parts of the exemption are no longer applicable after 100 years.

I have forwarded your request to our Data Protection Manager as they maybe able to assist you further in terms of the Data Protection Act (2018) - loth.informationgovernance@nhs.scot

I am sorry I cannot help further with your request.

Headquarters
Mainpoint
102 West Port
Edinburgh EH3 9DN

Chair Professor John Connaghan CBE
Chief Executive Professor Caroline Hiscox
Lothian NHS Board is the common name of Lothian Health Board

If you are unhappy with our response to your request, you do have the right to request us to review it. Your request should be made within 40 working days of receipt of this letter, and we will reply within 20 working days of receipt. If our decision is unchanged following a review and you remain dissatisfied with this, you then have the right to make a formal complaint to the Scottish Information Commissioner within 6 months of receipt of our review response. You can do this by using the Scottish Information Commissioner's Office online appeals service at www.itspublicknowledge.info/Appeal. If you remain dissatisfied with the Commissioner's response you then have the option to appeal to the Court of Session on a point of law.

If you require a review of our decision to be carried out, please write to the FOI Reviewer at the email address at the head of this letter. The review will be undertaken by a Reviewer who was not involved in the original decision-making process.

FOI responses (subject to redaction of personal information) may appear on NHS Lothian's Freedom of Information website at: <https://org.nhsllothian.scot/FOI/Pages/default.aspx>

Yours sincerely

ALISON MACDONALD
Executive Director, Nursing
Cc: Chief Executive