Lothian NHS Board

NHS Lothian Headquarters
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG
www.nhslothian.scot

Date 10 November 2026
Your Ref
Our Ref 12178

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

Dear

FREEDOM OF INFORMATION – MEDICAL RECORD ACCESS

I write in response to your request for information in relation to access to medical records.

Question:

- I am writing to report a suspicion of unauthorised access to my medical records. Under data protection laws, please provide the complete electronic audit trail for my medical records. This must include all access logs, showing the names/IDs of individuals, timestamps, and the system used to view, modify, or open my files between 1 January 2025 and 10th November 2026.

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for personal census information and a deceased person's health records, although these parts of the exemption are no longer applicable after 100 years.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 and Patient Experience Team as they will able to assist you further in terms of the Data Protection Act (2018) - loth.sarteam@nhs.scot - loth.informationgovernance@nhs.scot

I am sorry we cannot help with this request.

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.nhslothian.scot/FOI/Pages/default.aspx

Yours sincerely

ALISON MACDONALD
Executive Director, Nursing
Cc: Chief Executive