

Freedom of Information request 82-21

Request

My request is with regard to the data you hold on patients.

1. What information is stored and for how long?
2. What kind of data is shared with external parties?
3. Does the NHS have the right to sell any medical data, even anonymised data, to external parties?
4. Which external organisations have you shared patients' data with since January 2018?
5. Which members of staff are allowed to access patients' information?
6. How does the NHS secure data so that only authorized members of staff access patients' information?
7. What system is currently in use to store patient's data?
8. Does your system to store patients' data detect if the data has been accessed by a member of staff who is not involved in the treatment of a patient? If so, what's the process the NHS follows after a breach of data has been discovered?
9. How many breaches of data have you had since January 2018? And were any staff members disciplined as a result of data breaches? If so, how many please and what action was taken against them? eg Were they dismissed and/or was Police Scotland informed?

Have any new measures been put in place in the last two years to further protect patients' personal data?

Response

1. All information relating to the provision of patients' healthcare is held in various clinical systems. The retention period varies depending on the nature of the information but is documented in the NHS Code of Practice for Health and Social Care (Scotland) (Scottish Government, 2020) which can be found at <https://www.informationgovernance.scot.nhs.uk/wp-content/uploads/2020/06/SG-HSC-Scotland-Records-Management-Code-of-Practice-2020-v20200602.pdf> therefore please note under Section 25 of the FOI(S)A 2002 this data is accessible elsewhere.
2. Only information that is necessary in order to deliver healthcare to the patient, or that is required to be shared by law is shared with external parties.
3. No.
4. External organisations which NHS Borders have shared patients' data with since January 2018 are:

- Other health and social care providers in the UK;
- UK Police and Judiciary;
- Solicitors; and
- Universities and other research organisations

All of the above will be with appropriate data sharing or processing agreements in place; have patient consent; be required by law, or the data will be anonymised.

5. Only NHS Borders staff members who have a legitimate NHS purpose, i.e. are involved in the care or administration of the patient, are allowed to access patient information.
6. NHS Borders staff members are provided with unique personal accounts to enable them access to NHS Borders clinical systems. Mandatory training is undertaken before a user can access the clinical systems. Clinical systems are used in line with the NHS Borders Information Governance Code of Conduct.
7. There are several clinical systems that store patient information depending on the speciality. The key systems are TrakCare for Acute services and EMIS Web for Community and Mental Health services.
8. All activity in each clinical system is logged. NHS Borders uses a separate system called FairWarning to interrogate the clinical system logs to ensure all access has been appropriate. If any activity appears to be inappropriate it is reported to the line manager for investigation. Activity that is confirmed to be inappropriate is followed in accordance with the established HR disciplinary process.
9. There have been 95 recorded instances where patient records have been accessed otherwise than in accordance with data protection legislation since January 2018. In all cases, the appropriate HR policy was followed. No individuals were dismissed as a result of their actions. One individual resigned prior to an investigation being concluded. Police Scotland have not been informed of any of the instances. The Information Commissioner's Office was informed of one instance but decided not to take further action.
10. No new measures have been put in place specifically to further protect patients' personal data.

If you are not satisfied with the way your request has been handled or the decision given, you may ask NHS Borders to review its actions and the decision. If you would like to request a review please apply in writing to, Freedom of Information Review, NHS Borders, Room 2EC3, Education Centre, Borders General Hospital, Melrose, TD6 9BS or foi.enquiries@borders.scot.nhs.uk.

The request for a review should include your name and address for correspondence, the request for information to which the request relates and the issue which you wish to be reviewed. Please state the reference number **82-21** on this request. Your request should be made within 40 working days from receipt of this letter.

If following this review, you remain dissatisfied with the outcome, you may appeal to the Scottish Information Commissioner and request an investigation of your complaint. Your request to the Scottish Information Commissioner should be in writing (or other permanent form), stating your name and an address for correspondence. You should provide the details of the request and your reasons for dissatisfaction with both the original response by NHS Borders and your reasons for dissatisfaction with the outcome of the internal review. Your application for an investigation by the Scottish Information Commissioner must be made within six months of your receipt of the response with which you are dissatisfied. The address for the Office of the Scottish Information Commissioner is, Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife.