Dear XXX

I refer to your request of <insert date> for access to the records of <insert patient’s name> which was received on <insert date>.

Your request will be processed in accordance with the Data Protection Act 2018, subject to receipt of:

* Clear description of the records you require, including the service(s) under which <insert patients name> was treated and the time frame for the records. (Please note in order for us to process your request in line with the Data Protection Act 2018, particularly considering the principles for purpose limitation and data minimisation, the Trust will not simply provide “all” records held). If the request is to support that of an investigation, please specify the nature of the investigation in order for us to assess which records are likely to be relevant.
* Consent form signed by the patient (or patient’s parent / guardian if under 12 years old) authorising you to act on their behalf. If it is not appropriate to obtain consent, please advise the reason for this and the specific legislation under which you require the records.
* Completed DPA form signed by a senior officer.

For your information, please see below an extracts of the Trusts Access to Records policy in relation to police requests:

***Police*** *- if the police do not have a Court Order or warrant they may request voluntary disclosure of a patient’s health records under Schedule 2 Part 1*

*Paragraph 2 of the Data Protection Act 2018. There is no obligation to disclose records to the police. They should usually only be disclosed where the patient has given consent or there is an overriding public interest.*

*Disclosure in the public interest is made to prevent a serious threat to public health, national security, the life of an individual or third party or to prevent or detect serious crime. Serious crime includes murder, manslaughter, rape, treason, serious fraud, state security and kidnapping or abuse of children or other vulnerable people. It does not include theft, minor fraud or damage to property.*

***Road Traffic Act 1988*** *– when asked, there is a legal duty to provide the police with the name and address of a driver who is allegedly guilty of an offence under this Act. Clinical information should never be disclosed. There is no duty to advise the police when an individual is likely to attend an appointment at the Trust. It is not necessary to seek the consent of the individual whose information is being requested.*

***Prevention of Terrorism Act 1989 and Terrorism Act 2000*** *– there is a legal duty to inform the police if information is known about terrorist activity, including personal information. It is not necessary to seek the consent of the individual and it may endanger safety if the consent of the individual is sought.*

***Police and Criminal Evidence Act*** *– the Trust may pass on information to the police if it is believed someone is at serious risk of harm or death. Serious arrestable offences include murder, rape, kidnapping and causing death by dangerous driving. They do not include minor offences such as theft. The Trust should consider whether it is appropriate to seek the consent of the individual prior to disclosure.*

***Children Act 1989, sections 17 and 47*** *– the police or local authority may make enquiries when deciding whether to take action to safeguard a child’s welfare. Consent does not have to be gained from the child or parents but it is good practice to do so if appropriate.*

***Crime and Disorder Act 1998, section 115*** *– the Act provides for anti-social behaviour orders to be applied by the police or local authority against individuals aged ten or over. Section 115 of the Act permits the disclosure of personal information that may otherwise be prohibited. There is no duty to disclose. This means information given in confidence should not be disclosed unless there is a clear public interest in doing so as the conditions of the Data Protection Act 2018 and the common law duty of confidence apply.*

As soon as the above information has been received we will be able to process your request.

Should you have any further queries please do not hesitate to contact me.

Yours sincerely

Name

Job title

Team Name

(insert email signature)

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| Please note this general information about our response to your request for information under the Data Protection Act 2018. When we provide you with the information you requested we will explain what systems and files we searched. If you believe information is held elsewhere in the Trust please let us know so that we can look for you. When we provide information in response to a request it may not be possible to provide you with a complete set of records. When this happens we will tell you why. If you think the information we hold is incorrect please state this in writing. We are able to change incorrect factual information. We are not able to change clinical opinions. If you think these are wrong, set out why you think this and we will add it to the clinical record.You have the right to complain about the way we have responded to a request for personal information under the Data Protection Act 2018. Please contact the Trust at the address above in the first instance so that we can try to resolve your concerns. If we are unable to resolve your concerns we will undertake a review. Speak to our PALS and Complaints team on 0800 085 8354, email elft.complaints@nhs.net or write to the Complaints Manager, FREEPOST RTXT-HJLG-XEBE, The Green, 1 Roger Dowley Court, Russia Lane, London E2 9NJIf we are unable to resolve your concerns you have the right to complain to the Information Commissioner. Call their helpline on 0303 123 1113 (local rate – calls to this number cost the same as calls to 01 or 02 numbers), write to Information Commissioner’s Office at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF, or see their website <https://ico.org.uk/> |