



<b>POLICY/PROCEDURE INFORMATION (Policy no HR0005)</b>	
<b>Subject</b>	<b>Data Protection Policy and Procedures Inclusive of General Data Protection Regulation Requirements 2018</b>  <i>(This policy is non-contractual and is subject to periodic review and will be amended according to service development needs).</i>
<b>Applicable to</b>	All staff and volunteers who work for Nottinghamshire Hospice.
<b>Target Audience</b>	Others such as agents, consultants and other representatives of Nottinghamshire Hospice may be required to comply with the policy as a condition of appointment.
<b>Date issued</b>	Sept 2020
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<b>Lead responsible for Policy</b>	Director of People Services
<b>Policy Reviewed by</b>	Human Resources Manager
<b>Notified to (when)</b>	Board of Trustees May 2018
<b>Authorised by (when)</b>	Board of Trustees July 2018
<b>CQC standard if applicable</b>	
<b>Links to other Policies</b>	Working from Home Policy HR00020 Confidentiality Policy HR00018 Privacy Statement Data Retention Policy OP006
<b>Summary</b>	This document aims to provide a clear understanding of Nottinghamshire Hospices Data Protection Policy and Procedure
<b>This policy replaces</b>	

**VERSION CONTROL**

<b>Status</b>	<b>Date</b>	<b>Reviewed date</b>
Original policy written by Angela Fallon, HR Manager	April 2011	April 2015
Review of current content. Minor amends and additional paragraph on employee responsibilities by Donna Roberts, HR Manager	Nov 2016	
Addition of content in relation to GDPR by Rowena Naylor-Morrell, CEO	May 2018	
Approval via Board of Trustees	July 2018	
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Updated staff and volunteers throughout policy	June 2020	
Reviewed by Donna Roberts	Sept 2020	Sept 2023
Logo updated and uploaded to website	March 2021	
Reviewed and amend made by Maria Holmes, Director of Finance and Resources. Updated on website	July 2021	

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## **1. Introduction**

The General Data Protection regulations enhances and replaces previous acts of 1988 and 1984 and provides for a much broader definition of 'data' to include manual records and to give rights of access to employees to personal data held on them by employers. On 25<sup>th</sup> May 2018 the General Data Protection Regulations (GDPR) will be implemented which will apply to all organisations this policy will be one of a suite of policies supporting compliance at Nottinghamshire Hospice.

It is the policy of Nottinghamshire Hospice to comply with both the spirit and the letter of the law contained in the GDPR and the accompanying regulations and Codes of Practice including Privacy and Electronic Communications Regulations and Fundraising Regulators.

Within the induction process, Nottinghamshire Hospice will undertake to inform all its staff and volunteers of their rights and responsibilities under GDPR and will expect all those responsible for processing personal data, within the meaning of the Regulations, to be fully aware of their responsibilities.

## **2. Individual rights under GDPR**

As well as setting out the different bases for being able to process personal data, the GDPR also includes a number of rights for individuals which Nottinghamshire Hospice recognises and will act upon.

- The right to be informed
- The right to access
- The right to rectification
- The right to erase
- The right to restrict processing
- The right to data portability
- The right to object (including objecting to direct marketing)
- Rights in relation to automated decision making and profiling.

## **3. Basic Principles**

Nottinghamshire Hospice subscribes to the following basic principles in relation to GDPR:

- Transparency
- Accountability
- Fairness
- Ensuring the rights of data subjects are safeguarded
- Security of Information

## **4. The Processing Principles**

The term "Processing" applies to a comprehensive range of activities. It includes collection, storage and use of data, accessing and disclosing data and its final destruction.

All processing of personal data must comply with eight principles of good practice. These say that data must be:

- Processed fairly and lawfully

- Obtained and processed for specified purposes
- Adequate, relevant and not excessive
- Accurate and up to date
- Kept for no longer than necessary
- Processed in accordance with the rights of data subjects
- Protected against unauthorised use and against accidental loss
- Not transferred outside the European Economic Area Union without adequate protection.

We will treat any data we collect in a fair way. This means that:

We will always tell you what routine processing you might expect and ask for consent to any unusual processing.

Processing of Human Resources records will be carried out in relation to the following purposes:

- recruitment
- legally required vetting
- taking up references
- entering into a contract of employment
- ensuring supervision is carried out
- ensuring annual appraisal is carried out
- in relation to employment policies such as leave, sickness, disciplinary
- medical information to safeguard your health
- ending employment
- providing references

Only Line Managers, Human Resources, relevant Head of Department or the Chief Executive Officer will be involved in regularly processing your files.

Information may be disclosed in the process of carrying out Human Resources' policies to the Chief Executive Officer.

In addition to the guidelines, the following rules apply:

- All Human Resources records will be kept for the duration of an employee's employment and according to the Information Commissioner's guidance on keeping records.
- All staff and volunteers will be informed periodically of the descriptive information held on them (not the whole file).
- There will be a right to amend this information if it is inaccurate.
- Employees must inform Human Resources when their details change.
- If legal advice is taken by an employer relating to a potential or actual legal claim by an employee, such personal data need not be disclosed to the employee.
- A former employee does not have the right to see a confidential reference made about them. However, they would be entitled to see a reference held by the person to whom it was supplied once they are in employment.

## 5. Individual's Rights

The following are the rights of data subjects. Data subjects are people about whom information is held in the organisation. These can be split into two main categories: Human Resources' records and client or member records.

All individuals have the following rights:

### 5.1 The Right to be informed

Nottinghamshire Hospice believes that Data held on individuals should be held in as transparent a way as possible. We will always follow the Data Protection principles as outlined in legislation. This means that:

- We always tell people (staff and volunteers, patients, donors or others) when we are capturing their data, why it is being captured, how it will be used, how long it will be stored for, who will have access to it and their right to be forgotten and ask for all necessary consent beforehand. Data relating to volunteering and staff will be held for contract and legitimate interest, patient's data may be subject to NHS requirements and Donor data will additionally be treated in line with the Fundraising Regulator requirements.
- We keep an open access policy in regard to Human Resources files. You can always see your file and check any information held there, you will have the right to correct data. In relation to references or information from third parties this information will not be disclosed without the consent of third parties. Access is restricted to your personal data, you have no rights to seek clarification, access or view personal data relating to any individual involved with Nottinghamshire Hospice without their consent.
- We will always tell you if we are processing your data in any way that is not obvious, for example making it clear that some information has to be passed to the pension company, when you become eligible for pension contributions. This will be both a contractual and legitimate interest condition.
- We do not routinely keep sensitive data that can be connected with an individual except sickness records. This information will only be processed in connection with the sickness absence policy. This information will be held in line with General Data Protection Regulations 2018.
- We collect data at the point of referral or appointment to monitor the profile of the organisation for equality, diversity and strategic purposes. This information is collected in isolation and not linked to personal profiles. It is held anonymously and collated across the organisation by the Human Resources Department and will not be identifiable in relation to the storage of information or the analysis of the information.
- We will collect personal data (e.g. address details, emergency contacts etc.) systematically and verify it during the annual appraisal process.
- Data will not be taken into account once it is out of date and will be deleted in line with the relevant internal and external requirements.
- All data will be kept secure and access will be strictly controlled.

- Unauthorised disclosure of confidential employee data will be a disciplinary offence, all employees and volunteers are required to sign a confidentiality agreement which is held on their personnel file or volunteer record.
- Requests for addresses, earnings etc. will always be refused unless part of an official enquiry from the Department of Social Security, DfEE, or Child Support Agency or other legitimate Government body; unless you have specifically authorised the release of such information (for example to a mortgage provider).
- Information provided by you in the course of your employment will not be disclosed to third parties without your written consent, unless the law requires disclosure without informing you.

## **5.2 The Right to Access (Subject Access Requests)**

The right to access gives individuals the right to obtain confirmation of their personal data held by the organisation, a copy of that information and other supplementary information such as the purpose of processing and retention periods for storing personal data.

A subject Access Request should only relate to the individual submitting the request unless they are acting in a legal capacity or on behalf of someone else, and have written permission to act on behalf of that individual.

Requests for information can be submitted verbally or in writing via a variety of channels:

- Via a Subject Access Request form (Please see appendix 2)
- Via email [info@nottshospice.org](mailto:info@nottshospice.org)
- Via phone 0115 910 1008
- Via letter to Nottinghamshire Hospice, 384 Woodborough Road, Nottingham, NG3 4JF

A record of requests will be logged by the Senior Information Risk Officer and a response will be provided to the individual within 30 days of receipt. Where the request is complex or numerous, the person submitting the request will be informed within 1 month of receipt, that the timeframe for response has been extended up to 3 months.

Nottinghamshire Hospice will uphold individual's rights to access their data without imposing any charge. Where requests are manifestly unfounded or excessive a reasonable fee will be charged.

Where there is strong justification to refuse to comply with a request, a detailed explanation supporting the decision will be provided to the individual within 1 month of receipt.

## **5.3 The Right to Rectification**

Data subjects are entitled to have their data corrected or rectified if it is inaccurate or incomplete. If data has been disclosed to or received from a third party, they will be informed of the error or correction. The details of any third parties will also be supplied to the person making the request. The process will usually be complete within one month of receiving the request, where the request is complex this may be extended up to three months.

If the decision is not to rectify the data, this will be conveyed with an explanation as to why this was not completed.

## **5.4 The Right to Erasure (the right to be forgotten)**

The right to erasure is in place to ensure that a person or data subject is able to request the deletion of their personal data where there is no compelling reason for its continued processing. This will apply in the following circumstances:

- The data is no longer necessary in relation to the purpose for which it was originally collected or processed.
- The person has withdrawn consent
- The person objects to the processing and there is no overriding legitimate interest for continuing to process the data
- The personal data has to be erased in order to comply with a legal obligation
- The data was unlawfully processed
- The data relates to a child.

In some instances it will not be possible to erase data these are:

- Nottinghamshire Hospice is exercising the right of freedom of expression and information
- It is held in line with compliance with a legal obligation
- The information is being held for public health interest
- The information is part of archived data in the public interest, for scientific research, historical research or for statistical purposes
- The information may be required at some point to exercise or defend a legal claim.

If the information has been passed to a third party we will inform them that the data has been erased by Nottinghamshire Hospice.

## **5.6 The right to Restrict Processing**

The right to restrict processing means that a request has been received not to erase data or that it has been requested to be erased and that this is currently being verified and during this period processing will be restricted.

If the data has been shared with a third party they will be informed of the restriction. If following investigation the restriction is not required, we will inform the person concerned together with the reasons why.

The reasons we may restrict the processing of your data are:

- You have contested the accuracy of the information that is held, we will not process data until an investigation has been completed
- You have objected to procession of your personal data but we believe it is necessary 'in the public interest' or for the furtherance of Nottinghamshire Hospice legitimate interest. During the period of investigation the data will not be processed
- Where processing is unlawful, you oppose erasure and want the data to be restricted instead
- Your data is no longer required but you require the data to pursue a legal claim.

## **5.7 The Right to Data Portability**

All data at Nottinghamshire Hospice is stored in standard formats. You have the right to have your data passed to you in a standard format. This format may be that required by another organisation. If your data is stored differently by Nottinghamshire Hospice and you require it to be presented in a standard format this will be provided to you free of charge usually within one

month of us receiving your request. If the request relates to complex data this may take up to three months.

You have the right to request data portability if:

- You have provided us with your data
- Processing is based on your consent or for the performance of a contract
- Processing is being carried out by automated means

## **5.8 The Right to Object**

You have the right to object to the processing of your data if this is based on:

- Our belief that there are legitimate interest or for the performance of a task in the public interest
- Direct marketing, including profiling
- Processing for the purpose of scientific or historical research and statistics.

Your objection is based on grounds relating to your particular situation at that time. On receiving your request we will stop processing immediately unless we can demonstrate compelling legitimate grounds for the processing which overrides the interests, rights and freedoms of your rights or those of the Hospice or to make or defend a legal claim.

## **5.9 Your Rights in Relation to Automated Decision Making and Profiling**

We will safeguard the data we hold relating to you against the risk of potentially damaging decision making takes place without human intervention.

We ensure that all data collected is stored correctly and we will ensure that you are able to:

- Speak to and gain human intervention
- Express your point of view
- Obtain an explanation of the decision and challenge it

Unless for the following reasons:

- It is necessary for entering into or for the performance of a contract that we have with you
- Is authorised by law
- Is based on explicit consent

Profiling is a form of automated processing that is intended to evaluate or to predict your:

- Performance at work
- The economic situation
- Health
- Personal preferences
- Reliability
- Behaviour
- Location
- Movements

If we do profile your data we will ensure that:

- The process is fair and transparent and provide you with clear and meaningful information about the logic used
- You are aware of the consequences of the processing
- A mathematical or statistical procedures are in place
- Measures are in place so that any inaccuracies can be corrected
- We secure the data in a way that is proportional to the value and sensitivity of data

Automated decision making will not be used if:

- Concerns a child
- Is based on processing special categories of data unless you have given explicit consent or processing is necessary to comply with the law.

## **6. Security of Records**

Nottinghamshire Hospice is committed to ensuring the security of data we have under our control as far as humanly possible. This means that we will take care to:

- Ensure people should only see data that they are authorised to see
- Prevent data getting lost, damaged or destroyed
- Ensure that 'old' copies of data are disposed of securely
- Ensure people should only see data that they are authorised to see
- The security of employees' files is the responsibility of Human Resources. They are responsible for being clear about who can access which file legitimately. They should release the relevant section of the file – e.g. supervision notes or personal details only - not the whole file - to any one person
- Line Managers will be responsible for maintaining security of data and being clear about who is entitled to see what
- Employees' files will all be kept in a locked cabinet by Human Resources
- Line Managers should not keep their own Human Resources' information in their own filing systems.
- Anyone wishing to access a file must not take the whole file, but must take relevant information only. They can check data on the file, but not alter it without permission of the data subject
- Personal data must never be left out on an unattended desk
- People accessing their own files have to do so in a supervised way - i.e. not left alone with them
- If personal data is able to be brought up on screen, this should not be able to be viewed by a third party
- Personal data must never be left up on screen whilst the user walks off for however short a time period
- Personal information should only be sent via fax or email when the data will be received and held securely by the recipient. A phone call **MUST** be made to the recipient prior to sending such information. A written agreement must be signed by the recipient to state that the information will be stored securely and treated as confidential

## **7. Prevent data getting lost, damaged or destroyed**

Nottinghamshire Hospice will take all possible steps to:

- Have a back-up system and use it with rigor and discipline
- Protect irreplaceable documents from fire
- Ensure unauthorised users can't hack into the secure files, either within the intranet or from outside
- Check the backup process really works

All staff and volunteers must be responsible for:

- Keeping to security protocols
- Not taking irreplaceable documents out of the building
- Ensuring that old copies of data are disposed of securely
- Where appropriate sensitive documents and Human Resources' data will be shredded
- Ensuring all backup systems disks, tapes CDs etc. really are deleted when out of date

## **8. Responsibilities of Line Managers**

Line Managers keeping staff and volunteers records within their department will be responsible for ensuring compliance with the General Data Protection Regulations 2018. Failure to do so may lead to disciplinary action and potential dismissal.

## **9. Housekeeping Procedures**

Line Managers must undertake a regular audit of files to ensure that the data they contain is:

- Adequate, relevant and not excessive
- Accurate and up to date
- Processed fairly and in accordance with GDPR
- Be obtained only for one or more specific lawful purposes
- Not kept longer than necessary
- Be held securely and not shared

Line Managers must be sure that adequate measures are taken to ensure the security of files and to ensure their employees understand their rights and responsibilities under the General Data Protection Regulations 2018.

In order to allow reasonable freedom of access to personal data, Line Managers are required to ensure their processing is undertaken on a regular basis to ensure that, through a wish to be open, Nottinghamshire Hospice is not compromised under the GDPR.

A Data Protection Impact Assessment (DPIA) is required under the GDPR any time a new project is started that is likely to involve "a high risk" to other people's personal information. The DPIA template should be completed by the project owner when scoping the project.

Human Resources will be able to provide guidance to managers who are unsure on the review of files and other responsibilities under GDPR.

## **10. Responsibilities of Employees**

Employees must not disclose personal data outside the organisation's procedures, or use personal data held on others for their own purposes. Failure to do so may lead to disciplinary action and dismissal.

## **11. Keeping Human Resources Records**

The length of time we keep Human Resources records is subject to guidance from the Information Commissioner, HMRC, contractual requirements under NHS. Files will be reviewed and regularly audited that ensure records are not kept beyond the standard retention times. All records that are no longer needed will be disposed of in a secure and careful way.

## **12. Reporting a Data Breach (For the organisation not individual)**

The General Data Protection Regulations 2018 requires all data breaches to be reported promptly and in a timely way.

If you create or observe a breach of personal data you should inform your Line Manager and the Chief Executive immediately who will assess the situation and be responsible for reporting the breach to the Information Commissioners Office. A Data Breach Response Plan will be put in place which will include the notification of all other parties beginning with the person about whom the breach refers. Where the breach is not a risk to an individual's rights or freedoms the actions will relate primarily to an internal response.

The report to the ICO will include but not be limited to:

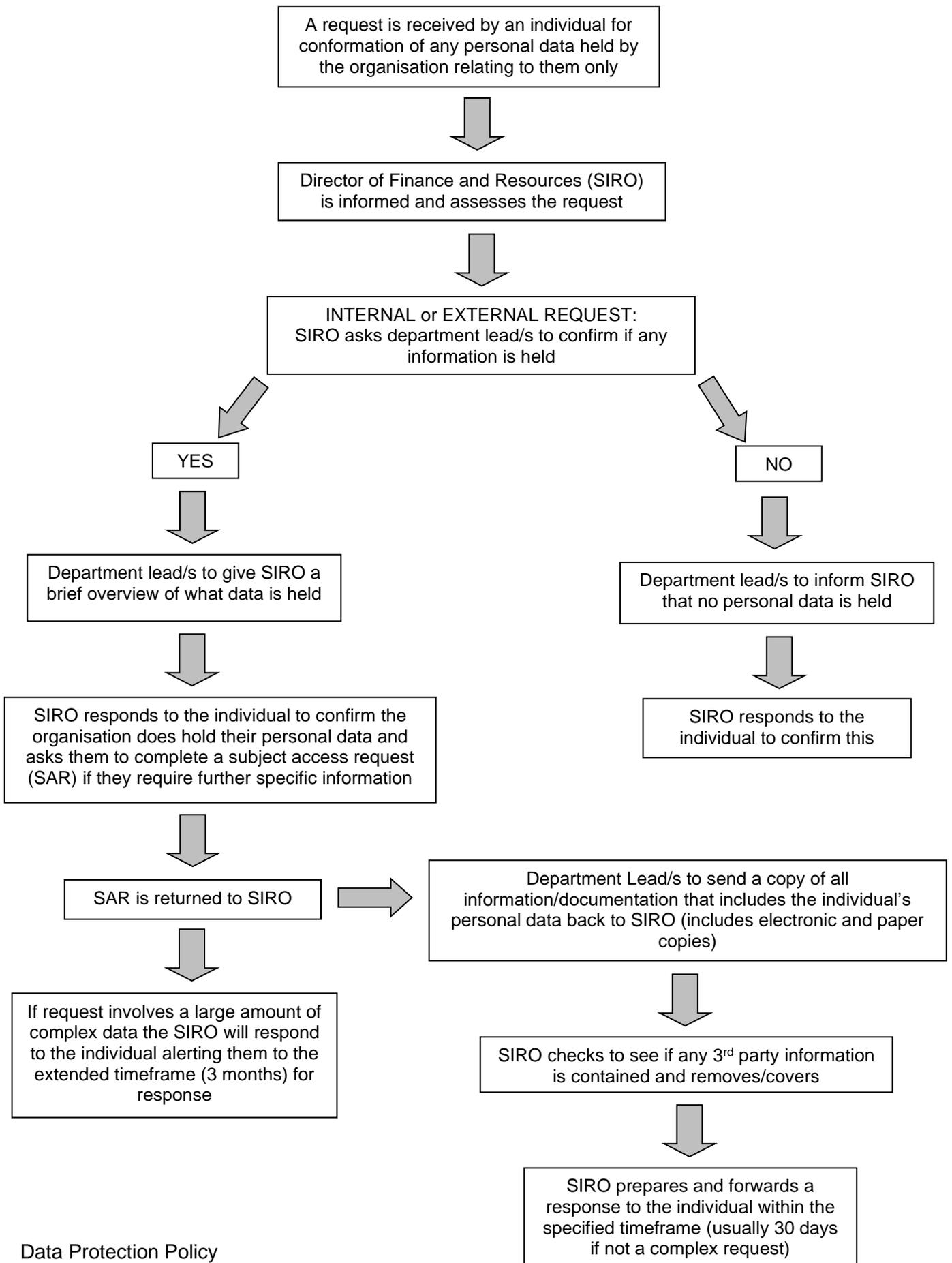
- A full explanation of the incident
- Details about the number of people and records involved
- The categories of personal data involved
- Name of the key person within the organisation responsible for responding to the breach
- Description of the likely consequences of the breach
- A description of how you intend to deal with the breach

Contact details for the Information Commissioners Office are:

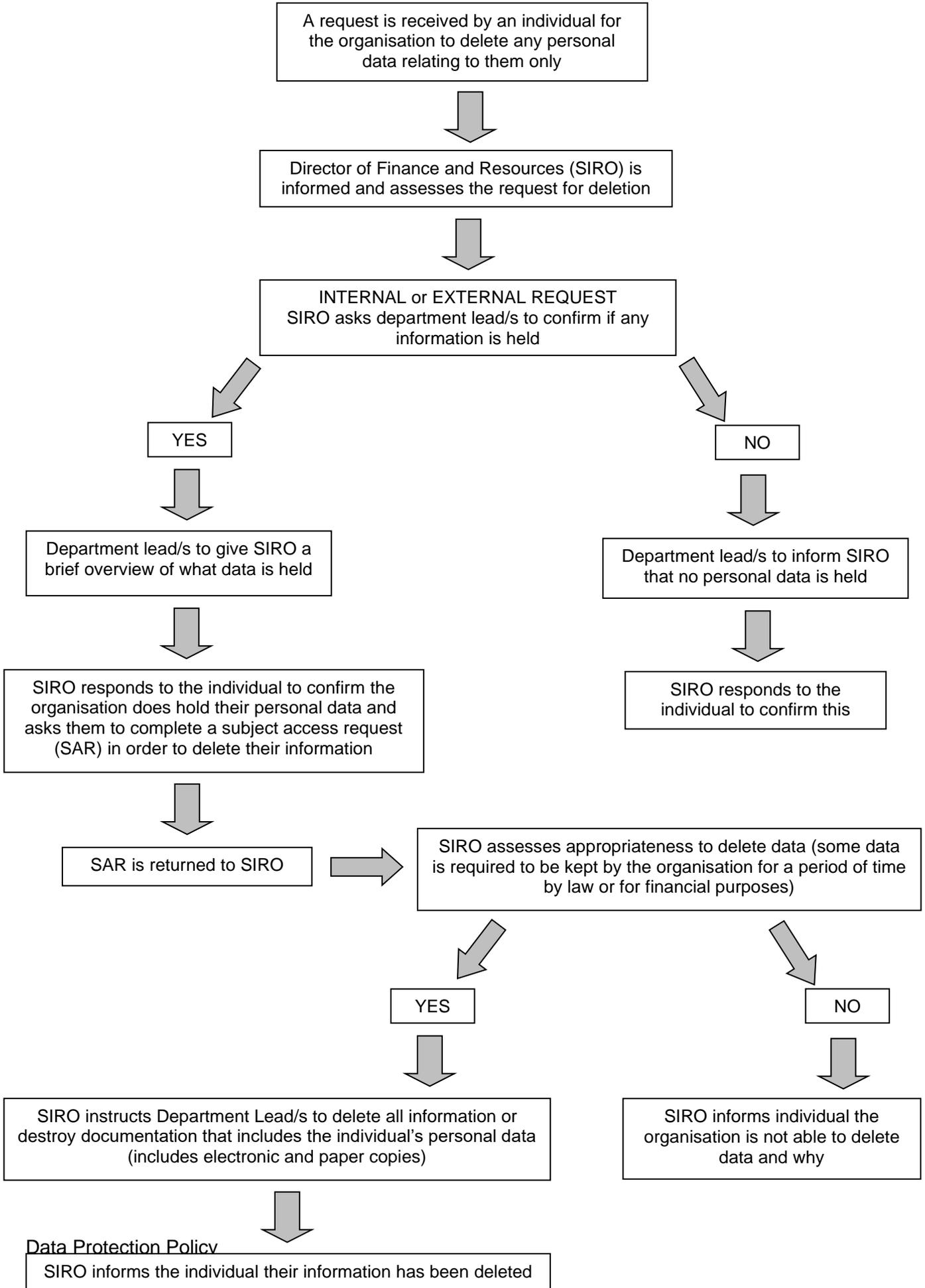
<https://ico.org.uk/for-organisations/report-a-breach>

Telephone: 030123 1113

# APPENDIX 1: SUBJECT ACCESS REQUESTS



# APPENDIX 2: REQUESTS TO DELETE DATA



# **APPENDIX 3 : SUBJECT ACCESS REQUEST FORM**



You have a right to access the information which Nottinghamshire Hospice holds about you.

You can use this form to ask for a copy of personal data that we hold about you or on behalf of someone else if you are legally allowed to act on their behalf, in line with data protection legislation.

To request information please complete this form and return it with identification to:

**Nottinghamshire Hospice  
384 Woodborough Road  
Nottingham  
NG3 4JF**

Or via email [info@nottshospice.org](mailto:info@nottshospice.org)

Provided we have sufficient information and proof of identity, to locate the information sought, a response will be provided within 30 days of receipt. Where a request is complex or numerous, the person submitting the request will be informed within 1 month of receipt, that the timeframe for response has been extended up to 3 months.

Please make sure you complete all relevant sections in block capitals and black ink to ensure that details are clear.

## **Section 1: Details of the person this request is about (the 'Subject')**

Forename(s)		Title	
Surname		D.O.B	
Maiden/Former/Other name			
Contact Number(s)			
Email Address			
Current Address			
Previous Address (for period covered by request if necessary)			

**Section 2: Written authority to act on behalf of the person you are making the request for**

This section should only be completed if you are making a request on behalf of someone else. We need to know what gives you the authority to act on their behalf, so please state your relationship with them e.g. a parent, solicitor, or holder of power of attorney.

Full Name	
Relationship with the subject	
Contact Number(s)	
Email Address	
Address	

**Section 3: Personal Data Sought:**

Please use the space below to describe the information sought. Be clear about the information you require and give us as much detail as possible, as this will help us to respond promptly to your request. Please include relevant dates and times, descriptions of circumstances or times you were in contact with the Hospice, and how.

## Section 4: Proof of Identity

*Please do not send any original documents only printed or electronic copies.*

### **Applying for yourself**

If you are applying for yourself, we need to see:

1. One document confirming your name, from Group A, below
  - Full driving licence
  - Passport
  - Birth certificate
  - Marriage or civil partnership certificate
2. One document confirming your address, from Group B, below
  - Utility bill
  - Bank statement
  - Credit card statement
  - Benefit book
  - Pension book

### **Applying on behalf of someone else**

If you are applying on behalf of someone else, we need to see:

1. One document confirming your name and one document confirming the name of the person you are applying on behalf of, from Group A, below
  - Full driving licence
  - Passport
  - Birth certificate
  - Marriage or civil partnership certificate
2. One document confirming your address and one document confirming the address of the person you are applying on behalf of from Group B, below
  - Utility bill
  - Bank statement
  - Credit card statement
  - Benefit book
  - Pension book
3. Proof that you have the authority to access the records, from Group C, below
  - Health and Welfare Lasting Power of Attorney
  - Court of Protection Order appointing you as a personal deputy for the personal welfare of the Subject
  - Signed declaration from the subject

## Section 5: where you would like the copies of your information to be sent

We prefer to send your information via email as this is a secure method. However if you would like to get your information by post, please note that information will be sent via special delivery and will need a signature upon receipt.

*Please select one option to tell us where you would like your information sent:*

- I am the Data Subject and would like my information sent to my email address given in Section 1.
- I am the Data Subject and would like my information posted to my home address given in Section 1.
- I am the Data Subject and would be happy to collect my information in person from Nottinghamshire Hospice.
- I am acting on behalf of the Data Subject and would like the information sent to the email address given in Section 2.
- I am acting on behalf of the Data Subject and would like the information posted to the address given in Section 2.
- I am acting on behalf of the Data Subject and would be happy to collect the information in person from Nottinghamshire Hospice.

**Section 6: Declaration**

I confirm that the information I have supplied in this application is correct, and I am the person whom it relates to, or I am acting on behalf of the Data Subject and have enclosed the relevant proof of authority.

Knowingly or recklessly obtaining or disclosing personal data is an offence under data protection legislation. By signing this form, you are giving agreement that your personal data (or that of the person you are acting on behalf of) can be shared within Nottinghamshire Hospice in order that we may process your request.

**Data Subject:**

Signature: ..... Date: .....

Print Name: .....

**Person making a request on behalf of the data subject:**

Signature: ..... Date: .....

Print Name: .....