

PERSONAL FILES PROCEDURE

If you require a copy of this policy in an alternative format (for example large print, easy read) or would like any assistance in relation to the content of this policy, please contact the Equality and Diversity team on 01803 656680.

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Date of Issue:	March 2018	Next Review Date:	March 2020
Version:	1.4	Last Review Date:	Feb 2018
Author:	HR Manager		
Directorate:	Workforce and Organisational Development		
Approval Route			
Approved By:		Date Approved:	
For Information Only: JCNC, LNC & LCNC		21 October & 23 October 2014	
JCNC			
JLNC			
Links or overlaps with other policies:			
<i>Need to list all policies that are referred to, or have links to this policy. List them in numeric order.</i>			
Leavers Procedure			
Induction Policy			

Amendment History

Issue	Date	Reason for Change	Authorised
1.2	3.12.14	Detail on info to keep after employee leaves	Deputy Director of Workforce & OD
1.3	5.1.16	Revision of Trust Logo and removal of requirement to keep AL cards if on ESR	Deputy Director of Workforce & OD
1.4	28.2.18	General review in light of GDPR legislation & new template	HR Manager

Rapid (E)quality Impact Assessment (EqIA) (for use when writing policies)

Title (and number)		Personal Files Procedure	Version and Date	1.4 Feb 2018	
Author		HR			
An (e)quality impact assessment is a process designed to ensure that policies do not discriminate or disadvantage people whilst advancing equality. Consider the nature and extent of the impact, not the number of people affected.					
Who may be affected by this document?					
Patients/ Service Users <input type="checkbox"/>		Staff <input checked="" type="checkbox"/>	Other, please state... <input type="checkbox"/>		
Could the policy treat people from protected groups less favorably than the general population? <i>PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below</i>					
Age	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Gender Reassignment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Sexual Orientation	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Race	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Disability	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Religion/Belief (non)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Gender	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Pregnancy/Maternity	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Marriage/ Civil Partnership	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Is it likely that the policy could affect particular 'Inclusion Health' groups less favorably than the general population? (substance misuse; teenage mums; carers ¹ ; travellers ² ; homeless ³ ; convictions; social isolation ⁴ ; refugees)					Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide details for each protected group where you have indicated 'Yes'.					
VISION AND VALUES: Policies must aim to remove unintentional barriers and promote inclusion					
Is inclusive language ⁵ used throughout?				Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/>	
Are the services outlined in the policy fully accessible ⁶ ?				Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/>	
Does the policy encourage individualised and person-centered care?				Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/>	
Could there be an adverse impact on an individual's independence or autonomy ⁷ ?				Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/>	
EXTERNAL FACTORS					
Is the policy a result of national legislation which cannot be modified in any way?					Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
What is the reason for writing this policy? (Is it a result in a change of legislation/ national research?)					
Guidance to staff to ensure that personal files comply with the requirements of the Data Protection Act.					
Who was consulted when drafting this policy?					
Patients/ Service Users <input type="checkbox"/>		Trade Unions <input type="checkbox"/>	Protected Groups (including Trust Equality Groups) <input type="checkbox"/>		
Staff <input type="checkbox"/>		General Public <input type="checkbox"/>	Other, please state... <input type="checkbox"/>		
What were the recommendations/suggestions?					
Does this document require a service redesign or substantial amendments to an existing process? <i>PLEASE NOTE: 'Yes' may trigger a full EIA, please refer to the equality leads below</i>					Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
ACTION PLAN: Please list all actions identified to address any impacts					
Action			Person responsible	Completion date	

Please contact the Equalities team for guidance: For Torbay and South Devon NHS Trusts, please call 01803 656676 or email pfd.sdhct@nhs.net **This form should be published with the policy and a signed copy sent to your relevant organisation.**

¹ Consider any additional needs of carers/ parents/ advocates etc, in addition to the service user
² Travelers may not be registered with a GP - consider how they may access/ be aware of services available to them
³ Consider any provisions for those with no fixed abode, particularly relating to impact on discharge
⁴ Consider how someone will be aware of (or access) a service if socially or geographically isolated
⁵ Language must be relevant and appropriate, for example referring to partners, not husbands or wives
⁶ Consider both physical access to services and how information/ communication is available in an accessible format
⁷ Example: a telephone-based service may discriminate against people who are d/Deaf. Whilst someone may be able to act on their behalf, this does not promote independence or autonomy

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1 Policy Statement

- 1.1 In keeping with the principles of current and anticipated Data Protection legislation information stored manually and on computers should only contain information which is collected for a legitimate purpose and is neither excessive in detail nor kept for any longer than is necessary.

2 Purpose

- 2.1 The aim of this procedure is to ensure that personal files comply with the requirements of the Data Protection Act. Employees have the right to see their personal files, both manual and automated under the Data Protection Act 1998. It is concerned with information that the Trust might collect and keep on any individual who might wish to work, works or has worked for us.

3 Scope

- 3.1 This policy applies to all staff employed by Torbay & South Devon NHS Foundation Trust, together with those on a joint contract with the organisation and another employer.

4 Equality and Diversity Statement

- 4.1 The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): sexual orientation; gender; age; gender re-assignment; pregnancy and maternity; disability; religion or belief; race; marriage and civil partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.
- 4.2 The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis.

5 Roles and Responsibilities

5.1 *Managers Responsibilities*

- 5.1.1 Managers should comply with the Personal File Procedure and ensure that only relevant data is maintained and is kept accurate and up to date.
- 5.1.2 Managers should note that the employee has the right to:
- Access information that is kept about them.
 - Know what is being processed
 - Know why the data is being processed
 - Know who might receive the data
 - Be told the source of the data, except in limited circumstances
 - Know the logic involved in decision making where data is processed automatically (e.g. psychometric tests) and the right not to have significant decisions made based on the results of this processing
 - Prevent processing likely to cause damage or distress

- Prevent processing for direct marketing

6 One Personal File for Each Employee

- 6.1 Where an existing or past employee applies for a new post the appointing manager should locate and retrieve their existing/previous personal file where it is still available.
- 6.2 Where staff are on a secondment / split posts a decision should be made as to who holds the personal file. Normally this will be the manager that is responsible for the Performance Development Review (appraisal).

7 Contents of the Personal File

- 7.1 It would be appropriate for the personal file to include the following from the start of employment.

- **Personal file checklist**
See Appendix 2
- **Application form**
- **Interview notes if available**
- **Proof of identity**
For example, Birth Certificate, Passport, Driving License
- **Proof of Right to Work in the UK**
- **References**
- **Appointment form**
- **Offer letter**
- **Contract**
Signed by the employee
- **Occupational Health Clearance**
Stating that they are fit to work
- **Disclosure & Barring Outcomes DBS (if appropriate)**
Recruiting managers will receive an email from Recruitment confirming the outcome of a DBS. A copy of this email may be kept on the personal file as a record that a DBS check has been undertaken
- **Proof of Professional Registration Status Check (if appropriate)**
- **Copy of proof of qualifications**

- **Email and internet user policy**
Signed by the employee
- **Induction Arrangements**
This could include Trust and local induction requirements. Managers may wish to include the Induction Checklist that is contained within the Induction Policy.
- **Job Description**
- **Current Address**
The Current Address of the employee
- **Person to Contact in case of an Emergency**
Details of who should be contacted on behalf of the employee in the event of an emergency must be kept up to date (Appendix 3: Person to Contact in case of an Emergency form).
- **Deductions**
Details of authorised deductions should be included and signed and dated e.g. lease car arrangements, child care vouchers, and salary sacrifice schemes.

7.2 It is appropriate to include the following documents on the file during the employees period of employment.

- **Achievement Review (Development Review)**
Details of all Development Reviews should be kept, including Personal Development Plans
- **Change of Circumstances Forms**
Change of Circumstance forms to indicate agreement for the change, especially for changes in hours, pay band, base or temporary to permanent posts.

Change of Circumstance forms effectively amend an individual's terms and conditions of employment, although each minor change does not mean the individual requires a new contract e.g. change in hours. However, where terms and conditions of employment have altered significantly it may be advisable to issue a new employment contract. Contact Human Resources for advice if you think an individual may need a new contract.

- **Correspondence**
Details of correspondence in respect of payroll, pension and personnel queries should be included, e.g. letters relating to pension queries and re-banding etc.
- **Contractual Arrangements**
Details of any contractual arrangements should be included e.g. lease car arrangements, undertakings relating to removal expenses or advance of salary.
- **Training Courses**
Copies of study leave forms for training courses / conferences attended, including

mandatory training. This will form part of an individual's Continuous Professional Development record.

- **Sickness Records**
Copies of sickness records including the copies of sickness certificates return to work interviews and correspondence with occupational health relating to the individual.
- **Annual Leave Records**
These records need only be retained for two years and only required if not available through ESR.
- **Unpaid / Special Leave Records**
These records need only be retained for three years and only required if not available through ESR.
- **Informal 1-1 notes/correspondence**
Correspondence relating to informal action that has been taken in respect of employee's behaviour, absence or conduct at work and requests and outcome relating to change in working pattern.
- **Records of Disciplinary Action**
On most occasions written warnings and formal counselling expire after a set period and the notes relating to these should be destroyed – contact Human Resources for advice if this issue arises.

8 Retention of Personal File when an Employee Leaves

- 8.1 The termination of an employment relationship does not mean that all records should be deleted; there may be a real business need to retain some of them (see 8.5). For example, it may be necessary to retain some information with which to enable references to be provided in the future or in respect of the employee's pension arrangements. It is important to retain information on the personal file that is still needed; eliminate personal information that is no longer of any relevance.
- 8.2 Ex-employee files should be kept for 6 years after individual leaves the Trust.
- 8.3 Ensure that information that is to be disposed of is securely and effectively destroyed.
- 8.4 The following is a guide to information to be retained on the Personal File.

Record	Statutory retention period	Statutory authority
accident records/reports	3 years from the date of the last entry (or, if the accident involves a child/ young adult, then until that person reaches the age of 21).	The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) (SI 1995/3163) as amended, and Limitation Act 1980. Special rules apply concerning incidents involving hazardous substances (see below).

Record	Statutory retention period	Statutory authority
Statutory Maternity Pay records, calculations, certificates (Mat B1s) or other medical evidence	3 years after the end of the tax year in which the maternity period ends	The Statutory Maternity Pay (General) Regulations 1986 (SI 1986/1960) as amended
records relating to working time	2 years from date on which they were made	The Working Time Regulations

Recommended (non-statutory) retention periods

Record	Recommended retention period
application forms and interview notes (for unsuccessful candidates)	6 months to a year. (Because of the time limits in the various discrimination Acts, minimum retention periods for records relating to advertising of vacancies and job applications should be at least 6 months. A year may be more advisable as the time limits for bringing claims can be extended. Successful job applicants documents will be transferred to the personnel file in any event)
assessments under health and safety regulations e.g. workplace risk assessments	permanently
personnel files and training records (including disciplinary records, capability, PDR, sickness records, contract documentation, last annual leave card and time cards/flexible working documents e.g. flexi leave)	6 years after employment ceases
Statutory Sick Pay records, calculations, certificates, self-certificates	6 years after employment ceases

9 Summary of Personal File

9.1 It is recommended that managers comply with the retention periods above and keep the following information after the employee leaves:

- Application Form (to reference employment history)
- Copy of Contract
- Latest change of circumstances form (if relevant)
- Job Description
- Final Performance Development Review paperwork
- Up to date sickness record
- Final annual leave record / record from ESR
- Copy of the Termination Form

- Copy of resignation letter (if relevant)
- Copy of MARS agreement (if relevant)
- Copy of employee references provided by the Trust (if relevant)
- Documentation relating to any 'live' warning's on file

9.2 The individual has the right of access to this summary.

10 Confidentiality

10.1 Personal files should never be left in areas where others could access them and should be kept in a locked filing cabinet.

11 Requests to View a Personal File

11.1 Requests for access to personal files must be made in writing to the:

Data Protection & Freedom of Information Lead
Torbay and South Devon NHS Foundation Trust
Torbay Hospital,
Lowes Bridge
Torquay
TQ2 7AA

11.2 Please note that access can be refused to certain types of data and careful consideration will be given to information that identifies a third party.

12 Training and Awareness

12.1 All individuals will be responsible for completing Information Governance Training.

12.2 Advice and support will be provided by the HR and Information Governance teams to support staff and managers in adhering to this procedure and their understanding of the General Data Protection Regulations.

12.3 The HR team will raise awareness of this policy through the publication of information on ICON and to advise staff of changes to the procedure through the staff bulletin and ratification processes.

13 Contact Details

13.1 Any queries regarding this policy should be directed to the HR team of the Directorate of Workforce and Organisational Development.

- HR Helpline – 01803 655754 (ext. 55754)
- Information Governance Team ext. 53472 Email: igteam.sdhis@nhs.net

14 Monitoring, Audit and Review Procedures

14.1 This policy will be monitored and audited on a regular basis. A full review will take place every two years by the Directorate of Workforce and Organisational Development unless legislative changes determine otherwise.

15 APPENDIX 1 TIPS FOR ORGANISING PERSONAL FILES

Managers are welcome to design their own system for organising the personal files of their staff however they may find the following tips useful.

- File contents in date order with the earliest document first.
- Have separate sections for different items for example for:
 - General Correspondence
 - Change Of Circumstances Forms
 - Training and Study Leave details
 - Personal Development Review (Appraisal) Records
- Using cardboard files with clips on both sides and dividers will help separate the contents
- When destroying the contents of personal files ensure you treat them as confidential waste
- On the front of each file give the employee's name, current base, and start date with the Trust
- Files for existing employees and employees that have left the Trust should be kept separately, in surname order
- Start a new file for each new individual
- Include a photograph of the employee if you have one

16 APPENDIX 2 – PERSONAL FILES CHECKLIST

- Application Form
- Advert
- Job Description
- References
- Proof of Identity e.g. Birth Certificate, Passport, Driving Licence (copy)
- Proof of Right to Work in the UK
- Copies of: UK or EEA Passport, UK or EEA Birth Certificate plus National Insurance Number.
- If outside the UK / EEA: passport plus residence permit / work permit or documentation giving the individual right to work in the UK plus National Insurance Number
- Copy of offer letter
- Copy of signed contract of employment
- Occupational Health clearance
- Self- Declaration / DBS Check - (email confirmation from recruitment - copy)
- Proof of Professional Registration Status Check (copy)
- Proof of Qualifications (copy)
- Email and Internet User Policy (copy signed by employee)
- Induction Checklist (copy)
- Person to contact in case of emergency form (original)
- Annual Leave Card (issued) if not on ESR
- Appraisal Documentation

Professional Membership

- Professional Registration.....
- Expiry Date
- Indemnification Number
- Expiry Date.....

Current Address

Title.....

Name.....

Address.....

.....

.....

Postcode.....

Home telephone.....

Mobile Personal

Mobile Work.....

17 APPENDIX 3 – PERSON TO CONTACT IN CASE OF EMERGENCY

Private and Confidential

Employees name

Band

Department

In order that we are in a position to contact someone in case of an emergency, would you please provide details of your next of kin or a person to be contacted.

Name:

Relationship:

Address:

.....

.....

.....

Telephone Numbers: Home:.....

Work:.....

Mobile:.....

This form should be handed to your manager for your personal file as soon as you commence in post