



**An Roinn Leanaí, Comhionannais,
Míchumais, Lánpháirtíochta agus Óige**
Department of Children, Equality,
Disability, Integration and Youth

Department of Children, Equality, Disability, Integration and Youth

**Frequently Asked Questions (FAQs) – Accessing
personal information relating to the archive of the
Mother and Baby Homes Commission of Investigation
which has been transferred to the Department**

September 2021

How do I access my personal information?

Persons can use either GDPR or FOI to request records about themselves, including medical information. Matters around the release of mixed personal data, in that the data relates **both to the requester and another person**, are addressed on a case by case basis.

Where there is a request for personal data under GDPR and the response to the access request includes mixed personal data in that the data relates **both to the requester and another person who is deceased**, the Department may release this data subject to any relevant rights or interests which ought to be taken into account.

Where an individual requests data that is not mixed personal data and **relates only to records of a deceased relative**, the Department refers individuals to their potential right of access under the Freedom of Information legislation.

Under Freedom of Information Regulations (SI 218 of 2016 – Freedom of Information Act 2014) certain categories of requester have a right of access to information relating to a deceased person. The categories include the spouse or the next of kin of the deceased person, and the decision to release the deceased relative's information will be made having regard to all the circumstances of the request and the relevant guidelines that have been published by the Minister for Public Expenditure and Reform. As defined in the regulations, "next of kin" includes, in order of hierarchy, (a) child, (b) parent, or (c) brother or sister.

For information on how to make a freedom of information request, please see Part II of this document.

Part I – Accessing Personal Data under GDPR

1. When do I have the right to access my personal data from the Department under GDPR?

Answer:

Where the Department processes any personal data relating to you, you have the right to obtain confirmation of this from us, and to have access to your data.

2. How do I make a subject access request (SAR) and is there a form?

Answer:

Online

- A subject access request (SAR) form is available [here](#).
- You may be asked to complete a SAR form so that the request is clearly defined. However, this is not a legal requirement and cannot be insisted upon, but it may help to remove any ambiguity to the request and may assist in locating the information you are looking for more readily, and ultimately enable the more timely delivery of a response.
- SARs should be submitted by **email to** sar@equality.gov.ie.
- If the Department considers that more information is needed, you may be asked to clarify your request to enable us to respond appropriately.

SARs made: By post

- SARs being submitted by post should be sent to the following address:
 - Information Management Unit
Block 1, Miesian Plaza
50 - 58 Lower Baggot Street
Dublin 2
D02 XW14
- If you wish to submit an application by post, **you are strongly urged to include your email address**. If you can provide your email address we will be able to correspond with you about your request.

SARs made: By other means

- Where a request is received in any other form not listed above such as by phone, in line with standard procedure, we will need to validate your ID before we can provide you with your data.

3. What information should I include with my subject access request?

Answer:

Given the sensitive nature of the personal data involved, the Department must validate the identity of the requester. To validate your identity, we request the following:

- Your full name, and names previously used (if applicable).
- Proof of your identification (scanned copy of one of the following - your Passport, Driving License, other Photo ID bearing your date of birth). This is required in order to validate your request.
- Your date of birth.
- Your current address.
- Proof of your address (a recent scanned copy of one of the following - a utility bill, letter addressed to you from Revenue, etc).
- The name of the Institution(s) that collected your personal data. (The full list of the institutions covered by the Commission of Investigation Report is available **here**.)
- An approximation of the period to which the records relate (i.e. entry date and exit date, if known.)

4. What Information is not provided?

Answer:

- You will be able to access your own personal data. This may include records that contain **mixed personal data** (what we mean by mixed personal data is where information relates to you and another person, e.g. where information on a parent is also personal information relating to a child – such as information in the context of a birth certificate). The release of mixed personal data **will be subject to a balancing test** to ensure that the rights and freedoms of others would not be adversely affected by the release of that information, and each request will be examined on a case-by-case basis.
- Where a record contains third party information that does not relate to you, the third party details may be redacted from the copy of the record being provided to you.
- In other instances, certain third party details may be included in the copies of documents/correspondence being provided to you. Such details may be provided to you:
 - (i) on the basis that release is reasonable because, for instance, you are already in possession of the documents/ correspondence; and/or;
 - (ii) releasing the personal data to you in the context of the request does not adversely affect the rights and freedoms of the relevant third parties.

5. How long will it take to receive my personal data from the Department?

Answer:

- We will provide you with a copy of the personal data we are currently processing within one month of the request being validated.
- In situations where we are unable to provide you with the data within the one month period, we will inform you within one month of receipt of your request, explaining the reason for the delay and we will commit to delivery of the data within a further two months.

6. How much will it cost to receive my personal data?

- The Department will provide one copy of personal data to a data subject and there is no fee for providing a copy.

7. Will I be able to make a subject access request for data relating to my deceased relatives, e.g. my aunt is dead and I would like to access her records including her medical records?

Answer:

- The right of access by an individual is to personal data relating to that individual (i.e. personal data relating to an identifiable living individual). The GDPR does not apply to the personal data of deceased persons, and access requests seeking only the personal data of deceased persons cannot therefore be processed by the Department other than through FOI (see Part II below for more information).

Part II – Accessing Personal Information under FOI

8. Will I be able to access records containing my personal information under the Freedom of Information Act?

Answer:

General information on the FOI Act and how it relates to the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) can be found [here](#).

Records in the Mother and Baby Homes archive created following the order establishing the Commission of Investigation (17 February 2015) will not be subject to the FOI Act, apart from records concerning the general administration of the Commission (including travel expenses) and records relating to appointments.

Records created before the commencement date of the FOI Act 1997 (generally 21 April 1998) will not be subject to the FOI Act except in cases where:

- Access is “necessary or expedient” to understand records created after the commencement date; and/or
- The records relate to the **personal information** about the person seeking them.

It therefore follows that a person may make a request for **their personal information** in the archive under the FOI Act, but the right of access to relevant records under FOI generally applies only to records that were created before 17 February 2015. “Personal information” is defined under the FOI Act to include “information relating to the educational, medical, psychiatric or psychological history of the individual”.

Under relevant regulations, the spouse or next of kin of a deceased person may potentially have a right to access to records relating to their deceased relative. However, this will be balanced with the public interest in the confidentiality of personal information and other relevant considerations.

Each request will be considered on its own basis and on its own facts.

9. How do I make an FOI request relating to the Mother and Baby Homes archive and is there a form?

Answer:

A Freedom of Information request relating to the archive can be made in writing to:

Email: IMUFOI@equality.gov.ie,
Phone: +353 1 237 6001
Post: FOI Information Management Unit
Block 1, Miesian Plaza,
50-58 Baggot Street Lower,
Dublin, D02 XWI4

There is no form for Freedom of Information requests however requests should be as specific as possible to enable the information sought to be identified and retrieved.

10. What information should I include in my FOI request?

Answer:

Given the sensitive nature of the personal information involved, the Department must validate the identity of the requester. To validate your identity, we request the following:

- Your full name, and names previously used (if applicable).
- Proof of your identification (scanned copy of one of the following - your Passport, Driving License, other Photo ID bearing your date of birth). This is required in order to validate your request.
- Your date of birth.
- Your current address.
- Proof of your address (a recent scanned copy of one of the following - a utility bill, letter addressed to you from Revenue, etc).
- The name of the Institution(s) that collected your personal data.
- An approximation of the period to which the records relate (i.e. entry date and exit date, if known.)

If you are making a Freedom of Information request for a deceased relative's information, you should also include evidence of your relationship with the deceased and the necessary death certificate or other acceptable proof of death. For further information, please see the relevant guidelines that have been published by the Minister for Public Expenditure and Reform, which are available at foi.gov.ie.

Part III – Receiving my Personal Information

11. Is there someone I can speak with in relation to my subject access request under GDPR or my request for information under FOI?

Answer:

There is a dedicated telephone information line available for people seeking further information about making a subject access request (SAR). The Department's SAR Information Line can be contacted on 01-2376001 from Monday to Friday 9.00am to 5.00pm.

Persons who have made an information request under FOI or who are seeking information about making an FOI request relating to the Mother and Baby Homes archive may also use this information line (01-2376001).

The Information Line cannot answer queries in relation to FOI requests that do not relate to the Mother and Baby Homes archive. For general FOI requests relating to the Department, please find information [here](#).

12. Can a subject access request or an FOI request be made on my behalf (e.g. by a solicitor)?

Answer:

Yes, for example a solicitor or other person such as a family member or friend can apply for your data on your behalf, subject to them having the necessary authority. We will need to be satisfied that the person making the request is entitled to act on your behalf.

The person acting on your behalf must provide the following:

- A copy of their written authority (e.g., a written authority from you or a power of attorney);
- A description of their relationship with you and under what authority they are requesting information on your behalf;
- Proof of their identity (scanned copy of one of the following - their Passport, Driving License, or other Photo ID bearing their date of birth);
- Their name, address and contact details (phone number/email);
- Proof of your identity (scanned copy of one of the following - your Passport, Driving License, or other Photo ID bearing your date of birth).
- Your name, your address and contact details (phone number/email).
- Proof of your address (a recent scanned copy of one of the following - a utility bill, letter addressed to you from Revenue, etc).

13. Can I receive a hard copy of my personal information?

Answer:

- While you can receive a hard copy of your personal information, corresponding by email may result in more timely responses.

- Where a request for a hard copy response has been made in the context of an electronic (email) request, you will be informed (by email) that your request has been recorded and will be dealt with at the earliest opportunity.
- A soft copy response, **which will include only relevant electronic records**, will be provided in the meantime.
- If your application has been made by post and if you have provided your email address, as an interim solution you may be provided with a soft copy response. If you have requested a hardcopy response, it will be provided at the earliest opportunity.

14. Can I receive my personal information electronically?

Answer:

- Yes, you can request your personal data by electronic means.
- For this purpose we will require your email address so that your personal data can be provided to you via a secure file sharing facility. However, the response will include only relevant electronic records. If your request also relates to hard copy files, which need to be searched, you will be informed of this and that a subsequent response in respect of searches of hard copy records will be provided at the earliest opportunity.

15. How will I know that you have received my request?

Answer:

The Department will send you an email (to the email address provided in your request) to acknowledge that we have received your request. Where no email address is provided in the hard copy request, we will issue a written acknowledgement.

16. Will the Department communicate with me during the process?

Answer:

- If the Department requires additional information to clarify any aspect of your request we will contact you.
- If you have made a subject access request (SAR) under GDPR, the Department may include a copy of a SAR application form to assist with this (if one has not already been submitted with the original request) but you will be advised that completion of the form is not a requirement.
- If circumstances arise where it is unlikely that the Department will be in a position to provide a response to your request within one month of the request having been validated, the Department will write to you to advise you of this and of the reasons for the delay.

17. What information will the Department provide to me?

Answer:

If we are processing your personal data, you are entitled under GDPR to information about that processing and access to a copy of all such personal data processed by us, subject to a

verification process to ensure we are communicating with the correct person. We will provide the following information:

- Why we are processing your personal data.
- The categories of personal data concerned.
- The third parties or categories of third parties to whom the personal data have been or will be disclosed. We will inform you if any of the third parties are outside the European Economic Area (EEA), or are international organisations.
- How your personal data will be safeguarded if we provide your personal data outside the European Economic Area, or to an international organisation.
- The length of time we will hold your data or if not possible, the criteria used to determine that period;
- Your rights to:
 - request any changes to inaccurate or incomplete personal data held by us
 - seek to have your personal data deleted on all our systems
 - seek restriction of processing of personal data concerning you
 - seek to object to such processing
 - data portability
- Where we have collected your personal data from a third party, we will provide you with the information by an appropriate means as to our source of your personal data.
- Any automated decision-making, including profiling which includes your personal data. We will provide you with meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for you.
- Your right to lodge a complaint with the Data Protection Commission in relation to the handling of your subject access request (SAR) (info@dataprotection.ie)
- Your rights of review and appeal under the FOI Act in relation to your FOI request.

18. Is there a difference between the records transferred to the Department and the records transferred to Tusla in relation to the Mother and Baby Homes Commission of Investigation, and will I be able to obtain the same personal data if I send separate requests to both?

Answer:

- The Department and Tusla are separate data controllers. Identical records were not transferred from the Commission to Tusla and the Department and therefore, each organisation will not hold identical personal data relating to you. For example, the Department received a copy of the databases relating to individuals and related scanned records that were transferred from the Commission to Tusla. In addition, the Department also received other records relating to other functions of the Commission (including its Confidential Committee and its administrative functions).
- It is most likely that if you submitted two separate requests, you would receive differing responses from the Department and Tusla depending on your level of engagement with the Commission and with Tusla on matters relating to their functions. An example of this might be where you attended a meeting of the Confidential Committee – in such circumstances, Tusla would not have this record, whereas the Department would.

19. Who will my personal data be shared with?

Answer:

- Your personal data will be shared with you (i.e. 'the data subject'), or individuals acting on your behalf (e.g. a solicitor), in response to an access request.
- Your personal data may be shared with external agents, who are processors of personal data on behalf of the Department, such as –
 - The company engaged to transfer the electronic personal data from the Commission to the Department;
 - The company which manages the scanned electronic documents received from the Commission;
 - The Office of the Government Chief Information Officer (OGCIO), which hosts the databases on which electronic personal data is stored;
 - The company which stores the physical files on behalf of the Department;

or with other parties where appropriate and necessary such as

- Legal Advisors/the Attorney General's Office;
- Law enforcement/An Garda Síochána.

20. Who will see my personal data in the Department?

Answer:

- Only the staff in the Information Management Unit and other specified staff such as necessary ICT staff of the Department will have access to the Commission records. All staff and outsourced service providers accessing your data have signed confidentiality agreements. Access to the records will be carefully monitored and controlled, including for storage or maintenance purposes.
- The team in the Department who will be responding to SARs will receive internal guidance and ongoing training to ensure the secure processing of personal data when responding to requests, or the exercise of other rights by you. Access within the Department to such data will be on a 'forbidden unless granted access' basis. Staff will be trained using guidance and procedures that have been drafted following expert advice. An access log will be maintained and will record each instance of access to the records.

21. When could I be refused my data and on what grounds?

Answer:

- Your request for your personal data could be refused where, having been requested to do so, you fail to provide sufficient proof of your identity.
- We will only provide you with your personal data, ensuring we protect the rights and freedoms of others.

22. Who can I contact if I have any queries about the processing of my data?

Answer:

- You can contact the Department's Data Protection Officer (DPO) in relation to any queries or concerns you may have in relation to the processing of your data. Contact details for the DPO are as follows:
 - Post: Data Protection Officer
Department of Children, Equality, Disability, Integration and Youth,
Block 1, Miesian Plaza
50 - 58 Lower Baggot Street
Dublin 2
D02 XW14
 - Email: dpocontact@equality.gov.ie

23. What can I do if the Department is holding incorrect or incomplete personal data about me?

Answer:

- If you receive your data, and you consider that data we hold about you is inaccurate, you may wish to exercise your right to rectification or amendment. We will, on request, rectify any verified inaccuracies without undue delay and provide confirmation of the amendment(s) made.
- Where it is not possible for us to verify the accuracy of data held about you, it will not be possible to amend the data. We will advise you of that position and we will add a statement to your record or file that you have indicated that the data held is inaccurate and the reasons you believe it to be inaccurate.
- Where you indicate that data we hold about you is incomplete, we will, on request, consider the options available to have the data made complete, including by means of appending a supplementary statement with the text of your comments to the record.
- All practical options as may be appropriate in each case will be considered in exercising your right to rectification.
- Requests for rectification should be submitted by email to sar@equality.gov.ie. If you wish to exercise your right to amendment under the FOI Act, please email IMUFOI@equality.gov.ie.