



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**

**March 2024**

## How do I access my personal information?

Individuals can use either the General Data Protection Regulation (GDPR) or Freedom of Information (FOI) legislation 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 the 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.

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 the GDPR.

#### 1. When do I have the right to access my personal data from the Department under the 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 subject to any relevant rights or interests, which ought to be taken into account.

#### 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 in relation 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](mailto: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 have one**. If you can provide your email address, this will make it easier for us 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 verify your identity 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 verify the identity of the requester. To verify 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, or other appropriate ID, e.g. Public Services Card. This is required in order to validate your request.

The following information should also be provided (if known) for the purpose of facilitating the search for relevant records:

- Your date of birth;
- 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](mailto: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, an FOI request must be made in writing and should include the following:

- a statement that the request is being made under the FOI Act; **and**

- be clear enough so that the Department can identify the records being sought by the taking of reasonable steps.

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

##### **Answer:**

Given the sensitive nature of the personal information involved, the Department must verify the identity of the requester. To verify 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, or other appropriate ID, e.g. Public Services Card. This is required in order to validate your request;

The following information should also be provided (if known) for the purpose of facilitating the search for relevant records:

- Your date of birth;
- 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 the relationship with the deceased, together with sufficient identifying information about the person (including date of birth, if known), 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](http://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 the 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 appropriate ID, e.g. Public Services Card ;
- Their name and contact details (phone number/email);
- Proof of your identity (scanned copy of one of the following - your Passport, Driving License, or other appropriate ID, e.g. Public Services Card ;
- Your name and contact details (phone number/email);

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

**Answer:**

- Yes, you can request a hardcopy of your personal data, which will be provided to you via registered post.
- If you wish to receive a hard copy response, please also provide your current address. Please note that we may contact you to ask you to confirm your address in order to ensure that information is sent to the correct address.

**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.

**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:**

- The Department will contact you if additional information is required to clarify any

aspect of your request.

- If you have made a subject access request (SAR) under the 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 not possible for the Department 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 the 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 and subject to any relevant rights or interests, which ought to be taken into account.

For further information relating to the processing by the Department of personal data relating to the MBH archive, please follow this [link](#) to a copy of our Privacy Notice, which can be found on our website. You will also be informed of 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](mailto:info@dataprotection.ie)), or to seek a judicial remedy.

If you have made an FOI request, you will be informed of your rights of review and appeal under the FOI Act.

**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; 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 records).
- 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 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.

For more complete information about who your personal data will be shared with, please follow this [link](#) to a copy of our Privacy Notice, which can be found on our website.

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

### **Answer:**

- Only certain staff in the Department including necessary ICT staff and certain outsourced providers who have a business need to access the Commission's records are permitted to do so. 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 under the GDPR, ensuring we protect the rights and freedoms of others.
- Under FOI, a request may be refused in full or in part if a relevant exemption or restriction applies. For instance, section 37(1) is a mandatory exemption that applies to personal information, including joint personal information, but it is subject to

certain exceptions under section 37(2) and a public interest test under section 37(5)(a). The FOI Act also contains a mandatory exemption for information given in confidence (section 35 of the FOI Act). For further information on FOI, please visit the Freedom of Information website at [foi.gov.ie](http://foi.gov.ie).

## **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](mailto: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. However, due to the historical nature of the data contained in the MBH archive, and our obligations under the National Archives Act and the 2020 Act, it is not possible for us to directly amend or add to personal data that is contained in the archive. We therefore fulfil the right to rectification by means of a supplementary statement that will be added to the relevant departmental files and linked by reference number to the disputed records in the archive. Requests for rectification should be submitted by email to [sar@equality.gov.ie](mailto:sar@equality.gov.ie). If you wish to exercise your right to amendment under the FOI Act, please email [IMUFOI@equality.gov.ie](mailto:IMUFOI@equality.gov.ie).