

# Devon Local Medical Committee

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## Data Protection Act - Subject Access Requests For De-registered Patients

**Q: How does a practice respond to a Subject Access Request (SAR) under the Data Protection Act (DPA) for patients who have either left the practice or been removed under the FP69 protocol?**

A: It is important to separate an organisation's responsibilities by dint of their contract from those that accrue due to relevant statute. General practices have no contractual obligation to provide any services to or for an individual who is not registered with them as defined in the 2004 General Medical Services Contract ([ref](#)). However, they may have other legal responsibilities and where data is held on any individual the data controller as defined by the Data Protection Act 1998 ([ref](#)) has a legal duty to respond to Subject Access Requests (SARs) "as soon as possible" and in any event within 40 days.

This matter therefore revolves around whether the practice remains the data controller for de-registered patients. In most cases this is very unlikely. Ordinarily, the patient leaves a list because they have registered with another practice which would then become the new data controller. There are other circumstances (e.g. FP69 removal, the patient going abroad, etc.) in which this does not happen. In these cases the legal data controller is most likely to be the body that holds the patient record and is responsible for its safe keeping and update. For practices in the peninsula this is likely to be NHS Shared Business Services (SBS).

If practices receive SARs for de-registered patients, our advice would therefore be to refer the individual or organisation making the request to SBS. We are aware of cases in which SBS have stated that there is no contract for them to discharge this responsibility. This is a matter between SBS and the Area Team of NHS England.

The question of resources for the checking of notes for third party references, and for copying, has been a source of consternation for many, and has become a recognised extra cost that falls on data controllers. Many practices have been unhappy about this, but the Act is quite clear that these functions are required by law. Likewise, this is likely to generate an unexpected cost for SBS in the discharge of its legal responsibilities. The DPA makes clear the powers of the Information Commissioner to take action against non-compliant data controllers and these are set out in the link above.