
Foundry Healthcare Lewes

(comprising: School Hill, River Lodge Surgery, Anchor Field Surgery and St Andrews Surgery)

GDPR Subject Access Requests to Medical Records

Introduction

This policy provides the Practice with a process for the management of requests for personal information (for living individuals) under the Data Protection Act 2018 (DPA2018), the General Data Protection Regulations (GDPR) and (for deceased individuals) the Access to Health Records Act 1990.

It defines a process for achieving legislative requirements and ensuring effective and consistent management of such requests.

The policy ensures that all staff are aware of how a Subject Access Request (SAR) should be made and to respond quickly.

Under the Data Protection Act 2018, subject to certain conditions, an individual is entitled to be:

- Told whether any personal data is being processed;
- Given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people; and
- Given a copy of the information comprising the data; and given details of the source of the data (where this is available).

The Data Protection Act 2018 extends equally to all relevant records relating to living individuals, including records held in the private health sector and health professionals' private practice records.

Personal data held by the Practice may be:-

- Personnel/Staff records relating to a member of staff, present, past or prospective, whether permanent, temporary or volunteer
- Health records consisting of information about the physical or mental health of an identifiable individual made by, or on behalf of, a health professional in connection with the care of that individual.

Access encompasses the following rights:-

- To obtain a copy of the record in permanent form

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- To have information provided in an intelligible format (and explained where necessary)

The Data Protection Act 2018 also gives Subjects who now reside outside the UK the right to apply for access to their former UK health and employment records:

- Employees are legally entitled to request their personal records and may take them outside of the UK at their own discretion.
- Original health records should not be given to people to keep/take outside the UK. A GP or community health professional may be prepared to provide the patient with a summary of treatment; alternatively the patient may make a request for access in the usual way.

Organisations must have procedures in place to ensure that individual's rights of access are met within a timely and appropriate fashion.

Individual's rights regarding the sharing of their personal information are supported by the Care Record Guarantees, which set out high-level commitments for protecting and safeguarding service user information, particularly in regard to individuals' rights of access to their own information, how information will be shared (both within and outside of the organisation) and how decisions on sharing information will be made.

In the response to the Caldicott2 Report, the Department of Health confirmed that service users should have access to information about themselves even if it was obtained through new or non-traditional approaches (for example, virtual consultations) to delivering health and care services.

The BMA Confidentiality and Health Records Toolkit helps identify the key factors to take into consideration when making a decision around confidentiality and disclosure of health records.

Scope

This policy applies to any request by a patient or member of staff (employees, governing body members, contractors) for access to their personal information held by the Practice.

Who can make an Access Request?

An application for access to personal data may be made to the Practice by any of the following:-

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- an individual
- a person authorised by the individual in writing to make the application on an individual's behalf e.g. solicitor, family member, carer
- a person having parental responsibility for the individual where he/she is a child.
- a person appointed by a court to manage the affairs of an individual who is deemed incompetent
- individuals who hold a health and welfare Lasting Power of Attorney
- where the individual has died, the personal representative and any person who may have a claim arising out of the individual's death (the executor of the deceased's will; someone who has been appointed as an Administrator of the Estate by the Courts; someone who has the written consent of either of the above to be given access, someone who is in the process of challenging the deceased's will)

The Police may, on occasion, request access to personal data of individuals. Whilst there is an exemption in the Data Protection Act 2018 which permits the Practice to disclose information to support the prevention and detection of crime, the Police have no automatic right to access; however they can obtain a Court Order.

Parental responsibility for a child is defined in the Children's Act 1989 as 'all the rights, duties, powers, responsibilities and authority, which by law a parent of a child has in relation to a child and his property'. Although not defined specifically, responsibilities would include safeguarding and promoting a child's health, development and welfare, including if relevant their employment records. Included in the parental rights which would fulfil the parental responsibilities above are:

- having the child live with the person with responsibility, or having a say in where the child lives;
- if the child is not living with her/him, having a personal relationship and regular contact with the child;
- controlling, guiding and directing the child's upbringing.

Foster parents are not ordinarily awarded parental responsibility for a child. It is more likely that this responsibility rests with the child's social worker and appropriate evidence of identity should be sought in the usual way.

The law regards young people aged 16 or 17 to be adults for the purposes of consent to employment or treatment and the right to confidentiality. Therefore, if a 16 year old wishes

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HR or a medical practitioner to keep their information confidential then that wish must be respected.

In some certain cases, children under the age of 16 who have the capacity and understanding to take decisions about their own treatment are also entitled to decide whether personal information may be passed on and generally to have their confidence respected.

Where a child is considered capable of making decisions, e.g. about his/her employment or medical treatment, the consent of the child must be sought before a person with parental responsibility may be given access. Where, in the view of the appropriate professional, the child is not capable of understanding the nature of the application, the holder of the record is entitled to deny access if it is not felt to be in the patient's best interests.

The identity and consent of the applicant must always be established.

The applicant does not have to give a reason for applying for access.

The Practice is a Data Controller and can only provide information held by the organisation. Data controllers in their own right must be applied to directly, the Practice will not transfer requests from one organisation to another.

Application

Individuals wishing to exercise their right of access should:

- Make a written application to the Practice holding the records, including via email
- Provide such further information as the Practice may require to sufficiently identify the individual

An individual may also raise a request using the form in [Appendix A](#), however this is not mandatory.

The Practice as "data controller" is responsible for ascertaining the purpose of the request and the manner in which the information is supplied.

Fees, Response Time and Checking ID

Under GDPR the Practice musts provide information free of charge. However, the Practice can charge a "reasonable fee" when a request is manifestly unfounded or excessive, particularly if it is repetitive. The fee must be based on the administrative cost of providing the information only.

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The request should be initially passed to the Data Protection Officer who will manage Subject Access Request.

The request must be complied with without delay and at least within **28 days** of receipt of the request. This period can be extended for a further two months where requests are complex or numerous; however the Practice must inform the individual within one month of receipt of the request and explain why the extension is necessary. Sometimes additional information such as confirming the identity of the requestor or the scope of the request is needed before copies can be supplied. In such cases, the 28 day time limit will begin as soon as the additional information has been received.

The identity of an individual who provided/recorded information should not be disclosed, nor should the identity of any other person/s referred to in the record(s) of the individual requesting access, unless explicit consent has been given.

Before access is provided the identity of the person making the request must be verified using "reasonable means", you can use a form or check photo ID for this purpose.

AMRA or GDPR request

Access to Medical Reports Act 1990 is an Act to establish a right of access by individuals to reports relating to themselves provided by medical practitioners for employment or insurance purposes and to make provision for related matters.

Check if the request is under GDPR or Access to Medical Records Act (AMRA, this covers all employment, life insurance, mortgage insurance, insured negligence – anything covered by an insurance contract that required a medical report). If it is an AMRA request, the standard (previous) fees still apply.

There is a potential for requests that the practice feel are AMRA request to be quoted as GDPR by 3rd parties, so we suggest seeking clarification from the Solicitors or companies involved if these are GDPR requests, however, in the main they will all probably state they are GDPR requests to avoid associated AMRA costs.

The problem is, if a practice insists a request is under the AMRA requirements it runs the risk of a complaint to the ICO, or you wait for a response and if they say GDPR we absorb the costs.

Good practice would be to email the solicitors asking for clarification of legal powers used to access the patient data using text such as the below:

The practice would like to clarify the purpose of your request. There are two forms of legislation relating to the release of medical records, Access to Medical Reports Act

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(AMRA) which is usually for an insurance related reason or for employment purposes, this purpose still has a fee attached to process this request.

The other legislation is a Subject Access Request (SAR) under the GDPR legislation which is not chargeable.

Therefore could you please clarify your purpose for requesting these records, is this an Access to Medical Records Reports Act request or a Subject Access Request and we will then of course deal with your request without delay.

A patient can authorise a solicitor acting on their behalf to make a SAR. Health professionals releasing information to solicitors acting for their patients should ensure that they have sight of the patient's written consent (dated within the last 3 months). The consent must cover the nature and extent of the information to be disclosed under the SAR (for example, past medical history) and who might have access to it as part of the legal proceedings. Where there is any doubt, health professionals should confirm with the patient before disclosing the information. Should the patient refuse, the solicitor may apply for a court order required disclosure of the information.

The preference is to give the notes directly to the patient – this will require less redaction and if patient then moves to a different solicitor they can use the same notes.

Requests from Insurers

SARs from insurance companies to GP practices for the disclosure of full medical records is the subject of separate advice available on the BMA website. The position of the ICO is that the use of SARs to obtain medical information for life assurance purposes is an abuse of subject access rights and the processing of full medical records by insurance companies risks breaching the GDPR.

This does not mean however that GP data controllers can refuse to respond to a SAR from an insurer outright. When a SAR from an insurance company is received, the GP surgery should contact the patient to explain the extent of the disclosure that has been sought. GPs can then, if requested, provide the patient themselves with their medical record rather than providing them directly to the insurance company. It is then patients choice as to whether, having reviewed the record, they choose to share it with the insurance company.

Insurance companies should use the provisions of the Access to Medical Reports Act 1988 to see a GP report (see full guidance on BMA website).

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Excessive Requests

This isn't defined and would have to be justified but if it is an excessively wider request (see below) admin costs can be charged.

The latest guidance from the ICO suggests that the volume of information in a record would not be assessed in regards to an excessive claim (ie number of papers) but excessive is really based on the request – “please give me everything the practice holds on me” might be excessive as it may include CCTV, telephone recording, emails, letters and medical record. Whereas “please provide my medical record” would probably not be excessive.

Repeated requests

Initial access must be provided free of charge. It may be deemed repetitive if patient has already received exact same information within the last 12 months.

If the SAME information has been sent to ANY proxy of the patient, this includes solicitors, the practice can charge for a reasonable administration fee for a duplicate report.

For supplying a copy, a fee not exceeding the cost of making the copy and any postal costs may be charged. Charges should be reasonable and justifiable.

Health professionals may charge a professional fee to cover the costs of giving access to the records of deceased patients this is not covered by legislation. GDPR does not apply to data concerning deceased persons.

Fees in General

According to the BMA:

The circumstances when a fee can be charged for access to health records are likely to be rare and further advice should be sought on specific cases where it is believed that charging might be justifiable.

Supplying records directly to patients

This is the preferable option as the patient can then review and be aware of exactly what data is being shared. Please make sure the paper is watermarked “Patient copy” when printing out the records.

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Redaction or editing out information

The GDPR read together with the Data Protection Act 2018 provides for several exemptions in respect of information falling within the scope of a SAR. In summary, information can generally be treated as exempt from disclosure and should not be disclosed if:

- It is likely to cause serious physical or mental harm to the patient or another person; or it relates to a 3rd party who has not given consent for disclosure (where that 3rd party is not a health professional who has cared for the patient) and after taking into account the balance between the duty of confidentiality to the 3rd party and the right of access of the applicant, the data controller concludes it is reasonable to withhold 3rd party information; or
- It is requested by a 3rd party and the patient had asked that the information be kept confidential, or the records are subject to legal professional privilege. This may arise in the case of an independent medical report written for the purpose of litigation. In such cases, the information will be exempt if after considering the 3rd party's right to access and the patient's right to confidentiality, the data controller reasonably concludes that confidentiality should prevail; or
- It is restricted by order of the courts; or
- It relates to the keeping or using of gametes or embryos or pertains to an individual being born as a result of in vitro fertilisation; or
- In the case of children's records, disclosure is prohibited by law, eg adoption records.

There is no requirement to disclose to the applicant the fact that certain information may have been withheld.

In addition, Article 23 of the GDPR enables Member States, such as the United Kingdom to introduce further exemptions from the GDPR's transparency obligations and individual rights. The Data Protection Officer can provide further information regarding exemptions applicable at the time of receipt of the subject access request.

THE DATA CONTROLLER MUST REDACT OR BLOCK OUT ANY EXEMPT INFORMATION.

The Release Stage

The format of the released information must comply with the requester's wishes. Where no

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specific format is requested, the Practice should provide the information in the same manner as the original request. For example, requests received via email can be satisfied via email.

The release of a health record is subject to consultation with either:-

- The health professional who is currently, or was most recently, responsible for the clinical care of the data subject in connection with the information which is the subject of the request
- Where there is more than one such health professional, the health professional who is the most suitable to advise on the information which is the subject of the request

Once the records have been collated, redacted where applicable and signed off by the Caldicott Lead/UGP, they should be sent to the requester. On no account must the original record be released.

In denying or restricting access, a reason for the decision does not need to be given but the applicant should be directed through the appropriate complaint channels.

If letters have been removed relating to a termination of pregnancy, for example, when the notes are forwarded to the solicitor a further paragraph is to be added stating that "certain letters have been removed that are of a personal nature and bear no relevance to the claim". If items are removed from the records the patient must be advised as this could affect their claim. A solicitor may insist on a full set of notes. In this instance consent has to be obtained from the patient to release this information.

Where information is not readily intelligible, an explanation (e.g. of abbreviations or terminology) must be given.

If it is agreed that the subject or their representative may directly inspect the record, a health professional or HR administrator must supervise the access. If supervised by an administrator, this person must not comment or advise on the content of the record and if the applicant raises enquiries, an appointment with a health professional must be offered

Complaints and Appeals

The applicant has the right to appeal against the decision of the Practice to refuse access to their information. This appeal should be made to Dr James Annis, Caldicott Guardian

If an applicant is unhappy with the outcome of their access request, the following complaints channels should be offered:

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- meet with the applicant to resolve the complaint locally
- advise a patient to make a complaint through the complaint's process
- advise a member of staff to consult with their trade union representative

If individuals remain unhappy with the Practice response, they have the right to appeal to the Information Commissioner's Office:

https://www.ico.org.uk/Global/contact_us.

Information Commissioner's Office

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 0303 123 1113

Email: casework@ico.gsi.gov.uk

Roles and Responsibilities

The Caldicott Guardian has executive responsibility for Subject Access Requests.

The Data Protection Officer has operational responsibility for Subject Access Requests.

All staff must be aware of how to recognise and manage a subject access request. Training will be provided to staff likely to be in receipt of requests covering:-

- Required format of a subject access request
- Correct identification of the requesting individual
- Location of personal information
- Timescales for compliance
- Provision of information in an intelligible format
- Action to be taken if the information includes third party data or if it has been determined that access will seriously harm an individual (see exemptions)

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Monitoring and Review

The Data Protection Officer monitors all Subject Access Requests to ensure the correct process has been followed and monitors any appeals/complaints relating to Subject Access Requests.

Equality Impact

In applying this policy, the organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

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Appendix A: Form – Subject Access Request Form

Foundry Healthcare Lewes (to include: School Hill Medical Practice, River Lodge Surgery, Anchor Field Surgery and St Andrews Surgery) respects the rights of individuals to have copies of their information wherever possible.	
Personal information collected from you by this form, is required to enable your request to be processed, this personal information will only be used in connection with the processing of this Subject Access Request. 	
Charges Payable: In accordance with legislation no fee will be charged for your first request, unless the request is manifestly unfounded or excessive, particularly if it is repetitive. Before any further action is taken, we will contact you with details of our “reasonable administrative charges” in order to comply with your request.	
PLEASE COMPLETE IN BLOCK CAPITALS – Illegible forms will delay the time taken to respond to requests.	
1.	Details of Patient/Clients/Staff members records to be accessed (Please complete one form per person)
Surname	
Date of Birth	
Forename(s)	
Current Address	
Any former names (If Applicable)	
Full Postcode	
Telephone Number	
Previous Address (If Applicable)	
NHS Number (If known/relevant)	
Full Postcode	
If further details are available please include in a separate covering note.	
2.	Details of Records to be Accessed
In order to locate the records you require please provide as much information as possible. Please list the department or services you have accessed that you require records from: i.e. PALs, complaints, continuing healthcare or Human resources etc (Continue on a separate sheet if required).	
Records dated from	Department or services accessed
/ / to / /	
/ / to / /	
3.	Details of applicant (Complete if different to patients/clients/staff members details)
Full Name	
Company (if Applicable)	
Relationship with individual who's records have been requested	

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Address to which a reply should be sent		Postcode:	Tel:
4.	Authorisation to release to applicant (to be completed by the patients/clients/staff member if not making their own request)		
<p>I (Print name) _____ hereby authorise the Foundry Healthcare Lewes to release any personal data they may hold relating to me to the above applicant and to whom I authorise to act on my behalf.</p> <p>Signature of patient/client/staff member : _____ Date: / /</p>			
5.	Declaration		
<p>I declare that information given by me is correct to the best of my knowledge and that I am entitled to apply for access to the health record(s) referred to above, under the terms of the Access to Health Records Act (1990) / Data Protection Act.</p> <p>Please select one box below:</p> <p><input type="checkbox"/> I am the patient/client/staff member (data subject).</p> <p><input type="checkbox"/> I have been asked to act on behalf of the data subject and they have completed section 4 -authorisation above.</p> <p><input type="checkbox"/> I am acting on behalf of the data subject who is unable to complete the authorisation section above (Covering letter with further details supplied).</p> <p><input type="checkbox"/> I am the parent/guardian of a data subject under 16 years old who has completed the authorisation section above. (Please include proof such as birth certificate)</p> <p><input type="checkbox"/> I am the parent/guardian of a data subject under 16 years old who is unable to understand the request and who has consented to my making the request on their behalf.</p> <p><input type="checkbox"/> I have been appointed the Guardian for the patient/client, who is over age 16 under a Guardianship order (attached).</p> <p><input type="checkbox"/> I am the deceased patient/client's personal representative and attach confirmation of my appointment.</p> <p><input type="checkbox"/> I have a claim arising from the patient/client's death and wish to access information relevant to my claim (Covering letter with further details to be supplied).</p> <p>Please Note:</p> <ul style="list-style-type: none"> ▪ If you are making an application on the behalf of somebody else we require evidence of your authority to do so i.e. personal authority, court order etc. ▪ It may be necessary to provide evidence of identity (i.e. Driving Licence). ▪ If there is any doubt about the applicant's identity or entitlement, information will not be released until further evidence is provided. You will be informed if this is the case. ▪ Under the terms of the Data Protection Act, requests will be responded to within 30 days after receiving all necessary information and/or fee required to process the request. ▪ If you are making a request under the Access to Health Records Act 1990, requests will be responded to within 40 days where no entries have been made to the patient/client's record 40 days immediately preceding the date of this request, otherwise requests will be responded to within 21 days after receiving all necessary information and/or fee required to process the request. 			

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I declare that information given by me is correct to the best of my knowledge and that I am entitled to apply for access to the health record(s) referred to above, under the terms of the Access to Health Records Act (1990) / Data Protection Act.

Please select one box below:

- I am the patient/client/staff member (data subject).
- I have been asked to act on behalf of the data subject and they have completed section 4 -authorisation above.
- I am acting on behalf of the data subject who is unable to complete the authorisation section above (Covering letter with further details supplied).
- I am the parent/guardian of a data subject under 16 years old who has completed the authorisation section above. (Please include proof such as birth certificate)
- I am the parent/guardian of a data subject under 16 years old who is unable to understand the request and who has consented to my making the request on their behalf.
- I have been appointed the Guardian for the patient/client, who is over age 16 under a Guardianship order (attached).
- I am the deceased patient/client's personal representative and attach confirmation of my appointment.
- I have a claim arising from the patient/client's death and wish to access information relevant to my claim (Covering letter with further details to be supplied).

Please Note:

- If you are making an application on the behalf of somebody else we require evidence of your authority to do so i.e. personal authority, court order etc.
- It may be necessary to provide evidence of identity (i.e. Driving Licence).
- If there is any doubt about the applicant's identity or entitlement, information will not be released until further evidence is provided. You will be informed if this is the case.
- Under the terms of the Data Protection Act, requests will be responded to within 30 days after receiving all necessary information and/or fee required to process the request.
- If you are making a request under the Access to Health Records Act 1990, requests will be responded to within 40 days where no entries have been made to the patient/client's record 40 days immediately preceding the date of this request, otherwise requests will be responded to within 21 days after receiving all necessary information and/or fee required to process the request.
- Under the terms of Section 7 of the Data Protection Act, Information disclosed under a Subject Access Request may have information removed; this is to ensure that the confidentiality is maintained for third parties referred to who have not consented to their information being disclosed.
- When we print out any information from your records and hand it to you, the patient, it is your responsibility to keep this information safe and secure. If you are worried about keeping printed copies safe and secure, we recommend you do not make copies at all.

Print Name		Signed (Applicant)		Date	/ /
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Please complete and send this document to the surgery you are registered with:

Foundry Healthcare Lewes comprising:

River Lodge Surgery, Malling Street, Lewes, East Sussex, BN7 2RD

Anchor Field Surgery, Anchor Field, Ringmer, East Sussex, BN8 5QN

St Andrews Surgery, Southover Road, Lewes, East Sussex, BN7 1US

School Hill Medical Practice. School Hill House, 33 High Street, Lewes, East Sussex, BN7 2LU

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LETTER TO PATIENT – SAR made directly

Dear *

Further to your Subject Access Request (SAR), we are pleased to inform you that your GP has checked and prepared the GP record and accordingly it is now at ** Surgery, ready for you to collect (as you do all other paperwork, letters, certificates and forms that we provide you with). The information is awaiting collection within a sealed, tamper-evident bag.

If so requested, we can rearrange to make your information available for collection from one of the other surgeries.

Please bring some form of ID with you when you come to collect your records and please note there is no charge for this, your free copy of your medical records.

You will now be in control of your medical information.

Please note that the information we have released to you might contain medical history about your family that you have provided directly (to the surgery or other medical organisation). We would ask you to bear this in mind were you to consider disclosing information, from your supplied record, to any third party. Should you, or any third party on your behalf, request another copy of the SAR from us, following this request, we are entitled to charge for doing so. We would encourage you to keep a full copy of the record that we have provided you with, at all times, so as to avoid the need to request a second copy of the same information from us.

If you do decide to send a copy of some, or all, of the medical record to a third party, then we would urge you to do so securely by recorded delivery (eg Post Office Signed ForTM); or, of course, request that third party arrange a courier to collect the record from you directly.

Please do take care of the record that you hold – it is now your responsibility to ensure that it is kept secure. If you have not already done so, you might wish to register with the surgery for secure online access to your electronic GP record, enabling you to look at and/or download your GP record – in particular, any future information added to your record whenever you like, and without the need of making a further Subject Access Request.

As per Article 15(1) of the GDPR, we are obliged to provide you with access to “supplementary information” about the information that we hold about you. That can be found via our website ****.

We have helped you exercise your information rights, and we trust that you are satisfied with how we have responded to your request; but if not then please do contact us; alternatively, as you are the data subject, you can contact the Information Commissioner directly – details at www.ico.org.uk.

Yours sincerely
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Online Access Registration Form

PLEASE SUPPLY 2 FORMS OF IDENTIFICATION - 1 PHOTO AND 1 WITH YOUR CURRENT ADDRESS

I would like to apply for the following online services:

Requesting repeat prescriptions	<input type="checkbox"/>
Booking appointments	<input type="checkbox"/>
Viewing summary information from medical records	<input type="checkbox"/>

In signing this registration form, I agree that (please tick):

1. I have understood the information leaflet provided by the Practice	<input type="checkbox"/>
2. I consent to receiving SMS from the Practice	<input type="checkbox"/>
3. I consent to receiving Emails from the Practice	<input type="checkbox"/>
4. I will be required to provide photographic identification before I can access online services (e.g. driving licence, passport, identity card, etc)	<input type="checkbox"/>
5. I will be provided with a user code that will be unique to me and that it is my responsibility to keep my username and passwords secure. If I believe these to have been shared inappropriately, I will reset this using instructions via Systmonline.tpp-uk.com	<input type="checkbox"/>
6. If I choose to share my information with anyone else, this is at my own risk	<input type="checkbox"/>
7. I will contact the practice as soon as possible if I suspect that my account has been accessed by someone without my agreement	<input type="checkbox"/>
8. If I see information in my record that is not about me, or is inaccurate, I will log out immediately and contact the practice as soon as possible	<input type="checkbox"/>
9. It is my responsibility to notify the Practice of any change in my contact details	<input type="checkbox"/>
10. Online services are provided at the discretion of the practice and may be withdrawn by the practice at any time. I understand that the practice reserves the right to withdraw my access to online services if I misuse this service	<input type="checkbox"/>

If you would like access to your detailed coded records please request this via the SystmOne site when you have logged on.

Full name		Date of Birth	
Address		Home Tel	
		Mobile No	
Postcode		Email address	
Signature		Date	

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*If the patient is under the age of 11, online access may be applied for by the parent/guardian (**Proxy Access**) all patients attaining the age of 11 will be required to apply for access for online services to be continued.*

Name & Signature of parent / guardian:		Date:
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Checklist for Requests for Medical Notes

Please attach to notes and sign at each stage of the process

Patient name:		Date of Birth:	
Dept	Date	Action	Signature
Sec		<ul style="list-style-type: none"> ➤ Request received – log on Excel sheet ➤ Consent checked (dated within last 3 months) ➤ Use BELL to record read code on computer as to who/where request came from 	
Sec		<ul style="list-style-type: none"> ➤ Phoned patient re: consent and to inform this is the only free copy and check if wants to see before sending ➤ Ensure patient is aware what personal details are going to be sent 	
Sec		<ul style="list-style-type: none"> ➤ Scanned documents and summary report printed ➤ Notes photocopied ➤ Check for 3rd party entries and redact/remove ➤ Remember to check for specific dates if that is all that is requested 	
Sec to UGP		All copies together with scanned docs/summary report and copy of company request recorded on Excel sheet	
UGP		Final approval from GP for these notes to be	

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		released	
Sec		<ul style="list-style-type: none"> ➤ Hand to patient – print form for pt to sign upon collection ➤ Post by Recorded Delivery – receipt passed to Petty Cash ➤ Use BELL to record read code on patient notes as to how and who notes sent/handed to 	

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Patient Collecting Requested Medical Records Form

PATIENT DISCLAIMER: I confirm that I have received the requested copies of my Medical Records. I accept full responsibility for the safety and security of these records.

Name of staff member handing over the records:

Signature of staff member:

Date:

Time:

Signature of Applicant:

Print name:

Date records received:

(for office use only)

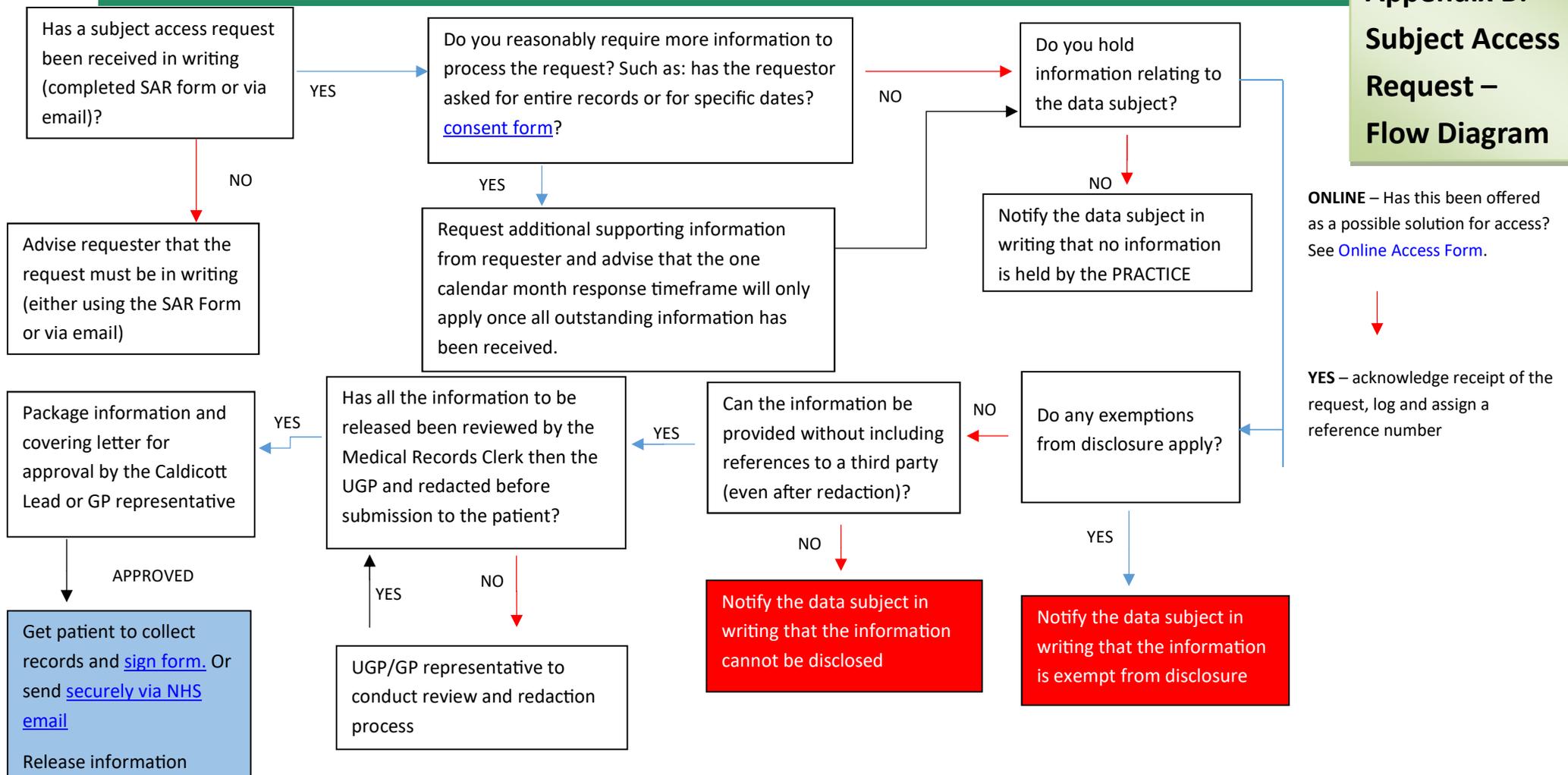
When the above has been completed please scan into the patients records – OR – record in the coded entry of Medical Record that SAR has been collected.

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Appendix B: Subject Access Request – Flow Diagram



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Appendix C - Disproportionate Effort Exemption Guidance

This guidance sheet is based on the revised Information Commissioner Subject Access Code of Practice that was issued in July 2017:

<https://ico.org.uk/media/for-organisations/documents/2014223/subject-access-code-of-practice.pdf>

1. What is disproportionate effort?

- The 'disproportionate effort' exception is in section 8(2) of the DPA. The Court of Appeal has provided clarification as to its application in its 2017 judgments in the cases of Dawson-Damer¹ and Ittihadieh/Deer and Oxford University²
- The DPA does not define 'disproportionate effort', but the court has explained that there is scope for assessing whether, in the circumstances of a particular case, complying with a request by supplying a copy of the requested information in permanent form would result in so much work or expense as to outweigh the requester's right of access to their personal data
- The court also made it clear that in assessing whether complying with a SAR would involve disproportionate effort under section 8(2)(a) you may take into account difficulties which occur throughout the process of complying with the request, including any difficulties you encounter in finding the requested information
- This approach accords with the concept of proportionality in EU law, on which the DPA is based. When responding to SARs, the Information Commissioner expects you to evaluate the particular circumstances of each request, balancing any difficulties involved in complying with the request against the benefits the information might bring to the data subject, whilst bearing in mind the fundamental nature of the right of subject access

2. How is this applied in practice?

- In order to apply the exception, the burden of proof is on you as Data Controller to show that you have taken all reasonable steps to comply with the SAR, and that it would be disproportionate in all the circumstances of the case for you to take further steps
- The Information Commissioner considers it good practice for you to engage with the applicant, having an open conversation about the information they require. This might help you to reduce the costs and effort that you would otherwise incur in searching for the information

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- If the Information Commissioner receives a complaint about your handling of a subject access request, they may take into account your readiness to engage with the applicant and balance this against the benefit and importance of the information to them, as well as taking into account their level of co-operation with you in the course of the handling of a request
- Even if you can show that supplying a copy of information in permanent form would involve disproportionate effort, you must still try to comply with the request in some other way, if the applicant agrees. This could form a useful part of your discussions with the applicant, in order to identify an alternative way of satisfying their request
- In addition, even if you do not have to supply a copy of the information in permanent form, the requester still has the right:
 - to be informed whether you are processing their personal data; and
 - if so, to be given a description of:
 - the personal data in question; for the purpose of the processing; and for the recipients or classes of recipients; and
 - to be given information about the source of the personal data.

3. Example

- An organisation has decided that to supply copies of an individual's records in permanent form would involve disproportionate effort
- Rather than refuse the individual access, they speak to her and agree that it would be preferable if she visited their premises and viewed the original documents. They also agree that if there are documents she would like to take away with her, they can arrange to provide copies

4. Key things to remember

- Where the disproportionate effort argument is used this is NOT a reason for not seeking to respond to a request
- This is about recognizing the difficulties that an organisation at times may have in finding information and providing a constructive approach that recognizes this
- The applicant still has the right of appeal and an organisation MUST be able to demonstrate the structured approach that it has taken if the disproportionate effort argument is used

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Sending sensitive information to non-secure email addresses (including nursing homes, pharmacies and patients)

Secure does not mean a “watched” email address or “it only comes to me”, it means an address which provides “encryption”. Encryption is an additional security tool which means users can communicate securely to any type of email account.

How to use encryption when sending from NHSmail

All you need to do is add the word **[secure]** in the subject line of a message - with the inclusion of the square brackets. **Note:** [secure] is not case sensitive and [SECURE] or [Secure], for example, could also be used.

Before using the service:

- Be aware of organisation policies and processes on sharing personal confidential data and sensitive information first which will take precedence over this guidance

When a patient receives an encrypted email, they will need to register for the service if they haven't done so already. Once registered they can then open the email in their internet browser. After logging in they will be able to view and reply to the email, confident that their information is safe and secure.

Patients will receive an email which looks like this:

Private and confidential

You have received an email message secured by Private Post. Please open the file called Encrypted_Message.htm to read the message.

Using [secure] in the subject line if sending an email from one NHSmail address to another

When sending email from NHSmail to another secure service you do not need to take any action. You will know if you have an NHSmail email address because it will end in nhs.net.

Email addresses which meet the same high accreditation and security standards as NHSmail are rare. You can spot them by their endings. They will end in:

Nhs.net, Secure.nhs.uk, Gov.uk, Cjsm.net, Pnn.police.uk, Mod.uk, Parliament.uk

ALL other addresses for example nhs.uk, gmail, Hotmail etc are all **INSECURE** – **you must then use the encryption feature.** If you are sending an email to multiple organisations with some secure and

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some insecure domains, you must use [secure], this will not affect how the “secure” will receive the email.

How to send an encrypted message

Before sending patient or sensitive data via the encryption service, it is good practice to set up the ‘encrypted channel’ which helps verify the correct recipient:

1. Send the recipient the accessing [Accessing Encrypted Emails Guide for non NHSmail users](#), this guide will give instructions on what to expect the first time an encrypted email is received. Please **be aware the user cannot register for the service until they have received an encrypted email**.
2. Once the recipient of the information has registered for the encryption service and confirmed to the sender this is complete, patient and sensitive data can be sent within an email or as an attachment, subject to local governance policies.
3. Follow the steps below to send an initial encrypted email but **do not** include patient or sensitive information the first time. This is to ‘set-up’ the secure channel of communication and ensure the correct recipient has successfully received the email. If it is an incorrect recipient, data has not been compromised.

To send an encrypted email:

1. Log in to your NHSmail account (either via an email client such as Outlook or via the web portal at www.nhs.net).
2. Create a new email message in the normal way.
3. Ensure the recipient’s email address is correct.
4. In the **subject** field of the email, enter the text [secure] before the subject of the message. The word secure **must** be surrounded by the square brackets for the message to be encrypted. If square brackets aren’t used, the content of the email will be sent in plain text and may potentially be exposed to interception or amendment.
5. Type the message.

The screenshot shows an email composition window. The 'From' field is 'first.last@nhs.net'. The 'To' field contains 'someone@local-pharmacy.co.uk'. The 'Subject' field is '[secure] Encryption Guide for Recipients'. A 'Send' button is visible on the left. Below the subject field, a message preview is shown: 'This is an encrypted email that has been securely delivered to support the exchange of sensitive information as part of an agreed clinical workflow between our organisations.'

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6. Click on **send** to send the message. An unencrypted copy will be saved in your **sent items** folder.

Once the initial registration process has taken place, you can then send other emails with required attachments.

The service will then encrypt the message and deliver it to the intended recipient. The sent item will be stored unencrypted in your sent items folder, and any replies received will be decrypted and displayed as normal in NHSmail.

Advice for the person receiving an encrypted email

You may need to forward this to the person/s receiving the encrypted email.

[Accessing Encrypted Emails Guide for non NHSmail users](#)

If you save this to your desktop and then attach as an email. This **can** go to any unsecure account.