

Application for Access to Health Records Important Information for Applicants

The following guidance should be used by applicants when completing an application form (form SA1) to access health records, X-rays or Maternity Records.

Background

The General Data Protection Regulation (2016) gives every living person the right to apply for access to his or her health records. However, there are certain circumstances in which we may withhold information. Access may be denied or limited where the information might cause serious harm to the physical or mental health or condition of the patient, or any other person, or where giving access would disclose information relating to or provided by a third party who had not consented to the disclosure.

Health records relating to deceased people do not carry a common law duty of confidentiality and the General Data Protection Regulation (2016) does not make provision for deceased people. Access to the health records of a deceased person is governed by the Access to Health Records Act (1990). Under this legislation when a patient has died, his/her personal representative or executor or administrator or anyone who may have a claim resulting from the death, has the right to apply for access to the deceased's health records.

The Trust has adopted the following procedures and terms and conditions to ensure that your application is processed in accordance with the requirements of the General Data Protection Regulation (2016) or the Access to Health Records Act (1990) as necessary.

Terms and Conditions

An individual who makes a subject access request has the right to:

- be told by the Trust whether any personal data is held about him/her, and
- be supplied with a copy of the information that forms any such personal data
- obtain a copy of the record in permanent form, and
- view a record without obtaining a copy
- to have information explained where necessary e.g. medical abbreviations.

No reason needs be given for an application (unless the application is for the records of a deceased patient – please see below).

The applicant must confirm and prove that he/she is legitimately entitled to access the personal data requested. Therefore, the applicant must meet one of the following criteria:

- The applicant is the patient
- The applicant has been asked by the patient to apply and attaches his/her written consent
- The applicant is acting in *loco parentis* and the patient is under the age of 16
- The applicant may have a claim arising from the patient's death

Author : Dominique Emmanuel, Informatics Governance Manager Approved by: Information Governance Group	Date May 2018
Page 1 of 4	Review date: May 2020

There are specific reasons why access to personal data may be denied including:

- Where the data released may cause serious harm to the physical or mental health or condition of the patient, or any other person.
- Where access would disclose information relating to or provided by a third party.
- Where the consultant in charge of a patient's care assesses that a patient under the age of 16 cannot understand the implications of accessing his/her records.
- Where the patient expressly stated that information must not be disclosed.
- Where the information relates to, or has been given by, anyone except a clinician involved in the patient's care, unless his/her consent has been given

The Trust must be prepared to justify decisions to withhold information.

There may be other occasions when either an entire record or part of the record is not released to the applicant:

- The obligation to provide a copy may be waived where the patient agrees otherwise or it is not possible to supply a copy of the material sought, or to do so would involve disproportionate effort (for example because papers have been destroyed, or are spread around the country).
- Releasing deceased patient information or records to people not entitled to it could lead to the Trust being sued for breach of confidence by the personal representatives.

When a patient has died, only his/her personal representative, or executor or administrator, or anyone having a claim resulting from the death, has the right to apply for access to the deceased patient's records.

If a deceased person had indicated that he/she did not wish information to be disclosed, or the record contains information that the deceased person expected to remain confidential, then it must remain so.

- If you require multiple document types (e.g. copies of your Health Record and Maternity Records) please only complete one application form to include details of all the documentation you require.
- Any information you have supplied in making this request will be treated in confidence. It will only be used for the purpose of carrying out the search for your information in accordance with the General Data Protection Regulation (2016).
- As part of your application, please complete the application form and provide two forms of identification as well as provide proof of address. If photocopies are provided with the form, then the originals must be provided if collecting your information in person from the medical records department.
- Send completed application form and two forms of identification to:

Medical Records Manager
 Medical Records Department
 Royal United Hospitals NHS Foundation Trust
 Combe Park
 BATH
 BA1 3NG

Author : Dominique Emmanuel, Informatics Governance Manager Approved by: Information Governance Group	Date May 2018
Page 2 of 4	Review date: May 2020

Supplying Information

- Once the request has been validated and checked for any information to be withheld, the Trust will provide either sight of the information or a permanent copy as requested.
- If your request is to view your health record only, then an appointment will be arranged at a time and for a duration that is convenient to both yourself and the Trust. If necessary, more than one appointment may be required.
- If you have asked to be provided with copies of records, these will usually be sent to the address you have provided. Should you prefer to collect them in person, then please indicate this on the application form.
- You will receive a reply within 1 month (following receipt of all data necessary to process request).

Requesting Copies of a Health Record in relation to a Complaint about Healthcare

If you require copies of your Health Records in relation to a complaint about Healthcare treatment then only the information specific to the complaint will be disclosed as default.

All other unrelated information contained within the Health Record can be provided separately if indicated as required on the Subject Access Request form.

Taking Further Action

If the Trust has failed to respond to your request to your satisfaction and you have sent all the information requested, you should address your concerns to the Medical Records Manager at the address given, by recorded delivery. You are advised keep a copy of your letter for your own records.

If you still do not receive a reply or if you think that the information is wrong or incomplete, you may ask the Information Commissioner to carry out an independent assessment as to whether the Trust is meeting the terms of the General Data Protection Regulation (2016). The Information Commissioner can be contacted at the following address: Information Commissioners Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Alternatively, you can pursue the matter yourself by taking your case to court.

Further Information

Should you require any additional information you are advised to contact the Trust's Data Protection Officer, either at the address below or by telephone (01225) 824803.

Data Protection Officer
Health Informatics Service (HIS), Apley House (E5)
Royal United Hospitals Bath NHS Foundation Trust
Combe Park
Bath BA1 3NG

Author : Dominique Emmanuel, Informatics Governance Manager Approved by: Information Governance Group	Date May 2018
Page 3 of 4	Review date: May 2020

Feedback

We are always looking to improve our services, if you would like to provide feedback regarding your subject access application, please do so by writing to the address below:-

Medical Records Manager
Medical Records Department
Apley House (E5)
Royal United Hospitals Bath NHS Foundation Trust,
Combe Park
Bath
Somerset
BA1 3NG

Author : Dominique Emmanuel, Informatics Governance Manager Approved by: Information Governance Group	Date May 2018
Page 4 of 4	Review date: May 2020