

Coleridge Medical Centre

Subject Access Request Policy for Patients (Access to Personal Data)

Who can make an Access Request?

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

- 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 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 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 attached form, 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 and Response Time

Under GDPR the Practice musts provide information free of charge. However, we 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.

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 **one calendar month** 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.

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.

The Release Stage

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

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

Exemptions

Access may be denied or restricted where:

- The record contains information which relates to or identifies a third party that is not a care professional and has not consented to the disclosure. If possible, the individual should be provided with access to that part of the record which does not contain the third party information
- Access to all or part of the record will prejudice the carrying out of social work by reason of the fact that serious harm to the physical or mental well-being of the individual or any other person is likely. If possible the individual should be provided with access to that part of the record that does not post the risk of serious harm
- Access to all or part of the record will seriously harm the physical or mental well-being of the individual or any other person. If possible the individual should be

provided with access to that part of the record that does not pose the risk of serious harm

- If an assessment identifies that to comply with a SAR would involve disproportionate effort under section 8(2)(a) of the Data Protection Act.

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 Members 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.

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 The Caldicott Lead.

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

- 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

Appendix A: Form - Request for Access to Records

The Access to Health Records Act 1990 and Data Protection Act give patients/clients/staff or their representatives a right of access, subject to certain exemptions, to their health records. The Coleridge Medical Centre 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 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)											
<table border="1" style="width: 100%; height: 20px; border-collapse: collapse;"> <tr> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> <td style="width: 10%;"></td> </tr> </table>											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, for example details of any specific injury or condition. Please list the department or services you have accessed that you require records from: i.e. GP consultations, hospital, referrals, complaints, continuing healthcare or Human resources etc (Continue on a separate sheet if required).

	Records dated from	Further information ie service accessed/specific injury
All Medical Records	/ / to / /	
Medical Records relating to the following injury or service 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			

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 Coleridge Medical Centre 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. ▪ For requests 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. 					
Print Name		Signed (Applicant)		Date / /	

Please complete and send this document to: Coleridge Medical Centre, Canaan Way, Ottery St Mary, Devon EX11 1EQ