

Access to Medical Records

1.1 Right to access

MyHealth has mechanisms in place informing patients of their right to access the information held about them, which include the fee and how long it will take for a DSAR process to be completed.

With effect from April 2016, NHS practices are, as part of their contractual obligation, to provide patients with access to coded information held within their health records. Such information includes:

- Demographics
- Allergies
- Immunisations
- Medication
- Results
- Procedures
- Values
- Problems/diagnoses
- Other (ethnicity, QOF etc.)

NHS England have published an information leaflet [Patient Online](#) which provides further detailed information about this obligation and how patients can access their health record online.

There are occasions when a GP may firmly believe that it is not appropriate to share all the information contained in the individual's record, particularly if there is potential for such information to cause harm or distress to individuals, or when the record has information relating to a third party.

Patients may request paper copies of health records and, regardless of the preferred method of access, patients and authorised third parties must initially complete a DSAR form. However, patients may request access to their health records informally;¹ any such requests should be annotated within the individual's health record by the clinician dealing with the patient.

1.2 Requests

Requests may be received from the following:

¹ [How do I access my medical records \(health records\)?](#)

Competent patients may apply for access to their own records or authorise third-party access to their records.

Children and young people may also apply in the same manner as other competent patients and MyHealth will not automatically presume a child or young person has capacity under the age of 16. However, those aged 12 or over are expected to have the capacity to consent to medical information being disclosed.²

Parents may apply to access their child's health record so long as it is not in contradiction to the wishes of the competent child.³

Individuals with a responsibility for adults who lack capacity are not automatically entitled to access the individual's health records. MyHealth will ensure that the patient's capacity is judged in relation to particular decisions being made. Any considerations to nominate an authorised individual to make proxy decisions for an individual who lacks capacity will comply with the Mental Capacity Act in England and Wales and the Adults with Incapacity Act Scotland.

Next of kin have no rights of access to health records.

Police are not able to access health records without first obtaining a court order or warrant. However, health professionals at MyHealth may disclose relevant information to the police if the patient has consented or if there is overriding public interest. For detailed information, see section 4.1.6 of footnote 2.

Solicitors and insurance companies in most cases will provide the patient's signed consent to release information held in their health record. MyHealth will ensure that patients are fully aware of the information being provided to the solicitor who is acting for that patient. In the case of a solicitor requesting information, the BMA has provided the following templates:

- [Consent form to release information to solicitors in England & Wales](#)
- [Consent form to release information to solicitors in Scotland](#)

MyHealth will ask solicitors to use the appropriate form when requesting information.

Deceased patients retain the right of confidentiality. There are a number of considerations to be taken into account prior to disclosing the health record of a

² Access to health records

<https://www.bma.org.uk/advice/employment/ethics/confidentiality-and-health-records/access-to-health-records>

³ Parental responsibility

<https://www.bma.org.uk/advice/employment/ethics/children-and-young-people/parental-responsibility>

deceased patient. Such considerations are detailed in the Access to Health Records Act 1990. Under the terms of this Act, MyHealth will only grant access if you are either:

- a personal representative (executor of the deceased person's estate), or
- someone who has a claim resulting from the death

The medical records of the deceased will be passed to Primary Care Support England (PCSE) for storage. MyHealth can advise you of who you need to contact in such instances. PCSE will retain the GP records of deceased patients for ten years, after which time they will be destroyed. PCSE have provided an [application form](#) which can be used to request copies of a deceased patient's record.

In the cases of **any** third-party requests, MyHealth will ensure that the patient has consented to the disclosure of this information by means of a valid signature of the patient.

In accordance with the GDPR, patients are entitled to receive a response within the maximum given time frame of one calendar month from the date of submission of the DSAR. In order to ensure full compliance regarding DSARs, MyHealth will adhere to the guidance provided in the GDPR. In the case of complex or multiple requests, the data controller may extend the response time by a period of two months. In such instances, the data subject must be informed and the reasons for the extension given.

Under [The Data Protection \(Subject Access Modification\) \(Health\) Order 2000](#), MyHealth will ensure that an appropriate healthcare professional manages all access matters. At MyHealth there are a number of such professionals, and wherever possible the individual most recently involved in the care of the patient will review and deal with the request. If for some reason they are unable to manage the request, an appropriate professional will assume responsibility and manage the access request.

Furthermore, to maintain GDPR compliance, the data controller at MyHealth will ensure that data is processed in accordance with Article 5 of the GDPR and will be able to demonstrate compliance with the regulation (see GDPR policy for detailed information). Data processors at MyHealth will ensure that the processing of personal data is lawful and at least one of the following applies:

- The data subject has given consent to the processing of his/her personal data for one or more specific purposes
- Processing is necessary for the performance of a contract to which the data subject is party, or in order to take steps at the request of the data subject prior to entering into a contract
- Processing is necessary for compliance with a legal obligation to which the controller is subject
- Processing is necessary in order to protect the vital interests of the data subject or another natural person

1.3 Procedure for access

A DSAR form (Annex A) must be completed and passed to the data controller; all DSARs should be processed free of charge unless they are either complex, repetitive or unfounded (see GDPR Policy). The GDPR states that data subjects should be able to make access requests via email. MyHealth is compliant with this and data subjects can complete an e-access form and submit the form via email.

Upon receipt of a DSAR, MyHealth will record the DSAR within the health record of the individual to whom it relates, as well as annotating the DSAR log (template provided at Annex B). Furthermore, once processed, an entry onto the health record should be made, including the date of postage or the date the record was collected by the patient or authorised individual.

Individuals will have to verify their ID⁴ at MyHealth and it is the responsibility of the data controller to verify all requests from data subjects using reasonable measures. The use of the practice's Data Subject Access Request (DSAR) form supports the data controller in verifying the request. In addition, the data controller is permitted to ask for evidence to identify the data subject, usually by using photographic identification, i.e. a driving licence or passport.

3.4 Third-party requests

Third-party requests will continue to be received following the introduction of the GDPR. The data controller must be able to satisfy themselves that the person requesting the data has the authority of the data subject.

The responsibility for providing the required authority rests with the third party and is usually in the form of a written statement or consent form, signed by the data subject.

1.5 Summary

Having a robust system in place will ensure that access to health records is given only to authorised personnel. Patient confidentiality is of the utmost importance and any third-party requests must be accompanied by a valid patient signature. Staff are to adhere to this guidance at all times and where doubt exists, they are to discuss their concerns with Lucy Murdoch, Joanne Rowe or Mark Stenton.

⁴ [Good Practice Guidance on ID Verification](#)

Annex A – Application form for access to health records

APPLICATION FORM FOR ACCESS TO HEALTH RECORDS in accordance with the General Data Protection Regulation (GDPR) DATA SUBJECT ACCESS REQUEST

This form must be completed in blue or black ink and signed in order for us to process your request.

Section 1: Patient details

Surname		Maiden name	
Forename		Title (i.e. Mr, Mrs, Ms, Dr)	
Date of birth		Address:	
Telephone number		Postcode:	
NHS number (if known)		Hospital number (if known)	

Section 2: Record requested

The more specific you can be, the easier it is for us to quickly provide you with the records requested. Record in respect of treatment for: (e.g. leg injury following a car accident)

Please provide me with a copy of all records held	
Please provide me with a copy of records between the dates specified below:	
Please provide me with a copy of records relating to the incident specified below:	
Please provide me with a copy of records relating to the condition specified below:	

Section 3: Details and declaration of applicant

Please enter details of applicant if different from Section 1

Surname		Title (Mr, Mrs, Ms, Dr)	
Forename(s)		Address	
Telephone number		Postcode	

Declaration

I declare that the information given by me is correct to the best of my knowledge and that I am entitled to apply for access to the health records referred to above under the terms of the GDPR.

Please tick:

- I am the patient
- I have been asked to act by the patient and attach the patient's written authorisation
- I have full parental responsibility for the patient and the patient is under the age of 18 and:
(a) has consented to my making this request, or
(b) is incapable of understanding the request (delete as appropriate)
- I have been appointed by the court to manage the patient's affairs and attach a certified copy of the court order appointing me to do so
- I am acting *in loco parentis* and the patient is incapable of understanding the request
- I am the deceased person's Personal Representative and attach confirmation of my appointment (Grant of Probate/Letters of Administration)
- I have written, and witnessed, consent from the deceased person's Personal Representative and attach Proof of Appointment
- I have a claim arising from the person's death (Please state details below)

Signature of applicant: Date:

You are advised that the making of false or misleading statements in order to obtain

personal information to which you are not entitled is a criminal offence which could lead to prosecution.

Section 4: Proof of identity

Please indicate how proof of ID has been confirmed. Please select 'A' or 'B':

	Method in which identity is confirmed	Option taken	Documents attached
A	Attached copies of documents as noted in section 4A below	Yes/No	If Yes, please indicate here which documents have been attached
B	Countersignature (section 4B). This should only be completed in exceptional circumstances (e.g. in cases where the above cannot be provided)	Yes/No	Please indicate reason why this section was completed

4A – Evidence

Evidence of the patient's and/or the patient's representative identity will be required. Please attach copies of the required documentation to this application form. Examples of required documentation are:

	Type of applicant	Type of documentation
A	An individual applying for his/her own records	One copy of identity required, e.g. copy of birth certificate, passport, driving licence, plus one copy of a utility bill or medical card, etc.
B	Someone applying on behalf of an individual (Representative)	One item showing proof of the patient's identity and one item showing proof of the representative's identity (see examples in 'A' above)
C	Person with parental responsibility applying on behalf of a child	Copy of birth certificate of child & copy of correspondence addressed to person with parental responsibility relating to the patient
D	Power of Attorney/Agent applying on behalf of an individual	Copy of a court order authorising Power of Attorney/Agent plus proof of the patient's identity (see examples in 'A' above)

4B – Countersignature

This section is to be completed by someone (other than a member of your family) who can vouch for your identity. This section may be completed if 4A cannot be fulfilled.

I (insert full name).....

Certify that the applicant (insert name).....

Has been known to me personally as foryears
(Insert in what capacity, e.g. employee, client, patient, relative etc.)

and that I have witnessed the signing of the above declaration. I am happy to be contacted if

further information is required to support the identity of the applicant as required.

SignedDate

Name Profession.

Address

.....

Daytime telephone number

Additional notes

Before returning this form, please ensure that you have:

- a) signed and dated this form
- b) enclosed proof of your identity or alternatively confirmed your identity by a countersignature
- c) enclosed documentation to support your request (if applying for another person’s records)

Incomplete applications will be returned; therefore please ensure you have the correct documentation before returning the form.

