



**North Hampshire**  
Clinical Commissioning Group

**Data Subject Access Request Policy in accordance with the Data  
Protection Act 1998  
[COR/016/v1.20]**

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<b>Policy statement:</b>	This policy informs staff of the process for supplying individuals with the right of access to personal data under the Data protection Act 1998.
<b>Responsibility for dissemination to new staff:</b>	NHS North Hampshire Clinical Commissioning Group Managers
<b>Training Implications:</b>	All CCG staff will complete annual IG Training
<b>Further details and additional copies available from:</b>	Information Governance Team, NHS South Central & West Commissioning Support Unit
<b>Equality Impact Assessment Completed?</b>	This document includes a section about Equality Analysis (previously called Equality Impact Assessment), the aim being to encourage and support policy developers to demonstrate 'due regard' to the Equality Act 2010. This will be achieved if all new policies are assessed for equality impact at an early stage, and records kept of the equality analysis process and any actions identified.
<b>Consultation Process</b>	NHS North Hampshire Clinical Commissioning Group Integrated Governance Committee
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2	23.02.2015	6	Minor amendment	23.02.2015
3	23.02.2015	7	Minor amendment	23.02.2015
4	23.02.2015	8	Capacity/children	23.02.2015
5	23.02.2015	12	Subject access request register	23.02.2015
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7	19.09.2017	6	Reference to GDPR implementation added	

### Review Log:

Include details of when the document was last reviewed:

Version Number	Review Date	Name of Reviewer	Ratification Process	Notes
1.1	February 2015	Hayley Matthews	Technical amendments – no ratification required	
1.2	Sept 2017	Hayley Matthews	Technical amendments – no ratification required	

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## **Data Subject Access Request Policy in accordance with the Data Protection Act 1998**

### **1.0 Introduction**

- 1.1 The Data Protection Act 1998 (hereinafter called the Act) details rights of access to both manual data (which is recorded in a relevant filing system) and computer data for the data subject. This is known as a Data Subject Access Request
- 1.2 Under the Act, organisations are required to respond to subject access requests within 40 calendar days. Failure to do so is a breach of the Act and could lead to a complaint being made to the Information Commissioner's Office (ICO). A previous Minister for Health stated the Health Service would endeavour to respond to requests within 21 days. If it is anticipated that a request will take longer than the 21 day period, the CCG should inform the applicant giving an explanation of the delay.
- 1.3 The CCG will charge for any subject access requests made in line with legislative guidelines.

### **2.0 Aim and Purpose**

- 2.1 This guidance has been written to ensure that all staff are aware of their responsibilities to provide information when a data subject access request is received.
- 2.2 The Act details how the CCG will meet its legal obligations and NHS requirements concerning Data Subject Access Requests which is the key piece of legislation covering requests of personal information.

### **3.0 NHS related legislation**

- 3.1 Where individuals are applying for access to a deceased person's records the Access to Health Records Act 1990 should be followed.

### **4.0 Responsibilities**

- 4.1 The CCG Chief Officer has overall responsibility for the Data Subject Access Policy within the CCG. The implementation of, and compliance with this Policy is delegated to the CCGs Chief Finance Officer who is a member of the Finance & Performance Committee which is the responsible committee for the oversight of IG for the CCG. They also have responsibility for ensuring Information Governance issues are brought to the attention of the CCG Governing Body.
- 4.2 It is strictly forbidden for employees to knowingly browse, search for or look at any information relating to themselves, their own family, friends or other persons, without a legitimate purpose. Action of this kind will be viewed as a breach of confidentiality and the Data Protection Act.

4.3 Members of staff who would like access to their personal confidential information must submit a subject access request under the Data Protection Act 1998 to the CSU Human Resources Team.

4.4 The process for dealing with Data Subject Access requests for personal information held by the CCG are outlined in Appendices 1 – 9.

## **5.0 Equality and Diversity**

5.1 This policy was assessed against the CSU Equality Impact Assessment to ensure that it does not introduce any unexpected or unwarranted equality and diversity disparities. The assessment confirmed that no amendments are required at this time

## **6.0 Monitoring & Audit**

6.1 This policy will be monitored by the Finance & Performance Committee to ensure any legislative changes that occur before the review date are incorporated.

6.2 All CCG IG policies will be reviewed by April 2018 to incorporate information relating to GDPR in readiness for implementation in May 2018.

## Appendix 1

### How should we process a request once we receive it?

When a subject access request is received it should immediately be reported to the appropriate Data Custodian within the CCG. The CSU information Governance Team will be available to provide advice and guidance upon request. Teams may be required to provide further information relating to this request.

If you are asked to provide information, you will need to consider the following before deciding how to respond:

- Individuals have a right under Section 7 of the Act to:
  - know whether their personal information is being processed (which includes being held or stored)
  - be given a description of the data held, the purpose for which it is processed and to whom the data may be disclosed
  - be given a copy of the information held
  - be given information as to the source of the data
- Requests must be made in writing.
- The type of access you must provide and the fee you are allowed to charge may vary depending on how the records are held. It does not have to state 'Subject Access Request' or 'Data Protection' to constitute a request under the Act.
- If a request has already been complied with and an identical or similar request is received from the same individual there is no obligation to comply with the second request unless a reasonable interval has elapsed.
- The Statutory response time is 40 calendar days, however, the NHS has committed to responding within 21 days or sooner if possible.
- Requests should include the full name and address of the person seeking access to their information. To comply with the Act, information relating to the individual must only be disclosed to them or someone with their written consent to receive it.
- The CCG will acknowledge all requests for information and prepare all the necessary files. Advice and assistance will be available from the CSU Information Governance Team.
- Adequate steps will be taken to identify the requester.. Examples of suitable documentation are:
  - Valid Passport
  - Driving Licence
  - Birth Certificate along with some other proof of address e.g. a named utility bill (no longer than 3 months old) or a Medical Card

## **Fees**

A £10 charge may be made for all types of records whether held in manual or electronic format.

## **Subject access requests made by a representative or third party**

Anyone with full mental capacity can authorise a representative/third party to help them make a subject access request, for example solicitors/advocates. Before disclosing any information, the CCG must be satisfied that the solicitor/advocate has the authority to make the request on behalf of the requestor and that the appropriate authorisation to act on their behalf is included.

## **Subject access requests made on behalf of people who lack capacity**

If an adult lacks capacity and a representative is making the request on their behalf, the person dealing with the request must satisfy themselves that the requester is authorised to act on the patient's behalf i.e. holds a sealed lasting Power of Attorney for Health and Welfare purposes or a Deputyship Order for Health and Welfare purposes sealed by the Court of Protection.

## **What information should be provided?**

All information should be provided subject to any data protection exemptions that may apply, for example information provided by third parties or information that may cause harm or distress to the data subject or others.

Where the record contains the personal information on more than one person, consideration should be given to the interests of all the parties before deciding whether or not you may disclose the information.

Information must be supplied to the individual in permanent form, if requested, unless to do so would involve 'disproportionate' effort. For manual records this would involve photocopies. For computerised records these can be supplied in electronic format but must contain explanations of codes or abbreviations where appropriate. If the 'disproportionate' effort issue arises, the records can be shared with the individual on a face to face basis who can be asked to visit the premises to view their records.

Original records must not be released because of the potential detriment to the individual should the records be lost. Copies must always be provided.

## **Disclosure of information that may harm someone's health – Statutory Instrument 2000 No. 413**

A medical professional may believe that providing an individual with access to certain information might cause serious harm to their physical or mental health or to that of another person. If so, the Data Protection (Subject Access Modification) (Health) Order 2000 allows



a data controller to withhold information. However, only a medical professional can make such a decision, and it must be fully documented. This exemption does not apply to information the individual already knows.

If an individual disputes some of the information held within their record this should be discussed with the CSU IG Team.

## **Complaints**

If an individual is dissatisfied with the way the CCG have dealt with their subject access request, they should be advised to invoke the CCG complaints process. If they are still dissatisfied, they can complain to the Information Commissioner's Office.

Appendix 2 Subject Access Request Tracking Sheet

Name _____				Date of Birth _____		GP _____		
Address _____				NHS No _____				
Request Date	Start Date	Start Date + 21 Days	Stop Date	Elapsed Days	Restart Date	Final Expiry Date	No of pages copied and sent	Final Charge Made
Tracking Steps <i>(Need not be completed in this order)</i>			Date	Completed	Comments			
Service responsible for request								
Letter received and logged on tracking sheet								
Identity of Applicant confirmed (where further information is required from the Applicant the clock may be stopped pending receipt)								
Databases checked and episodes identified								
Information requested/pulled								
Applicant informed of charges								

**Appendix 3 Subject Access Request Register**

<b>Reference</b>	<b>Patient name</b>	<b>Requester</b>	<b>Date Received</b>	<b>Service requested from</b>	<b>Date of Acknowledgement &amp; Request for Consent</b>	<b>Date consent received</b>	<b>Date of payment</b>	<b>Completion</b>

## Appendix 4

### Subject Access Request (SAR) form

**a) Details of person requesting information (the Applicant):**

**Full name:**

**Date of birth:**

**Address:**

**Telephone Number:**

**b) Are you the Data Subject (for example the named individual who the requested records refer)?**

**YES:** If you are the data subject please go to question e)

**NO:** Are you acting on behalf of the Data Subject with their written authority? If so, the written authority must be included. Please answer questions c) and d).

**c) Details of the Data Subject if different to those given in answer to question a).**

**Full name:**

**Date of birth:**

**Address:**

**Telephone Number:**

**d) Please describe your relationship with the Data Subject that leads you to make this request for information on their behalf:**

.....

.....

.....

.....

**e) Please give details as to the information you would like to review:**

**The date range(s) for the information held (approximate dates are acceptable):**

**NOTES:**

**NHS organisations will normally respond to a Subject Access Request within 21 days. This period will not commence until the organisation is satisfied as to the identity and authority of the Applicant.**

**The organisation may seek further information from the Applicant as to the specific information requested. Any request for clarification will suspend the 21 day period until the required information is received.**

**The organisation is allowed to charge for the Subject Access Request. The current fee is £10 and up to £50 for photocopying.**

**The records may not be released until the fee has been paid. The Applicant will be informed of the fee required.**

**In accordance with the Data Protection Act 1998, we wish to inform you that your details may be used for management and audit purposes.**

**Please return this completed Subject Access Request (SAR) Form and any requested documentation to the address below:**

Subject Access Request Team  
NHS North Hampshire Clinical Commissioning Group  
Central 40  
Lime Tree Way  
Chineham Business Park  
Basingstoke  
Hampshire  
RG24 8GU

## Appendix 5

### Access to Records Authorisation Form

*To be used when authorisation to release records is required*

I, ..... as the Data Subject

.....(Insert full name of the Data Subject)

Address.....

.....

Date of Birth..... NHS No: .....

Hereby Authorise (**Name and address of organisation**)

.....

.....

To disclose my Records:

.....

.....

This request is made in accordance with the Data Protection Act 1998.

Please release the following:

.....

.....

**Data Subject signature:**

**Dated:**

## Appendix 6

### Response Letter to Applicant

Ref: Subject Access Request under the Data Protection Act 1998 or Access to Health Records Act.

Dear Mr/Mrs.....

Thank you for your correspondence of ..... with reference to your application for access to personal information in respect to .....

.....

I can confirm that we will respond to your request within the 21 day period adopted by the NHS under the Data Protection Act 1998.

The law allows us to take reasonable steps to establish and confirm your identity before providing any such personal information. However, the 21 days rule may be suspended whilst your identity is checked.

We would be grateful if you would provide a **copy** of your;

1. Driving licence **or**
2. Passport or birth certificate, with additional proof of address, e.g. a utility bill (no longer than 3 months old) etc.

Under the Data Protection Act 1998, we are entitled to charge you a fee for copying records. You will be advised of the amount of this fee, when the amount of data to be provided is known.

In accordance with the Data Protection Act 1998 we wish to inform you that your details may be used for management and audit purposes.

Yours sincerely



## Appendix 7

### Letter to Applicant Requesting Required Fee

Ref: Subject Access request under the Data Protection Act 1998

Dear Mr/Mrs.....

Your request for a copy of personal information is now complete and the fee for this information is £

On receipt of payment, copies of the records will be released.

Please make cheques payable to.....

.....

Yours sincerely

## Appendix 8

### Letter to Applicant Acknowledging Receipt of Fee and Enclosing Record

Ref: Subject Access Request under Data Protection Act 1998

Dear Mr/Mrs.....

We acknowledge receipt of the fee for providing copies of your records as requested under the Data Protection Act 1998.

Please find enclosed a copy of the information as requested.

If you have any queries, please do not hesitate to contact the NHS West Hampshire Clinical Commissioning Group

Yours sincerely

## Appendix 9

### Letter to Applicant informing them that access to some part of the notes has been denied by the Professional

Ref: Subject Access Request under Data Protection Act 1998

**Date**

**Your ref**

Dear Mr/Mrs .....

I refer to your correspondence of ....., with reference to your application for access to your records.

I can confirm that your request has been processed and I enclose copies of the records that you require. However, access to the whole record has been denied by the NHS North Hampshire Clinical Commissioning Group.

for the following reasons:

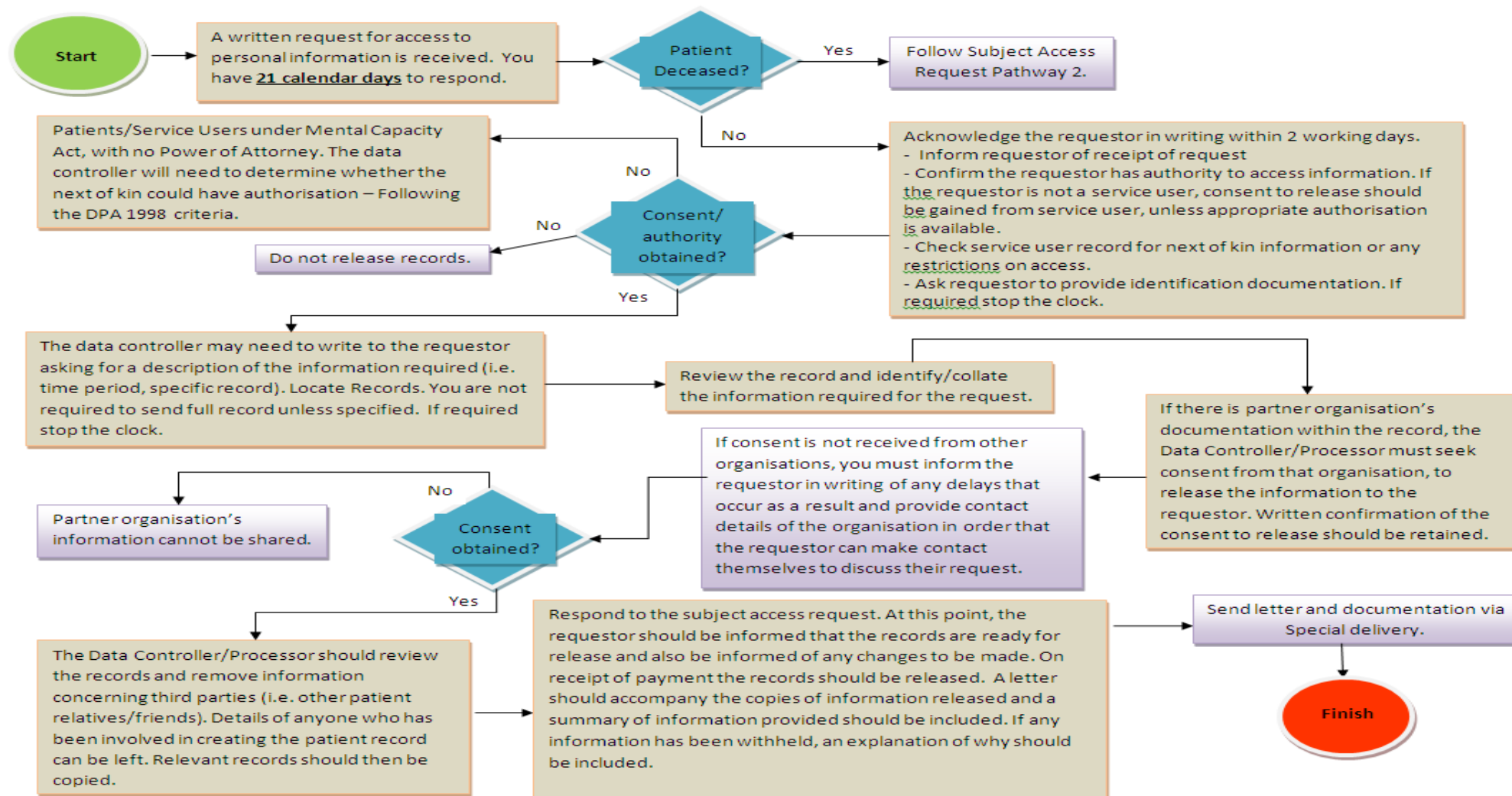
- a) It has been considered by to contain certain information that should not be shared
- b) Third Party information has been removed.

If you wish to discuss this further please contact the NHS North Hampshire Clinical Commissioning Group

Yours sincerely

# Appendix 10

## Access to Records - Living



## Access to Records – Deceased

