Leeds and York Partnership
NHS Foundation Trust

Medical Records Subject Access Request Procedure

The key messages the reader should note about this document are:

1. Sets out the procedure under which service users may request access to their medical records, and the processing of those requests by the Trust
2. Aligns the Subject Access Request Procedure to the UK enactment of the EU General Data Protection Regulation
3. Reduces the statutory timescale from 40 to 30 calendar days
4. Removes the latitude to charge for requests (including solicitors), unless the request is manifestly unfounded or excessive
5. Provides clarity on requests defined as manifestly unfounded or excessive and a recommended approach for repetitive requests

Leeds and York Partnership
NHS Foundation Trust

DOCUMENT SUMMARY SHEET
ALL sections of this form must be completed.

Document title	Medical Records Subject Access Request Procedure
Document Reference Number	IG-0008
Key searchable words	Medical Records Subject Access Request Procedure
Executive Team member responsible (title)	Chief Financial Officer
Document author (name and title)	Carl Starbuck Information & Knowledge Manager
Approved by (Committee/Group)	Information Governance Group
Date approved	26/04/2018
Ratified by	Policy and Procedure Group
Date ratified	29 August 2018
Review date	29 August 2021
Frequency of review	*At least every three years*

Amendment detail

Version	Amendment	Reason
0.1	First draft for review	Re-drafted into NHSLA format.
0.2	Minor tweaks: actions on billing, access on site accompanied by staff	Second draft – review by Annette Booth
1.0	Ratified	Ratified by Executive Team 15/03/2011
2.0	Health Records Manager contact update	Lynda Clapham – 15/01/2012
3.0	Updated SAR form	Permission to update from SIRO & Caldicott Guardian – IGSSG 17/04/2013
3.1	Reviewed and updated	Periodic review date reached
4.0	Ratified	Ratified 14th August 2014 – confirmed by SIRO. Caldicott Guardian & CIO present at approving meeting
	Extension of review deadline	Agreed Policy and Procedure Group 31/5/17 to extend from 1/9/17 to 25/5/18
4.1	Reviewed and updated	Large scale re-author to align with the EU General Data Protection Regulation – for approval by the Information Governance Group 26/04.2018
5.0	Ratified	Policy and Procedure Group – 29 August 2018

CONTENTS

1. THE PROCEDURE

1.1 Flow chart of procedure

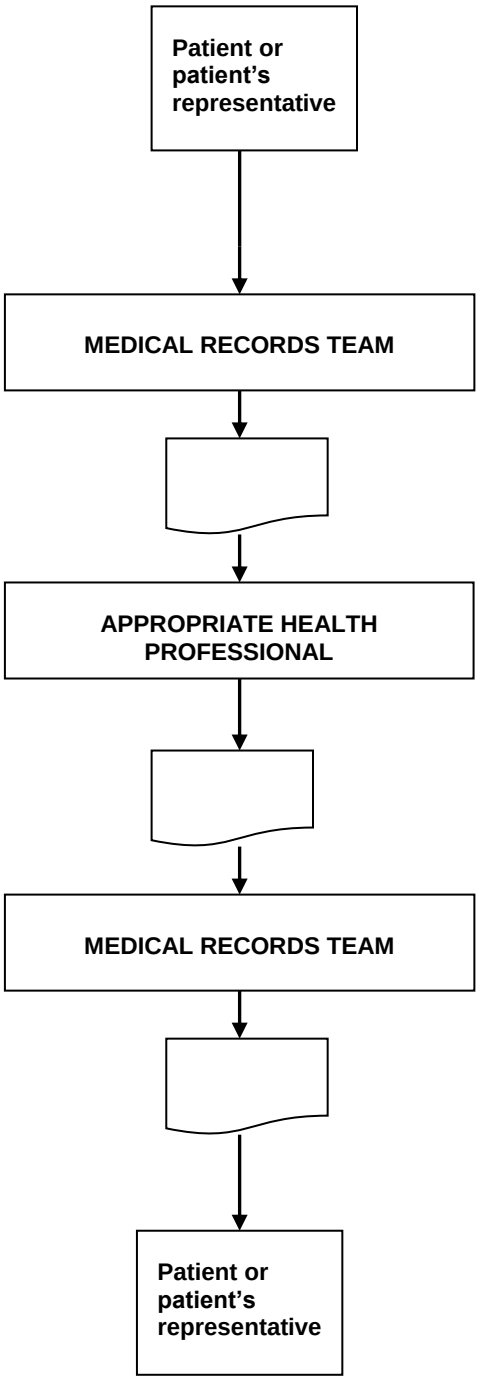
Requests can be made verbally or in writing by the patient or their representative. Representatives are simply those helping the patient make the request, whether relatives, legal appointees, solicitors, the police, etc. What distinguishes a subject access request is that it is made with the consent of the patient. Requests should always be directed to the Medical Records Team where they are recorded and monitored.

The Medical Records Team will locate the records and ensure they are made available to the appropriate health professional

The appropriate health professional reviews the record and advises of any contents they believe should be withheld to preserve third-party confidences or to avoid potential

Using the advice of the appropriate health professional, and from other sources as appropriate, the Medical Records Team decides which parts of the record it is appropriate to release and either copies and sends the material itself or advises the local team in doing this.

The subset of the records agreed for release are sent to the patient or their representative.



1.2 Receiving and Recording Subject Access Requests

To be valid, any Subject Access Request can be made verbally or in writing. Written requests can take the form of a letter, fax, or e-mail.

The data subject must provide enough information to allow the Trust to process the request. Standard forms – such as the example at Appendix A - can be issued to applicants making a Subject Access Request. It should be noted that a subject is under no obligation to use our forms, but the forms are provided to aid the process and assist both the subject and staff in specifying the request. When requests are made verbally, they should be transcribed to our SAR form, gathering sufficient detail to process the request efficiently. Although requests may be made verbally, adequate proof of identity and / or authority must still be provided.

This form may be modified for non-health records uses as required.

Details of Subject Access Requests will be logged by the Medical Records Team. Details will include but not be limited to:

- Name of requestor
- Date of request
- Confirmation of identity

An MS-Excel based logging tool has been built to record all relevant information and to track performance, as well as providing reporting metrics in the form of summary graphs.

The Medical Records Team reports to the Information Governance Group, where performance in responding to Subject Access Requests is monitored for compliance with statutory timescales.

1.3 Fees

Aligned to the UK enactment of the EU General Data Protection Regulation, the Trust will not ordinarily charge service users for providing access to information held about them. The Trust extends this principle to those acting on behalf of the service user – including solicitors, insurers or other organisations acting on behalf of / with the consent of the service user.

The Trust reserves the right to recover reasonable costs (e.g. printing / copying at retail rates and postage costs) should a request be deemed 'manifestly unfounded or excessive', however will always endeavour to uphold the right of free subject access by providing appropriate support to requestors.

One interpretation of 'excessive' subject access would be repeated requests. The Trust will manage this by offering only that content which has been added to records since the last request for free, with content previously provided chargeable at the Trust's discretion.

1.4 Timescales

Subject access requests must be dealt with and sent to the requester within **30 calendar days.** Day zero is upon receipt of the request.

Requests may be placed 'on hold' where either clarification, identification, or right of access is required, with the 30 day clock stopped from the point at which further information is requested, and restarted on receipt of the required information.

When it is likely that requests may breach the statutory timescale, the requestor will be informed within the 30 days, and a dialogue maintained until completion. Options including a 'staged' delivery of larger record sets, especially given the requirement for clinician review prior to disclosure.

1.5 Processing Requests

Medical Records will request the information from whoever holds it and check that all requested parts of the record have been located. Once found, the information requested must be checked to ensure that:

- In the case of health records, an appropriate clinician has reviewed the record to ensure that none of the content is likely to cause harm or significant distress to the subject or anybody else.
- Any information provided by, and the identities of, any third parties not acting in a professional capacity have been redacted, or consent for disclosure from the third parties has been obtained.
- Unintelligible terms are explained or an offer of facilitation is made.
- Records show the origin of the record.

In the case of health records, where exemptions are to be applied the request will be discussed with the Data Protection Officer, Caldicott Guardian or an appropriate deputising officer.

Any course of action identified as a result of the subject access request must be followed through.

1.6 Sending Information

The information relating to the subject access request will normally be delivered by mail, using the Royal Mail 'Signed For' delivery service.

Increasingly, scanning and e-mailing documents to requestors is becoming an option. This must only be done if the requestor asks or agrees, and if we are confident the information can be sent securely in accordance with the Trust's Safe Haven Guidance and the E-Mail Use Policy.

If the subject would prefer to collect the information in person, then proof of identity and a signature is required. Alternatively the records may be viewed on site by the requester, facilitated by an appropriate member of staff.

1.7 Duties & Responsibilities

The duties within the organisation are as follows:

Staff group	Duties
All staff	All staff have a duty to identify incoming subject access requests, route them to an appropriate subject access practitioner within the Trust and co-operate with the assembly and disclosure of information required to assist the subject access practitioner to comply with the request within the statutory timescale.
Medical and clinical staff	Under the Data Protection (Subject Access Modification) (Health) Order 2000, it is a duty of medical / clinical staff assisting with the compilation of information for a subject access request to ensure that no information is disclosed which may cause physical or mental harm or significant distress to the subject or any third party. Consideration of the above under the Data Protection (Subjects Access Modification) (Health) Order 2000 should be carried out by an 'appropriate health professional', i.e: a. The health professional who is currently or was most recently responsible for the care of the subject, or b. Where care is shared by a team, the health professional who is the most suitable to advise on the matters to which the information relates, or c. Where neither of the above are available, a health professional who has the necessary experience and qualifications to advise on the matters to which the information relates. (c) is relevant when the appropriate professional for (a) or (b) has left the organisation and should be from the

	same specialisation as those indicated in (a) or (b). As non-professional 3rd party information (e.g. information received from family members, carers etc.) may not be known to the subject and be particularly likely to cause distress, this should also be removed as part of this process.
Medical Records Team	The Medical Records Team is based across 2 records libraries at the Trust. Staff in the records libraries will receive subject access requests either directly from subjects or re-routed by internal recipients and ensure that requests are complied with within the appropriate timescales. They will liaise with and assist the clinical and other teams in dealing with subject access requests.
Information and Knowledge Manager / Data Protection Officer	Has a duty to oversee subject access provisions and act as the first line of expertise relating to subject access requests, assisting with any difficulties in processing requests. The post holder is part of the Trust's wider Information Governance Framework, and will be expected to maintain an appropriate level of knowledge of legislation and best practice with regard to subject access.
Caldicott Guardian	The Caldicott Guardian serves the Trust as the final arbiter of disclosure decisions relating to service users and will provide expertise and input where required on subject access cases if such escalation is appropriate.

1.8 Training

Compliance with subject access requests is an aspect of the annual information governance training that all Trust staff are required to complete annually.

Staff who process subject access requests will undertake specific NHS e-Learning training on this aspect of their work.

2 Appendices

- Appendix A – Subject Access Request Form – Health Records
  (available on Staffnet – Policies & Procedures, IG section)

PART B

3 IDENTIFICATION OF STAKEHOLDERS

The table below should be used as a summary. List those involved in development, consultation, approval and ratification processes.

Stakeholder	Level of involvement
Information Governance Group (comprising) • Data Protection Officer • IG Support Officer • Chief Information Officer • ICT Service Desk Manager • ICT Support Analyst • Network Manager	Consultation
Staffside representative	Consultation
Information Governance Group	Approval
Policy & Procedure Group	Ratification

4 REFERENCES, EVIDENCE BASE

- Data Protection Act
- UK enactment of the General Data Protection Regulation
- Data Protection (Subject Access Modification) (Health) Order 2000 (SI/2000/413)

5 ASSOCIATED DOCUMENTATION (if relevant)

- IG-0001 – Information Governance Policy
- IG-0003 – Confidentiality Code of Conduct
- IG-0009 – Safe Haven Guidance
- IT-0003 – Email Use Policy.

6 STANDARDS/KEY PERFORMANCE INDICATORS (if relevant)

The key performance indicator is the 30-day statutory deadline for the Trust to process subject access requests under the UK enactment of the EU General Data Protection Regulation.

Performance against statutory timescales and generally will be reported monthly to the Informtation Governance Group.

The Information and Knowledge Manager will report any complaints relating to the performance, quality, completeness or other issues to the IG Group for consideration. Complaints may be received from data subjects, the Information Commissioner's Office or other regulatory bodies.

7. EQUALITY IMPACT

The Trust has a duty under the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people from different groups. Consideration must be given to any potential impacts that the application of this policy/procedure might have on these requirements and on the nine protected groups identified by the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, gender and sexual orientation).

Declaration: The potential impacts on the application of this policy/procedure have been fully considered for all nine protected groups. Through this process I have not identified any potential negative impacts for any of the nine protected groups.

Print name: Carl Starbuck

Job title: Information & Knowledge Manager

Date: 18/04/2018

If any potential negative impacts are identified the Diversity Team must be contacted for advice and guidance: email; diversity.lypft@nhs.net.

CHECKLIST

To be completed and attached to any draft version of a procedural document when submitted to the appropriate group/committee to support its consideration and approval/ratification of the procedural document.

This checklist is part of the working papers.

	Title of document being newly created / reviewed:	Yes / No/
1.	**Title**	
	Is the title clear and unambiguous?	✓
	Is the procedural document in the correct format and style?	✓
2.	**Development Process**	
	Is there evidence of reasonable attempts to ensure relevant expertise has been used?	✓
3.	**Content**	
	Is the Purpose of the document clear?	✓
5.	**Approval**	
	Does the document identify which committee/group will approve it?	✓
6.	**Equality Impact Assessment**	
	Has the declaration been completed?	✓
7.	**Review Date**	
	Is the review date identified?	✓
	Is the frequency of review identified and acceptable?	✓
8.	**Overall Responsibility for the Document**	
	Is it clear who will be responsible for co-ordinating the dissemination, implementation and review of the document?	✓

Name of the Chair of the Committee / Group approving			
If you are assured this document meets requirements and that it will provide an essential element in ensuring a safe and effective workforce, please sign and date below and forward to the chair of the committee/group where it will be ratified.			
Name	*Carl Starbuck*	Date	*26/04/2018*
Name of the chair of the Group/Committee ratifying			
If you are assured that the group or committee approving this procedural document have fulfilled its obligation please sign and date it and return to the procedural document author who will ensure the document is disseminated and uploaded onto Staffnet.			
Name		Date	