



# GREEN LANE SURGERY

## THE RIGHT OF ACCESS / SUBJECT ACCESS REQUESTS (SARs)

Since 25<sup>th</sup> May 2018 under Article 15 of the GDPR, patients have the right to apply for access to their medical records as a Subject Access Request (SAR) free of charge, including when a patient authorises access by a third party such as a solicitor.

If the request is for a medical report to be created, or for interpretation of information within a medical report/record, this will fall under the Access to Medical Report Act (AMRA) - as these both require new data to be created, which is out with the scope of the GDPR and Subject Access Requests. In these cases, a fee can be charged.

A medical report/record that already exists will be accessible, for free, as a SAR. A 'reasonable fee' can be charged for a SAR if the request is manifestly unfounded or excessive, however, these circumstances are likely to be rare.

A request could be deemed as 'excessive' if an individual was to receive information via a subject access request (SAR), and then request a copy of the same information within a short period of time. In this scenario, the **organisation could charge a reasonable fee** based on the administrative costs of providing further copies or refuse the request.

**The timescale for responding to a DSAR is one calendar month (28 Days) ,**

In order for a formal DSAR to be valid it must come from the individual themselves (or an authorised agent/parent/guardian) and needs to be accompanied by enough information to enable us to extract the personal data pertaining to the individual from our systems.

It is very important to establish that the individual asking for the information is who they say they are, to avoid the damage of inadvertently disclosing personal

## **“Children of 16 years or Over”**

If a mentally competent child is 16 years or over then they are entitled to request or refuse access to their records. If any other individual requests access to these the Practice will first check with the patient that he or she is happy for them to be released.

## **“Children Under 16 Years”**

Individuals with parental responsibility for an under 16 year old will have a right to request access to those medical records. A person with parental responsibility is either:

- i the birth mother; or
- ii the birth father (in a number of specific circumstances) or;
- iii an individual given parental responsibility by a court.

(This is not an exhaustive list but contains the most common circumstances <https://www.gov.uk/parental-rights-responsibilities>)

If the appropriate health professional considers that a child patient is Fraser competent, regardless of age (i.e. has sufficient maturity and understanding to make decisions about disclosure of their records) then the child should be asked for his or her consent before disclosure is given to someone with parental responsibility. The age of 12 is seen as a ‘tipping point’ that a child below the age is assumed not to be competent unless the professionals feel they are, a child over 12 is deemed to be unless the professionals feel this is not the case.

If the child is not Fraser competent and there is more than one person with parental responsibility, each may independently exercise their right of access. Technically, if a child lives with, for example, its mother and the father applies for access to the child’s records, there is no “obligation” to inform the mother. In practical terms, however, this may not be possible and both parents should be made aware of access requests unless there is a good reason not to do so.

In all circumstances good practice dictates that a Fraser competent child should be encouraged to involve parents or other legal guardians in any treatment/disclosure decisions. Again medical records should not be disclosed unless the process set out in Section 2 is adhered to.

## **Patient Representatives**

A patient can give written authorisation for a person (for example a solicitor or relative) to make an application on their behalf. The Practice may withhold access if it is of the view that the patient authorising the access has not understood the meaning of the authorisation.

GP Practices receive applications for access to records via a number of different sources, for example:

- Patient's solicitors
- Patients
- Patient Carers
- Parents of under 16 year old patients

The Practice's preference is that SARs requests will not be sent via fax, unsecure email or post.

These are to be collected and signed for.

If you would like to access your medical information, please complete the request for below and hand over to out practice staff. Practice staff will check your identity and information you have provided. If all the information provided is adequate, practice will provide the information requested in line with the information provided above under GDPR subject access policy.

**Subject access request form – over the next page**

## Subject Access Request form

<b>I would like to make a Subject Access Request for my personal information.</b>	
Name of patient	
Date of Birth	
NHS Number (if known)	
Date of request	
<p>Do you want secure online access to your full electronic GP record? <b>YES / NO</b></p> <p>This might easily provide you with all the information you seek, 24hrs a day, as well as the ability to make appointments and request medication. Ask at reception to register for online services. For accessing all or most of your data contact practice manager.</p>	
<p>Do you want a copy of your <i>entire</i> or <i>part of</i> GP record? <b>YES / NO</b></p>	
Details of request	<p>If not your entire GP record, then please detail exactly what information you would like. For example, between two dates, or relating to a particular medical condition, or hospital letters only.</p>
How would you like the information to be provided, if possible?	<p>Please indicate your preferred option:</p> <p><input type="checkbox"/> Email – please supply an up to date secure email address    Email address:</p> <p><input type="checkbox"/> Printed</p> <p><input type="checkbox"/> Online access to my medical record</p> <p><input type="checkbox"/> Other – please specify:</p> <p>Please note, it may not always be possible to supply the information in your preferred format.</p>
<p>Please note that you might be contacted by the practice for further information, or clarification about the request, if needed. Any questions? Please contact the Practice Manager</p>	

## Subject Access Request form where a request is made on behalf of an individual

<b>I am the representative of the following individual and would like to make a Subject Access Request for their personal information.</b>	
Name of patient	
Date of Birth	NHS Number (if known)
Date of request	
Name of person making the request	
Signature of requester	
<p><b>Please provide the basis for applying on behalf of another individual:</b></p> <p><input type="checkbox"/> Authorisation from the patient</p> <p><input type="checkbox"/> I hold Lasting Power of Attorney for the patient</p> <p><input type="checkbox"/> I am appointed as an independent Mental Capacity Advocate on behalf of the patient</p> <p><input type="checkbox"/> I have parental responsibility and the patient is under 18, and lacks capacity to understand the request</p> <p><input type="checkbox"/> I have parental responsibility and the patient is under 18, and has consented to the request</p> <p><b>Please note that the practice may have to contact you for further information and verification of the above.</b></p>	
<b>Are you requesting a copy of the <i>entire or part of</i> GP record? YES / NO</b>	
Details of request	If not the entire GP record, then please detail exactly what information you are requesting. For example, between two dates, or relating to a particular medical condition, or hospital letters only.
How would you like the information to be provided, if possible?	<p>Please indicate your preferred option:</p> <p><input type="checkbox"/> Email – please supply an up to date secure email address    Email address:</p> <p><input type="checkbox"/> Printed</p> <p><input type="checkbox"/> Online access to the medical record</p> <p><input type="checkbox"/> Other – please specify:</p> <p>Please note, it may not always be possible to supply the information in your preferred format.</p>
Please note that you might be contacted by the practice for further information, or clarification about the request, if needed. Any questions? Please contact the Practice Manager	