

Access to Health Records Procedure
March 2011

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1 INTRODUCTION

- 1.1 This procedure provides guidance to be followed when dealing with requests for access to health records. It is consistent with the requirements of the Data Protection Act 1998 (DPA). For further information on the DPA, see the Data Protection Act Requirements policy. This document is also consistent with the requirements of the Access to Health Records Act 1990, insofar as it relates to disclosure of the health records of deceased persons.
- 1.2 It is important that staff understand the requirements of these Acts, and the part that they have to play in ensuring that the Trust complies with these legal obligations.
- 1.3 This procedure relates only to health records. Health records are classified as records which consist of information relating to the physical or mental health of an individual who can be identified from that information, or from that and other information in the possession of the holder of the record; and has been recorded by or on behalf of a health professional in connection with the care of the individual.
- 1.4 **A health record** can be recorded in computerised or manual form or in a mixture of both. It may include such things as; hand-written clinical notes, letters (including email) to and from other health professionals, laboratory reports, radiographs and other imaging records e.g. X-rays and not just X-ray reports, printouts from monitoring equipment, photographs, videos and tape-recordings of telephone conversations.

2 RESPONSIBILITIES

- 2.1 Any enquiries with regard to this procedure should be directed to the Head of Information Governance.
- 2.2 The Caldicott Guardian is responsible for the establishment of procedures governing access to, and the use of, person-identifiable patient information and, where appropriate, the transfer of that information to other bodies.
- 2.3 Service Directors, or their identified nominees, hold the responsibility to oversee the day-to-day management of the procedure and will identify people to act as 'Subject Access Co-ordinator's' within their service or location.
- 2.4 It is the responsibility of the "appropriate health professional"¹ to review the record and advise the Subject Access Co-ordinator prior to its release what information, if any, should be released and what should be withheld (see section 4).
- 2.5 The Subject Access Co-ordinator is responsible for the day to day operation of the process² and this procedure ensuring that requests are actioned in accordance with the requirements of this document and within regulatory time-scales (see section 13).

¹ see 3.2 and 3.3

² see section 19

3 PATIENT REQUEST FOR INFORMAL ACCESS

- 3.1 All references to 'patient' in this procedure, apply equally to 'service users' and 'clients'. Wherever possible in response to a verbal request by a patient, informal access should be allowed by the 'appropriate health professional' to the parts of the record for which they have responsibility in accordance with section 5 of this procedure (permitting access).
- 3.2 The "appropriate health professional" to be consulted to assist with a subject access request is defined as the following:
- (a) the health professional who is currently, or was most recently, responsible for the clinical care of the patient in connection with the information which the subject of the request relates to; or
 - (b) where there may be more than one such health professional, the health professional who is the most suitable to advise on the information which the subject of the request relates to.
- 3.3 In the absence of anyone else who might qualify for the role, the "appropriate health professional" will be:
- (c) a health professional who has the necessary experience and qualifications to advise on the matters to which the subject of the request relates to.
- 3.4 The patient should make an appointment in which they can view their records. **The 'appropriate health professional' must review the record first to decide if access can be permitted to all, some parts or none of the record.**
- 3.5 The appropriate health professional must decide whether access should be supervised by themselves or by a lay administrator (e.g. ward clerk, secretary), who is a neutral person able to oversee the viewing and ensure that the record remains secure. In these circumstances the lay administrator must not comment or advise on the content of the record and if the applicant raises any issues or has any questions, an appointment with the "appropriate health professional" should be offered.
- 3.6 For informal access the record must **not** be removed from the Trust.
- 3.7 When informal access is granted a full explanation of any abbreviations or medical terminology should be offered by the appropriate health professional and thus any subsequent discussions must be documented clearly in the record.
- 3.8 Access should not normally be granted to someone other than the subject of the records, at least where they are capable of requesting it themselves.

4. **PATIENT REQUEST FOR FORMAL ACCESS**

4.1 Formal access to a health record, or part of a record, should be made in writing, which includes by email, to the Trust. Where an individual is unable to make a written request it can be made verbally with the details recorded on the patient's file.

A request may be made by any of the following: -

- a) the patient / service user
 - b) where the patient is a child (under 18), a person having parental responsibility for the patient **or** it may be possible to accept such a request from the child (see section 8).
 - c) where the patient is incapable of managing his/her own affairs, a person appointed by the court to manage those affairs **or** a person upon whom the patient, when capable, has endowed an Enduring Power of Attorney. Persons with powers of attorney have no data protection or common law consent functions. Nevertheless, sometimes it may be appropriate to involve them as the persons who have the authority to make commercial arrangements for patients, including arrangements to provide both accommodation and nursing care. They, on their patient's behalf, may have an interest in securing the best value in a nursing and care package. Where that is the case, it may be necessary to consider whether the vital interests/medical care needs of the patient in question also require the disclosure of all or some of the sensitive personal information in question to the person who holds the power of attorney.
 - d) where the patient has died, the patient's personal representative and any person who may have a claim arising out of the patient's death (see section 6).
- 4.2 Former patients living outside of the UK who had treatment in the UK have the same rights under the DPA to apply for access to their UK health records. The Trust should treat these requests the same as someone making an access request from within the United Kingdom.
- 4.3 Each service or location should have a Subject Access Co-ordinator who is responsible for the administration surrounding the processing of requests. (Subject Access Co-ordinators change regularly, for an up-to date list please contact Information Governance on 020 3214 5852/5938 or email healthrecords.cnwl@nhs.net).
- 4.4 When you receive a formal request for access to health records this should be forwarded immediately to the relevant Subject Access Co-ordinator. The Subject Access Co-ordinator will then send an application form to the requestor to clarify the scope of request.

4.5 When it is clear what information is required, the Subject Access Co-ordinator should ensure that all information (*Demographics, Progress notes, Forms, Access History Reports on JADE, Section Papers and any other paper or electronic network held documents that form part of the patients care programme*) is collated then write to the “appropriate health professional” requesting them to review the notes and make comment prior to any disclosure.

4.6 Documenting the request

4.6.1 A request for the disclosure of patient information, and any decision on whether to release or not release such information, must be recorded as an entry on the patient’s progress notes by the appropriate health professional.

4.6.2 The Subject Access Co-ordinator must include details of the request using the form shown at Appendix G, although columns may be added at the end providing the alternative form includes at least this level of information.

5. PERMITTING ACCESS

The Data Protection Act 1998 gives patients or their appointed representative rights to access personal data about themselves which is held in either computerised or manual form, whenever the record was compiled.

5.1 Situations where health information may be limited or denied

5.2 Serious harm

5.2.1 The Data Protection (Subject Access Modification) (Health) Order 2000 (“Health Order”) enables the Trust to limit or deny access to an individual’s health record where access to the information may cause serious harm to the physical or mental health or condition of the patient, or any other person (which may include a health professional).

5.2.2 The appropriate health professional should consider whether a patient’s access to the health records is likely to cause “serious harm”. The Subject Access Co-ordinator who is not a health professional is obliged to consult the health professional responsible for the care of the patient, or if more than one the most suitable one, to determine whether the “serious harm” exemption applies.³

5.2.3 There is no definition of serious harm in the Data Protection legislation. It is at the discretion of the health professional to form a view based on his/her knowledge of the patient and the contents of the health records whether serious harm is likely to be posed to the data subject (or another). Nevertheless, consideration should be given to the following points:

³ Guidance from the Information Commission

- Section 41 of the Mental Health Act 1983 makes use of the term “serious harm”. The Courts have interpreted the reference to possible serious harm to the public in the *future* rather than to proven serious harm in the past.
- In considering the reference to “serious harm” with regard to the disclosure of social work records, the Court has held that the harm is not simply due to the physical or mental health, but also the emotional condition, of the individual involved.⁴

5.2.4 With reference to the matters mentioned above, if the “serous harm” exemption is to be relied on, the health professional must reach a view on the following issues:

1. Be of the view that a risk is justifiably real;
2. Be of the view that the risk is more than trivial;
3. Be able to provide a justification for the decision which would withstand objective scrutiny;
4. Have recorded the reasons for reaching the decision and in case of doubt be able to record (for risk management reasons) having discussed the issue with a colleague and obtained a similar second opinion from another health care professional.

5.3 **Third Party Information**

5.3.1 Any information from or about a non-health or social care professional (e.g. a relative of a patient, a neighbour, Housing Department) which is included in the subject’s record is classified as ‘third party information’. Similarly, information about a relative or another person is ‘third party information’.

5.3.2 There are only two circumstances in which the Trust is obliged to comply with the request to disclose ‘third party information’:

- where the third party has consented to the disclosure of the information: or
- where it is reasonable in all the circumstances to comply with the request without the consent of the third party.

5.3.3 Where it is possible and practical, the third party should be contacted and advised of the application for disclosure of the record to which they are a party. They should be asked to consider the request and indicate whether they agree to disclosure. Contact may be made in writing or by telephone where a written record of their decision should be noted.

5.3.4 Where it is necessary to consider whether it is reasonable in all the circumstances to disclose the information, consideration should be given to the following:

⁴ See R v Cox [25.3.99]

- Any duty of confidentiality owed to the third party
- Any steps taken by the Trust with a view to seeking the consent of the third party
- Whether the third party is capable of giving consent; and
- Any express refusal of consent by the third party

5.3.5 If the Trust is satisfied that the patient will not be able to identify the third party from the information, taking into account any other information which, in the reasonable belief of the Trust is likely to be in (or to come into) the possession of the patient, then the Trust must provide the information. If the Trust can protect the identity of the third party just by deleting the actual name or referring to, for example, “Mr X”, the Trust must provide the information amended in this way.

The “appropriate health professional” or a person on his/her behalf will review the records for information relating to third parties.

5.4 Information received from other health professionals

5.4.1 Information from another health professional, within or outside the Trust, communicated to the Trust, as part of the care of the patient is not ‘third party information’ and may be disclosed unless it complies with a Data Protection Act exemption. In all cases the health professional currently responsible for the care of the patient should decide whether or not the disclosure of any information would be classified as likely to cause ‘serious harm’ (see 5.2).

5.4.2 Access to patient-identifiable information should be on a strict ‘need to know’ basis. Only those individuals who need access to patient-identifiable information should have access to it, and they should only have access to the information items they need to see.

5.5 Joint Health/Social Services Records

5.5.1 Where the record contains information created by Social Services staff, permission to disclose must be obtained from the Social Services Department responsible for that part of the record.

5.6 Release to another health professional involved in the care of the subject

5.6.1 It is recognised that health professionals generally need to share information amongst themselves in order to provide an effective service and care to the patient. Staff should ensure that only such information as is required for the safe management of each individual patient is imparted, disclosure should be agreed by the health professional currently or most recently responsible for the care of the patient.

5.7 **Restricted disclosure**

- 5.7.1 If information has been denied or restricted an explanation for this does not have to be given to the data subject. However, a record should be made of the justification for restricting access.

6. **WHERE THE PATIENT IS DECEASED**

- 6.1 Health records of deceased patients are still covered by the Access to Health Records Act (AHRA) 1990; this provides certain individuals with a right of access to the health records of a deceased individual. These individuals are defined under Section 3(1) (f) of that Act as, 'the patient's personal representative and any person who may have a claim arising out of the patient's death'. A personal representative is the executor or administrator of the deceased person's estate.
- 6.2 The personal representative is the only person who has an unqualified right of access to a deceased patient's record and need give no reason for applying for access to a record. Individuals other than the personal representative have a legal right of access under the Act only where they can establish a claim arising from a patient's death.
- 6.3 There is less clarity regarding which individuals may have a claim arising out of the patient's death. Whilst this is accepted to encompass those with a financial claim, determining who these individuals are and whether there are any other types of claim is not straightforward. The decision as to whether a claim actually exists lies with the record holder. In cases where it is not clear whether a claim arises the record holder should seek advice by referring to the Head of Information Governance or the Caldicott Guardian.
- 6.4 Record holders must satisfy themselves as to the identity of applicants who should provide as much information to identify themselves as possible. Where an application is being made on the basis of a claim arising from the deceased's death, applicants must provide evidence to support their claim. Personal representatives will also need to provide evidence of identity.
- 6.5 There may be circumstances where individuals who do not have a statutory right of access under AHRA request access to a deceased patient's record. Current legal advice is that the Courts would accept that confidentiality obligations owed by health professionals continue after death.
- 6.6 In these circumstances the general rules that apply to the disclosure of confidential patient information should have effect to determine whether a disclosure is appropriate and lawful. Requests should be considered on a case-by-case basis and not simply rejected. Paragraphs 6.9.1 – 6.9.5 provide more detail on the considerations that apply where there is no statutory right of access.

- 6.7 There are also a range of public bodies that have lawful authority to require the disclosure of health information. These include the Courts, legally constituted Public Inquiries and various Regulators and Commissions e.g. the Audit Commission and the Care Quality Commission. In these cases the common law obligation to confidentiality is overridden.
- 6.8.1 A request for access should be made in writing to the Trust ensuring that it contains sufficient information to enable the correct records to be identified. Applicants may wish to specify particular dates or parts of records which they wish to access. This may help reduce the fee that is payable for copies provided. The request should also give details of the applicant's right to access the records.
- 6.8.2 Once the Trust has the relevant information and fee, we should comply with the request promptly and within 21 days where the record has been added to in the last 40 days, and within 40 days otherwise.
- 6.9.1 Disclosures in the absence of a statutory basis should be in the public interest, be proportionate, and judged on a case-by-case basis. Key issues for consideration include any preference expressed by the deceased prior to death, the distress or detriment that any living individual might suffer following the disclosure, and any loss of privacy that might result and the impact upon the reputation of the deceased. The views of surviving family and the length of time after death are also important considerations.
- 6.9.2 Another important consideration is the extent of the disclosure. Disclosing a complete health record is likely to require a stronger justification than a partial disclosure of information abstracted from the record. If the point of interest is the latest clinical episode or cause of death, then disclosure, where this is judged appropriate, should be limited to the pertinent details. In addition, any third party information should be removed.
- 6.9.3 Individual(s) requesting access to deceased patient health information should be able to demonstrate a legitimate purpose, generally a strong public interest justification and in many cases a legitimate relationship with the deceased patient. On making a request for information, the requestor should be asked to provide authenticating details to prove their identity and their relationship with the deceased individual. They should also provide a reason for the request and where possible, specify the parts of the deceased health record they require.
- 6.9.4 Relatives, friends and carers may have a range of important reasons for requesting information about deceased patients. For example, helping a relative understand the cause of death and actions taken to ease suffering of the patient at the time may help aid the bereavement process, or providing living relatives with genetic information about a hereditary condition may improve health outcomes for the surviving relatives of the deceased.
- 6.9.5 In some cases the decision about disclosure may not be simple or straightforward therefore the Head of Information Governance or, Caldicott Guardian should be

consulted. In the most complex cases it may be necessary to seek advice from lawyers.

7 CONSENT REQUIREMENTS

7.1 Where the patient is alive and has capacity

- 7.1.1 Requests from third parties (e.g. carers, relatives, solicitors) should include valid informed consent from the patient authorising the release of personal health information from their records. A standard consent form is included in Appendix B.
- 7.1.2 The consent should include whether all or part of the records are required and to whom they are being disclosed. In the case of partial disclosure the consent should give an indication as to which part of the record is to be disclosed, for example by reference to the incident date. Any signed consent declaration should be less than 6 months old.
- 7.1.3 If there is any doubt relating to the authenticity of the consent, or if there is reason to suspect that the consent has been obtained inappropriately or that the patient may have subsequently changed his/her mind about such consent, the application process must be suspended whilst enquiries are made to establish the facts.

7.2 Where the patient is incapacitated

- 7.2.1 If the patient (in respect of whom an application is made by another person) lacks capacity, the provisions of the Mental Capacity Act (MCA) come into play. It is important to check with the “appropriate health professional” that the patient does lack capacity and is not likely to regain capacity in a reasonable period.
- 7.2.2 If so, it is necessary to establish whether the applicant (if he/she is not the patient) has a right of access under the MCA and to make reference to the MCA Code of Practice⁵ and other guidance issued by the Trust in order to reach a decision.
- 7.2.3 A person acting on behalf of a patient includes a relative, carer, solicitor, an Independent Mental Health Advocate (IMHA) or a person acting under either a Lasting Power of Attorney or a Court Order to manage the affairs of a patient who is incapable of managing their own affairs). Such persons may apply for a copy of the patient’s records and they will be dealt with in accordance with the provisions of this procedure.
- 7.2.4 With the exception of IMHA’s⁶ requests should be dealt with in exactly the same way as a request from a patient. The applicant should be given access only to the information and explanation that would otherwise have been made available to the patient.

⁵<http://www.publicguardian.gov.uk/docs/mca-code-practice-0509.pdf>

⁶http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_098828

8. CHILDREN & YOUNG PEOPLE

- 8.1 Where the patient is a child (under 18), normally a person with parental responsibility will have the right to apply for access to the child's health record. However in exercising this right a health professional should give careful consideration to the duty of confidentiality owed to the child before disclosing.
- 8.2 Where more than one person has parental responsibility, each may independently exercise rights of access. In the case where a child lives with his or her mother and whose father applies for access to the child's records, there is no obligation to inform the child's mother that access has been sought. Access should only be given with the child's consent if the child is capable of giving consent.
(The law regards young people aged 16 or 17 to be adults in respect of their rights to confidentiality. 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. However, good practice dictates that the child should be encouraged to involve parents or other legal guardians in their healthcare).
- 8.3 In general terms it is unlikely that a child under the age of 12 years will be capable of understanding the nature of the application. However, children of all ages vary in their level of maturity and understanding, and therefore, each case should be dealt with on an individual basis (in accordance with the principals underlying the **Gillick Competency test**).

If the request is made by those with parental responsibility for a child aged 12 years or over, in each individual case it will be necessary to enquire of the medical practitioner who has most recently treated the child as to whether in his/her opinion the child has reached an age where he/she has sufficient understanding and intelligence to understand the nature of the application for access to his/her records. Each application must be assessed on an individual basis, although once a child reaches the age of 13 or over there is more likely to be a presumption that he/she understands the nature of the application and therefore their consent will be required.

- 8.4 Not all parents have parental responsibility. Both parents would have parental responsibility if they were married at the time of the child's birth or at some time after the child's birth. Neither parent loses parental responsibility if they divorce. A father who is not married to the mother at the time of the child's birth can also apply for parental responsibility by making an application to the Court for a parental responsibility order. A father who was not married to the mother at the time of the child's birth does not automatically have parental responsibility, although he can obtain it quite simply by ensuring that his name is on the register when the child's birth is registered.
- 8.5 As stated above, the father of a child may acquire parental responsibility through a parental responsibility agreement with the mother, this agreement then being registered with the High Court or through a parental responsibility order made by the Court if it is satisfied that it is in the best interests of the child to confer parental responsibility on the father. Other people may also acquire parental responsibility

(although this is fairly unusual) by being appointed by a guardian, the appointment taking effect on the death of the parents or on the order of a Court.

- 8.6 Where a child is “looked after” by the Local Authority permission needs to be given by both the Local Authority and the parents as they share parental responsibility.
- 8.7 Competent young people may also seek access to their own health records.
- 8.8 The Data Protection Act does not allow disclosure of information whose disclosure is already prohibited in legislation concerning adoption records and reports, statements of a child’s special educational needs and parental order records and reports. Health professionals who believe their records may contain such information should seek advice from the Head of Information Governance.

8.9 **Child Protection Cases**

- 8.9.1 Section 47 of the Children Act 1989 places certain duties on local authorities where they have reasonable cause to suspect that a child, who lives in their area, is suffering or is likely to suffer significant harm. Local authorities are required to make such enquiries, as they consider necessary to enable them to decide whether any action should be taken to promote a child’s welfare.
- 8.9.2 A corresponding duty is placed upon the Trust to assist with those enquiries by providing relevant information and advice about a child if called upon to do so.
- 8.9.3 If a request for information about a child is received in the context of proceedings to protect the vital interests of the child, where the consent of the child cannot be obtained, the records may be released where necessary. It is common practice for local authorities to obtain orders requiring disclosure of relevant records in the interests of a child, for example, for the purposes of a child protection issues. The Court order may require only a limited amount of documentation to be disclosed and the terms of the order should therefore be checked carefully. The Court order must be complied with.
- 8.9.4 It is important that appropriate advice is sought before the records are released if the request is not accompanied by a Court Order requiring disclosure of the medical records.

9. **REQUESTS FOR INFORMATION BY THE POLICE**

- 9.1 The Trust wishes to foster good relations with the police, and to play its part in keeping the public safe and protecting it from crime. However, the Trust also has a duty to protect the confidentiality of its patients, whether they are in hospital or in the community, and whether they are alive or dead. The duty is breached where information about a patient – including the mere fact that he/she is a patient – is disclosed to someone else including the police.

9.2 The Trust has a duty to comply with the provisions of the Data Protection Act. It follows that information may only be disclosed with the consent of the patient, save in exceptional circumstances.

9.3 Disclosure may be necessary in the public interest where a failure to disclose information may expose the patient, or others, to the risk of death or serious harm. In such circumstances the information should be disclosed so far as it is considered to be relevant to the risk posed by the patient and should be disclosed promptly to an appropriate person or authority. Such circumstances may arise where the disclosure is necessary for the prevention of serious crime. The circumstances where this can arise are diverse and will need to be considered on an individual basis. They can include circumstances where a patient or former patient is the victim of an offence or is suspected of having committed an offence.

9.4 **Consent**

9.4.1 If capable, an adult patient should be asked to give explicit consent to information about him/her being disclosed **unless** the police give good reasons why this would be detrimental to the investigation or prevention of a serious arrestable offence (The meaning of the term “serious arrestable offence” is set out at Appendix C). A child of any age may also give such consent, provided he/she is sufficiently mature to understand the nature of disclosure. If the child is not sufficiently mature, consent to disclose may be given by anyone with parental responsibility of him/her (see section 8). **The consent must be less than 6 months old, and must detail to whom the information is being disclosed, what parts of the record are being disclosed and why the information is requested. This should be documented in the record by the appropriate health professional.**

9.4.2 Even if consent has been given, the procedures around permitting access by the ‘appropriate health professional’ and Subject Access Co-ordinator still apply.

9.4.3 If the consent of the patient cannot be obtained the following principles apply:

- a) The police do not have a general right of access to records or information about patients. Unless there is a court order, the final decision about what may be disclosed will rest with the Trust. However, any request for information by the police should be considered by the health professional who is in charge or was most recently in charge of the patient’s treatment.
- b) Disclosure of confidential information may be necessary for the prevention or detection of serious crime. If, therefore, a police officer is investigating a “serious arrestable offence” the health professional in charge of the patient’s care should bear this in mind when deciding whether or not to disclose confidential information.
- c) A police officer requesting disclosure of confidential information relating to a patient should be asked to provide:
 - Confirmation that the offence being investigated is a serious arrestable offence;

- Why it is believed the patient has committed or is about to commit such an offence;
 - The reason it is believed the provision of the information requested will assist the investigation
 - If the request is urgent, the reason for this.
- d) If time allows a Certificate as shown at Appendix D should be completed by an officer not below the rank of inspector and kept by the Subject Access Co-ordinator.
- e) Only information that is relevant to the police enquiry should be given. Initially this should be restricted to the name and address of the patient, but at the discretion of the person deciding on its release, may include additional details if they are relevant to the investigation.
- f) If the health professional in charge of the patient's treatment decides against releasing information then the matter should be referred to the Caldicott Guardian for further consideration. The Caldicott Guardian will then consult the health professional in charge of the patient's treatment before making a decision on whether or not to release the information.
- g) Ensuring the request is genuine - anyone who claims to be a police constable and to be acting as such should be asked to produce their warrant card. Staff receiving a telephone call from someone who claims to be a police constable should ask for a telephone number at which the caller's authority can be verified.

9.5 **Disclosure of Confidential Information without a Police Request**

- 9.5.1 Situations may arise where staff become aware that a patient may have or may be about to commit a "serious arrestable offence". The police may be unaware of this but the seriousness of the offence, or for example, a threat of serious harm to another, may mean that this information should be disclosed to the police in the public interest.

9.6 **Documenting the request**

- 9.6.1 A request for the disclosure of patient information, and any decision to disclose such information, should be recorded in the patient's clinical notes including to whom the information has been disclosed and when.

10. **REQUESTS FROM SOLICITORS**

10.1 These should be made in writing.

10.2 ***If the letter indicates an intention or contemplation of legal action against the Trust, a copy must be forwarded immediately to the Assistant Director, Corporate Governance.***

10.3 If the request is in relation to childcare proceedings, a witness summons should be submitted with the application.

10.4 Written consent must be submitted with the application and it must be current (within 6 months).

10.5 Original records must not be sent to Solicitors and charges should be made in line with section 14.

10.6 Solicitors have no greater right of access to information than is enjoyed by their client.

10.7 In exceptional circumstances, a solicitor may present on the ward to view the notes of a patient that has a pending court hearing (for a MHA tribunal see 10.8). Dependant on the date of the hearing it may be necessary to assist with the request as a matter of urgency. The patient must consent to the request (see section 9.4). The record should also be reviewed for third party information and anything that may cause damage/distress to the patient.

10.8 **In relation to Mental Health Review Tribunal**

10.8.1 All requests will be dealt with by the Mental Health Act Administrator in conjunction with the Subject Access Co-ordinator. On occasions the patients' solicitor may arrive on the ward requesting access to their clients' notes. The solicitor should be referred to the MHA Administrator. Depending on when the patients' tribunal hearing is to take place, the MHA Administrator will endeavour to follow the procedure in as short a time-scale as possible.

10.8.2 If a visiting MHA solicitor wishes to consult an electronic patient record on site their access should be supervised. If adequate supervision cannot be provided then a printout should be supplied. Printouts should be scanned for third party information in the usual way and this information should be removed or redacted. Once third party information is removed the solicitor is free to take away the printout as their own personal copy. This should all be recorded in the patient's notes in the usual way.

10.9 **The access process will operate as follows**

10.9.1 The MHA Administrator will:

- Deal with all access requests in relation to MHA appeal hearings in the first instance
- Liaise with the relevant consultant to agree the terms of access
- Forward the access request to the relevant Ward Manager

10.9.2 The Ward Manager will:

- Confirm that access has been agreed
- Confirm the date and time when the solicitor will visit
- Determine how access will be provided for the visit

The Ward Manager should decide whether supervised access or a JADE printout is more appropriate taking into account the urgency of the request, the amount of information required and the availability of staff. They should liaise here with their designated service Subject Access Request Coordinator.

11. **COURT ORDER**

11.1 Often disclosure of medical records of the alleged victim of, or witness to, a crime is requested by the alleged perpetrator's defence lawyers, and occasionally by the Crown Prosecution Service or prosecution team. Initial refusal by the 'appropriate health professional' to release such records will usually be met by a witness summons being issued by the court under the "Criminal procedure (Attendance of Witnesses) Act 1965" in the Crown Court. The defence legal team are only entitled to have access to confidential material that is relevant to the matters in issue in the criminal trial. They are not entitled to trawl through a patient/victim's entire psychiatric history seeking material for cross-examination.

11.2 Prior to the applicant (defence/prosecution) requesting a court order to be served on the Trust, they should issue the Trust with an affidavit and copy of the application notice to answer within 7 days (crown court rules 1982). This gives the Trust a period of time to decide whether the records should be disclosed or whether it would not be in the best interests of the patient, or the third parties mentioned within the notes, to disclose the whole record(s) to the court. If the patient does not consent to disclosure, the 'appropriate health professional' remains obliged to refuse disclosure on the grounds of confidentiality. The Trust can then either write to court setting out the reasons why it is felt a summons should not be issued or the Trust can attend the hearing for the summons (legal representation would be required if this is the case).

11.3 If the Trust is not issued with the affidavit it may be served with a summons to produce the records to the court on a specific date. Failure to comply with the order may be contempt of court, and therefore a very serious matter. *A Court Order will usually require a consultant/lead clinician or Subject Access Co-ordinator to*

*produce healthcare records **to the court**, and in these circumstances they should not be handed over to the police, defence or prosecution.*

- 11.4 It is essential that all records relating to the patient are taken to the court.
- 11.5 **If an affidavit or court order is issued to the Trust it must immediately be telephoned through to the Subject Access Co-ordinator and a copy of the affidavit/order faxed.** *The Head of Information Governance can advise on the action to be taken if the Subject Access Co-ordinator is not available.*
- 11.6 Where information is disclosed under court order, those who disclose it will usually have a complete defence to any allegation that they have breached confidentiality, but the order must be interpreted correctly and information only be disclosed in accordance with the terms of the order. However, even though the court has ordered production of the notes the 'appropriate health professional' and the Subject Access Co-ordinator should still review the notes for anything that may harm the patient or any other person. It may then be necessary for the Trust to seek legal representation if it is felt it would not be in the best interests of the patient, or the third parties mentioned within the notes, to disclose the whole record(s) to the court. In these circumstances Head of Information Governance should be contacted so that, if the Trust agrees, legal representation can be appointed.

In the crown court only an appointed barrister can have an audience with the Judge which is why legal representation may be needed.

12. **DEPARTMENT FOR WORK AND PENSIONS (DWP)**

12.1 **Requests for information used for Benefit Assessment Purposes**

12.1.1 In order to assess the benefit claims of their client it is often necessary for the DWP to request sight of the hospital case notes or to have a factual report prepared. This is in order that the claim can be objectively considered.

12.1.2 The request should not be passed on to the patient's General Practitioner. If approached by the DWP for information the responsibility to provide it lies with the Trust and not a third party.

12.2 **Consent to release information**

12.2.1 It is not necessary for patients or their representatives to exercise their rights under the Data Protection Act 1998 to obtain information to support a claim for benefit. The patient will be aware that the DWP may be required to make such requests and the consent from the patient is an integral part of the benefit claim form.

12.3 **Response Time**

12.3.1 Requests should be met within 10 working days of receipt. Prompt and accurate responses are essential if the DWP is to meet its own obligations to its clients.

12.3.2 Failure to comply with the 10 day “turn round” may result in delay of benefit payment to the patient.

12.4 **Charges for release of records**

12.4.1 The information required should be supplied without charge.

12.5 **Confidentiality**

12.5.1 The DWP is required to handle all information in a manner that is in accordance with NHS Policy on the secure handling of confidential patient information.

13. **TIME LIMITS**

13.1 Under the Data Protection Act 1998, a formal request for Access to Health Records must be actioned and completed within 40 days or, if later than this, within 40 days of the day on which the Trust has the necessary information to confirm the identity of the applicant and locate the requested records.

13.2 The Department of Health has, however, issued guidance suggesting that Trusts should be aiming to comply with a request for access to records **within 21 days**.

13.3 In all cases it is therefore essential that any formal request is sent to the Subject Access Co-ordinator immediately.

13.4 The 21 day time period for disclosure of the records will commence after confirmation of requested information and the receipt of the relevant fee for disclosure if applicable.

14. **CHARGES FOR RELEASE OF RECORDS**

The Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 sets out the fees a patient may be charged to view their records or to be provided with a copy of them. **(These are maximum charges that include any postage and packaging costs):**

14.1 A maximum fee of £50 may be charged for providing copies of records held in part electronically and in part on other media (paper, x-ray film) or held totally on other media. (This fee comprises a £10 standard access fee, plus 10p per A4 copy, and any postage and packing up to the relevant maximum charge).

14.2 A maximum fee of £10 may be charged for paper copies of records held electronically:

To allow patients to **view** their health records (where no copy is required) the fees are:

14.3 A maximum fee of £10 may be charged for viewing records held in any form.

14.4 There should be no charge where a patient only views records that have been added to within the last forty days.

Note: If a person wishes to view their health records and then wants to be provided with copies this would still come under the one access request. The £10 maximum fee for viewing would be included within the £50 maximum fee for copies of health records, held in part on computer and in part manually.

Deceased persons

The fees payable in respect of the disclosure of deceased person's records are; in relation to:

14.5 **Records held manually** - where an applicant is permitted to view a record which is held manually and has been added to in the forty days preceding the application, access is free of charge. Where the record has not been added to in the preceding forty days a charge of £10 may be charged to view the record

14.6 **Records held wholly or partially on computer** - where an applicant is permitted to view a record which is held wholly or partially on computer a fee of £10 may be charged

14.7 **Hard copies of information** - If an applicant wishes to obtain a copy of the record, they may be charged a fee. There is no limit on this charge, but it should not result in a profit for the Trust. This fee is over and above the £10 for the initial access.

Note: Where health information is to be disclosed for the deceased, any fees charged should be reasonable and proportionate to cover the cost of satisfying a request. It is recommended that NHS organisations follow the fees structure established above.

15. **RESPONSES SENT BY POST**

15.1 All access responses should be enclosed in a sealed envelope clearly marked '**TO BE OPENED BY ADDRESSEE ONLY**'. Where the address of the patient applicant is different to that shown on their health record, proof of identity and address (e.g. household bill or driving licence) will be required before the records can be sent through the post. The **Department's name and address** should be on the reverse of the envelope marked "**return address in case of non-delivery**". Envelopes should be used which are of sufficient thickness and strength to obscure the information contained inside and any mishandling by the postal service. **Records should be sent recorded delivery.**

16. **RESPONSES COLLECTED IN PERSON**

16.1 Where an access response is to be collected personally by the applicant, then positive proof of identity must be provided before such information is released if the applicant is unfamiliar.

16.2 **Acceptable proof of identity** will be one of the following:

- Passport (copy of the photo page)
- Driving licence (including photo-card)
- Work pass with photograph

16.3 It would always be prudent to clarify with the data subject whether they would prefer the records to be sent via post (recorded delivery) or collected in person.

17. **WHAT IF CORRECTIONS ARE REQUESTED?**

17.1 Where a person considers that any information contained in a health record or part of a health record to which they have been given access, is inaccurate, they may apply to the holder of the health record for the necessary correction to be made (See Appendix E).

17.2 When such an application occurs, the holder of the health record should:

- a) if satisfied that the information is inaccurate, make the necessary correction
or
- b) Where the health professional and patient disagree about the accuracy of the entry, the Department of Health recommends that the data controller (i.e. the Trust) should allow the patient to include a statement within their record to the effect that they disagree with the content.

17.3 A file note may be added to the health care record for such corrections.

17.4 The correction should be signed and dated by the holder of the health record and applicant.

17.5 The applicant must be provided, without charge, a copy of the correction or the note of the request and any discussion.

17.6 When corrections are made, care must be taken not to obliterate information. It is recommended that a single line is drawn through the error and the correction dated and signed. The use of obliterating materials or correction fluids e.g. Tipp-Ex/Snowpake, must **never** be used.

17.7 Patients may also apply to the Trust for the correction or deletion of their information under section 10 of the DPA where the processing of the information is causing substantial and unwarranted damage or distress. The Trust should respond within

21 days to such requests, confirming compliance, or non-compliance and reasons which they believe the request is unjustified. (see Appendix E)

17.8 Where a patient is unsatisfied at an organisation's decision to reject a section 10 request they may apply to the courts to have their request upheld.

18. **DEALING WITH COMPLAINTS**

18.1 If a patient is unhappy with the outcome of their access request, for example, information withheld from them or they feel their information has been recorded incorrectly within their health record and a request to amend their record has been refused, the patient should be encouraged to go through the following channels:

- (a) In the first instance, the health professional involved should arrange to have an informal meeting with the individual in the hope to resolve the complaint locally.
- (b) If the health professional feels that they cannot do anything for the patient locally, the patient should be advised he/she can make a complaint through the Trust's (NHS) Complaints Procedure.
- (c) Ultimately, the patient may not wish to make a complaint through the NHS Complaints Procedure and take their complaint direct to the Information Commissioner's Office, if they believe CNWL is not complying with their request in accordance with the Data Protection Act 1998. The Information Commissioner has such powers to rule that any erroneous information is rectified, blocked, erased or destroyed.
- (d) Alternatively, if the patient wishes to do so, they may wish to seek legal independent advice.

Useful contact addresses:

CNWL Complaints Department

Complaints and Litigation Manager
Trust Headquarters
Greater London House
Hampstead Road
London
NW1 7QY

Telephone: 020 3214 5700
Fax: 020 3214 5701

Website: www.cnwl.org
E-mail: jtracey@nhs.net

Information Commissioner's Office

First Contact Team
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Helpline: 0303 123 1113
Fax: 01625 524510

Website: www.dataprotection.gov.uk
E-mail: casework@ico.gsi.gov.uk

19. **PROCESS FOR DEALING WITH REQUESTS**

- 19.1 If you receive a request this should be forwarded onto your local Subject Access Co-ordinator (SAC). If you are unsure who this is, please contact Information Governance on 020 3214 5852/5938 or email healthrecords.cnwl@nhs.net who will be able to provide you with an up to date list.
- 19.2 Upon receipt of a request the SAC must verify that the person requesting the information is entitled to do so (see section 4). If they are not entitled then the SAC must explain to the applicant that the records can not be disclosed unless they satisfy the requirements set out in this document. A copy of the document can be provided to the applicant for their reference.
- 19.3 Once satisfied that the request is valid, the SAC must check to ensure that paper or electronic records exist, advise the applicant of the estimated cost of disclosure (see section 14) and request the initial payment of £10 and any copies of identification that may be required (see 16.2).
- 19.4 After retrieving the service users records, the SAC must pass the records to the 'Appropriate Health Professional' and ask them to review the records and advise on any information that should be withheld (see section 5). If any records are being withheld a clear explanation must be recorded on the file.
- 19.5 Subject to 19.4, the SAC should make two copies (*one for the data subject and one to be kept on file*) of the records that are being disclosed, confirm the cost associated with this and advise the applicant that the records will be released on full payment. The time taken to process an application is suspended from the date of letter seeking payment to the date of receipt of the payment.
- 19.6 Upon receipt of payment, the copies of health records should be forwarded to the applicant by 'recorded delivery'.
- 19.7 The SAC must maintain a record of all applications for access to health records, information as this will be requested by Information Governance on a monthly basis (see Appendix G).

Subject Access Co-ordinator Role Description

Main Responsibilities

The Subject Access Co-ordinator is responsible for co-ordinating the day to day operation of the Access to Health Records (AHR) procedure ensuring that all requests are actioned in accordance with the requirements of that document and within the regulatory time-scales⁷.

It is the responsibility of the Subject Access Co-ordinator to obtain from the “Appropriate Health Professional”⁸ (AHP) reviewed records prior to release, the ‘AHP’ has to decide what information, if any, should be released and what should be withheld, whilst in some cases the ‘AHP’ may delegate the task, the responsibility for a final decision will always lie with the ‘AHP’ who will have to document any reasons for withholding information on the service users file.

If any issues arise with regard to the provision of information it is the responsibility of the Subject Access Co-ordinator to escalate to the Service Director, or their identified nominees, who ultimately hold the responsibility to oversee the management of the procedure within their service or location.

If the Subject Access Co-ordinator is unable to come to a satisfactory resolution then they must contact Information Governance (healthrecords.cnl@nhs.net) to highlight the problem so that this can be escalated to the Caldicott Guardian who has responsibility for the management of the procedure Trust wide.

Processing Responsibilities

Upon receipt of a request the Subject Access Co-ordinator should verify that the person requesting the information is entitled to do so (see section 4 of AHR). If they are not entitled to access the requested records then they need to explain to the applicant that the records can not be disclosed unless they satisfy the requirements.

Once satisfied that the request is valid, the Subject Access Co-ordinator will need to check and ensure that paper or electronic records do exist, advise the applicant of the estimated cost of disclosure, request that an initial payment of £10 be made and any copies of identification that may be required are forwarded.

After retrieving the service users records, the records need to be referred to the ‘Appropriate Health Professional’ to review and advise on any information that they feel should be withheld. If any records are being withheld a clear explanation must be recorded on the file.

⁷ A formal request for Access to Health Records must be actioned and completed within 40 days of the day on which the Trust has the necessary information to confirm the identity of the applicant, locate the requested records and receipt of any relevant fee. The Department of Health has, however, issued guidance suggesting that Trusts should be aiming to comply with a request for access to records **within 21 days**.

⁸ The health professional who is currently, or was most recently, responsible for the clinical care of the patient in connection with the information which the subject of the request relates to; or the health professional who is the most suitable to advise on the information which the subject of the request relates to or a health professional who has the necessary experience and qualifications to advise on the matters to which the subject of the request relates to.

Once the records have been reviewed by the 'Appropriate Health Professional' and feedback received in relation to disclosure or non disclosure, the Subject Access Co-ordinator should arrange for a copy of the records that are being disclosed, confirm the cost associated with this and advise the applicant that the records will be released on full payment. The time taken to process an application is suspended from the date of letter seeking payment to the date of receipt of the initial payment in the case of patients.

Upon receipt of payment, the copies of health records should be forwarded to the applicant by 'recorded delivery'.

During the processing of the request the Subject Access Co-ordinator must maintain a record of action that has been taken and regular updates to ensure that all applications are dealt with within the timescales also this information is required by Information Governance on a monthly basis.

Subject Access Co-ordinator (SAC) Overview Training

- 1 Introduction and overview of how the various Acts affect the Access to Health Records procedure.
- 2 The extent of responsibilities of the Subject Access Co-ordinator and other people (*Service Directors, "Appropriate Health Professionals", The Caldicott Guardian*) in respect of the operation of the Access to Health Records procedure.
- 3 Who the "Appropriate Health Professional" would be and how as the Subject Access co-ordinator they should work together to ensure that the requests are completed within DPA (and where possible Department of Health) timescales, with the correct level of information being released, taking into account any 3rd Party information held or whether access to certain information within their records is likely to cause "serious harm" including the recording of any decisions made on release or non-release of information.
- 4 How requests should be made, and what adjustments / action we should take to enable people to make requests if they are unable to make a written request.
- 5 What is classified as 3rd Party Information, including the duty of confidentiality to that person/s and what for the purposes of the request is not 3rd Party Information because it relates to another health professional who has or is playing a part in the patients care. Also if the record is held jointly with Social Services and contains information created by them permission to disclose must be obtained.
- 6 Dealing with requests for records of a patient who is deceased under the Access to Health Records Act 1990 and who has the right to access (e.g. Personal Representatives and people who may have a claim arising out of the death).
- 7 The consent requirements for any requests from Third Parties (e.g. relatives, carers, solicitors) and how they should where possible, stipulate whether they only want part of records disclosed to the Third Party . Also how to deal with requests where the patient is incapacitated under the Mental Capacity Act.
- 8 Requests for information and the sharing of information with the Police, including checks that need to be made before making any disclosure, the limits and relevance of the disclose and times where it is imperative in the Public Interest that a disclosure is made to protect either the patient or the general public from death or serious harm.

- 9 Requests from Solicitors and their rights to information, what consent they have obtained and in certain cases why they require the information. Also in relation to Mental Health Tribunals that they should pass requests to the local Mental Health Act Administrator.
- 10 What to do when a court order is received.
- 11 Dealing with requests from the Department of Work and Pensions in relation to benefit assessments and the fact that service users consent when completing their initial benefit claim form.
- 12 The process for charging and how it has been reviewed recently.
- 13 How to send responses and what identification should be seen if the requestor is either unknown or collecting in person.
- 14 How to deal with any corrections/deletions that may be applied for, subsequent to the receipt of the requested information and how they should be recorded within the service users' records.
- 15 How to facilitate any complaints when the requestor is unhappy with the outcome of their request and advise of the channels that they can take to try and resolve. Including details of the main useful contacts.
- 16 How to complete the Subject Access records form and where to submit on a monthly basis.
- 17 **Specific to Child and Adolescent Mental Health SAC's** - How to deal with requests in relation to Children and Young People and the various rights to access in line with the law and the principles underlying the Gillick Competency test.

Central and North West London

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Access to Health Records under the Data Protection Act 1998 (As set out by the Department of Health)

Below is background information regarding your rights under the Data Protection Act 1998 in relation to requesting access to your health records, along with a form to assist you to make your request.

The Data Protection Act 1998 gives every living person, or an authorised representative, the right to apply for access to health records. A request should be made in writing (this includes email) to the subject access co-ordinator for the service area where your records are held. Please contact your local CNWL site for alternative methods of obtaining access if you are unable to make a request in writing.

Under the Data Protection Act 1998 (Fees and Miscellaneous Provisions) Regulations 2000, you may be charged a fee to view your health records or to be provided with a copy of them. The maximum permitted charges are set out in the tables below.

When requesting access to your records CNWL will require a standard access fee of £10 prior to commencing the process. Further costs may be incurred as listed below.

To provide you with a copy of your health record the costs are:

- ◁ Health records held totally on computer: up to a maximum of £10.
- ◁ Health records held in part on computer and in part manually: up to a maximum of £50
- ◁ Health records held totally manually: up to a maximum of £50

To allow you to view your health record (where no copy is required) the costs are:

- ◁ Health records held totally on computer: up to a maximum of £10.
- ◁ Health records held in part on computer and in part manually: a maximum of £10.
- ◁ Health records held manually: up to a maximum of £10 unless the records have been added to in the last 40 days in which case viewing should be free.

All these maximum charges include postage and packaging costs.

The data controller (CNWL) is not obliged to comply with your access request unless they have sufficient information to identify you and to locate the information held about you. You will also be required to pay a fee as described above.

Once CNWL has all the required information, and the standard access fee, your request should be complied within 21 days, in exceptional circumstances where it is not possible to comply within this period you should be informed of the delay and given a timescale for when your request is likely to be met.

In some circumstances, the Act permits the data controller to withhold information held in your health record. These rare cases are:

- where it has been judged that supplying you with the information is likely to cause serious harm to the physical or mental health or condition of you, or any other person, or;
- where providing you with access would disclose information relating to or provided by a third person who had not consented to the disclosure, this exemption does not apply where that third person is a health professional involved in your care.

When making your request for access, it would be helpful if you could provide details of the periods and parts of your health record you require. Although this is optional, it will help save NHS time and resources, and may reduce the costs of your access request.

If you are using an authorised representative, you need to be aware that in doing so they may gain access to all health records concerning you, which may not be relevant. If this is a concern, you should inform your representative of what information you wish them to specifically request when they are applying for access.

If you have any complaints about any aspect of your application to obtain access to your health records, you should first discuss this with the health professional concerned. If this proves unsuccessful, you can make a complaint through the NHS Complaints Procedure by contacting the Trust complaints department formally. Further information about the NHS Complaints Procedure is available on the NHS Choices website at: www.nhs.uk/aboutNHSChoices/pages/Howtocomplaincompliment.aspx

Alternatively you can contact the Information Commissioners Office (responsible for governing Data Protection compliance). Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Tel 0303 123 1113 or www.ico.gov.uk/



Application for Access to Health Records

Please complete this form in BLOCK CAPITALS and in black ink, and either hand it to the clinician / care worker you are seeing or return it to the Subject Access Co-ordinator at the following address along with a copy of one of the following **Acceptable proof of identity**:

- Passport (copy of photo page)
- Driving licence (inc. photo-card)
- Work pass with photograph
- Freedom Pass

.....

(details of establishment and health care professional to be inserted)

Patient Details

Surname..... Forenames:

Any former names

Date of Birth: NHS Number:

Current Address:.....

Telephone Number:

Previous Address (if changed recently):.....

Please tick the box below which applies:-

I am applying for a copy of my health records

I am applying for access to view my health records

(If you wish to view your records an appointment will be arranged for you to attend the hospital/site premises to do this.)

Details of the information required

Please provide us with dates, hospitals / clinics / wards and health professionals involved in your care (if known) which are of interest to you. Please provide as much information as possible to assist us in locating the information from your health records that you would like to access.

Health records covering the period:

Date from: Date to:

Hospital / Clinics / Wards of interest:

.....

Health professionals' records of interest:

.....

Additional areas of interest:

.....

A photocopy of information held on health records will be sent to your current address, unless you specify otherwise.

A. Patient Declaration and Authorisation:

I am applying to access my health records under the Data Protection Act 1998. I understand that under the Data Protection Act 1998 (Fees and Miscellaneous Provisions) Regulations 2001, there may be a charge for me to view or to be provided with a copy of my health records.

I declare that the information I have completed on this form is correct to the best of my knowledge and that I am the person named overleaf.

Your name in BLOCK CAPITALS.....

Signed..... Date.....

If you are an authorised representative of the patient, please complete Box B and obtain the patient's signed authorisation.

If you are a relative or other person applying for access to information in relation to a deceased patient's records please complete Box C.

B. Representative of Patient – Declaration and Authorisation:

I am applying on behalf of the patient to access their health records under the Data Protection Act 1998. I understand that under the Data Protection Act 1998 (Fees and Miscellaneous Provisions) Regulations 2001, there may be a charge to view or be provided with a copy of the patient's health records.

Your name in BLOCK CAPITALS.....

Signed..... Date.....

Your relationship to the patient.....

I, **the patient**, agree to the above named being supplied with a copy of my health records:

Patient's signature.....

C. Disclosure of records of a deceased patient

I am applying for access to the deceased patient's health records.

Your name in CAPITAL LETTERS:

Your address.....

.....

.....

Signed..... Date.....

Your relationship to the deceased patient:

I am the executor / personal representative of the deceased patient's estate - **Yes / No**
If yes, please provide copy of evidence

I have a claim arising out of the death of the deceased person - Yes / No
If yes, provide details of the claim which may arise

Serious Arrestable Offences

A “*serious arrestable offence*” is defined in the Police and Criminal Evidence Act 1984 to include the following: -

Offences which are always serious: -

1. Treason
2. Murder
3. Manslaughter
4. Rape
5. Kidnapping
6. Incest with a girl under the age of 13
7. Buggery with a person under the age of 16
8. Indecent assault which constitutes an act of indecency
9. Causing explosion likely to endanger life or property
10. Intercourse with a girl under the age of 13
11. Possession of a firearm with intent to injure
12. Use of firearm and imitation firearm to resist arrest
13. Carrying firearms with criminal intent
14. Hostage taking
15. Hijacking
16. Torture
17. Causing death by dangerous driving
18. Causing death by careless driving when under the influence of drink or drugs
19. Endangering safety of aerodromes
20. Hijacking of ships
21. Seizing or exercising control of fixed platforms
22. Hijacking of Channel Tunnel trains
23. Seizing or exercising control of the Channel Tunnel System
24. Indecent photographs and pseudo photographs of children
25. Publication of an obscene matter

Any other offence will only be an “*arrestable offence*” if its commission would lead to any of the following consequences:-

- a) Serious harm to the security of the State or to Public Order
- b) Serious interference with the administration of justice or the investigation of offences or a particular offence
- c) The death of any person
- d) Serious injury to any person
- e) Substantial financial gain to any person
- f) Serious financial loss to any person

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**CERTIFICATE TO BE SIGNED BY A POLICE OFFICER
NOT BELOW THE RANK OF AN INSPECTOR
WHERE A SERIOUS ARRESTABLE OFFENCE IS BEING INVESTIGATED**

To: The Chief Executive
Central and North West London NHS Foundation Trust

I certify that a serious arrestable offence namely

.....

has been committed and that the release of personal details relating to patient:

.....

currently being treated by the Trust is necessary for the investigation of the offence

because:

.....

.....

Signed

Print name and rank

Date

Station / address

.....

.....

Central and North West London 
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APPLICATION TO AMEND OR REMOVE INFORMATION

Please complete sections 1 to 3 of this form and return to:

Subject Access Co-ordinator (*insert address of relevant service*)

Section 1: Application Details

Name: _____

Address: _____

Postcode: _____

Telephone Number: _____

Email Address: _____

If application is being made on behalf of the patient, state relationship to patient.

Relationship to Patient: _____

Patient name:
(if different from above) _____

Address: _____

Postcode: _____
Telephone Number: _____

Section 3: Certification

I certify that the information listed in sections 1 and 2 above is accurate and request that amendments be made to my record.

Signed: _____

Date: _____

Section 4: official use only

Appropriate Health Professional

I have reviewed the above application and do / do not certify that I agree to the amendments / removals requested by the patient / patient's representative.

Signed: _____

Name: _____

Position: _____

Date: _____

Reason for non-certification:

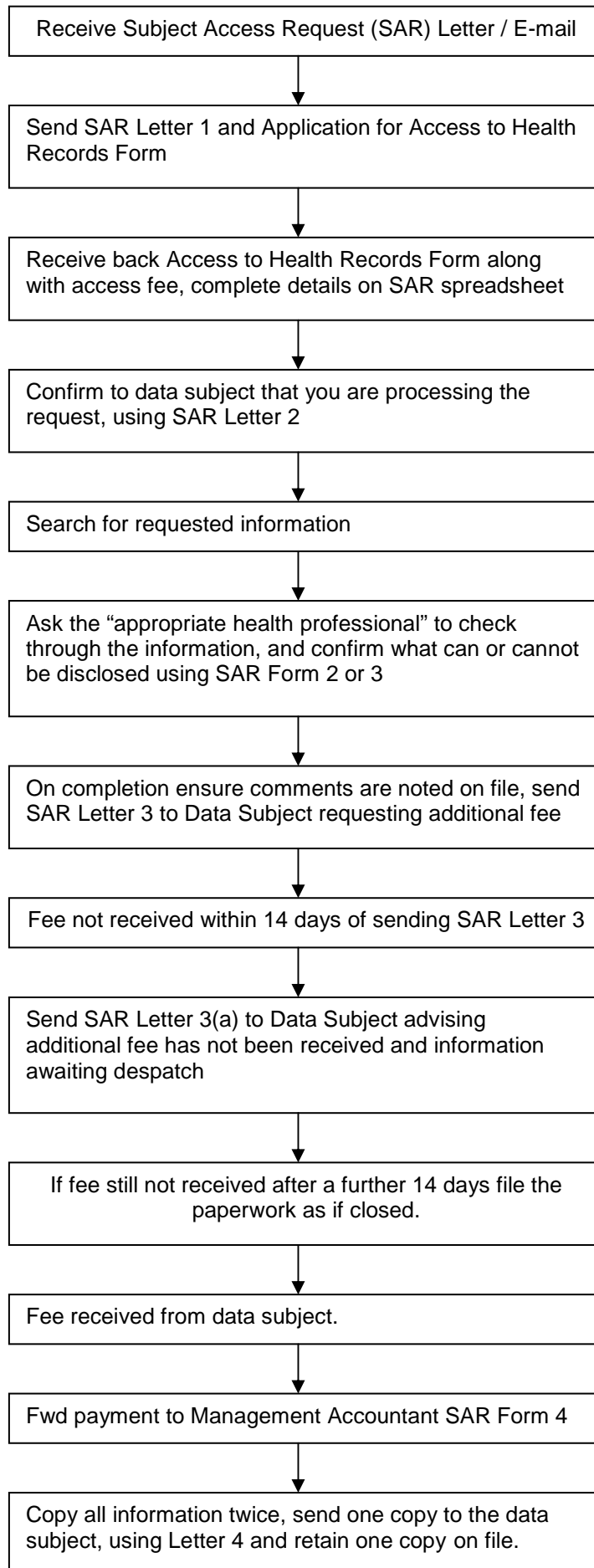
Amended: Yes / No Date: _____

Removed: Yes / No Date: _____

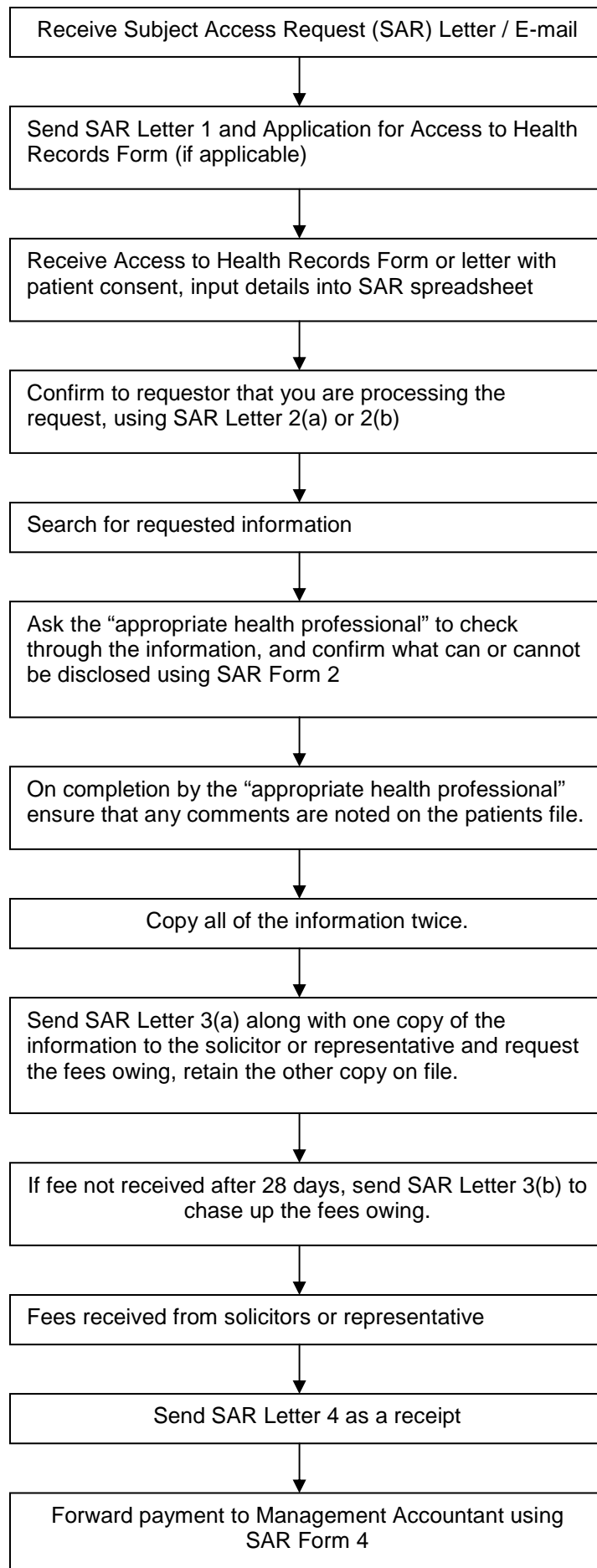
Patient / Representative Notified: Yes / No Date: _____

Procedure Flow for requests from service users

Appendix F



Procedure Flow for requests from patients representatives or solicitors



Central and North West London 
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Record of requests made – Spreadsheet provided by Information Governance

To be completed, and retained by Subject Access Co-ordinator with a copy forwarded to Information Governance each month.

Service name

Date received	Name of Service User (including NHS Number)	Applicant details (including relationship)	Outcome / Update Information	Date disclosed	Fee charged	Date fee paid	Time Taken (Hours)
01/01/2011	Jo Bloggs	Freemans Solicitors	Completed - All notes sent	12/01/2011	£50.00	25/01/2011	Optional
01/01/2011	Dai Harding	N/A	Completed - Redacted notes sent	22/01/2011	£25.00		
02/01/2011	Henry Hendy	Expensive Solicitors	On going (with any info you may have if over 21 days)				
03/01/2011	Sid Siddle	Mary Siddle (Daughter)	On Hold - Requested further information from - -----"date"				

EXAMPLE