

For more information please contact:

Primary Care Support England, 3 Caxton Road, Fulwood, Preston PR2 9ZZ

Telephone: 01772 221 385

www.pcse.england.nhs.uk/recordsrequests

Will there be a financial charge for accessing copies of the records of deceased people?

Unless the request is deemed excessive or unfounded, the surgery will not make a charge. There may be a charge for records held by PCSE. Please contact them directly for information.

How can someone make a complaint if they are unsatisfied?

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 clinician concerned. If this proves unsuccessful, you can make a complaint through the NHS Complaints Procedure by contacting the Practice Manager.

Further information about the NHS Complaints Procedure is available on the NHS Choices website.

Alternatively you can contact the Information Commissioners Office (responsible for governing Data Protection compliance) –

**Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF**

Tel 01625 545745

or

www.ico.org.uk/



Kingsway

GP Surgery

**Third-Party Access to Health Records
Information Leaflet**

Third-Party Access to Health Records

Can I apply for the health record of another person?

Not normally, unless you have the persons written consent. However, for access to the records of a child or a deceased person please read on.

What if the person is unable to give consent?

If this is the case then you should contact the Practice Manager for advice.

How will the surgery deal with requests from solicitors acting on behalf of an individual?

Requests from a solicitor for access to the patient's medical records must be submitted with consent from the patient. The surgery may contact the patient prior to sending a copy to check they understand the implications of their full medical record being sent to the solicitor. The surgery will not charge for a Subject Access Request but will charge for a request for a medical report from a solicitor made under the Access to Medical Reports Act 1988.

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 all 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.

The Practice has ethical obligations around how patient records are shared, and will explain to patients, in broad terms, the implications of making a Subject Access Request so they can make an informed decision on whether they wish to exercise their rights under the Data Protection Act.

Access to Children's Health Records

Who has the right of access to a child's health record?

As a general rule, a person with parental responsibility will have the right to apply for access to a child's health record. Individuals with parental responsibility for an under 18 year old will have a right to request access to those medical records. Access may be granted if access is not contrary to the wishes of the competent child.

What is parental responsibility?

Parental responsibility for a child is defined in the Children's Act 1989 as "all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property".

A person with parental responsibility is defined as either:

- the birth mother, or
- the birth father (if married to the mother at the time of child's birth or subsequently) if both are on the birth certificate, or,
- an individual given parental responsibility by a court.

Are there situations in which access to the child's records can be refused?

Yes. As the child grows older and gains sufficient understanding, he/she will be able to make decisions about his/her own life. From the age of 13 a child may be considered capable of making decisions about his/her medical treatment. Those under 16 should demonstrate that they have the capacity to make these decisions. Once the child is capable of making decisions, the consent of the child must be sought before a person with parental responsibility can be given access to the child's health records.

Where, in the view of the health professional, the child is not capable of understanding the application for access to records, the Practice is entitled to deny access as being against the best interests of the patient.

Access to a Deceased Persons' Health Records

What are the rights of access to deceased persons' health records?

Health records relating to deceased people do not carry a common law duty of confidentiality. However, it is Department of Health and General Medical Council policy that records relating to deceased people should be treated with the same level of confidentiality as those relating to living people. Access to the health records of a deceased person is governed by the Access to Health Records Act 1990. Under this legislation when a patient has died, their personal representative, or executor, or administrator, or anyone having a claim resulting from the death (this could be a relative or another person), has the right to apply for access to the deceased's health records.

How can a person apply for access to a deceased persons' health records?

A request for access should be made in writing to the Practice ensuring that it contains sufficient information to enable the correct records to be identified. The request should also give details of the applicant's right to access the records.

Who is the relevant record holder to apply to?

The practice will hold a deceased persons paper record for approximately 6-8 weeks, afterwards they will be sent with a computer print out to Primary Care Support England (PCSE). Please contact the surgery if you wish to check who holds the paper records.

NHS England is the data controller of GP health records where an individual is deceased. PCSE stores medical records on behalf of NHS England. These medical records comprise of paper records and computer print-outs from GP practices for patients who are deceased. They only administer requests for access to GP paper records and computer print-outs. They do not store electronic records, x-rays, hospital records, community services (e.g. health visitors, district nursing, school nurses) or records relating to private treatments and clinics or consulting rooms. For access to any other types of records you should contact the clinician or organisation who created them.