Subject Access Request Policy
in accordance with the Data Protection Act 1998
**Intranet and Website Upload:**

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<th>Subject Access Request policy in accordance with the Data Protection Act 1998 Version 2</th>
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<td>Operative date:</td>
<td>May 2017</td>
</tr>
<tr>
<td>Author:</td>
<td>Information Governance Team, NHS South, Central and West Commissioning Support Unit in conjunction with NHS Portsmouth Clinical Commissioning Groups</td>
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<tr>
<td>Review date:</td>
<td>April 2019</td>
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<tr>
<td>For action by:</td>
<td>All NHS Portsmouth Clinical Commissioning Group staff Data Custodians/Information Asset Owners</td>
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<tr>
<td>Policy statement:</td>
<td>This policy informs staff of the process for supplying individuals with the right of access to personal data under the Data protection Act 1998.</td>
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<td>Responsibility for dissemination to new staff:</td>
<td>NHS Portsmouth Clinical Commissioning Group Managers and Data Custodians</td>
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<td>Training Implications:</td>
<td>The IG Staff Handbook incorporates the principles and procedures included in this policy and are mandatory for all CCG staff. There is specialised face to face training for staff that are more likely to encounter such requests during the course of their work.</td>
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<td>Further details and additional copies available from:</td>
<td>NHS South, Central and West CSU IG Team</td>
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<td>Consultation Process</td>
<td>NHS Portsmouth Clinical Commissioning Group Head of Governance, SIRO, Caldicott Guardian and Clinical Executive Committee</td>
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<tr>
<td>Approved by:</td>
<td>NHS Portsmouth Clinical Commissioning Group Clinical Executive Committee and ratified by the Audit Committee</td>
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<td>Date approved:</td>
<td>30 May 2017</td>
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Review Log:

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<td>Michelle Spandley/Jan Boucher</td>
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<td>Angela Sumner/Justina Jeffs</td>
<td>Clinical Executive Committee/Audit Committee</td>
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Subject Access Request Policy in accordance with the Data Protection Act 1998

1.0 Introduction

1.1 Sections 7 to 9A of the Data Protection Act 1998 (hereinafter called the Act) details rights of personal access to both manual data (which is recorded in a relevant filing system) and computer data relating to a data subject. This is often referred to as ‘the right of subject access’. Requests made under Section 7 of the Act are known as a Subject Access Requests (SAR’s).

1.2 Under the Act, organisations that hold personal data are required to respond to subject access requests within 40 calendar days. Failure to do so is a breach of the Act and could lead to a complaint being made to the Information Commissioner’s Office (ICO). The NHS has however committed to responding to requests within 21 calendar days. If it is anticipated that a request will take longer than the 21 day period, the CCG should inform the applicant giving an explanation of the delay.

1.3 The CCG may charge for any subject access requests made in line with legislative guidelines and in consultation with the Caldicott Guardian.

2.0 Aim and Purpose

2.1 This Policy and associated guidance has been written to ensure that all staff are aware of their responsibilities to provide information when a Subject Access Request is received.

2.2 This policy also includes template documents for use by staff and data subjects to ensure that the CCG will meet their legal obligations and NHS requirements concerning Subject Access Requests.

2.3 The CCG recognises that it is a Data Controller under the Act and is registered with the Information Commissioners Office as such. As the CCG does not routinely collect or process identifiable health information about Patients, the amount of Personal Information held by the CCG will be limited but there are circumstances where the right of subject access will be applicable.

3.0 NHS related legislation

3.1 Where individuals are applying for access to a deceased person’s records the Access to Health Records Act 1990 applies and requests should be made directly to the organisation that holds that record.

4.0 Responsibilities

4.1 The CCG Accountable Officer has overall responsibility for the Subject Access Request Policy within the CCG. The implementation of, and compliance with this Policy is delegated to the CCG Caldicott Guardian.

4.2 It is strictly forbidden for employees to knowingly browse, search for or look at any information relating to themselves, their own family, friends or other persons that the CCG or their partners may hold, without a legitimate purpose relating to their role. Employees who need to do this should discuss with their Line Manager and gain agreement that it is appropriate to proceed. Any unauthorised action of this kind will
be viewed as a breach of confidentiality and the Data Protection Act 1998 and the employee may be subject to disciplinary proceedings.

4.3 Members of staff who would like access to their own personal confidential information must submit a Subject Access Request to the relevant Data Controller e.g. their own GP. If staff wish to look at what is held about them in relation to their employment, a factsheet containing the relevant contact details is available and can be found at http://www.portsmouthccg.nhs.uk/Fair%20Processing%20Notice%20for%20Staff%20Nov%202016.pdf

4.4 The process for dealing with Subject Access Requests along with further guidance is outlined in the accompanying appendices.

5.0 Monitoring & Audit

5.1 This policy will be monitored by the Clinical Executive Committee to ensure any legislative changes that occur before the review date are incorporated. The Audit Committee will be notified of all subject access requests. This policy will also be reviewed as set out in the review schedule.

All CCG Information Governance policies will be reviewed by April 2018 to incorporate information relating to GDPR in readiness for implementation in May 2018.
Detailed guidance for staff

Receiving a request

- Subject Access Requests must be received in writing and can be submitted by post or by e-mail. They may be sent directly to a named member of staff within the CCG, through a generic e-mail inbox or through the post. The request does not have to state it is a Subject Access Request to be valid. The requestor should be asked for their preferred method of communication at the beginning of the process.

- A request can be received through a social media channel such as Facebook, Twitter or any other form of social-media including third party websites. It is acceptable to communicate or fulfil the request through this channel if the requestor requires this. The requestor must be made aware that this may be the least secure way of delivering their sensitive personal information to them but in principle it is permitted. Other forms of communication channel such as E-mail are likely to be needed to check identity and ask clarification questions, the process is detailed below.

- Reasonable adjustments should be made for those with a disability that prevents them making a written request. This may include accepting a verbal request and will include adjusting the templates to a format that the requestor can benefit from. The release of records may also require adjustments to a format that the requestor can understand such as braille or audio formats.

- When a subject access request is received it should immediately be reported to the Team Data Custodian who will lead on the processing of the request. The request must be logged with the CCG Head of Governance who will monitor the response times.

- The CCG Fair Processing Notices include details about Subject Access Requests and can be found at the following link: http://www.portsmouthccg.nhs.uk/Downloads/Fair%20Processing%20Notice%20Portsmouth%20CCG%20October%202016.pdf

Processing the request – timescales, fee’s, identity checks and representatives

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

- Individuals have a right under Section 7 of the Act to:
  - know whether their personal information is being processed (which includes being held or stored)
  - be given a description of the data held, the purpose for which it is processed and to whom the data may be disclosed
  - be given a copy of the information held
  - be given information as to the source of the data

- The type of access you must provide and the fee you are allowed to charge may vary depending on how the records are held.
The Statutory response time is 40 calendar days, however, the NHS has committed to responding within 21 calendar days or sooner if possible.

The 21 calendar response time can be extended for the following purposes:

(1) checking the identity of the Data Subject/requestor,
(2) requesting further information to clarify the request,
(3) awaiting payment of the fee

Extensions should not be lengthy and kept to an absolute minimum. The response timescale should be resumed as soon as the required information is received.

Requests should include the full name and address of the person seeking access to their information. To comply with the Act, information relating to the individual must only be disclosed to them or someone with their written consent to receive it.

Requests for information will be acknowledged within 3 working days.

Sometimes a requestor may ask for access to their information under the Freedom of Information (FOI) Act. The request must be treated as a subject access request and not a FOI. To continue processing the request as an FOI will result in an exemption being applied under Section 40 of the Act which will prevent disclosure. You must tell the requestor that the request is being treated as a subject access request and not a FOI request.

If however the request asks for both personal and non-personal information, you should treat them separately under SAR and FOI and explain to the requestor you are doing so. FOI makes the information available to the general public which is not appropriate for personal information. Relevant legislative timescales apply to each request.

Adequate steps must be taken to identify the requester. Examples of suitable documentation are:

- Valid Passport
- Driving Licence
- Birth Certificate along with some other proof of address e.g. a named utility bill (no longer than 3 months old) or a Medical Card

Other forms of identification will be needed in circumstances where a representative is acting on behalf of the Data Subject; these are covered more fully below.

You may charge a maximum fee of between £10 and £50, depending on how the records are held. (1) If records are completely held electronically then you can charge up to £10. (2) If records are held wholly or partly on paper, you can charge up to £50.

The charges can be made only if you supply the requestor with a permanent copy of the information. However, if the records fall into the category of (2) above and they have been added to within the 40 days preceding the request, you must offer the opportunity to the requestor of inspecting the manual records free of charge.
If a request has already been complied with and an identical or similar request is received from the same individual there is no obligation to comply with the second request unless a reasonable interval has elapsed.

If a request is challenged i.e. the response originally given is considered not to be comprehensive and the requestor does not believe it includes all relevant information then a decision should be taken as to whether to review against the original request or to consider as a new one. The Caldicott Guardian will assist with this decision.

Subject access requests made by a representative or third party

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

There is a specific form that must be completed by the requestor/Data Subject and signed by the Data Subject. The identity of both the Data Subject and their representative must be checked as above. It is the responsibility of the representative or third party to prove they are authorised to access this information.

Guidance from the Caldicott Guardian should be sought if there are concerns over the nature of the information and whether the Data Subject is aware of what might be shared with their representative.

Subject access requests made on behalf of people who lack capacity

If an adult lacks capacity and a representative is making the request on their behalf, the person dealing with the request must satisfy themselves that the request is being made in the individual’s best interest.

There are no statutory provisions that enable someone to make a SAR in these circumstances but a document evidencing a Lasting Power of Attorney for Health and Welfare (and in some circumstances for Property or Financial Affairs) is sufficient and a copy of this along with evidence of the representatives’ and the Data Subjects identity. A certificate confirming the status of ‘Deputy’ as issued by the Court of Protection is also acceptable authority.

Subject access requests on behalf of children

Information about a child does not belong to the parent or guardian and so the child should be considered the requestor with regard to SAR’s.

If a child is too young to understand their rights then someone with parental responsibility will make the request on their behalf. Parental Responsibility can be evidenced by (a) the child’s birth certificate; (b) a court order or certificate detailing who has parental responsibility for the child; (c) an adoption certificate; (d) a special guardianship order. Further guidance on this can be obtained from https://www.gov.uk/parental-rights-responsibilities

If it is believed that a child is mature enough to understand their rights under subject access then the response should be sent directly to them. However, it must also be
considered whether the child is mature enough to understand the content and the impact on them of receiving this information. There is nothing in English law which states at which age a child has the capacity to make a SAR but it is presumed to be 12 years old in Scotland and the Fraser principles and a Gillick competence assessment may be helpful in these circumstances.

- Special care should be taken if any of the following raise concerns and guidance should be sought from the Caldicott Guardian:

  (a) The nature of the information
  (b) The age of the child
  (c) There are current court orders in place relating to parental access or responsibility
  (d) The child is owed a duty of confidence
  (e) The consequences of allowing those with parental responsibility access to the information in cases where it may contain information relating to alleged abuse
  (f) The impact on the child if the person with parental responsibility cannot access the information and
  (g) The views of the child

**Processing the request – what to provide, exemptions and disclosure**

- Where the requester is asking for information about themselves, this should be provided. For information to be personal data ‘it must relate to a living individual and allow that individual to be identified from that information’. If it is unclear whether the data held is ‘personal data’ then the Information Commissioner has issued guidance which can be found here: [https://ico.org.uk/media/for-organisations/documents/1549/determining_what_is_personal_data_quick_reference_guide.pdf](https://ico.org.uk/media/for-organisations/documents/1549/determining_what_is_personal_data_quick_reference_guide.pdf)

- This information may be subject to data protection exemptions, for example information provided by third parties or information that may cause harm or distress to the data subject or others.

- If an exemption or restriction is relied upon to refuse access to certain information, the organisation must be prepared to defend its decision. The Caldicott Guardian must always be consulted where it is felt that an exemption should apply.

- Information may be found in
  (a) electronic records including shared drives and folders
  (b) e-mails
  (c) archived information
  (d) back-ups
  (e) deleted files that are still held on a server pending destruction
  (f) or on paper

**Third party information**

- Where the record contains the personal information on more than one person, consideration should be given to the interests of all the parties before deciding whether or not you may disclose the information.
• Information that identifies another individual can only be released with (a) their consent or (b) it is reasonable to do so without their consent. This should be done on a case by case basis and must always balance the right of access against the third parties own rights. Confidentiality must always be considered when considering the disclosure of information that identifies others.

• It may be possible to disclose some third party information where it is possible to ‘redact’ parts of it which will identify the third party.

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

• A medical professional may believe that providing an individual with access to certain information might cause serious harm to their physical or mental health or to that of another person. If so, the Data Protection (Subject Access Modification) (Health) Order 2000 allows a data controller to withhold information. However, only a medical professional can make such a decision, and it must be fully documented. This exemption does not apply to information the individual already knows. The Caldicott Guardian should always be consulted if this circumstance arises.

Other exemptions

  (a) Confidential references – for references that are given not received
  (b) Publicly available information – this would be under enactment and if the organisation is required to publish it.
  (c) Crime and taxation – this includes the prevention or detection of a crime, the capture or prosecution of offenders and the assessment or collection of tax or duty.
  (d) Management information – forecasting or planning for business activities
  (e) Negotiations – if the release of the information would prejudice ongoing negotiations with the Data Subject
  (f) Regulatory Activity – only available to certain organisations
  (g) Legal Advice and Proceedings – where information would be considered in relation to confidential communications between an organisation and their legal advisor where litigation is contemplated or underway
  (h) Social Work, Health or Education records – special rules apply to these records and guidance should be sought from the CSU IG team.

Further guidance where exemptions or restrictions may apply

• This can be a complicated area and the Information Commissioners Office has detailed guidance available in the Subject Access Code of Practice (Feb 14 v1.1) available at https://ico.org.uk/media/for-organisations/documents/1065/subject-access-code-of-practice.pdf and also their website at https://ico.org.uk/for-organisations/guide-to-data-protection/principle-6-rights/subject-access-request/.

  The CSU IG team should be contacted to offer any additional support required.

Disclosure

• Information must be supplied to the individual in permanent form, if requested, unless to do so would involve ‘disproportionate’ effort. For manual records this would involve photocopies. For computerised records these can be supplied in electronic...
PDF format and paper records can be scanned and saved as PDF documents prior to sending.

- If the ‘disproportionate’ effort issue arises, the records can be shared with the individual on a face to face basis who can be asked to visit the premises to view their records. Guidance should be sought from the Caldicott Guardian should this be the case.

- All records must contain explanations of codes or abbreviations where appropriate.

- **Original records must not be released**, copies must always be provided.

**Disputes and Complaints**

- If an individual disputes some of the information held within their record or feels that information has been excluded, this should be discussed with the Caldicott Guardian and further guidance can be sought from the SCW CSU IG Team.

- If an individual is dissatisfied with the way the CCG have dealt with their subject access request, they should be advised to invoke the CCG complaints process. They can do this by contacting: [portsmouthccgcomplaints@portsmouthcc.gcsx.gov.uk](mailto:portsmouthccgcomplaints@portsmouthcc.gcsx.gov.uk)

  Telephone number: 023 9283 4456

  Or in writing to

  Complaints Manager;
  Portsmouth City Council
  Corporate Complaints Team
  Civic offices
  Guildhall Square
  PORTSMOUTH
  P01 2BG


  If they are still dissatisfied, they can raise a complaint with the Information Commissioner’s Office.

  Information Commissioners Office
  Wycliffe House
  Water Lane
  Wilmslow
  Cheshire
  SK9 5AF
Name ___________________________ Date of Birth ___________ ___________
Name of requestor (if different from Data Subject) ____________________________
Main contact method _____________________________________________________

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Tracking Steps
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| Request received and Data Custodian informed | |
| Logged with Head of Governance | Send letter/e-mail with SAR application and Authorisation form |
| Request acknowledged within 3 working days | Insert details of documents checked: |
| Identity of Data Subject/Requestor confirmed | Insert details of authority provided: LPOA/Authorisation Form/other |
| Evidence of Authority checked (if requestor not data subject) | Provide detail: |
| Caldicott Guardian informed of request | |
| Records checked for information | |
| Copies made and 3rd Party checks/redaction done | |
| Caldicott Guardian review of prepared records | |
| Caldicott Guardian approves release of records | |
| Applicant informed of any charges | Send letter/e-mail |
| Fee received (if applicable) | |
| Copies of records sent to applicant | Send letter/e-mail |
| Completion date logged by Head of Governance | |

NHS Portsmouth Clinical Commissioning Group
Data Subject Access Request Policy in accordance with the Data Protection Act 1998 V2.0
May 2017
Acknowledgement Letter to Applicant (delete header before sending)

(Insert name and address of applicant/representative)

NHS Portsmouth Clinical Commissioning Group
CCG HQ, Fourth Floor,
1 Guildhall Square
Portsmouth PO1 2GJ

Dear Mr/Mrs (insert name of applicant/representative)

Ref: Subject Access Request under the Data Protection Act 1998.

Thank you for your correspondence of (insert date of request) with reference to your application for access to personal information in respect of (insert name of data subject)

The statutory timescale for responding to a Subject Access Request made under the Data Protection Act 1998 is 40 calendar days however; I can confirm that we will make every attempt to respond to your request within the 21 calendar day period adopted by the NHS. If your request is complex or we believe we may not be able to meet the 21 calendar day period we will inform you of this.

In order to help us process your request, please complete the following documents which are enclosed with this letter/e-mail (delete as necessary):

1. Subject Access Request Application
2. Access to Records Authorisation Form (if acting on behalf of someone else)

The law allows us to take reasonable steps to establish and confirm your identity before providing any personal information. The 21 calendar day period may be suspended whilst your identity is checked. We would be grateful if you would provide a copy of your;

a) Driving licence or Passport or birth certificate
b) Additional proof of address, e.g. a utility bill (no longer than 3 months old) etc.

If you are making this request on behalf of someone else, it will be necessary to check your identity alongside the checks required to confirm your authority to act on their behalf. Please ensure that you also include documents relating to your own identity as described in a) and b) above.

Under the Data Protection Act 1998, the organisation is allowed to charge for a Subject Access Request. The current fee is £10 for electronic disclosure and up to £50 for photocopying of paper records. You will be advised of the fee amount when the amount of data to be provided and the method of release is confirmed. The records will not be released until the fee has been paid.

Please return all documentation to the address identified above.

Yours sincerely

(insert name and job title)

NHS Portsmouth Clinical Commissioning Group
Data Subject Access Request Policy in accordance with the Data Protection Act 1998 V2.0
May 2017
Subject Access Request Application (SAR)

1. Details of person requesting information (the Applicant):

   Full name:
   Date of birth:
   Address:

   Telephone Number:

2. Are you the named individual to whom the requested records refer (the data subject)?

   YES: If you are requesting your own information please go to Part C

   NO: Are you acting on behalf of the Data Subject with their written authority? If so, please answer Parts A, B and C.

Part A

3. Details of the Data Subject if different to the person making the application

   Full name:
   Date of birth:
   Address:

   Telephone Number:

Part B

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

5. If you are requesting information on behalf of someone else you are required to provide the relevant authorisation. Please describe and provide evidence of appropriate authority to do so and/or ask the Applicant to complete the enclosed

NHS Portsmouth Clinical Commissioning Group
Data Subject Access Request Policy in accordance with the Data Protection Act 1998 V2.0
May 2017
6. **Access to Records Authorisation Form.**

Please detail the evidence of Authority submitted: ............................................................

**NOTE:** For Adults who lack capacity to consent, appropriate evidence must include a certificate of Lasting Power of Attorney or equivalent. In the case of a child include evidence of authority to act on their behalf in the capacity of Parent or Legal Guardian.

**Part C**

7. Please give details as to the information you would like to review and the date range(s) for the information held (approximate dates are acceptable):

8. Are you happy to receive the records electronically by e-mail? YES/NO

**Part D**

Please read and sign the following declaration:

*I certify that the information given on this Subject Access Request (SAR) Form is true. I understand that it is necessary to confirm my/the Data Subject’s identity to maintain confidentiality. I understand that any attempt to mislead may lead to prosecution.*

Name: (Please print)

Signature:

Date:

**Please Note:**

Your details may be used for management and audit purposes.

The 21 calendar day response period will not commence until the organisation is satisfied as to the identity and authority of the Applicant and/or their representative.

The organisation may seek further information from the Applicant and or/their representative as to the specific information requested. Any request for clarification may suspend the 21 calendar day period until the required information is received.
Access to Records Authorisation Form
(to be completed by a representative assisting with the Subject Access Request)

I (insert your name) …………………………………………………………………………………

Am acting on behalf of the following person in respect of this Subject Access Request:

Name of person whose personal information is requested

………………………………………………………………………………………………………………

Their Address…………………………………………………………………………………………

………………………………………………………………………………………………………………

………………………………………………………………………………………………………………

Their preferred contact details ………………………………………………………………………

Representative Address ……………………………………………………………………………

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………………………………………………………………………………………………………………

Representative preferred contact details …………………………………………………………

I can provide the following evidence as authority to support this Subject Access Request
(delete those that don’t apply)

A) This application form signed by the Data Subject
B) Adult – Evidence of Lasting Power of Attorney or other legal document issued by the Court of Protection such as an order appointing you as a Deputy
C) Child – Evidence of Parental Responsibility e.g. (1) the child’s birth certificate; (2) a court order or certificate detailing who has parental responsibility for the child; (3) an adoption certificate; (4) a special guardianship order

FOR THE ATTENTION OF THE DATA SUBJECT (only required where this is the only form of authorisation relied upon i.e. A) above)

I understand that my records will be released to my representative in full unless it is felt that this would be inappropriate in which case they will be released directly to me.

Data Subject signature: …………………………………………………………………………………

Dated: …………………………………

Note:

NHS Portsmouth Clinical Commissioning Group
Data Subject Access Request Policy in accordance with the Data Protection Act 1998 V2.0
May 2017
The identity of both the Applicant and the person authorised to act on their behalf will be checked. Please ensure that the following documents are included for both the requestor and the Data Subject to assist us in processing this request and prevent delays.

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

If you have a Lasting Power of Attorney or other relevant documentation that you wish to submit in support of this request please provide a COPY and return with this form. You can either send paper copies or e-mail scanned copies of the original documents to the contact address or e-mail address identified in the accompanying letter.
Template Letter to Applicant Requesting Required Fee (delete header before sending)

(Insert name and address of applicant/representative)

NHS Portsmouth Clinical Commissioning Group
CCG HQ, Fourth Floor,
1 Guildhall Square
Portsmouth PO1 2GJ

Dear Mr/Mrs (insert name of applicant/representative)

Ref: Subject Access Request under the Data Protection Act 1998.

Your request for a copy of personal information in respect of (insert name of Applicant or Data Subject) is now complete and the fee for this information is £ (insert fee)

Please make cheques payable to

NHS Portsmouth Clinical Commissioning Group

Alternatively, you can make a bank transfer

Bank: XXXXXXX
Account: XXXXXXXXXXXX
Account Number: XXXXXXX
Sort Code: XX-XX-XX

On receipt of payment, copies of the records will be released. A delay in receiving the required fee may result in the response time being extended and release of your records delayed.

Yours sincerely

(insert name and job title)
Template Letter to Applicant Acknowledging Receipt of Fee and Enclosing Record (delete header before sending)

(Insert name and address of applicant/ representative)

NHS Portsmouth Clinical Commissioning Group
CCG HQ, Fourth Floor,
1 Guildhall Square
Portsmouth PO1 2GJ

Dear Mr/Mrs (insert name of applicant/representative)

Ref: Subject Access Request under the Data Protection Act 1998.

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

Please find enclosed/attached (delete as appropriate) a copy of the information as requested.

If you have any queries, please do not hesitate to contact us at the (insert relevant) Clinical Commissioning Group address

If you are dissatisfied with our response to your Subject Access Request then please contact portsmouthccgcomplaints@portsmouthcc.gcsx.gov.uk

Telephone number: 023 9283 4456

Or in writing to

Complaints Manager;
Portsmouth City Council
Corporate Complaints Team
Civic offices
Guildhall Square
PORTSMOUTH
P01 2BG


Yours sincerely

(insert name and job title)
Template Letter to Applicant informing them that access to some part of the record has been denied (delete header before sending)

(Insert name and address of applicant/representative)

NHS Portsmouth Clinical Commissioning Group
CCG HQ, Fourth Floor,
1 Guildhall Square
Portsmouth PO1 2GJ

Dear Mr/Mrs (insert name of applicant/representative)

Ref: Subject Access Request under the Data Protection Act 1998.

I write with reference to your application for access to your records/on behalf of (insert name of Data Subject).

I can confirm that your request has been processed and I enclose copies of the records that you require. However, access to some parts of the record has been denied by the (insert relevant) Clinical Commissioning Group for the following reasons: (delete all that don’t apply)

a) It has been considered by (insert who) to contain certain information that should not be shared because (insert why)
b) Information relating to a Third Party information has been removed
c) The following exemptions have been applied (insert relevant exemption clauses – see Staff guidance and have confirmation from the Caldicott Guardian prior to sending)

If you wish to discuss this further please contact us at the (insert relevant) Clinical Commissioning Group address

If you are dissatisfied with our response to your Subject Access Request then please contact: portsmouthccgcomplaints@portsmouthcc.gcsx.gov.uk

Telephone number: 023 9283 4456

Or in writing to

Complaints Manager;
Portsmouth City Council
Corporate Complaints Team
Civic offices
Guildhall Square
PORTSMOUTH
P01 2BG


NHS Portsmouth Clinical Commissioning Group
Data Subject Access Request Policy in accordance with the Data Protection Act 1998 V2.0
May 2017
Yours sincerely

(insert name and job title)
Access to Records - Living

Start

A written request for access to personal information is received. You have **21 calendar days** to respond.

Patient Deceased?

Yes

Follow Subject Access Request Pathway 2.

No

Consent/authority obtained?

No

No

No

The data controller may need to write to the requestor asking for a description of the information required (i.e. time period, specific record). Locate Records. You are not required to send full record unless specified. If required stop the clock.

Yes

Do not release records.

Yes

Review the record and identify/collate the information required for the request.

If consent is not received from other organisations, you must inform the requestor in writing of any delays that occur as a result and provide contact details of the organisation in order that the requestor can make contact themselves to discuss their request.

Consent obtained?

No

Partner organisation's information cannot be shared.

Yes

The Data Controller/Processor should review the records and remove Information concerning third parties (i.e. other patient relatives/Friends). Details of anyone who has been involved in creating the patient record can be left. Relevant records should then be copied.

Follow Subject Access Request Pathway 2.

Send letter and documentation via Special delivery.

Finish
Access to Records – Deceased

Start

A written request for access to personal information is received. You have 21 calendar days to respond. As much information as possible should be provided to identify the correct record. The request should also give details of their rights to access.

The data controller may need to write to the requestor asking for a description of the information required (i.e., time period, specific record). Locate Records. You are not required to send full record unless specified. If required stop the clock.

Do not release records.

Any Individuals who may have a claim arising out of the patient’s death. Individuals other than personal representatives have the legal right of access. This is subject to the claimant being able to establish a claim arising from a patient’s death. The claimant being able to provide detailed proof of identity and being able to supply evidence to support the claim – to be able to demonstrate a legitimate purpose and also prove a legitimate relationship with the deceased. They must also specify which parts of the record are required.

The decision of granting access lies with the data controller. However, if the case is more complex, please seek advice from the Caldicott Guardian & Information Governance Team.

Consent/authority obtained?

Patient Personal Representatives. The Data Controller should review all requests on a case by case basis. There are those who have lawful authority to have access to records i.e. Courts. Patient personal representatives (executor/administrator of the deceased person’s estate) have the right to access records. The personal representative:
- Do not need to provide a reason for access
- Needs to provide proof of identify and supporting documentation.

Review the record and identify/collate the information required for the request.

If there are partner organisation’s documentation within the record, the Data Controller/Processor must seek consent from that organisation to release the information to the requestor. Written confirmation of the consent to release should be retained.

Cannot release partner organisation’s records if consent has not been given.

Consent obtained?

The Data Controller/Processor should review the records and remove information concerning third parties (i.e. patient relatives/friends – this does not include any associated professionals) via redaction.

A letter must be written to the requestor explaining any delays as a result of a consent request.

Send letter and documentation via Special delivery.

Respond to the subject access request. At this point, the requestor should be informed that the records are ready for release and also be informed of any changes to be made. On receipt of payment the records should be released. A letter should accompany the copies of information released and a summary of information provided should be included. If any information has been withheld, an explanation of why should be included.

Acknowledge the requestor within two working days. Inform requestor of receipt of request.
- Ask if the requestor has authority to access information and the information stated in boxes above.
- Next of kin information or restrictions on access could be available within patient notes
- Ask requestor to provide identification documentation

Yes

No

Consent/authority obtained?

No

Yes

Finish