

Access to Medical Records

Am I allowed access my medical records?

Under the Data Protection Act 1998, everyone has the right to access personal information held about themselves in either computerized or manual form. This relates to all existing records and includes NHS medical records and private healthcare records.

Who can see a medical record?

The patient themselves.

The parent or appointed guardian of a minor if considered by the head of the public body concerned to be in the best interests of the child.

A court appointed representative of someone who is not able to manage their own affairs again if considered to be in the best interest of the person concerned.

Where the patient has died the personal representative or anyone with a claim on the estate may apply to see the records but the person holding the records need not disclose anything that dates before November 1991.

Patients and others may access medical records for the purpose of litigation. The court may order a hospital or doctor to disclose or "discover" documents or medical records to a claimant's advisers where those documents are considered relevant to the issues involved in the court proceedings.

How do I apply for access to my records?

You need to make a written request to the holder of the records e.g a hospital or doctors' surgery. Each organisation designated has a 'data controller'. You must include sufficient information to enable the record holder to be able to identify your records. You may be asked to complete a special form to access your records.

Your medical records may be kept in several different places (for example, computerised records, nursing records, drug or diet charts, x-rays etc). It is advisable to be as specific as possible as to what you want to see or what copies you want. It is sometimes useful to arrange an appointment to see and discuss the records before deciding if you need copies.

Is there a time limit on how quickly they should respond to my request?

The data controller is required to comply with the request within 40 days. If the records have been added to within the last 40 days, they should be made available within 21 days.

Is there a charge?

Where the record has been added to or altered within a 40 day period prior to the request there is no fee. In other cases there can be a charge of £10 maximum to give access and charges of up to £50 including the £10 access fee for the provision of copies.

Data controllers are required to provide an explanation of unintelligible records – either because of poor handwriting or because of the use of technical jargon or abbreviations- There is no charge for such an explanation.

Can I be refused access?

Access can be refused if in the opinion of the record holder disclosure would cause serious harm to the patient's physical or emotional health or another party. Parts of the records can be withheld for the same reason. There is no obligation on the part of the record holder to inform you if a part of the records has been withheld, but you can ask them to confirm whether any part has been withheld.

Can I correct inaccurate information that has been recorded in my records?

The Act requires that information be accurate but there is no express requirement that omissions be remedied. You can ask the record holder to insert a corrective or clarifying statement to your records. If you are not happy with the response to your request for correction, you can complain to the Data Protection Registrar.

If a patient can establish that they are being caused unwarranted substantial damage or distress by how personal information about them is being put across, they are able to notify the data processor that they want them to stop storing or using that information.

How can I complain?

If you are unhappy about the response to your request for access you will be encouraged to seek redress through one of the following:

An informal meeting to resolve problems.

Make a complaint through the NHS complains procedure (or private providers procedure as appropriate).

By way of complaint to the Information Commissioners Office who has the authority to demand the destruction, removal or blocking of erroneous information.

They can be contacted at:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone 08456 30 60 60 or 01625 54 5745

www.dataprotection.gov.uk

Are there other documents it might be useful to see?

If you have had a medical accident there may well be other documents you may want to see which would not be within your medical records. You should ask if the incident was reported in writing and, if so, ask for a copy. It is possible that there may already have been some form of investigation, and you can ask for a copy of any documentation of this. You can ask if the incident has been reported to the 'clinical governance' or 'patient safety' committee and, if so, see the report.

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