

## **Access to health records of a living person - Guidance notes**

The Data Protection Act 2018 and General Data Protection Regulation (GDPR) gives every living person, or nominated representative, the right to apply for access to their health records.

Information about your personal treatment and care is confidential and will normally be something you will discuss with the healthcare professionals you meet. However, there may be other times when you would like further information or you may just want to have a copy of the information we hold about you.

### **Who can apply to see a health record?**

Any individual can make an application to see their health record. This is called a Subject Access Request (SAR).

An individual can also nominate a representative (such as a solicitor, relative or just someone they trust) to apply on their behalf for access. In this case, there must be a valid consent signed by the individual who authorises the release of information to the representative.

A person who has parental responsibility for a young child can request access to the child's records. Release of records is usually only made in the best interests of the child. Children may apply themselves - where it is considered that the child has the competence to be able to understand the nature and implications of making a SAR.

If they are considered competent, they should also be consulted regarding any request that has been made for their records by another individual, i.e. a person with parental responsibility. The competence of the child in respect of requests for records can be considered from the age of 12.

For mentally incapacitated adults, a person may make a request on their behalf if they have been granted power of attorney or agent by a court to manage their affairs. The request must be made in relation to the management of their health, social care, property and affairs.

The Trust 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.

## How to apply for access to a health record?

1. Complete the 'application for access to health records of a living person' form. This is available on the Trust website [www.southwestyorkshire.nhs.uk](http://www.southwestyorkshire.nhs.uk) or by contacting the relevant health records department in your area
2. Provide documentation to identify who you are and the basis on which you are applying for access. Examples of acceptable documents for this are outlined below:

Type of applicant	Types of documentation required
An individual applying for his / her own records	Two copies of identification e.g. copy of birth certificate, passport, driving license, marriage license, etc.
Someone applying on behalf of an individual	One item of proof of the person's identity and one item of proof of the representative's identity.
Person with parental responsibility applying on behalf of a child.	Proof of identity for each person with parental responsibility. Copy of birth certificate or copy of court order appointing parental responsibility, adoption order etc.
Power of Attorney / Agent applying on behalf of an individual.	Copy of Power of Attorney plus one item of proof of the person's identity and one item of proof of the representative's identity.

## How long will it take to process the request?

Once you have supplied all the information, we should process your request within one calendar month.

If the evidence you have provided us with is not sufficient, this could hold up your request.

In exceptional circumstances it may not be possible to supply the information within the timescale. If this is the case we will inform you of the delay and give you a timescale for when your request is likely to be met.

## What information will be in the record?

In some circumstances the Act permits the Trust to withhold information held in the health record. These cases include but not limited to:

- *Where it has been judged that supplying you with information is likely to cause serious harm to the physical or mental health to yourself or others, or where another person has been mentioned or provided information (third person). This exemption does not apply where that third person is a health professional involved in your care.*

If you are using an authorised representative, consider that 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 are not satisfied with the Trust's response to your request for access**

If you think the Trust has failed to disclose information to you without good reason, in the first instance you should write to the team that handled your request explaining why you are dissatisfied with the response and asking for a review to be carried out.

If you remain dissatisfied and you wish to make a formal complaint you can do this by contacting the Trust's customer services team. You can:

**Tel:** 0800 587 2108

**Email:** [customer.servicesSWYT@nhs.net](mailto:customer.servicesSWYT@nhs.net)

**Write:** Customer services  
South West Yorkshire Partnership NHS Foundation Trust  
Block 10, Fieldhead  
Ouchthorpe Lane  
Wakefield  
WF1 3SP

### **Independent advice**

If you remain dissatisfied with the Trust's response you can contact the Information Commissioner's office, who is responsible for enforcing access to health records.

**Tel:** 0303 123 1113 (local rate) or 01625 545 745 if you prefer to use a national rate number.

**Address:** Information Commissioner Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

**Website:** [www.ico.org.uk](http://www.ico.org.uk)