

# Access to Medical Records Policy

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# 1 Introduction

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## 1.1 Policy statement

The law states that organisations must, when requested by an individual, give that person access to their personal health information and, occasionally, certain relevant information pertaining to others. To do this, they must have procedures in place that allow for easy retrieval and assimilation of this information.

The purpose of this document is to ensure appropriate procedures are in place at **Mandalay Medical Centre** to enable individuals to apply for access to health records (commonly referred to as a medical record), whether online or by requesting a copy, and to enable authorised individuals to apply for access to information held about other people by making a subject access request (SAR).

This is particularly relevant to the administration and reception staff; however, all staff should be aware of the available online services and SAR process and be able to advise patients, relatives and carers of the appropriate process.

Failure to comply with the policy and any associated breaches of patient data or confidentiality could lead to prosecution or imposition of penalties by the Information Commissioner's Office (ICO).

Access to medical records can be provided via:

- An online portal linked to the organisation's webpage
- A variety of NHS approved apps
- A verbal SAR
- A written SAR including email and/or through social media

This policy is written in conjunction with the following government legislation:

- [Access to Health Records Act 1990](#)
- [Access to Medical Reports Act 1988](#)
- [UK General Data Protection Regulation \(UK GDPR\)](#)
- [Data Protection Act 2018](#)
- [Data Protection \(Subject Access Modification\) \(Health\) Order 2000](#)

Throughout this document, references have been taken directly from the ICO.

## 1.2 Status

The organisation aims to design and implement policies and procedures that meet the diverse needs of our service and workforce ensuring that none are placed at a disadvantage over others, in accordance with the [Equality Act 2010](#). Consideration has been given to the impact this policy might have regarding the individual protected characteristics of those to whom it applies.

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time. For the avoidance of doubt, it does not form part of your contract of employment.

## 2 Definition of terms

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### 2.1 Personal identifiable data (PID)

Any information relating to an identifiable person who can be directly or indirectly identified by reference to an identifier.<sup>1</sup>

The UK GDPR definition provides for a wide range of personal identifiers to constitute personal data, including name, identification number, location data or online identifier, reflecting changes in technology and the way organisations collect information about people.

### 2.2 Prospective access

Future (prospective) records access means access to information and data added to the patient record from a set date onwards. This may be the date that a patient joined the practice or from a date when access has previously been granted.

Patients who have had future (prospective) access set up before the change will continue to be able to view this information<sup>2</sup>.

### 2.3 Proxy access

Proxy access refers to access to online services by somebody acting on behalf of the patient and usually with the patient's consent, by somebody other than the patient for example the patient's parent or carer<sup>3</sup>.

### 2.4 Responsible clinician

The responsible clinician is the most appropriate health professional to deal with the access request who is the current or more recent responsible professional involved in the clinical care of the patient in connection with the information aspects which are the subject of the request. Where there is more than one such professional, the most suitable should advise.

### 2.5 Sensitive personal data

The UK GDPR refers to sensitive personal data as "special categories of personal data".

The special categories specifically include revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership and the processing of genetic data, biometric data (where processed to uniquely identify an individual), data concerning health or data covering an individual's sex life or sexual orientation.

Personal data relating to criminal convictions and offences are not included, but similar extra safeguards apply to its processing.

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<sup>1</sup> [ICO - What is personal data](#)

<sup>2</sup> [NHS Digital](#)

<sup>3</sup> [RCGP - Proxy access guidance for general practice](#)

### 3 Right to access

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**Mandalay Medical Centre** ensures that all patients are aware of their right to access their data and has privacy notices displayed in the following locations:

- Waiting room
- Organisation website
- Organisation information leaflet

To comply with the UK GDPR, all organisation privacy notices are written in a language that is understandable to all patients and meet the criteria detailed in Articles 12, 13 and 14 of the UK GDPR.

The privacy notices are:

- [Privacy notice – Practice](#)
- [Privacy notice – Children](#)
- [COVID-19 privacy notice](#)

The reason for granting access to data subjects is to enable them to verify the lawfulness of the processing of data held about them. In addition, data subjects can authorise third party access, e.g., for solicitors and insurers, under the UK GDPR.

### 4 Patient access to online medical records

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#### 4.1 Background

Patient Online was designed to support GP organisations offering and promoting an online service to their patient population. The service is referred to as ‘GP online services’ and is offered to patients in addition to telephone and face-to-face interactions at GP organisations.<sup>4</sup>

All patients should have online access to their full record, including the ability to add their own information, as the default position from April 2020, with new registrants of an organisation having full online access to the digital record for their prospective information starting from the date of their registration for online services.

The NHS Digital document titled [Access to patient records through the NHS App](#) advises that this change for prospective access is now 31 October 2023. Further information is detailed within the NHS Digital document titled [Offering patients access to the future health information](#), although note that some of the information within the document has now been superseded, including the commencement date.

The following links provide supporting information to enable understanding and implementation:

- [RCGP GP Online Services toolkit](#)
- NHS Digital

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<sup>4</sup> [NHSE About Patient Online](#)

- [Videos](#) to explain key topics
- [Learning from the early adopter sites](#)
- [Essential communication materials and practice readiness checklist](#) for general practice to use to inform their patients and to ensure practices can confidently complete a range of necessary actions that include staff training and a review of relevant policies and processes

The organisation will need to be mindful that this level of access will be the default for all patients within the clinical system.<sup>5</sup> It is therefore imperative that organisations know how to manage their workflows ensuring sensitive information is redacted as it is entered onto the clinical system or, in rare circumstances, know when it may be inappropriate to give a patient access to their record.

Patients will see new information once it is entered or filed onto their record in the clinical system.

In addition to the detailed coded record (DCR), access to a full patient record includes free text consultation notes and documents i.e., hospital discharge letters, referral letters etc.

## 4.2 Registering for online services

At Mandalay Medical Centre, staff are to remind patients that GP online services are free and available to all registered patients. NHS England has published a number of [guides and leaflets](#) that provide further detailed information about how patients can access their health record online.

Patients who wish to register for online services to book or cancel appointments, order repeat prescriptions, view their medical records and clinical correspondence online are to complete the registration form at [Annex A](#).

Additionally, those applicants wishing to apply for access to information held about other people must complete the appropriate sections on the registration form also at Annex A and the application should be processed in line with the requirements outlined in the [proxy access and third-party requests section](#).

For those patients unable to visit their own GP organisation, NHS Digital provides access to sign up for online services [here](#) where there is a requirement to provide appropriate identification using a mobile phone as part of the process.

Prospective access to full records is subject to the same safeguarding information requirements as applied to DCR access.<sup>6</sup> Requests for access can be refused and further detail is provided in the [refusal to comply with a request](#) and [coercion](#) sections.

Unlike registration, ID verification is required to ensure that online access is granted only to the patient or their authorised representative(s). All patients will be requested to provide two forms of ID verification in line with the NHS Good Practice Guidance on Identity Verification<sup>7</sup>, and the organisation accepts appropriate forms of ID outlined in the [identity verification section](#).

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<sup>5</sup> [NHSE - Prospective records access practice guide v1.2](#)

<sup>6</sup> [BMA - Online Access to Digital GP Records 2019/20](#)

<sup>7</sup> [Patient Online Services in Primary Care Good Practice Guidance on Identity Verification](#)

Completed documentation will be reviewed by the responsible clinician for processing including the review of the online records for third party references and any information that may cause harm or distress to the patient/applicant which may need to be hidden from online access using confidentiality policies (see [Third party information](#) and [Non-disclosure](#) sections).

At Mandalay Medical Centre , requesters should be advised that it takes approximately 14 days to process any online service request.

### **4.3 Post-registration**

Once a patient has registered at the organisation and the request has been processed, they are to be issued with a letter that includes their unique username, password and instructions on how to access the online services.

Only the completed registration form should be scanned into the individual's healthcare record. At Mandalay Medical Centre , patients access online services using the following:

- Patient access
- Patient services

### **4.4 Guidance documentation**

Further detailed guidance in relation to registering patients for online services can be found [here](#).

## **5 Summary Care Records (SCR)**

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### **5.1 About**

Summary Care Records (SCR) are an electronic record of important patient information created from GP medical records. They can be seen and used by authorised staff in other areas of the health and care system involved in the patient's direct care.

Access to SCR information means that care in other settings is safer, reducing the risk of prescribing errors. It also helps to avoid delays to urgent care. At a minimum, the SCR holds important information about:

- Current medication
- Allergies and details of any previous bad reactions to medicines
- The name, address, date of birth and NHS number of the patient

Further reading can be sought from NHS Digital [Summary Care Records](#).

### **5.2 Additional information**

Additional Information in the SCR, such as details of long-term conditions, significant medical history or specific communications needs, is now included by default for patients with an SCR unless they have previously told the NHS that they do not want this information to be shared.

Should a patient not wish to have any additional information shared, they can complete the [SCR patient consent preference form](#).

Further reading can be sought from NHS Digital [Additional information on the SCR](#) and a patient information for additional or enhanced summary care records can be found in this [poster](#).

### 5.3 COVID-19 and SCR

To help the NHS to respond to the coronavirus (COVID-19) pandemic, there is currently a temporary change to the SCR that includes COVID-19 specific codes in relation to the suspected, confirmed, shielded patient list and other COVID-19 related information. This information is also retained in the additional information.

Further reading can be sought from NHS Digital's document titled [Summary Care Records - Information for Patients](#).

## 6 Subject Access Request (SAR) to medical records

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### 6.1 Background

In accordance with [Article 15 of the UK GDPR](#), individuals have the right to access their data and any supplementary information held by Mandalay Medical Centre .

The reason for granting access to data subjects is to enable them to verify the lawfulness of the processing of data held about them. In addition, data subjects can authorise third party access, e.g., for solicitors and insurers, under the UK GDPR.

When a data subject (individual) wishes to access their data, they are to be encouraged to use the subject access request (SAR) form which can be found at [Annex B](#). All staff must note that the ICO state:

*“An individual can make a SAR verbally or in writing, including on social media. A request is valid if it is clear that the individual is asking for their own personal data”.*

Any requests not using the SAR form must be processed.

This policy outlines the procedure to gain access to health records at Mandalay Medical Centre :

- Third party requests
- Requests from solicitors
- Requests from insurers (governed by the [Access to Medical Reports Act 1988](#))

Further detailed information is available in the [UK GDPR Policy](#).

### 6.2 Overview

SARs are predominantly used for access to, and the provision of, copies of medical records. This type of request need not always be in writing (e.g., letter, e-mail). However, applicants should be offered the use of a SAR application form which allows for explicit indication of the

required information (see [Annex B](#)). Verbal requests should be documented, and a clarification letter sent, or a telephone call made to the patient for approval.<sup>8</sup>

There should also be an electronic form for requesters to complete if they prefer. SARs can be submitted via social media such as an organisation's Facebook page or Twitter.

Requesters must be:

- The data subject OR
- Have the written permission of the data subject OR
- Have legal responsibility for managing the subject's affairs to access personal information about that person

It is the requester's responsibility to satisfy this organisation of their legal authority to act on behalf of the data subject. The organisation must be satisfied of the identity of the requester before they can provide any personal information (see [Identity verification section](#)).

Requests may be received from the following:

- **Competent patients**

May apply for access to their own records or authorise third party access to their records.

- **Children and young people**

May also apply in the same manner as other competent patients and Mandalay Medical Centre will not automatically presume a child or young person has capacity under the age of 16. However, those aged 13 or over are expected to have the capacity to consent to medical information being disclosed.<sup>9</sup>

Note BMA guidance states the age is 12, although it is 13 with UK GDPR and also that age in the CQC [GP Mythbuster 8: Gillick competency and Fraser guidelines](#).

- **Parents**

May apply to access their child's health record so long as it is not in contradiction of the wishes of the competent child.<sup>10</sup> Further guidance on parental access to a child's healthcare records is detailed at [Section 10.4](#).

- **Individuals with a responsibility for adults who lack capacity**

Are not automatically entitled to access the individual's health records. Mandalay Medical Centre will ensure that the patient's capacity is judged in relation to the particular decisions being made.

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<sup>8</sup> [How to get your medical records](#)

<sup>9</sup> [Access to health records](#)

<sup>10</sup> [BMA guidance: Children and young people ethics toolkit](#)

Any consideration to nominate an authorised individual to make proxy decisions for an individual who lacks capacity will comply with the [Mental Capacity Act 2005](#) in England and Wales and the Adults with Incapacity Act Scotland.

- **Next of kin**

Have no rights of access to health records.

- **Police**

In all cases, the organisation can release confidential information if the patient has given his/her consent (preferably in writing) and understands the consequences of making that decision. There is, however, no legal obligation to disclose information to the police unless there is a court order or this is required under statutes (e.g., [Road Traffic Act 2006](#)).

Nevertheless, health professionals at Mandalay Medical Centre have a power under the [Data Protection Act 2018](#) and [Crime Disorder Act 1998](#) to release confidential health records without consent for the purposes of the prevention or detection of crime or the apprehension or prosecution of offenders. The release of the information must be necessary for the administration of justice and is only lawful if this is necessary:

- To protect the patient or another person's vital interests, or
- For the purposes of the prevention or detection of any unlawful act where seeking consent would prejudice those purposes and disclosure is in the substantial public interest (e.g., where the seriousness of the crime means there is a pressing social need for disclosure)

Only information that is strictly relevant to a specific police investigation should be considered for release and only then if the police investigation would be seriously prejudiced or delayed without it. The police should be asked to provide written reasons why this information is relevant and essential for them to conclude their investigations.

- **Court representatives**

A person appointed by the court to manage the affairs of a patient who is incapable of managing his or her own affairs may make an application. Access may be denied where the responsible clinician is of the opinion that the patient underwent relevant examinations or investigations in the expectation that the information would not be disclosed to the applicant.

- **Patient representatives/solicitors**

A patient can give written authorisation for a person (for example a solicitor or relative) to make an application on their behalf for copies of their medical records.

This organisation may withhold access if it is of the view that the patient authorising the access has not understood the meaning of the authorisation. It is important to stress to the patient that under a SARs request all health records are provided, unless a specific time period is stated, and patients should be mindful of giving access to this level of health data.

Solicitors who are acting in civil litigation cases for patients should obtain consent from the patient using the form that has been agreed with the BMA and the Law Society. If a consent form from the patient is not received with the application form then no information must be provided until this has been received.

- **Requests for insurance medical reports**

SARs are not appropriate should an insurance company require health data to assess a claim. The correct process for this at Mandalay Medical Centre is for the insurer to use the [Access to Medical Reports Act 1988](#) when requesting a GP report.

In most cases, the requester will provide the patient's signed consent to release information held in their health record. The BMA have issued [guidance](#) on requests for medical information from insurers.

Therefore, this organisation will contact the patient to explain the extent of disclosure sought by the third party. The organisation can then provide the patient with the medical record as opposed to the insurer. The patient is then given the opportunity to review their record and decide whether they are content to share the information with the insurance company.

Mandalay Medical Centre will advise insurers that fees are applicable.

It should be noted that whilst these fees are current and as detailed within [BMA Guidance Fees, they](#) were last agreed in 2006.

It is the responsibility of the data controller to verify all requests from data subjects using reasonable measures.

The use of the organisation's SAR form supports the data controller in verifying the request. In addition, the data controller is permitted to ask for evidence to identify the data subject, usually by using photographic identification, i.e., driving licence or passport.

Further reading can be sought from [BMA - Access to health records](#) document that was updated to reflect the changes to reflect GDPR and DPA18.

### **6.3 Processing a SAR request**

Upon receipt of a SAR, Mandalay Medical Centre will record the SAR within the health record of the individual to whom it relates, as well as annotating the [Data Subject Access Request \(SAR\) Register](#). Furthermore, once processed, an entry onto the health record should be made, including the date of postage or the date the record was collected by the patient or authorised individual in addition to updating the SAR Register.

Under [the Data Protection \(Subject Access Modification\) \(Health\) Order 2000](#), Mandalay Medical Centre will ensure that an appropriate healthcare professional (responsible clinician) manages all access matters. At Mandalay Medical Centre, there are a number of such professionals and, wherever possible, the individual most recently involved in the care of the patient will review and deal with the request. If for some reason they are unable to manage the request, an appropriate professional will assume responsibility and manage the access request.

Furthermore, to maintain UK GDPR compliance, the data controller at [Mandalay Medical Centre](#) will ensure that data is processed in accordance with Article 5 of the UK GDPR and will be able to demonstrate compliance with the regulation (see the organisation's [UK GDPR policy](#) for detailed information).

Data processors at [Mandalay Medical Centre](#) will ensure that the processing of personal data is lawful and at least one of the following applies:

- The data subject has given consent to the processing of his/her personal data for one or more specific purposes
- Processing is necessary for the performance of a contract to which the data subject is party or to take steps at the request of the data subject prior to entering into a contract
- Processing is necessary for compliance with a legal obligation to which the data controller is subject
- Processing is necessary to protect the vital interests of the data subject or another natural person

Individuals will have to verify their ID<sup>11</sup> at Mandalay Medical Centre and it is the responsibility of the data controller to verify all requests from data subjects using reasonable measures (see [Identity verification section](#)).

The process upon receipt of a SAR form is clearly illustrated at [Annex D](#) which is an aide-memoire/flow diagram for staff. A poster explaining how to access health records for use in waiting room areas can be found at [Annex E](#).

## 6.4 Timeframe for responding to requests

In accordance with the UK GDPR, patients are entitled to receive a response within the maximum given time frame of one calendar month from the date of submission of the SAR.

To ensure full compliance regarding SARs, this organisation will adhere to the guidance provided in the UK GDPR. In the case of complex or multiple requests, the data controller may extend the response time by a period of two months. In such instances, the applicant must be informed in the first month and the reasons for the extension given.

Should the request involve a large amount of information, the data controller will ask the data subject to specify what data they require before responding to the request. Data controllers are permitted to 'stop the clock' in relation to the response time until clarification is received.

Further reading can be found in the BMA document titled: [Access to health records](#).

## 6.5 Fees

BMA advises that under the UK GDPR, Mandalay Medical Centre SARs are generally free of charge. Only if the SAR is 'manifestly unfounded' or 'excessive' can a 'reasonable' fee be

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<sup>11</sup> [NHS England Patient Online Services in Primary Care Good Practice on Identity Verification](#)

charged although the circumstances when a fee can be charged are rare and should be on a case-by-case basis.

The ICO has advised that a request could be deemed as 'excessive' if an individual was to receive information via a SAR and then request a copy of the same information within a short period of time. In this scenario, the organisation could charge a reasonable fee or refuse the request. Postage costs for SARs should not be charged for unless they are 'unfounded or excessive'.

Further reading can be found in the BMA document titled: [Access to health records](#).

## **6.6 Method of response to requests**

The decision on what format to provide the requested information in should take into consideration the circumstances of the request and whether the individual can access the data in the format provided.

Should an individual submit a SAR electronically, Mandalay Medical Centre will reply in the same format (unless the data subject states otherwise).

Where the patient/applicant requests their information to be emailed to them, it is strongly recommended that the organisation explains to the patient/applicant the risks (for example, unauthorised interception of the data) of receiving the data via unencrypted means to a non-NHS email address. The organisation should document the patient's agreement (expressed in writing or via email) to receive their data via unencrypted means in the medical record. If the patient/applicant agrees, a USB stick or a CD can be used as alternative electronic formats.

For those requests that are not made electronically, a paper copy can be provided unless the patient has explicitly requested a different format.

## **6.7 Amendments to medical records**

Records should not be amended because of a request for access. Indeed, it is a criminal offence under the [Data Protection Act 2018](#) to amend or delete records in response to a SAR. If amendments are made between the time that the request for access was received and the time at which the records were supplied, these must only be amendments that would have been made whether or not the request for access was made. When dealing with a SAR, the most up to date information should be provided.

Information that is clinically relevant must not be deleted from medical records (for electronic records, information can be removed from display, but the audit trail will always keep the record complete). Amendments to records can be made provided the amendments are made in a way that indicates why the alteration was made so that it is clear that records have not been tampered with for any underhand reason. Patients may also seek correction of information they believe is inaccurate (see [Disputes concerning content of records](#) section).

## **6.8 iGPR**

When a request is received via iGPR, it should be processed in accordance with the organisation's iGPR protocol. iGPR will automatically find and redact items in a record that should not be included.

Additionally, to ensure all relevant attachments are included in the report (including any hard copies that are not within the patient's electronic healthcare record), the report should not be processed on iGPR until the administration staff is certain that the entire record has been scanned into the patient's record on Emis.

Once this has been confirmed, the request can be processed but the GP processing the request must then assign the report to the responsible clinician who will review the report and confirm accuracy before agreeing the report can be sent using iGPR.

Further information, including training videos and infographics for iGPR, can be sought [here](#).

## 6.9 Additional Privacy Information notice

Once the relevant information has been processed and is ready for issue to the patient, it is a requirement, in accordance with Article 15 of (UK GDPR), to provide an Additional Privacy Information notice (APIIn), the template for which can be found at [Annex F](#).

## 6.10 Organisation disclaimer

The template at [Annex G](#) is to be used when issuing patients with copies of their medical records. This outlines the fact that the patient is responsible for the security and confidentiality of their records once they leave the organisation, and that the organisation will not accept any responsibility for copies of medical records once they leave the premises.

## 7 Refusal to comply with a request

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Mandalay Medical Centre will only refuse to comply with a SAR where exemption applies or when the request is manifestly unfounded or manifestly excessive. In such situations, the data controller will inform the individual of:

- The reasons why the SAR was refused
- Their right to submit a complaint to the ICO
- Their ability to seek enforcement of this right through the courts

Each request must be given careful consideration and should Mandalay Medical Centre refuse to comply, this must be recorded and the reasons for refusal justifiable. Being the data controller, Mandalay Medical Centre has the right to refuse any online access or SAR, although any such refusal will be within the allotted timescale and reasons for the refusal will be given.<sup>12</sup>

A letter template for refusal can be found at [Annex H](#).

There are occasions when a GP may firmly believe that it is not appropriate to share all the information contained in the individual's record, particularly if there is potential for such information to cause harm or distress to individuals or when the record contains information relating to a third party. This information can be redacted from the patient's view but must not be deleted from the record (see [non-disclosure section](#)). If system

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<sup>12</sup> [ico.org.uk](http://ico.org.uk)

functionality to redact information is not available, the record should not be shared with the patient.

Further reading can be sought from the GMC document titled [When you can disclose personal information](#).

## 8 Coercion

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The risks for coercion of patients with online access should always be borne in mind. Patients may be forced into sharing information from their record, including log-in details, medical history, repeat prescription orders, appointment booking details and other private, personal information. By gaining access to a person's record, an abuser may gain further control or escalate harm.

Organisations need to consider whether the organisation's policy on safeguarding should be updated to cover patient online services. Registering patients for online services requires awareness of the potential impact of coercion.

Coercion can happen to children, adults in an abusive relationship and elderly or otherwise vulnerable adults. Access to a patient's health record can be particularly attractive to an abusive partner, carer or parent.

At Mandalay Medical Centre, all staff involved in registering patients for online services are aware of the potential impact of coercion and the signs to look out for to help patients who might be subject to coercion.

The Gov.uk webpage titled [Domestic abuse: how to get help](#) can support organisations who suspect that a patient is at risk of coercive control.

## 9 Non-disclosure

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The UK GDPR provides for several exemptions in respect of information falling within the scope of a SAR. In summary, information can generally be treated as exempt from disclosure and should not be disclosed, if:

- It is likely to cause serious physical or mental harm to the patient or another person
- It relates to a third party who has not given consent for disclosure (where that third party is not a health professional who has cared for the patient) and after considering the balance between the duty of confidentiality to the third party and the right of access of the applicant, the data controller concludes it is reasonable to withhold third party information
- It is requested by a third party and the patient had asked that the information be kept confidential or the records are subject to legal professional privilege, or, in Scotland, the records are subject to confidentiality as between client and professional legal advisor. This may arise in the case of an independent medical report written for the purpose of litigation. In such cases, the information will be exempt if, after considering the third party's right to access and the patient's right to confidentiality, the data controller reasonably concludes that confidentiality should prevail or it is restricted by order of the courts

- It relates to the keeping or using of gametes or embryos or pertains to an individual being born because of in vitro fertilisation
- In the case of children's records, disclosure is prohibited by law, e.g., adoption records

The data controller must redact or block out any exempt information. Depending on the circumstances, it may be that the data controller should take steps to explain to the applicant how the relevant exemption has been applied. However, such steps should not be taken if, and insofar as they would in effect cut across the protections afforded by the exemptions. Indeed, in some cases even confirming the fact that a particular exemption has been applied may itself be unduly revelatory (e.g., because it reveals the fact that the information sought is held where this revelation is itself is unduly invasive of relevant third-party data privacy rights). There is still an obligation to disclose the remainder of the records.

While the responsibility for the decision as to whether to disclose information rests with the data controller, advice about serious harm must be taken by the data controller from the responsible clinician. If the data controller is not the responsible clinician, then the appropriate responsible clinician needs to be consulted before the records are disclosed. This is usually the health professional currently or most recently responsible for the clinical care of the patient in respect of the matters that are the subject of the request. If there is more than one, it should be the person most suitable to advise. If there is none, advice should be sought from another health professional who has suitable qualifications and experience.

Circumstances in which information may be withheld on the grounds of serious harm are extremely rare and this exemption does not justify withholding comments in the records because patients may find them upsetting. Where there is any doubt as to whether disclosure would cause serious harm, the BMA recommends that the responsible clinician discusses the matter anonymously with an experienced colleague, their Data Protection Officer, the Caldicott Guardian or a defence body<sup>13</sup>.

## 10 Proxy access and third-party requests

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### 10.1 Proxy access to medical records

A joint document from NHS E and RCGP titled *What is Proxy Access?* advises that this is when an individual other than the patient requests access to a patient's medical record on their behalf to assist in their care. Proxy access arises in both adults and children and is dealt with differently according to whether the patient has capacity or not.

Proxy access should not be granted where:

- The organisation suspects coercive behaviour (See [Coercion chapter](#))
- There is a risk to the security of the patient's record by the person being considered for proxy access
- The patient has previously expressed the wish not to grant proxy access to specific individuals should they lose capacity, either permanently or temporarily; this should be recorded in the patient's record

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<sup>13</sup> [BMA](#)

- The responsible clinician assesses that it is not in the best interests of the patient and/or that there are reasons as detailed in denial or limitation of information

Patients have the right to grant a carer, relative, responsible adult or partner access to their online services or copy of medical records. The patient can however limit which online services they want the nominated individual to access. Patients are to be advised that they should not share their own log-in details with anyone.

The nominated individual will be issued with separate log-in details to access the online services for their partner, relative or person they are caring for. To obtain proxy access, a person must be registered for online access at the organisation where the patient they are acting for is registered.

## **10.2 Proxy access in adults (including those over 13 years) with capacity**

Patients over the age of 13 (under UK DPA 2018) are assumed to have mental capacity to consent to proxy access. Where a patient with capacity gives their consent, the application should be dealt with on the same basis as the patient.

See note in [Section 10.4](#) regarding age and competencies.

[Annex C](#) is a consent form to allow nominated persons with capacity access to specific areas of a named person's medical records.

This form can be used for a named proxy to simply book an appointment or order medication, or for greater access such as to have access to obtaining test results or consultations. The form has tick boxes that specifically allow a named person to have partial or full access to the named person's healthcare information. This form must be signed by the patient prior to being considered valid.

It should be noted that this form does not permit any third-party individual to make healthcare decisions on behalf of the named patient. Furthermore, the patient is responsible for this agreement and any changes or updates that may be required at a later date.

Chapter 11 details the requirement to confirm any third-party's identity.

Any concerns in regards to coercion as detailed at [Chapter 8](#), must be discussed with the safeguarding lead Dr Helen Gracie.

## **10.3 Proxy access in adults (including those over 13 years) without capacity**

Proxy access without the consent of the patient may be granted in the following circumstances:

- The patient has been assessed as lacking capacity to decide on granting proxy access and has registered the applicant as a lasting power of attorney for health and welfare with the Office of the Public Guardian
- The patient has been assessed as lacking capacity to decide on granting proxy access and the applicant is acting as a Court Appointed Deputy on behalf of the patient

- The patient has been assessed as lacking capacity to make a decision on granting proxy access and, in accordance with the [Mental Capacity Act 2005](#) code of practice, the responsible clinician considers it in the patient's best interests to grant access to the applicant.
- When an adult patient has been assessed as lacking capacity and access is to be granted to a proxy acting in their best interests, it is the responsibility of the responsible clinician to ensure that the level of access enabled, or information provided is necessary for the performance of the applicant's duties

#### 10.4 Children and young people's access

It is difficult to say at what age the child will become competent to make autonomous decisions regarding their healthcare as between the ages of 11 and 16 this varies from person to person.

In accordance with Article 8 of the UK GDPR<sup>14</sup>, from the age of 13 young people can provide their own consent and will be able to register for online services.

Note, this age is deemed to be 12 in the BMA document: [Access to health records](#) dated June 2020 although this should always be assessed by the clinician as to whether they are deemed competent.

The CQC [GP Mythbuster 8: Gillick competency and Fraser guidelines](#) details this further and states that *"there is no lower age limit for Gillick competence or Fraser guidelines to be applied. That said, it would rarely be appropriate or safe for a child less than 13 years of age to consent to treatment without a parent's involvement."*

- **Proxy access in children under the age of 11**

All children under the age of 11 are assumed to lack capacity to consent to proxy access. Those with parental responsibility for the child can apply for proxy access to their children's medical records. Parents will apply for access through the same process outlined above. Additional identification of parental/guardian evidence will be required.

When the child reaches the age of 11, access to the parent/guardian will automatically cease. Subsequent proxy access will need to be authorised by the patient (subject to a competency test). In addition, parental proxy access may be reinstated if, after discussion with the parent(s) requesting access, the child's GP believes that proxy access would be in the child's best interest.<sup>3</sup>

- **Proxy access in children above the age of 11 and under 13 years of age**

Access to medical records will need to be assessed on a case-by-case basis. Some children aged 11 to 13 have the capacity and understanding required for decision-making with regards to access to their medical records and should therefore be consulted and have their confidence respected.

The responsible clinician will invite the child for a confidential consultation to discuss the request for proxy access under the Data Protection Law. The responsible

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<sup>14</sup> [Article 8 UK GDPR](#)

clinician should use their professional judgement in deciding whether to grant parental access and/or whether to withhold information.

If the organisation suspects coercive behaviour, access will be refused and documented in the medical notes.

The nominated individual is to complete the online services registration form at [Annex A](#) or SARs application form at [Annex B](#). Should the organisation opt not to grant the person access to an individual's record, the responsible clinician will contact the patient and advise them of the reasons why this decision has been reached.

The organisation may refuse or withdraw formal proxy access at any time if they judge that it is in the patient's best interests to do so. Formal proxy access may be restricted to less access than the patient has, e.g., appointments and repeat prescriptions only.

Patients who choose to share their account credentials with family, friends and carers (including a care home) must be advised of the risks associated with doing this. Formal proxy access is the recommended alternative in all circumstances.

- **Proxy access without consent**

The organisation may authorise proxy access without the patient's consent when:

- The patient does not have capacity to make a decision on giving proxy access
- The applicant has a lasting power of attorney (welfare)
- The applicant is acting as a Court Appointed Deputy on behalf of the patient
- The GP considers it to be in the patient's best interests

The person authorising access has responsibility to ensure that the level of access enabled is appropriate for the performance of the applicant's duties.

Further information on competency for children and young people can be sought in the organisation's [Consent Policy](#).

## **10.5 Parents gaining access to a child's medical record**

This organisation will allow parents access to their child's medical records if the child or young person consents, or lacks capacity, and it does not go against the child's best interests. However, if the records contain information given by the child or young person in confidence then this information should not normally be disclosed without their consent.

It should be noted that divorce or separation does not affect parental responsibility and therefore both parents will continue to have reasonable access to their children's health records unless legally advised not to do so.

Further reading on this subject can be sought in the GMC document titled [Accessing medical records by children, young people and parents](#). Likewise, there are sections on both separated parents and parental responsibility within the [Safeguarding Policy](#).

## **11 Identity verification**

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### **11.1 Requirement**

Before access to health records is granted, the patient's identity and requestor's identity in cases of proxy access requests, must be verified. There are three ways of confirming patient identity:

- Documentation (forms of identification)
- Vouching
- Vouching with confirmation of information held in the applicant's records

All applications will require formal identification through two forms of ID, one of which must contain a photo. Acceptable documents include passports, photo driving licences and bank statements but not bills. Where a patient may not have suitable photographic identification, vouching with confirmation of information held in the medical record can be considered by the data controller or responsible clinician. This should take place discreetly and ideally in the context of a planned appointment.

It is extremely important that the questions posed do not incidentally disclose confidential information to the applicant before their identity is verified.

### **11.2 Adult proxy access verification**

Before the organisation provides proxy access to an individual or individuals on behalf of a patient further checks must be taken:

- There must be either the explicit informed consent of the patient or some other legitimate justification for authorising proxy access without the patient's consent
- The identity of the individual who is asking for proxy access must be verified as outlined above
- The identity of the person giving consent for proxy access must also be verified as outlined above. This will normally be the patient but may be someone else acting under a power of attorney or as a Court Appointed Deputy
- When someone is applying for proxy access on the basis of an enduring power of attorney, a lasting power of attorney or as a Court Appointed Deputy, their status should be verified by making an online check of the registers held by the Office of the Public Guardian

### **11.3 Child proxy access verification**

Before the organisation provides parental proxy access to a child's medical records the following checks must be made:

- The identity of the individual(s) requesting access via the method outlined above
- That the identified person is named on the birth certificate of the child

In the case of a child judged to have capacity to consent, there must be the explicit informed consent of the child.

## 11.4 How to set up a proxy access

Refer to the NHS Digital's [Linked profiles and proxy access](#) as this details each process on EMIS to allow parents, family members and carers to access health services on behalf of other people.

## 12 Deceased patients

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### 12.1 Access to deceased persons medical records

The UK GDPR does not apply to data concerning deceased persons. However, the ethical obligation to respect a patient's confidentiality extends beyond death. There are several considerations to be considered prior to disclosing the health record of a deceased patient.

Such considerations are detailed in the [Access to Health Records Act 1990](#). Unless the patient requested confidentiality while alive, under the terms of this Act, Mandalay Medical Centre will only grant access to either:

- A personal representative (executor of the deceased person's estate); or
- Someone who has a claim resulting from the death

Under section 5(4) of the Access to Health Records Act 1990, no information that is not directly relevant to a claim should be disclosed to either the personal representative or any other person who may have a claim arising out of the patient's death.

It should be noted that the GP contract changed for 2022/23 and has now removed the requirement for practices to print and send copies of the electronic record of deceased patients to Primary Care Support England (PCSE)<sup>15</sup>, consequently as of 1 August 2022, requests for patients' medical records via the Access to Health Records Act (AHRA) now lie with the organisation.

Further information can be found in this NHS E document [here](#).

GP records of deceased patients are retained for 10 years after which time they will be destroyed as detailed within the [Records Retention Schedule](#).

Further detailed information is available within the [Access to Deceased Patients Records Policy](#) and Medical Protection Society article titled [Disclosures after death](#).

### 12.2 Chargeable fees for deceased patients

Legislative changes to the Data Protection Act 2018 have also amended the Access to Health Records Act 1990 which now states access to the records of deceased patients and any copies must be provided free of charge.<sup>16</sup>

However, where health information is to be disclosed for the deceased in the absence of a statutory basis, e.g., when a solicitor or insurance company requests a medical report or

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<sup>15</sup> [NHS E and NHS I](#)

<sup>16</sup> [BMA guidance - Access to health records - Nov 19](#)

information to confirm death or an interpretation of what is in the records, this is classed as private work over and above what is already available in the record.

Any fees charged should be reasonable and proportionate to cover the cost of satisfying a request.

### **12.3 Chargeable fees for a subject access request (SAR)**

Should a SAR request be initiated from a solicitor, and they are asking for a report to be written or the request is asking for an interpretation of information within the record this request goes beyond a SAR and therefore a fee can be charged. The organisation may ask the nature of the request from the solicitor to confirm if this should be charged for or not<sup>17</sup>.

If the solicitor confirms that they are seeking a copy of the medical record, then this should be treated as a SAR and complied with in the usual way.

Fees are further detailed at [Section 6.5](#).

## **13 Employee requests**

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Employees and ex-employees of the organisation have a right to request a copy of their personal data including employment record, occupational health records, complaints files, significant event files and any other relevant correspondence. Not all personal data that an organisation holds about an individual needs to be provided, as certain exemptions exist. For example, legally privileged documents do not need to be disclosed or where personal data is processed for the purposes of management forecasting or management planning in relation to business planning.

It is also worth bearing in mind that whilst the ICO advises that employers should be prepared to take reasonable efforts to find and retrieve the requested information, they will not be required to act unreasonably or disproportionately regarding the importance of providing subject access<sup>18</sup>.

The requestor does not need to provide a reason for making a SAR however they must state who they are and provide appropriate ID. The requestor should specify a date range, subject matter and the people who they believe have sent or received information about them. An employer cannot refuse to supply information if documents provide third party references. These should simply be redacted on the copy provided to the requestor. Article 15(1) UK GDPR says that an employer must provide the information requested together with some additional information.

The additional information includes:

- The purpose for which the employer is processing the data
- Categories of the personal data being processed
- Who receives or has received the personal data from the employer

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<sup>17</sup> [BMA Guidance – Access to health records - June 21](#)

<sup>18</sup> [ICO - How do we find and retrieve the relevant information](#)

- How long the employer keeps personal data or the criteria used in deciding how long to keep the information
- Information about where the employer got the personal information from if that information was not collected directly from the employee
- If the employer does cross-border data transfers, information about how data security is safeguarded
- Whether the employer uses automated decision-making and profiling. If so, the auto-decision logic used and what this means for the employee

The procedure for employees or ex-employees undertaking a SARs request follows the same process as detailed in the section [Procedure for Access](#).

Article 15(3) UK GDPR says that on receipt of a SAR, the employer must give the requestor a copy of their personal information without charge but can charge a reasonable fee for additional requests. If the request is made by e-mail, then the employer must provide the information in a commonly used electronic format unless the requestor requires the information in a different format<sup>19</sup>.

## 14 Denial or limitation of information

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Access will be denied or limited where, in the reasonable opinion of the responsible clinician, access to such information would not be in the person's best interests because it is likely to cause serious harm to:

- The person's physical or mental health, or
- The physical or mental health of any other person
- The information includes a reference to any third party who has not consented to its disclosure

A reason for denial of information must be recorded in the medical records and where possible and appropriate, an appointment will be made with the patient to explain the decision.

## 15 Third party information

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Patient and organisational records may contain confidential information that relates to a third person. This may be information from or about another person. It may be entered in the record intentionally or by accident.

It does not include information about or provided by a third party that the patient would normally have access to, such as hospital letters.

All confidential third-party information must be removed or redacted. This will be reviewed and highlighted by the appropriate responsible clinician or data controller. If this is not possible then access to the information will be refused.

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<sup>19</sup> [ico.org.uk](http://ico.org.uk)

## 16 Former NHS patients living outside the UK

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Patients no longer resident in the UK still have the same rights to access their information as those who still reside here and must make their request for information in the same manner.

Original health records should not be given to an individual to take abroad with them. However, **Mandalay Medical Centre** may be prepared to provide a summary of the treatment given whilst resident in the UK.

## 17 Disputes concerning content of records

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Once access to records has been granted, patients or their proxy may dispute their accuracy or lack understanding of medical codes.

Patients or their proxy may notice and point out errors in their record, unexpected third-party references and entries they object to or want deleted. The right of rectification and erasure is established within the UK GDPR.

Any queries will be directed to the data controller who will contact the patient. They will investigate swiftly and thoroughly to identify the source and extent of the problem.

The responsible clinician and Caldicott Guardian/data controller will then decide on the most appropriate action. Where the dispute concerns a medical entry, the clinician who made the entry should be consulted and consideration given as to whether it is appropriate to change or delete an entry.

Where it is not possible or practical to contact the clinician concerned, the Caldicott Guardian or data controller should be consulted. If it is not possible to amend the records, a meeting with the patient or their proxy should be organised to explain why.

If a patient wishes to apply their UK GDPR rights of:

- Rectification (Article 16 UK GDPR)
- Erasure (Article 17 UK GDPR)
- Restriction of processing (Article 18 UK GDPR)
- Data portability (Article 20 UK GDPR)
- Right to object (Article 21 UK GDPR)

advice MUST be sought from the organisation's Data Protection Officer.

Where it is not appropriate to amend a medical record, an entry may be made declaring that the patient disagrees with the entry. If the patient further disputes the accuracy once a decision has been made, they will be referred to the complaint's procedure and/or the Health Ombudsman.

MDU has written an article for [GPOne](#) that further explains how to handle patients requests to change their medical records.

## 18 Complaints

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**Mandalay Medical Centre** has procedures in place to enable complaints about access to health records requests to be addressed. Please refer to the organisation's [Complaints procedure](#).

All complaints about access to records and SARs should be referred to Charlotte Walton, Practice Manager. If the issue remains unresolved, the patient should be informed that they have a right to make a complaint through the NHS complaints procedure in accordance with the NHS England document titled [How to complain to the NHS](#).

Sometimes the patient may not wish to make a complaint through the NHS Complaints Procedure and instead take their complaint direct to the Information Commissioner's Office (ICO) if they believe the organisation is not complying with their request in accordance with the [Data Protection Act 2018](#).

Alternatively, the patient may wish to seek legal independent advice.

## **19 Care Quality Commission (CQC)**

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### **19.1 Access to medical records during an inspection**

The CQC has powers under the [Health and Social Care Act 2008](#) to access medical records to exercise their role and the [Code of practice on accessing confidential and personal information](#) describes its powers that permits accessing medical records.

During any inspection, the CQC inspecting team will look at a patient's medical records when it is both necessary, and intruding on that patient's privacy is justified, proportionate and will protect the privacy and dignity of patients. This is to assess the quality of care provided by the practice and not to assess the individual clinician.

Further guidance is given within [GP Mythbuster 12: Accessing medical records during inspections](#) where it is advised that confidentiality will be maintained of any patient's clinical record and that the inspecting team will always follow its code of practice.

### **19.2 Why the CQC looks at medical records**

The CQC inspecting team will assess the quality of care against the key lines of enquiry (KLOEs) and corroborate their findings through any evidence that they may see within any medical record.

They look at this evidence alongside:

- Other evidence gathered on the inspection
- Information we have from our ongoing relationship management with the provider
- Information from the CQC Intelligence Model
- Information gathered before the inspection

As previously detailed, reviews are not designed to assess any individual clinician's ability although should any concerns be identified about an individual clinician then the inspector is duty bound to refer the clinician to their appropriate governing body such as GMC, NMC or HCPC.

### **19.3 Examples of what may be reviewed**

The inspecting team will ensure that several areas are being appropriately considered by the clinical staff within this organisation. All searches have been agreed by the RCGP and the BMA as they represent a reasonable approach to assessing some important features of safe and effective healthcare delivery.

CQC will scrutinise the following categories within the clinical system:

- Monitoring of patients being prescribed Disease Modifying Antirheumatic Drugs (DMARDs)
- High risk drug monitoring
- MHRA/CAS/drug safety update alerts
- Contraindications and combination drug alerts
- Potential missed diagnosis
- Medicines usage
- Do not attempt cardiopulmonary resuscitation (DNACPR) or ReSPECT forms
- Different types of appointments

## Annex A – Application for patient online services template

# ONLINE ACCESS TO HEALTH RECORDS REQUEST

In accordance with the UK General Data Protection Regulation (UK GDPR)

### Guidance notes – please read before completing this form:

If a child aged 13 or over has 'sufficient understanding and intelligence to enable him/her to understand fully what is proposed' (known as Gillick Competence), then s/he will be competent to give consent for him/herself but may wish a parent to countersign as well.

- Patients requiring access to their own record (Sections 1, 2 and 7)
- Proxy access to health records where patient has capacity (Sections 1, 3, 5, 6 and 7)
- Proxy access to health records where patient does not have capacity (Sections 1, 4, 5, 6 and 7)
- Parents requiring access to their child's (age 13-17) record (Sections 1, 3, 5, 6 and 7)

### Section 1: Patient details

Surname		Former name	
Forename		Title	
Date of birth		Address:	
Telephone number		Postcode:	
NHS number (if known)		Hospital number (if known)	

### Section 2: Record requested

I wish to have access to the following online services (please tick all that apply):

Booking appointments	<input type="checkbox"/>
Requesting repeat prescriptions	<input type="checkbox"/>
Access to my medical records	<input type="checkbox"/>

I wish to access my medical record online and both understand and agree with each of the following statements (tick):

I have read and understood the information leaflet provided by the organisation	<input type="checkbox"/>
I understand that I will automatically see any new information (prospective records) that is added to my healthcare record.	<input type="checkbox"/>

I will be responsible for the security of the information that I see or download	<input type="checkbox"/>
If I choose to share my information with anyone else, this is at my own risk	<input type="checkbox"/>
I will contact the organisation as soon as possible if I suspect that my account has been accessed by someone without my agreement	<input type="checkbox"/>
If I see information in my record that is not about me or is inaccurate, I will contact the organisation as soon as possible	<input type="checkbox"/>

Patient signature		Date	
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### Section 3: Consent to proxy access to GP Online Services (if patient has capacity)

- I..... (name of patient), give permission to my GP practice to give the following person/people ..... proxy access to the online services as indicated below in Section 5
- I reserve the right to reverse any decision I make in granting proxy access at any time
- I understand the risks of allowing someone else to have access to my health records
- I have read and understand the information leaflet provided by the organisation

Patient signature		Date	
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I/We wish to have access to the health records on **behalf of** the above-named patient

Surname		Surname	
First name		First name	
Date of birth		Date of birth	
Address		Address	
Postcode		Postcode	
Email		Email	
Telephone		Telephone	
Mobile		Mobile	

(If more than one person is to be given access then please list the above details for each additional person on a separate sheet of paper)

**Reason for access:**

I have been asked to act by the patient	<input type="checkbox"/>
I have full parental responsibility for the patient and the patient is under the age of 18 and has consented to my making this request or is incapable of understanding the request (delete as appropriate)	<input type="checkbox"/>

#### Section 4: Consent to proxy access to GP Online Services (if patient does not have capacity)

I/We wish to have access to the health records on **behalf of** the above-named patient

Surname		Surname	
First name		First name	
Date of birth		Date of birth	
Address		Address	
Postcode		Postcode	
Email		Email	
Telephone		Telephone	
Mobile		Mobile	

(If more than one person is to be given access then please list the above details for each additional person on a separate sheet of paper).

#### Reason for access:

I/We have been appointed by the Court to manage the patient's affairs and attach a certified copy of the court order appointing me to do so	<input type="checkbox"/>
I am/We are acting <i>in loco parentis</i> and the patient is incapable of understanding the request	<input type="checkbox"/>
I am/We are the deceased person's personal representative and attach confirmation of my/our appointment (grant of probate/letters of administration)	<input type="checkbox"/>
I/We have written and witnessed consent from the deceased person's personal representative and attach Proof of Appointment	<input type="checkbox"/>
I/We have a claim arising from the person's death (please state details below)	<input type="checkbox"/>

#### Section 5: Proxy access online services available

I/We wish to have access to the following online services (please tick all that apply):

Booking appointments	<input type="checkbox"/>
Requesting repeat prescriptions	<input type="checkbox"/>
Access to my medical records	<input type="checkbox"/>

## Section 6: Proxy declaration

I/We wish to access to the medical record online of the above patient and I/we understand and agree with each statement (tick)

I/We have read and understood the information leaflet provided by the organisation and agree that I/we will treat the patient information as confidential	<input type="checkbox"/>
I/We will be responsible for the security of the information that I/we see or download	<input type="checkbox"/>
I/We will contact the practice as soon as possible if I/we suspect that the account has been accessed by someone without my/our agreement	<input type="checkbox"/>
If I/we see information in the record that is not about the patient or is inaccurate, I/we will contact the organisation as soon as possible. I/we will treat any information which is not about the patient as being strictly confidential	<input type="checkbox"/>

I declare that the information given by me is correct to the best of my knowledge and that I am entitled to apply for access to the health records referred to above under the terms of the [Data Protection Act 2018](#).

You are advised that the making of false or misleading statements in order to obtain personal information to which you are not entitled is a criminal offence which could lead to prosecution.

<b>Applicant signature</b>		<b>Date</b>	
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## Section 7: Proof of identity

Under the Data Protection Act 2018, you do not have to give a reason for applying for access to your own health records. However, all applicants will be asked to provide two forms of identification, one of which must be photographic identification before access can be set up.

Please speak to reception if you are unable to provide this.

### ADDITIONAL NOTES:

Before returning this form, please ensure that you have:

- Signed and dated the form
- Are able to provide proof of your identity or alternatively confirmed your identity by a countersignature
- Enclosed documentation to support your request (if applicable)

Incomplete applications will be returned; therefore, please ensure you have the correct documentation before returning the form.

**For office use only:**

**Identification verification must be verified through two forms of ID**

- One of which must contain a photo e.g., passport, photo driving licence or bank statement

Where this is not available, vouching by a member of staff or by confirmation of information in the records by one of the management team or a partner may be used

Request received		Request refused	
Reviewed by HCP		Request completed	
Comments			
Identification of	<input type="checkbox"/> Child (aged 13-17)	<input type="checkbox"/> Patient	<input type="checkbox"/> Applicant
		Date	

Identity verified by			
Identity method	<input type="checkbox"/> Photo ID or proof of residence – Type ..... <input type="checkbox"/> Photo ID or proof of residence – Type ..... <input type="checkbox"/> Vouching – by whom ..... <input type="checkbox"/> Vouching with information in record – by whom .....		
Proxy access authorised by			
Proxy access coded in notes	<input type="checkbox"/> Yes	NHS/EMIS No:	
Date account created		Date password sent	
Level of access enabled	<input type="checkbox"/> All	<input type="checkbox"/> Prospective	<input type="checkbox"/> Retrospective <input type="checkbox"/> Limited parts
Notes for proxy access <i>(If any request is refused, discuss with the organisation's DPO before informing patient/applicant)</i>			

## Annex B – Application for access to medical records (SAR)

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# APPLICATION FOR ACCESS TO MEDICAL RECORDS (SAR)

In accordance with the UK General Data Protection Regulation (UK GDPR)

### Section 1: Patient details

Surname		Former name	
Forename		Title	
Date of birth		Address:	
Telephone number		Postcode:	
NHS number (if known)		Hospital number (if known)	

If you are applying to view your own records, please go to **Section 2**.

If you are applying to view another person's record, please go to **Section 3**.

### Section 2: Record requested

Please tick the relevant boxes below. The more specific you can be, the easier it is for us to quickly provide you with the records requested. Record in respect of treatment for: (e.g., leg injury following a car accident)

I am applying for access to <b>view</b> my records only	<input type="checkbox"/>
I am applying for an electronic copy of my medical record	<input type="checkbox"/>
I am applying for a printed copy of my medical record	<input type="checkbox"/>

Please specify what information you are requesting:

I would like a copy of records between specific dates only (please give dates below)	<input type="checkbox"/>
I would like a copy of records relating to a specific condition/specific incident only (please detail below)	<input type="checkbox"/>
I would like a copy of all my electronic records (held on computer)	<input type="checkbox"/>
I would like a copy of all my electronic and paper records since birth	<input type="checkbox"/>

Patient signature		Date	
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### Section 3: Details and Declaration of Applicant

Please complete if you are requesting access on **behalf of** the above-named patient

Surname		Title	
Forename(s)		Address	
Telephone number		Postcode	
Relationship to Patient			

(If more than one person is to be given access then please list the above details for each additional person on a separate sheet of paper)

I am applying for access to <b>view</b> the records only	<input type="checkbox"/>
I am applying for an electronic copy of the medical record	<input type="checkbox"/>
I am applying for a printed copy of the medical record	<input type="checkbox"/>

Please specify what information you are requesting:

I would like a copy of records between specific dates only (please give dates below)	<input type="checkbox"/>
I would like a copy of records relating to a specific condition/specific incident only (please detail below)	<input type="checkbox"/>
I would like a copy of all the electronic records (held on computer)	<input type="checkbox"/>
I would like a copy of all the electronic and paper records since birth	<input type="checkbox"/>

#### Reason for access:

I have been asked to act by the patient	<input type="checkbox"/>
I have full parental responsibility for the patient and the patient is under the age of 18 and: <ul style="list-style-type: none"> <li>• Has consented to my making this request, or</li> <li>• Is incapable of understanding the request (delete as appropriate)</li> </ul>	<input type="checkbox"/>
I have been appointed by the Court to manage the patient's affairs and attach a certified copy of the court order appointing me to do so	<input type="checkbox"/>
I am acting <i>in loco parentis</i> and the patient is incapable of understanding the request	<input type="checkbox"/>
I am the deceased person's personal representative and attach confirmation of my appointment (grant of probate/letters of administration)	<input type="checkbox"/>

I have written, and witnessed, consent from the deceased person's personal representative and attach Proof of Appointment	<input type="checkbox"/>
I have a claim arising from the person's death (please state details below)	<input type="checkbox"/>

### Declaration

I declare that the information given by me is correct to the best of my knowledge and that I am entitled to apply for access to the health records referred to above under the terms of the UK [Data Protection Act 2018](#).

You are advised that the making of false or misleading statements in order to obtain personal information to which you are not entitled is a criminal offence which could lead to prosecution.

Applicant signature		Date	
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I confirm that I give permission for the organisation to communicate with the person identified above regarding my medical records			
Patient signature		Date	

### Section 4: Proof of identity

Under the [Data Protection Act 2018](#) you do not have to give a reason for applying for access to your health records.

Patients with capacity and proxy nominees will be asked to provide two forms of identification one of which must be photographic identification. Please speak to reception if you are unable to provide this.

### Section 5: Consent for children

If a child aged 13 or over has "sufficient understanding and intelligence to enable him/her to understand fully what is proposed" (known as Gillick Competence), then s/he will be competent to give consent for him/herself.

They may wish a parent to countersign as well.

Young people aged 16 and 17 are legally competent and may therefore sign this consent form for themselves but may wish a parent to countersign as well.

If the child is under 18 and not able to give consent for him/herself, someone with parental responsibility may do so on his/her behalf by signing this form below.

I am the patient aged 13 – 18 years	
Signature	

<b>I am the parent/guardian/person with parental responsibility (delete as necessary)</b>	
<b>Signature</b>	
<b>Full name</b>	
<b>Address</b>	
<b>Date</b>	

You will be telephoned when the copies are ready for collection or posting.

**ADDITIONAL NOTES:**

Before returning this form, please ensure that you:

- Have signed and dated the form
- Are able to provide proof of your identity or alternatively confirmed your identity by a countersignature
- Enclosed documentation to support your request (if applicable)

Incomplete applications will be returned; therefore, please ensure you have the correct documentation before returning the form.

**For office use only:**

**Identification verification must be verified through 2 forms of ID**

- One of which must contain a photo e.g., passport, photo driving licence or bank statement.

Where this is not available, vouching by a member of staff or by confirmation of information in the records by one of the clinicians may be used.

If this is a proxy request, where patient has capacity, both patient and proxy should provide identification as above in person.

Request received		Request refused	
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Reviewed by		Request completed	
Fee (see section 6.4)		Date sent	
Comments			
Patient identity verified by		Date	
Method	<input type="checkbox"/> Photo ID or proof of residence – Type ..... <input type="checkbox"/> Photo ID or proof of residence – Type ..... <input type="checkbox"/> Vouching – by whom ..... <input type="checkbox"/> Vouching with information in record – by whom .....		
Proxy identity verified by		Date	
Method	<input type="checkbox"/> Photo ID or proof of residence – Type ..... <input type="checkbox"/> Photo ID or proof of residence – Type ..... <input type="checkbox"/> Vouching – by whom ..... <input type="checkbox"/> Vouching with information in record – by whom .....		

## Annex C – Third-party access to healthcare information

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# APPLICATION FOR THIRD-PARTY ACCESS TO HEALTHCARE INFORMATION

To maintain confidence in our patients, at Mandalay Medical Centre we will not divulge any medical information about you unless it is legally appropriate, or we have your consent to do so.

### Who should complete this form?

Anyone who is competent to do so.

It is difficult to state at what age any child will become competent to make autonomous decisions regarding their healthcare as between the ages of 11 and 16 this varies from person to person. As most children are content that their parents have access to their healthcare information, this form will ordinarily be used for adults. However it may equally be used for a child whom it is considered has capacity and can understand their actions.

### Agreement

Should you wish to consent for a nominated person to be able to discuss any medical information about you with staff at this practice, please indicate this in the form overleaf.

Although by completing this form, the following should be noted:

- The person granting access to a third-party must fully complete and sign the form
- Any incorrectly completed forms will not be processed and will be returned to person making the application
- This form does not permit any third-party individual to make healthcare decisions on behalf of the named patient
- This practice may contact you via email or telephone should there be any concern

### Disclaimer:

It is also your responsibility to keep us informed as to who can access and discuss specific areas of your medical record as detailed on the form. Should your circumstances change, it is your responsibility to advise this practice.

Mandalay Medical Centre relinquishes all responsibility should the above information become incorrect if not updated.

I, [insert patient name] hereby give permission for Mandalay Medical Centre to discuss my medical records with the following:

Patient requesting permission to allow proxy access	
Full name	
Date of birth	
Address	
Signature	
Date	
Telephone/Email	
Named person receiving access	
Full name	
Address	
Relationship	

**Agreement as to what can be divulged**

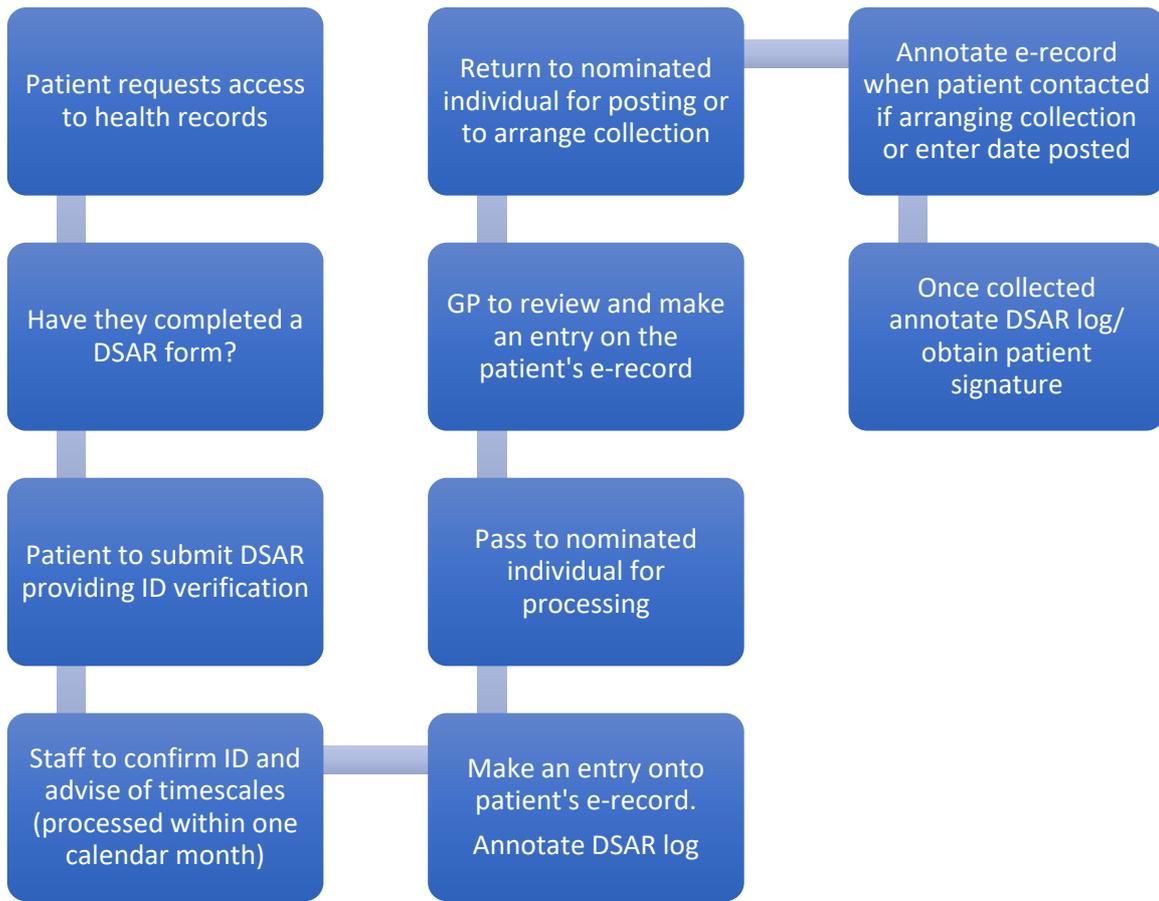
I give permission for the following to be permitted or discussed with the above named person should they request (tick all that apply):

Appointments	Medication	Consultations	Test results	Referrals
<input type="checkbox"/>				

**Annex D – DSAR desktop aide-memoire**

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Mandalay Medical Centre **Data Subject Access Request desktop aide-memoire**



## Annex E – Access poster

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# ACCESSING YOUR MEDICAL RECORDS

## Introduction

In accordance with the UK General Data Protection Regulation, patients (data subjects) have the right to access their data and any supplementary information held by Mandalay Medical Centre . This is commonly known as a subject access request (SAR).

Data subjects have a right to receive:

- Confirmation that their data is being processed
- Access to their personal data
- Access to any other supplementary information held about them

### Options for access

As of April 2016, organisations have been obliged to allow patients access to their coded health record online. As of April 2020, this service now enables the patient to view their prospective full medical record. Prior to accessing this information, you will have to visit the organisation and undertake an identity check before being granted access to your records.

In addition, you can make a request to be provided with copies of your health record. To do so, you must submit a SAR form. This can be submitted electronically and the SAR form is available on the organisation website. Alternatively, a paper copy of the SAR is available from reception. You will need to submit the form online or return the completed paper copy of the SAR to the organisation. Patients do not have to pay a fee for copies of their records.

### Time frame

Once the SAR form is submitted, Mandalay Medical Centre will aim to process the request within 28 days; however, this may not always be possible. The maximum time permitted to process SARs is one calendar month.

### Exemptions

There may be occasions when the data controller will withhold information kept in the health record, particularly if the disclosure of such information is likely to cause undue stress or harm to you or any other person.

### Data controller

At Mandalay Medical Centre the data controller is [insert name] and should you have any questions relating to accessing your medical records, please ask to discuss this with the named data controller.

### [Signed]

[Insert name]

Mandalay Medical Centre

Data controller

Published: [Insert date]

Review: [Insert date]

## Annex F – Additional Privacy Information notice

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Mandalay Medical Centre

[Organisation address]

[Contact number]

Dear [insert patient name],

On [insert date], you submitted a Subject Access Request (SAR) in order to receive copies of the information Mandalay Medical Centre holds about you. Please find enclosed all relevant

information. To comply with Article 15 of the UK General Data Protection Regulation, we are obliged to advise you of the following:

1. **The purposes of the processing:** *Your data is collected for the purpose of providing direct patient care. In addition, the organisation contributes to national clinical audits and will send information such as demographic data, i.e., date of birth and coded information about your health, to NHS Digital.*
2. **The categories of data concerned:** *We process your personal and health data in accordance with Article 9 of the GDPR.*
3. **The recipients or categories of recipients:** *Your data has been shared with [insert organisation(s)] to enable the provision of healthcare.*
4. **How long your information will be retained:** *Records are retained in accordance with the NHS retention schedule; GP records are retained for a period of 10 years following the death of a patient.*
5. **The right to rectification or erasure of personal data:** *Should you find any inaccuracies within the data we hold, please advise us of the inaccuracies and we will discuss with you how to rectify these.*
6. **The right to lodge a complaint with the supervisory authority:** *In the unlikely event that you are unhappy with any element of our data processing methods, you have the right to lodge a complaint with the ICO. For further details, visit [ico.org.uk](http://ico.org.uk) and select "Raising a concern".*
7. **How we obtained any of the data we hold about you:** *[Insert name] NHS Hospital Trust has provided us with [insert brief explanation of what has been provided] following your [admission/referral/specialist appointment].*
8. **Any automated processing activities:** *This is not applicable to your data.*

Should you have any questions relating to the information provided in this letter or about the copies of information we have provided, please contact [insert name] at the organisation on [insert number or give email address].

[Insert name]  
[Insert role]

## Annex G – Organisation disclaimer

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Mandalay Medical Centre  
[Organisation address]  
[Contact number]

Dear [insert patient name],

On [insert date], you submitted a Subject Access Request (SAR) in order to receive copies of the information that Mandalay Medical Centre holds about you. You have been provided with this information along with an Additional Privacy Information notice in order to comply with the UK General Data Protection Regulation (UK GDPR).

You are responsible for the confidentiality and safeguarding of the copies of your medical records which have been provided to you. This organisation accepts no responsibility for the copies once they leave the premises.

By signing this form, you are accepting full responsibility for the security and confidentiality of the copies of your medical records.

Patient name: [Insert full name]

Patient ID number: [Insert system ID number]

Patient signature:

## Annex H – Refusal of SAR letter

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Mandalay Medical Centre  
[Organisation address]  
[Contact number]

Dear [insert third party name],

On [insert date], a Subject Access Request (SAR) was received requesting copies of the information that Mandalay Medical Centre holds about [insert patient name].

In order to process this request, the Information Commissioners Office (ICO) Code of Organisation requires any application for a SAR to meet strict criteria and that the data controller must be satisfied that the request is meeting these. In some circumstances, there are reasons as to why information should not be given.

In this instance, it is felt that Mandalay Medical Centre cannot process this request for the following reason\*:

\*[delete as appropriate]

- It is manifestly unfounded (see footnote 7 for ICO explanation)
- It is an excessive request, i.e., the insurer is requesting a full copy of the medical records, when this could be deemed as being unreasonable or excessive for the purpose (See Art 3.2)
- The information required details a further third party therefore a separate SAR would be required
- The information may be detrimental or cause harm to the requesting patient or any other person
- It includes information about a child or non-capacious adult which would not be expected to be disclosed to the person making the request
- It is legally privileged information
- It is information that is subject to a Court Order

Should you have any questions relating to the information provided in this letter, please contact [insert name] at the organisation on [insert number or give email address].

If you disagree with the actions being taken, then you have the right to make a complaint to the Information Commissioners Office (ICO) at:

Address: Information Commissioner's Office  
Wycliffe House  
Water Lane  
WILMSLOW  
SK9 5AF

Telephone: 0303 123 1113

Website: <https://ico.org.uk/global/contact-us/>

Alternatively, you may seek to enforce your right through judicial remedy.

Yours sincerely,

[Insert name]

[Insert role]