

## **Guidance on Accessing Patient 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 issues about which you would like further information or you may just want to have a copy of the information we hold about you.

### **Right to request access to your personal records**

The EU General Data Protection Regulations (GDPR) Article 5 gives living individuals the right of access to personal records held about them by organisations such as St Barnabas Hospice Trust. This is known as a Subject Access Request (SAR).

GDPR requires the Trust to comply with requests for information within 1 month. However, this can be extended to 3 months if the request is complex or the Trust has received a number of requests from you. If The Trust has a need to extend this time frame we will let you know within one month of receiving the request and explain why the extension is necessary.

Any individual can make a Subject Access Request (SAR). In addition, an individual may nominate a representative (such as a solicitor, relative or just someone they trust) to apply on their behalf. If the request is made by a third party, the Trust will ensure that the third party making the request is entitled to act on your behalf. In this case, there must be a valid consent signed by the individual who authorises the release of information to the representative.

We are required to:

- Confirmation that the Trust are processing your personal data;
- supply a copy of your personal data; and
- other supplementary information – this largely corresponds to the information that is available on our web site under privacy notice/policy.

### **Children**

Request from children will normally require parental responsibility. However, in accordance with UK Data Protection Legislation and GDPR the Trust will consider whether the child is mature enough to understand their rights. If the Trust is confident that the child can understand their rights, we will usually respond directly to the child. The competence of the child in respect of requests for records can be considered from the age of 13.

### **Fees**

We will not normally charge you a fee, however, where we believe the request is manifestly unfounded or excessive we will charge a “reasonable fee” for the administrative costs of complying with the request. We will also charge a reasonable fee if you requests further copies of your data following a completed request. The fee will always be based on the administrative costs of providing further copies.

## **Mental Capacity**

For mentally incapacitated adults a person may make a request on their behalf if they have been granted a lasting power of attorney or agent by a court to manage their affairs.

## **Exemptions to the release of personal patient information**

In general, all the personal records you request will be released to you although there may be circumstances where certain information could be restricted. These include:

- If it is considered that information in the records, if released, may cause serious harm to yourself or any other individual.
- Where there is personal information concerning another individual who can be identified from your records, except if:
  - the other individual has consented to the disclosure; or
  - it is reasonable to comply with the request without that individual's consent

## **Access to deceased patient records**

The Access to Health Records Act 1990 provides certain individuals with a right of access to the health records of a deceased individual. These individuals are defined under section 3 (1) (f) of the act as:

- 'the patients personal representative and any person who may have a claim arising out of the patients death'.
- A personal representative is the executor or administrator of the deceased persons estate.

Due to the requirements set by legislation we cannot release copies of records to the next of kin.

## **How will the information be provided?**

Copies of the records will be made and sent to you (or you can collect the copies if you prefer). If you make the request electronically, The Trust will use a commonly used electronic format to respond, unless you requests otherwise.

You may however prefer to view the records, in which case the Trust will arrange with you a suitable time and location for you to come in and view the records.

## **Proof of identity / right of Access**

The Trust is required to be satisfied the individual making the request is entitled to the information, you will therefore be required to supply the Trust with proof of who you are and your requirement to request the records.

In most cases we will require copies of two items of evidence of identity.

See the table below:

Type of Applicant	Type of Evidence
An individual applying for his/ her own records	Two copies of identity Required:  E.g. copy of birth certificate, passport, driving license, marriage certificate etc.
Someone Applying on behalf of an individual	One item of proof of the person's identity and one item of proof of the representatives identity (see examples above)  Signed consent form/letter from the individual whose records you are applying for.
Person with parental responsibility applying on behalf of a child	Proof of identity for each person with Parental Responsibility (see examples above). 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 (see examples above).
<b>Deceased Records:</b> Patients representative e.g. executor or administrator of estate	Proof of identity and evidence that they are either Executor of the Will or the Administrator of the deceased patients estate. Evidence could be: <ul style="list-style-type: none"> <li>• Solicitors letter</li> <li>• Copy of the will/ probate documents</li> <li>• Letter from the Executor giving authority to another individual to access to the records.</li> </ul>
Person with a claim arising out of the patients death	Proof of identity and evidence of actual claim.  Evidence could be: <ul style="list-style-type: none"> <li>• Solicitors letter</li> <li>• insurance claim or letter</li> <li>• Evidence of genetic problem- doctors or solicitors letter to support the request.</li> </ul>

### **If you are not satisfied with our response**

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 unhappy and you wish to make a formal complaint you can do this by writing to the Governance Team:

Governance Team  
St Barnabas Hospice  
36 Nettleham Road  
Lincoln  
LN2 1RE

Email: [governance@stbarnabas.co.uk](mailto:governance@stbarnabas.co.uk)

### **Independent Advice**

If you remain dissatisfied with the Trust's response you can contact the Office of the Information Commissioner - the body with responsibility for enforcing the Data Protection Act.

The address is: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire, SK9 5AF.

Tel: 0303 123 1113. Alternatively you can visit their website ([www.ico.org.uk](http://www.ico.org.uk)) for further information about Subject Access Requests under GDPR and UK Data Protection Legislation.

### **Requests for other health records e.g. GP**

If you require access to your primary care health record, or records from other health providers the request should be made to the relevant GP, dentist, pharmacist, or optometrist.

Records for secondary care records, including community services records should be made to the local NHS acute, mental health, community service trust or social enterprise.