



# Access to health records

Patient information leaflet



## Your records, your rights

Cumbria, Northumberland Tyne and Wear NHS Foundation Trust is committed to full compliance with Data Protection Legislation and recognises the rights and obligations in relation to the management and processing of personal data.

## What is The Data Protection Act 2018?

The Data Protection Act controls how your personal information is used by organisations, businesses or the government.

Service users, as data subjects, have a number of rights under the Data Protection Act, including a general right of access to personal data (electronic or paper) held on them. This is called a **Subject Access Request (SAR)**.

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 you would like further information about or may just want to have a copy of the information we hold about you. Further details are available by telephoning our Disclosure Team.

## What is a health record?

A health record contains information about your mental and physical health recorded by healthcare professional as part of your care. A health record can be held electronically, written or a mixture of both. It may include such things as, hand-written clinical notes, letters to and from other health care professionals and laboratory reports.

## How do I access my health records?

You can make your own application to see your records, or you can authorise someone else to make an application for you. A parent or guardian, a service user representative, or a person appointed by the Court can also apply. The Trust will ensure that you have provided your consent for others to access your health records unless there is another legal basis i.e. overriding public interest, risk of serious harm to yourself or others or a Court Order.

Any request for access to health records must be made in writing to the Disclosure Team. In order to fulfil our responsibilities under Data Protection Legislation you will be asked to provide proof of your identity.

### **Will there be a financial charge for access to health records?**

Under the Data Protection Act 2018 there is no financial charge for you to access your health records.

If you are requesting any additional copies, the Trust can charge a fee:

- £10 for an additional copy of computer records;
- Maximum fee of £50 for additional copies of manual records or manual and computer records.

### **What are the time limits for dealing with a subject access request?**

There is no obligation to comply with an access request unless the Trust has all the information needed to identify you and locate your information. Once the Trust has all the relevant information, the health records will be made available within 30 days (one month). In exceptional circumstances if it is not possible to comply within this period you will be informed.

### **Do I need to specify what period I am requesting access to?**

You may not wish to access your entire health record and therefore may wish to confirm what limited information you require before the Trust processes the request.

### **Do applicants need to give reasons for making a subject access request?**

No, although if you require the information for a specific purpose this may help the Trust to assist and advise on the information you may wish to access from your health records.

## **Are there any circumstances in which information contained within health records may be withheld from me?**

Under the Data Protection Act there are certain circumstances in which the holder of the health records may withhold information.

Access can be denied, or limited where the information is likely to cause serious harm to the physical or mental health condition of you or any other person, or where giving access would disclose information relating to or provided by a third person who has not consented to the disclosure.

## **Where information has been withheld is the Trust obliged to tell me?**

No. However, the Trust will endeavour to inform you when information has been withheld by the Trust, and why, unless doing so is likely to result in harm to the physical or mental health condition of you or any other person.

## **What are my individual rights?**

Under the Data Protection Act you have the following rights in respect of the information the Trust holds about you:

- Right for information the Trust holds about you to be corrected if incorrect or completed if incomplete.
- Right to be forgotten where consent has been withdrawn, personal data is no longer required and the processing of the data is unlawful.
- Right to restrict processing of your information
- Right to object to processing of your information.

It should be noted that there may be exemptions that the Trust can rely on when in receipt of a request to exercise individual rights.

## **What if I feel my health records are incorrect, can I have them amended?**

The Trust have a duty to ensure your individual rights are considered. If you would like to exercise any of the above listed individual rights you should speak to your clinical team in the first instance (if possible)

and/or the Trust's Data Protection Officer for advice. Your clinical team will liaise with the Data Protection Officer in ensuring that your right is exercised in the appropriate way.

## **Making an application**

Any request for access to health records must be made in writing to the Disclosure Team, by yourself or your nominated representative.

1. To apply for access to your health record you should ask the Disclosure Team (see under Useful Contacts) for an application form. This form should be completed and returned to the Disclosure Team, including the necessary identification documents (copies only - not originals).
2. Upon receipt of the application form the Disclosure Team will ensure that your application form has been correctly completed and that you have included the appropriate identification documents.
3. Your information is then sent to the Appropriate Health Care Professional.
4. The Appropriate Health Care Professional will decide whether full access is to be granted or whether there is information that needs to be withheld i.e. third party information or information likely to cause a risk of serious harm to you or others.
5. The Disclosure Team will contact you to arrange collection or delivery of the information that has been identified for disclosure. In a circumstance where your full health record is withheld the Disclosure Team will send a written response to you.

## **Can I access someone else's health records?**

Health records are confidential, so you can only access someone else's records if you are authorised to do so.

To access someone else's health records, you must have:

- their written permission, or
- the legal authority to make decisions on their behalf (power of attorney)

## Lasting Power of Attorney

A Lasting Power of Attorney (LPA) is a legal document that allows a person to appoint someone else to make decisions on their behalf. The person appointed is called an attorney.

There are two types of LPA relating to:

- health and welfare
- property and financial affairs

An attorney appointed on a health and welfare LPA can only make decisions when

- the person lacks the mental capacity to make decisions; and
- the LPA document has been registered with the Office of the Public Guardian.

## Access to a patient's records after their death

The duty of confidentiality remains after a service user has died. Under the Access to Health Records Act 1990, the personal representative of the deceased and people who may have a claim arising from the patient's death are normally permitted access to the records. The Trust will usually require evidence that you are the personal representative i.e. executor of a Will, Letters of Administration, or that you have a claim arising out of the service user's death. The Trust are required to consider whether there are any previous wishes in respect of information sharing recorded in the service user's health record.

## Useful contacts

- **Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust**

Disclosure Team

Information Governance and Medico Legal Department

St Nicholas Hospital, Jubilee Road, Gosforth, Newcastle, NE3 3XT

Tel: 0191 246 6896

Email: [Disclosures@cntw.nhs.uk](mailto:Disclosures@cntw.nhs.uk)

- **Data Protection Officer**

Information Governance and Medico Legal Department

St Nicholas Hospital, Jubilee Road, Gosforth, Newcastle, NE3 3XT

Email: [DPO@cntw.nhs.uk](mailto:DPO@cntw.nhs.uk)

- **Information Commissioners Office**

Information Commissioner

Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Tel: 0303 123 1113 (Helpline 9am-5pm, Mon-Fri)

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

The ICO can help you understand The Data Protection Act and related issues. They can advise you how to protect your personal information and how to gain access to official records.

- **The NHS website**

[www.nhs.uk](http://www.nhs.uk)

Information about rights, conditions, treatments, local services and healthy lives.

- **Department of Health**

[www.gov.uk/government/organisations/department-of-health](http://www.gov.uk/government/organisations/department-of-health)

Various documents regarding patient confidentiality and access to health records.

## **What if I have a comment, suggestion, compliment or complaint about the service?**

If you want to make a comment, suggestion, compliment or complaint you can:

- talk to the people directly involved in your care
- ask a member of staff for a feedback form, or complete a form on the Trust website [www.cntw.nhs.uk](http://www.cntw.nhs.uk) (click on the 'Contact Us' tab)
- telephone the Complaints Department Tel: 0191 245 6672
- email [complaints@cntw.nhs.uk](mailto:complaints@cntw.nhs.uk) Please note that information sent to the Trust via email is sent at your own risk

We are always looking at ways to improve services. Your feedback allows us to monitor the quality of our services and act upon issues that you bring to our attention.

You can provide feedback in the following ways:

- the quickest way for you to do this is to complete our short online survey at [www.cntw.nhs.uk/poy](http://www.cntw.nhs.uk/poy)
- complete a Points of You survey, available on wards, reception areas or from staff.

Further information about the content, reference sources or production of this leaflet can be obtained from the Patient Information Centre. If you would like to tell us what you think about this leaflet please get in touch.

This information can be made available in a range of formats on request (eg Braille, audio, larger print, BSL, easy read or other languages). Please contact the Patient Information Centre  
Tel: 0191 246 7288

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