

Medical Records

Under the Access to Health Records Act 1990, GDPR and the Data Protection Act 2018, you have the right to see your medical records. Sometimes this is known as a Subject Access Request.

All NHS staff have a duty of confidentiality towards all patients and their records. Patient records are made by any NHS Service you use and include:

- GP Surgery
- Clinic Staff
- Dentist
- Mental Health Services
- Ambulance Service
- District Nurses
- Hospital Doctors
- Hospital Nurses

These should store details of any care or treatment which has been provided such as:

- Medication
- X-rays and scans
- Tests and results
- Referrals and letters
- Diagnosis Consultations
- Outpatient appointments
- In Patient stays

It's worth being aware that different organisations involved in your care will keep their own records about you. This means a couple of things that it's useful to know:

- Although some core parts of your records are accessible to most authorised care providers, much communication still happens by letter. This means that, for example, your hospital consultant won't be able to see everything in the GP record – just the information that the

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GP thinks is relevant to that specific referral (and vice versa – your GP does not have access to your full hospital record).

- If you want access to your records, you need to think about what information you want and which organisation(s) are most likely to have it (e.g. GP, hospital, etc).

Applying for your records

- You have to apply to see your records, and some organisations have a form specially designed for this that you are asked to complete. Some larger Hospital Trusts may also have a special department dealing with such requests.
- Records should be made available within 40 days of applying to see them, or 21 days if it is a new record (i.e. less than 40 days old).
- You may be asked to prove your identity when asking for access to records. Any time taken to prove your identity can be added to the time within which the records must be provided.
- You can ask for someone (from the surgery, hospital, etc.) to view your records with you and explain anything in there which is not easy to read or which uses technical, medical language.
- You can also request copies of the records.
- You should not normally be charged a fee for accessing your records.

What to do if you feel there is information missing from your record or you think your record is incorrect

If you think your record is inaccurate you should point this out to the organisation that holds the record. They must do one of the following two things:

- If they agree that the record is inaccurate they must amend the record.
- If they believe that the record is accurate they must allow a note to be added which says what you think is an accurate record of the situation.

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Once they have done this, they should give you a copy of the revised record and relevant notes attached to it.

Obtaining records about someone else

If you are obtaining records about someone else, the NHS Body will usually require the patient's permission in writing. This includes a parent or guardian applying to see the records of a child, if they are unable to understand these themselves. In this case, the NHS Body will decide if it is in the best interests of the child.

Where a patient is unable to give permission because of incapacity or illness, you may need to seek legal advice and a court authorisation. If you are a representative for them appointed by the court, you may be able to access their records, again, if it is considered to be in their best interests.

If you are seeking the records for a patient who has died, these can only be obtained by certain people. This is known as a Personal Representative and is usually an executor, or someone making a claim arising from the death.

If you do not fall into one of these categories, the NHS body will decide whether they will provide the records on a case by case basis. They will consider if you have a valid reason for requesting the notes, your relationship with the patient, as well as any wishes the patient may have expressed about other people viewing the notes.

Be aware – a patient can at any time instruct an organisation that their medical records are not to be shared under any circumstances. This is the patient's choice, and it can continue to apply after they have died.

The NHS Trust might decide that the notes cannot be shared as this could cause you distress, or damage the reputation of the person who has died. The organisation should consider the views of any surviving family, and make a decision using all the information available.

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When can I be refused access to my records?

You have a right to see you own records unless:

1. Your doctor thinks that to do so would seriously harm you or another person to see the information contained in the records.

Be aware, this refusal can apply to part of your records and there is no obligation to inform you of such a partial refusal. It is worth asking if any part of your records has not been made available if you are worried about this.

2. Providing them would enable another person (i.e. not the patient or their care staff) to be identified – unless that person has given their consent.

There is no automatic right of access to any records that were made before 1991 (the date the legislation came into effect) unless access to this 'old' record is necessary to make sense of the newer records.

How we can help

We cannot apply for access to medical records on your behalf and we are not qualified to give you advice to help you to understand them. We can, however, help you to write any letters you might want to send to request access to your records.

We can help you to use details from your medical records in your letter of complaint, or when you are preparing for a meeting. Again, if you need further help or support you can contact us at any point.

Other guidance

There is additional information about access to medical records on the NHS website. You can find it by going to www.nhs.uk/using-the-nhs/about-the-nhs/how-to-get-your-medical-records/

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