

## Patient Access to Medical Records and Subject Access Request Policy

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## Introduction

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

The Data Protection (Jersey) Law 2018 (DPJL) and General Data Protection Regulation (GDPR) legislation allow the right of the individual to request information held on their personal health record.

Where the request for information by an individual falls under the legislation of any of these laws, access must be granted. Patients requesting information about their own personal medical records would usually have their request dealt with under the provisions of the DPJL.



## 1. What Constitutes a Health Record?

A health record could include, and not exhaustively, hand-written clinical notes, letters between clinicians, lab reports, radiographs and imaging, videos, audio-recordings, photographs and monitoring printouts. Records can be held in both manual or computerised medias.

## 2. Patient Access to Medical Records Policy

This scope of the DPJL and GDPR legislation includes the right of patients to request information on their own personal medical records. Requests for information under the legislation must:

- Be in writing (written or electronic) to the data controller. In certain circumstances, verbal requests may be accepted where the individual is unable to put the request in writing (this must be noted on the patient health record);
- Be accompanied with sufficient proof of identity to satisfy the data controller and to enable them to locate the correct information (where requests are made on behalf of another, the data controller must satisfy themselves that correct and adequate consent has been given);

The data controller will then check whether all the individual's health record information is required or just certain aspects. For this purpose the use of a Subject Access Request Form may be advised.

There is no fee charged for a Subject Access Request, unless;

- Where an information request has been previously fulfilled, the data controller does not have to honour the same request again unless a reasonable time-period has elapsed. It is up to the data controller to ascertain what constitutes as reasonable.
- Requests for health records information should be recorded internally and fulfilled within 4 weeks (unless under exceptional circumstances - the applicant must be informed where a longer period is required). Information given should be in a manner that is intelligible to the individual.

## 3. Fees

**Data Subject Access Requests (View or Copy): Free of Charge**

**Third Party Requests (Copy of Records - Not Subject Access Request): £50.00 Fixed Fee**

If the request is onerous or repeated then a fee of up to £50 may be applied, the applicant must be informed of this fee in advance of providing the information requested.

## 4. Which clinician should be consulted for information?

The correct clinician to be consulted about an individual's information should be:

- The clinician who is currently, or was most recently, responsible for the clinical care of the individual in connection with the information which is the subject of the request; or
- Where there is more than one such clinician, the one who is the most suitable to advise on the information which is the subject of the request.



## 5. Verification and Validation

The Data Controller should verify and validate the reason for the request, either through the information provided within the request itself or by contacting the data subject to validate the request.

This should also apply to Third Party (Legal/Insurance/Government/Police) Access Requests, for example perhaps only a period of a patient's record is appropriate for an insurance claim rather than the complete record from birth.

## 6. Identification

The Data Controller should verify and validate the identity of the data subject and if applicable their representative.

Third Party Organisations (Legal/insurance/Government/Police) are expected to have completed their own identity checks and have these held on file. Any discrepancy with requests with identification should then refer to the validation process.

## 7. Denial or Limitation of Information

The data controller may deny or limit the scope of information given where it may fall under any of the following:

- The information released may cause serious harm to the physical or mental health or condition of the individual or any other person, or
- The disclosure would also reveal information relating to or provided by a third person who has not consented to that disclosure unless:
  - The third party is a clinician who has compiled or contributed to the health records or who has been involved in the care of the individual;
  - The third party, who is not a clinician, gives their consent to the disclosure of that information;
  - It is reasonable to disclose the information without that third party's consent.

Failure to being able to identify the data subject or their representative may also warrant a denial.

A reason for denial of information does not have to be given to the individual, but must be recorded.

## 8. Former Patients Living Outside the Jersey

Patients no longer resident in Jersey 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, the Practice may be prepared to provide a summary of the treatment given whilst a patient of the Practice resident in Jersey.

## 9. Parental Requests for Information pertaining to their Children

Parents will normally have responsibility for accessing the health records of their children, however, care must be taken to obtain the consent of the child where necessary (16 and 17-year-olds are seen as adults in



relation to confidentiality, and their consent would be necessary). It is important to be aware that children between 13 and 16 who have capacity and understanding for decision-making should also have their confidentiality respected, however, they should be encouraged to involve parents and guardians in their healthcare matters.

## 10. Complaints

Health Plus has procedures in place to enable complaints about access to health records requests to be addressed.

The following channels are used to field any complaints regarding the access of health records at the Practice:

- Firstly, the Practice Manager or Clinician involved should arrange to have an informal meeting with the individual to try to resolve the complaint locally;
- If the issue remains unresolved, the patient should be informed that they have a right to make a complaint in accordance with the Practice Complaints Policy.

Sometimes the patient may not wish to make a complaint through the Practice Complaints Procedure and instead, take their complaint direct to the Jersey Office of the Information Commissioner (JOIC) if they believe the Practice is not complying with their request in accordance with the Data Protection Act. Alternatively, the patient may wish to seek legal independent advice.

## 11. Subject Access Request Process Map

