

Subject Access Request form – Guidance Notes



The General Data Protection Regulation (GDPR) gives people the right to know what personal information an organisation has about them. To use this right, you can make what is known as a 'subject access request' (SAR).

Only the following people may apply for access to personal information.

- The person who the information is about.
- Someone acting on behalf of the person who the information is about.

You have a right to know whether or not we have any information about you, and a right to have a copy of that information. You have a right to know the following.

- What kind of information we keep about you.
- The reason we are keeping it and how we use it.
- Who gave us your information
- Who we might share your information with and who might see your information.

You also have the right to have any codes or jargon in the information explained.

You won't be able to see information that could:

- cause serious harm to your physical or mental health, or anyone else's
- identify another person (except members of NHS clinical staff who have treated the patient), unless that person gives their permission.

If you need any more advice about your rights under the General Data Protection Regulation, please contact NHS Orkney's Data Protection Officer or, you can contact the Information Commissioner's Office:

Data Protection Officer
NHS Orkney
The Balfour
Foreland Road
Kirkwall
Orkney
KW15 1NZ
Email: ork.dp@nhs.scot

The Information Commissioner's Office – Scotland
45 Melville Street
Edinburgh
EH3 7JL
Phone: 0131 244 9001
Email: Scotland@ico.org.uk

If you want to make a subject access request, please fill in the form attached.

Fee

Data will be provided **free of charge**. There may be a charge of a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive.

A reasonable fee may occur when complying with requests for further copies of the same information. This does not mean that there will be a charge for all subsequent access requests.

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The fee must be based on the administrative cost of providing the information.

Response time

The statutory timescale set out in the General Data Protection Regulation (GDPR) is one calendar month although we are able to extend the period of compliance by a further two months where a request is complex or numerous. If we have any problems getting your information we will keep you up to date on our progress.

How long records are kept

The usual rules to do with keeping records are that:

- adult general hospital records are kept for six years after the date of the last entry;
- maternity records are kept for 25 years after the birth of the last child;
- children's and young people's records are kept until the child's or young person's 25th birthday; and
- mental-health records are kept for 20 years after the date of the last contact.

This may help you in considering what types of records you are applying to see.

Points to consider

Making false or misleading statements to access personal information which you are not entitled to is a criminal offence.

Accessing health records and information is an important matter. Releasing information may in certain circumstances cause distress. You may want to speak to an appropriate health professional before filling in the form.

We ask for proof of ID or a countersignature (see section 6) because we have confidential information and we must get proof of your identity and your right to receive any relevant information.

Notes to help you fill in the form

Personal information

Personal information is information we hold about people in medical records, patient administration and information systems, clinical systems, and other databases or files. We may hold personal information on paper or on computer.

Health professionals

An appropriate health professional may include your hospital doctor, nurse, midwife or health visitor, dentist, optician, pharmacist, clinical psychologist, occupational therapist, dietician, physiotherapist, podiatrist or speech and language therapist.

Section 1: Personal details

This is the person to whom the data relates. Please ensure that this section is completed as fully and accurately as possible to enable us to trace all the required information.

Section 2: Information you want to access

Please complete as much of this section as you can. Whether you wish to receive all the information held or only information relating to one or more specific episodes of care or treatment it will help us to find your details with the minimum of delay.

The General Data Protection Regulation covers both manual (paper) and computerised records.

If you wish to view the original record you will be invited to attend the hospital or clinic at a convenient time, along with a health professional or appropriate other person. If you wish to receive photocopies these will be produced within 30 days.

If you have only asked for a copy of the relevant records, the healthcare professional responsible for your care may invite you to see them so that they can explain the information in your record. You do not have to take up this invitation, but it may be in your best interests to do so.

Section 3: Who is Applying for Access to the Information

The person making the application must complete this section.

- If you are the patient (see section 1 above) – sign then proceed to Section 6
- If you are acting on behalf of others (see section 4 below) the organisation will require the patients authorisation before data can be released. The 'Permission' section of the form must be signed by the patient (section 5) The exception is if you have proof of authority – e.g. Power of Attorney/Welfare Guardianship documents. If this is the case, a certified copy will need to be provided.
- If the patient is a child i.e. under 16 years of age the application may be made by someone with parental responsibilities, in most cases this means a parent or guardian. If the child is capable of understanding the nature of the application his/her consent should be obtained or alternatively the child may submit an application on his/her own behalf. Generally children will be presumed to understand the nature of the application if aged between 12 and 16. However, all cases will be considered individually.

Section 4: Details of the Person Acting on behalf of Others

The applicant is the person who is applying on behalf of the patient to get access to the records.

Section 5: Permission

If applicable, the patient must complete this section authorising the organisation to release information to the named applicant.

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Section 6: Identification/Countersignature

Everyone must complete this section UNLESS you are providing:

- A certified copy of a Power of Attorney document
- A certified copy of a Guardianship Order

Because of the confidential nature of the information held by the organisation, it is essential for us to obtain proof of your identity and your right to receive any relevant information.

For this purpose it is essential that you provide either proof of your identity or get the application countersigned.

1 – Provide one Form of Identification

Examples of these can be found in section 6

2 – Countersignature

Anyone who knows the applicant personally can sign this section as long as it's not a family member or relative.

Section 7: Declaration

This must be completed by the applicant.

Send your filled-in form to:

Email: ork.dp@nhs.scot or post:
Freedom of Information Officer
NHS Orkney
The Balfour
Foreland Road
Kirkwall
Orkney
KW15 1NZ