



Policy for Subject Access Requests

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Lead Author(s): Mark Bradley, IG Lead.

This document will impact on:

All St Ann's Hospice Staff

All Clinical Staff

Trading Company Staff

Other:...IG Group and Subject Access Request applicants..

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Classification (please tick)

Organisational

Health & Safety

Clinical

Personnel & Training

Infection Control

Information Governance

Other:.....

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To be read in conjunction with the following documents:

- NC06 Records Management Policy July 2013
- NC16 St Ann's Hospice and Patient Confidentiality Policy Dec 2012
- IG02 Data Protection Policy Nov 2013
- IG03 Hospice Information Security Policy Nov 2013
- IG04 Information Asset Policy Nov 2013
- IG07 Data Quality Policy December 2013
- IG09 Guidance for Accessing Health Records Dec 2013
- PT02 Management of Employee Personal Records Policy and Procedure Final Nov 2014

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(all non-clinical policies)

Clinical Governance Committee

(all clinical and infection control documents)

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1. Introduction & purpose

As of the 25th May 2018, The General Data Protection Regulation (GDPR) sets out the rules governing Subject Access Requests (SARs). This is the main piece of legislation that governs the protection of personal data in the UK. Under the Act any living individual (or their nominated representative e.g. a solicitor) has the right to contact an organisation and ask to 'see' and / or request a copy of any personal information that the organisation is holding about them. This is known as a Subject Access Request.

GDPR covers all forms and formats of personal information e.g. written, computerised, recorded images, audio tapes etc., however if access is required to a Health Record this should be made separately in accordance with Policy IG09 Guidance for Accessing Health Records.

This procedure details the standard process that should be followed within St Ann's Hospice to ensure a consistent approach when dealing with requests for personal information. It supports the 'Accessing Health Records Policy' and should be read in conjunction with that policy.

2. Aims

In accordance with the GDPR and ICO guidelines, this procedure will ensure that the hospice will:

- Process all subject access requests within the legislative timeframe
- Release appropriate information in accordance with the Act
- Provide advice and assistance where appropriate
- Respect the interests of third parties who may be affected by any disclosure of information

3. Roles and responsibilities

As Caldicott Guardian the Medical Director provides advice and guidance to the hospice in order to ensure overall compliance with GDPR. However, the routine processing of all subject access requests will be managed by the following personnel who will be referred to as 'the application processor' here after:

Director of Human Resources
Director of Income Generation and Communications
Registered Manager - Little Hulton
Registered Manager - Heald Green
Registered Manager - Neil Cliffe Centre

The IG Lead will be the initial contact point for receiving, logging and acknowledging requests.

The Caldicott Guardian will be consulted prior to release of information in relation to complex requests.

4. Making a Subject Access Request (SAR)

Applicants who make contact, either in person or by telephone, should be advised that they are required to make their request in writing, either manually or electronically. They should be invited to use the template at appendix A to this document. It should however, be explained that using this appendix is not compulsory. Once received the application should be forwarded to The IG Lead. Requests may also be received by way of fax or e-mail and must be directed immediately to The IG Lead.

The applicant will be expected to supply two forms of identity with the application form. Forms of identity may include copies of driving licence, passport or birth certificate in addition to other relevant information confirming the applicant's address e.g. copy of a utility bill.

Requests submitted by a nominated representative (e.g. Solicitor) acting on behalf of an individual should obtain the individual's consent in writing and include a copy of this with the fully completed SAR letter.

The hospice is legally obliged to comply with all subject access requests within one month of receipt of request, or, within one month of receipt of verified proof of identity.

One month should be taken to mean until the corresponding date in the following month if that date exists. If the corresponding date does not exist in the following month the deadline will be deemed to be the final day of the month.

EG: SAR received on 28 Jan, deadline will be 28 Feb.
SAR received on 31 Jan, deadline will be 28 Feb.

When a request or enquiry has been received the applicant will be sent a letter acknowledging receipt of the request and detailing the hospice intention of complying within one month of receipt of the correctly completed SAR and accompanying information details.

5. Charging for subject access requests

Under GDPR it will no longer be permissible to charge a fee for the SAR. GDPR states:

You must provide a copy of the information free of charge. However, you can charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive.

You may also charge a reasonable fee to comply with requests for further copies of the same information. This does not mean that you can charge for all subsequent access requests. The fee must be based on the administrative cost of providing the information.

6. Procedure for processing subject access requests

6.1 Stage one – receipt of request

Subject access requests should always be received in writing either by letter, fax or e-mail and may be received at any of the hospice sites. The request should be forwarded on immediately to the IG Lead.

6.3 Stage three – reviewing the information

All information that has been collated must be carefully reviewed by the application processor. If any ‘third party’ individual, not including health professionals, is named or has provided information about the applicant, the following must be considered by the application processor prior to releasing the information:-

- Is it possible to comply with the request without revealing information which relates to and identifies any third party individuals? If so the third party information must either be removed prior to releasing the information or alternatively consent of the individual/s must be obtained.
- Careful consideration must be given prior to disclosure to ensure that the applicant would not suffer any harm or distress on receipt of the information. This will be the subject of discussion with the application processor and the Caldicott Guardian.
- If a third party individual does not consent to releasing the information and the application processor is satisfied that it would be reasonable not to disclose the information, it should be withheld. However, as much of the information requested should be given without disclosing the identity of the third party where possible unless it is reasonable given all of the circumstances to disclose without consent.

If the third party information has previously been provided to or is already known by the applicant, or it is generally available, it would be considered reasonable to disclose the information without third party consent.

The SAR spreadsheet must be updated by application processor with details of the course of action and reasoning behind why consent was not sought or considered not appropriate.

The application processor must check the information thoroughly to ensure that any codes or acronyms are explained to the applicant.

It must be decided by the application processor whether there are any grounds for withholding the information under GDPR exemptions. Examples include safeguarding national security, crime and taxation and parliamentary privilege.

The SAR spreadsheet must be updated with details of any information which is withheld and the exemptions used.

6.4 Stage four – releasing / refusing the information

As soon as the request has been processed, the information which has been judged to be the applicant’s personal data should be released using the applicant’s preferred method i.e. sent via mail, collection or viewing. In all instances the applicant should be informed of what information, if any, is available and the purpose of holding the information. The applicant should also be notified on how to access the hospice data controller notification, which is submitted annually to the Information Commissioner’s Office (ICO) and is then recorded on the Data Protection Register. It can be accessed via the ICO’s web site by using the following link <http://www.ico.gov.uk/ESDWebPages/DoSearch.asp> and entering registration number **Z5762319** into the relevant field. The applicant can be directed to this site but if they request a hard copy of the notification, one must be supplied.

If the information is to be sent to the applicant, a standard letter should be used and copies of the information included. The information must be sent by Special Delivery annotated **'Private and Confidential', 'Addressee only'** and packaged securely in a double envelope. The Special Delivery reference number should be logged onto the SAR spreadsheet.

If the applicant has chosen to collect the information from the hospice, then a receipt will be required to be signed and photographic ID (e.g. passport or driving licence) must be provided to confirm the recipient's identity.

If the applicant has chosen, and the hospice has agreed to allow the information to be viewed, the application processor will write to the applicant to arrange a convenient time and place that is both suitable to the hospice and the applicant within one month receipt.

Ideally the viewing should be of photocopied information. Any copies required by the applicant can then be removed as they are being viewed.

If there is no other choice but to view the original record, the process must be witnessed by the application processor who must ensure that the applicant is not left alone with the records at any time.

Up to a maximum of one hour will normally be allowed for the applicant to spend viewing the information. However this time may be extended, if justified, with the application processor's discretion. The applicant will be informed of the time allowance prior to and as a condition of the viewing.

Following release of the information, copies of the documentation should be stored manually in accordance with the Records Management Policy. However any redacted documents will be retained in accordance with the requirements of the Data Protection Act. The date of release and file reference should then be recorded onto the SAR spreadsheet.

If the application has been denied, restricted, or no information has been found, the applicant should be notified in writing using a standard letter. There is no requirement to explain the reason for denying or restricting the information. However the application processor may consider disclosing if this would not contravene any of the Act's principles.

All decisions must be recorded on the SAR spreadsheet.

7. Dealing with requests from the Police

In addition to the Act, personal information is also protected by the common law duty of confidentiality. This duty requires that confidential information may only be disclosed:

- With the consent of the individual to whom the information relates
- If there is a legal requirement e.g. court order, Act of Parliament
- If it is in the public interest i.e. the public interest in the specific circumstances outweigh the individual's right to privacy

There is no legal obligation for the hospice to disclose information to the police without a court order. However, the hospice may consider releasing information following a request made by the police, under the DPA (Section 29) or the Crime and Disorder Act (Section 115) without the patient's consent for the purposes of the prevention or detection of crime or the apprehension or prosecution of offenders.

It is essential that prior to releasing personal information without consent, the Caldicott Guardian is assured that the public interest in the specific circumstances outweigh the individual's right to privacy. The factors that should be considered are:

- Whether there is a threat to public health and safety
- Whether there is a risk of death or serious harm to the individual concerned or other individuals
- The circumstances of the matter under investigation

It will be the Caldicott Guardian's decision whether to release information, without consent, under either Section 29 or Section 115.

It is mandatory to comply with a court order requiring release of personal information.

Requests should be submitted on a Section 29 or Section 115 police request form containing full details of the data subject and reason for requiring information. It should be signed by a senior police officer of the minimum rank of Inspector. It should also be clear whether the police have the consent of the individual.

The IG Lead must log the request onto the SAR spreadsheet and process it as soon as possible, liaising with the relevant department to locate the information as appropriate.

When the information is ready for release the application processor should arrange for the information to be sent securely using Safe Haven procedures.

If an agreement has been made for the information to be collected, the application processor should make the necessary arrangements. The police officer collecting the information must provide proof of identity e.g. warrant card.

The date that the information was sent or collected must be recorded onto the SAR spreadsheet and a copy of the request form used should be uploaded.

A paper copy of the information released should be retained for a minimum of 3 years and the file reference recorded on the SAR spreadsheet.

Appendix A – Standard application template.

[Your full address]
[Phone number]
[The date]

[Name and address of the organisation]

Dear Sir or Madam

Subject access request

[Your full name and address and any other details to help identify you and the information you want.]

Please supply the information about me I am entitled to under the General Data Protection Regulation relating to: [give specific details of the information you want, for example

- your personnel file;
- emails between 'A' and 'B' (between 1/6/11 and 1/9/11);
- your medical records (between 2006 & 2009) held by Dr 'C' at 'D' hospital;
- CCTV camera situated at ('E' location) on 23/5/12 between 11am and 5pm;
- copies of statements (between 2006 & 2009) held in account number xxxxx).

If you need any more information from me, or a fee, please let me know as soon as possible.

It may be helpful for you to know that a request for information under the General Data Protection Regulation should be responded to in one month.

If you do not normally deal with these requests, please pass this letter to your Data Protection Officer. If you need advice on dealing with this request, the Information Commissioner's Office can assist you and can be contacted on 0303 123 1113 or at ico.org.uk

Yours faithfully
[Signature]

Appendix B – Signature list of Application Processors and others involved in the process.

<u>Title</u>	<u>Role</u>	<u>Name</u>	<u>Signature</u>	<u>Date</u>
Caldicott Guardian	Advisory and Guidance	Philip Lomax		
Senior Information Risk Owner	Overall Responsibility	Rachel McMillan		
IG Lead	Administration and tracking	Mark Bradley		
Director of Organisational Development and Support Services	Application Processor	Gill Turnpenney		
Clinical Operational Manager - Little Hulton	Application Processor	Sian Burgess		
Clinical Operational Manager - Heald Green	Application Processor	Victoria Entwistle		