

Subject Access Request Procedure

Document History

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Document Purpose:	To provide guidance and a clear process for dealing with Subject Access Requests (SARs) for staff of Derby and Derbyshire CCG and members of the public
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Target Audience:	All Staff within the CCG whether operating directly or providing services to other organisations under a service level agreement or joint agreement and to none executive directors, contracted third parties (including agency staff), locums, students, volunteers, trainees, visiting professionals or researchers, secondees and other staff on temporary placements within the organisation.
Associated Documents:	All Information Governance Policies and the Data Security & Protection Toolkit

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Subject Access Request Procedure

A Subject Access Request (SAR) is a request received from a person asking to provide them with copies of the information held about them. Individuals have the right to access information held about them under Data Protection legislation (this includes the General Data Protection Regulation and the Data Protection Act 2018).

Who can make a SAR?

The data subject can make a request for all or part of their personal information. Another person/party for example a solicitor, insurance companies and those with power of attorney can make a request on behalf of the data subject providing they have the data subject's consent.

What is a Valid SAR and who can make one?

A valid SAR can be either verbally or in writing. Where a request is made verbally this should be followed up in writing to confirm the accuracy of the request. The Act (legislation) that the individual is using does not have to be stated, and a clear request for the information should be made. A correspondence address is needed and a contact number is useful but not essential. Information is needed about the data subject to locate the requested information, for example full name, address and date of birth. Ideally at this stage the requester will include sufficient proof of identity such as copy of passport, recent utility bill, bank statement, HMRC letter with current address within the last three months, Council Tax Bill or driving licence for example (full list of acceptable documents as an appendix to this procedure). However, if there is insufficient proof of identity the person will need to be contacted using the original method, email or letter using the template at Appendix 1.

There may be occasions when the requestor is known to the CCG such as a current employee. Under the circumstances it would not be reasonable to ask for further documents to verify the person's identity.

Children

Children have the same rights as adults over their personal data. These include the rights to access their personal data; request rectification; object to processing and have their personal data erased.

An individual's right to erasure is particularly relevant if they gave their consent to processing when they were a child. In the UK only children aged 13 or over are able provide their own consent.

Fees

There is no provision to charge for responding to a SAR, however, the CCG can charge a "reasonable" fee when the request is manifestly unfounded or excessive, particularly if it is repetitive. A reasonable fee can be charged to comply with requests for further copies of the same information. If the responding manger considers that a fee should be charged then speak to a member of the Information Governance Team, Data Protection Officer or SIRO before doing so.

Timescales

Subject access requests should be dealt with without undue delay and at the latest within one month of receipt.

The time limit commences from the day after the request was received (whether the day after is a working day or not) until the corresponding calendar date in the next month.

If this is not possible because the following month is shorter (and there is no corresponding calendar date), the date for response is the last day of the following month.

If the corresponding date falls on a weekend or a public holiday the CCGs have until the next working day to respond. This means that the exact number of days the CCGs have to comply with a request varies, depending on the month in which the request was made.

Procedure

- 1) Upon receipt of a SAR, the date must be recorded clearly on it.
- 2) All SARs requests must be processed through the CCG's Corporate Delivery Team DDCCG.SARS@nhs.net
- 3) The Corporate Delivery Team will send an acknowledgement to the requestor that the SAR has been received and inform them of the timescale and who is dealing with the request. (Appendix 2)

If the Subject Access Request is unclear and more information is required to be able to work on the request a Data Protection Subject Access Request Form should be sent to the requestor by the Corporate Delivery team for them to complete to ensure that the processing manager has all the details required for them to process the relevant information. The form also ensures that consent is received. (Appendix 1)

- 4) Similarly, if the requester has failed to supply copies of the correct identity documents shown at Appendix 4 they should be sent the list of acceptable documents and asked to supply copies of the relevant combination. The timescale for responding i.e. one calendar month does not commence until all the relevant details have been supplied.
- 5) When the form is received back to the Corporate Delivery team, check to see if the requestor has completed all areas and ensure that the form has been signed.
- 6) The Corporate Delivery team will send to the relevant department/team which will copy / collate the information and check for any exemptions set out in the Data Protection Legislation such as:
 - Third Party Information
 - Information that could cause serious damage or harm to the mental / physical health of the person or any other person

- 7) Send the information. A corresponding letter needs to be sent out with the information. The letter should include if any redactions were made and an explanation of whether any exemption that may have been applied. Also include contact details should the requestor wish to respond with any questions about the disclosure. Try not to use any abbreviations within the letter, if this is necessary then ensure that you include a list / glossary of their meanings. Provide a copy of the letter to the IG team for them to maintain a record and close down the SAR. (Appendix 3)

Ensure that you record each part of the process and keep an auditable trail of dates, times and correspondence.

If a SAR Letter is received but the forms that were sent out are not returned within 3 months, file the original letter and the acknowledgement. If the requestor sends another request then treat this as a new request and send a new acknowledgement.

Please return your completed form together with your proof of identity copies to:

Subject Access Request
Corporate Delivery Team
Derby and Derbyshire CCG
Nightingale Close
Off Newbold Road
Chesterfield
S41 7PF

Or email to: DDCCG.SARS@nhs.net

If you wish to discuss your request further, please telephone: 01246 514051

Section 2: Request for Access to Personal Data: *(Please use capital letters)*

Name:	Date of Birth:	Sex:
Current Address:		
Postcode:	Tel No:	
Email address:		
<i>By providing your email address, you consent to being contact via email with regards to this request.</i>		

If your name and/or address have changed during the periods to which your application relates please give details below and refer to Section 1 regarding proof of identity:

Previous surname:
Previous address:
Applicable dates:

Details:

Please provide as much information as possible. Give full details of all information you are interested in and if you only wish to receive information relating to a specific aspect, please specify in the section below (continuing on a separate sheet if necessary):

CCG Service	Relevant dates	Details of any specific information you do or <u>do not</u> require

Section 3: Declaration

I wish to have copies of my own records and enclose the relevant identification.

The information I have supplied on this form is correct to the best of my knowledge.

Signed:

Date:

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What Happens Next?

Please return this form and the requested photocopies of your proof of identity to the address on page one.

Please ensure that you have completed all sections of the form, provided as much detail as possible and signed the form. Failure to do so will result in a delay to your request being processed.

We will send you an acknowledgement upon receipt of your request. We will then apply for the records from the relevant service.

Sending Records

Once we are in receipt of your records from the relevant service we will dispatch your records to you via Royal Mail special delivery.

We do not recommend that confidential personal information is sent via email as this cannot be guaranteed as secure. However, if you understand the implications of emailing your personal information and would prefer to receive your information via email, this can be arranged.

If you wish to receive your information via email please sign and date here for email consent purposes:

Name: (capital letters)

Signature:

Date:

If you have any questions, please do not hesitate to contact the Subject Access Request Team

Telephone: 01246 514051

Email: DDCCG.SARS@nhs.net

Appendix 2

Subject Access Request: Form for Representatives

Requesting Information

Everyone has a right under Article 15 of the General Data Protection Regulation (as implemented by the Data Protection Act 2018) to request copies of their medical records, subject to exemptions. This is known as a 'subject access request'.

Please complete this form if you wish to access the medical records of someone you are acting on behalf of and are authorised to do so. Please see Section 5 to confirm that you have authority.

Please do not use this form if you are requesting copies of your own medical records, instead complete the '**Subject Access Request: Application Form**'.

How We Use Information

The information you provide will only be used to progress your request and for related administrative purposes. All of your information is treated with respect and in accordance with the Data Protection Act 2018 and the General Data Protection Regulation.

Section 1: Proof of Identity

Before we can process your request, we must establish both your identity and the identity of the subject of the request. This helps to ensure that we never release information to anyone who should not have access to it.

To establish identity, your application must be accompanied by photocopies of one or more official document(s) for each person, which show **name, date of birth, current address and signature**. **Appendix 4** of this procedure contains a list of valid identity documents

Please see Section 5C for details regarding deceased patients and required documents.

If you have changed your name during the period your request covers, proof of your name change must also be provided.

Failure to provide proof of identity will delay your application.

<p>Please add a note here if you are unable to provide the requested proof of identity. We may need to contact you about this before we can process your request.</p>

Please return your completed form together with your proof of identity copies to:

Address details to be added here:

Subject Access Request
Corporate Delivery Team
Derby and Derbyshire CCG
Nightingale Close
Off Newbold Road
Chesterfield
S41 7PF

Or email it to: DDCCG.SARS@nhs.net

Section 2: About You (The Requester) *(Please use **capital letters**)*

Name:	
Current Address:	
Postcode:	Tel No:
Email address:	
<i>By providing your email address, you consent to being contact via email with regards to this request.</i>	

Section 3: The Subject of the Request *(Please use **capital letters**)*

Name:	Date of Birth:	Sex:
Current Address (if different from above):		
Postcode:	Tel No (if different from above):	
What is your relationship with the subject of the request? E.g. Partner, parent, legal guardian, main carer, legal representative, advocate etc.		

If the subject's name and/or address changed during the periods to which your application relates, please give details below and refer to Section 1 regarding proof of identity:

Previous surname:
Previous address:
Applicable dates:

Section 4: Details:

Please provide as much information as possible. Give full details of all information you are interested in and if you only wish to receive information relating to a specific aspect, please specify in the section below (continuing on a separate sheet if necessary):

CCG Service	Relevant dates	Details of any specific information you do or <u>do not</u> require

Section 5: Proof of Consent or Authority

Finally, you need to demonstrate that you have the appropriate consent or authority to make this request for someone else's personal information. To do this, please complete the relevant part of **Section 5**.

- **Section 5A** if you are acting on behalf of a child under 12 or any other person who lacks capacity to make their own request
- **Section 5B** if you are acting on behalf of an adult or young person over 12 with sufficient capacity to make a request themselves
- **Section 5C** if you are requesting records for a deceased patient

Section 5A: Acting on behalf of a child under 12 or other person who lacks capacity

A parent or guardian does not have an automatic right to information held about their child. The right belongs to the child and the parent acts on their behalf, providing the parent has parental responsibility.

In England and Wales the age at which the child reaches sufficient maturity to exercise their own right to access their information is normally 12 but this may vary according to factors particular to that child. Once the child reaches sufficient maturity the parent may only act with the child's consent.

When deciding whether information about a child can be released consideration is also given to the best interests of the child in releasing information to the requester.

Declaration	
I confirm that I am undertaking this subject access request on behalf of the individual named as the subject of this form and enclose the relevant identification.	
I confirm that I can act on behalf of the subject and will send relevant proof to you:	
<ul style="list-style-type: none">• For a child under 12 or a young person lacking capacity, proof of responsibility over them. OR• For an adult who lacks capacity, a photocopy of my personal Welfare Power of Attorney for the subject. OR• Other.....	
The information I have supplied on this form is correct to the best of my knowledge.	
Signed:	Date:

What next?

Please return this form to the address on the front, checking you have enclosed:

- photocopies of proof of identity for the requester (you)
- photocopies of proof of identity for the subject of the request
- if the subject is a child, proof of the responsibility of the adult for the child
- if the subject is a person lacking capacity, proof that you may act on their behalf

Please see Section 6 for further details regarding the next stages of the request.

Section 5B: Acting on behalf of an adult or young person over 12 with capacity to make their own request

NB: If you are making a request on behalf of a **young person of 12 or over**, they must sign below in the **'declaration by the subject'** box to confirm they are happy for you to act on their behalf.

Declaration by the Requester

I, the requester, confirm I am making this request for personal information on behalf of the person named in the declaration below.

I enclose the requested identification to confirm my identity.

The information I have supplied on this form is correct to the best of my knowledge.

Signed:

Date:

Declaration by the Subject

I, the subject of this request, confirm that I am happy for the person named above as requester to request access to my personal information on my behalf.

The information supplied on this form is correct to the best of my knowledge.

Signed:

Date:

What next?

Please return this form to the address on the front, remembering to enclose:

- photocopies of proof of identity for the requester (you)
- photocopies of proof of identity for the subject of the request

Please see Section 6 for further details regarding the next stages of the request.

Section 5C: Requesting Records for a Deceased Patient

Access to deceased patient notes is controlled by the Access to Health Records Act 1990, which allows for copies of information to be disclosed in some circumstances.

Any person making such a request satisfies one of the following criteria:

- a) They must be the patient’s personal representative – this must be proven with papers of administration or award of probate, or
- b) They have a formal claim arising out of the death on behalf of the estate or as a dependent of the deceased’s estate.

As not all estates go to probate, we will also accept copies of the deceased’s will where the requestor is named as executor.

<p>Declaration by the Requester</p> <p>I, the requester, confirm I am making this request for access to the afore-mentioned deceased patient’s records.</p> <p>I enclose the requested identification and documentation.</p> <p>The information I have supplied on this form is correct to the best of my knowledge.</p>	
Signed:	Date:

What next?

Please return this form to the address on the front, remembering to enclose:

- photocopies of proof of identity for the requester (you)
- photocopies of proof of identity for the subject of the request
- a photocopy of award of probate OR
- a photocopy of the deceased’s will, naming you as an executor

Please see Section 6 for further details regarding the next stages of the request.

Section 6: What Happens Next?

Please return this form and the requested photocopies of proof of identity and authority to the address on page one of this form.

Please ensure that you have completed all sections of the form, provided as much detail as possible and signed the form. Failure to do so will result in a delay to your request being processed.

We will send you an acknowledgement upon receipt of your request. We will then apply for the records from the relevant service.

Sending Records

Once we are in receipt of your copy records we will dispatch them to you via Royal Mail special delivery

We do not recommend that personal confidential information is sent via email as this cannot be guaranteed as secure. However, if you understand the implications of emailing records and would prefer to receive your records via email this can be arranged.

If you wish to receive the records via email please sign and date here for email consent purposes:

Name: (in capitals)

Signature:

Date:

If you have any questions, please do not hesitate to contact the Subject Access Request Team:

Subject Access Request
Corporate Delivery Team
Derby and Derbyshire CCG
Nightingale Close
Off Newbold Road
Chesterfield
S41 7PF

Telephone: 01246 514051

Email: DDCCG.SARS@nhs.net

Appendix 3

Standard Acknowledgement Letter Template

Dear

Re: **Subject Access Request**

Thank you for your request for your personal information under the requirements of the General Data Protection Regulation. We started work on this request on _____. You can expect a reply no later than one calendar month from this date.

The person working on your request is _____

For your information, the Act defines a number of exemptions which may prevent the release of some of the information you have requested. We will assess whether any of the exemption categories apply to your request and if they do we will inform you on the release of the information.

If any further assistance in this matter is required, please do not hesitate to contact:

Subject Access Request

Corporate Delivery Team
Derby and Derbyshire CCG
Nightingale Close
Off Newbold Road
Chesterfield
S41 7PF

Further information is also available from the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 03031231113
www.informationcommissioner.gov.uk

Yours sincerely

Name
Title

Appendix 4

Standard Disclosure Letter Template

Our Reference Number

Date

Name

Address

Dear

Subject Access Request

Thank you for your letter dated _____ in which you ask for access to _____. Your request has now been considered and I enclose a copy of _____.

Please note that as _____ is the owner of the original information / record it is your responsibility to dispose of the copy securely in line with the General Data Protection Regulation (protected by appropriate security).

You can find further information on why we process your personal data, how it is used and who we may share your personal data within the CCG's Privacy Notice which can be found <https://www.derbyandderbyshireccg.nhs.uk/privacy/>

If you have any questions or queries in relation to this request, please do not hesitate to contact me.

You can also refer to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545 700
www.informationcommissioner.gov.uk

Yours sincerely

Name

Title

Appendix 5

Valid Identity documents

This page lists those documents which are accepted as confirming your identity. You will normally need to provide three documents, one from Group 1, and two from Groups 1, 2a or 2b, one of which must include your current address.

Group 1: Primary Identity Credentials

- Current valid passport
- Biometric Residence Permit (UK)
- Current driving licence photocard, full or provisional (UK, Isle of Man, Channel Islands and EEA)
- Birth certificate (UK, Isle of Man and Channel Islands), issued within 12 months of birth
- Adoption Certificate (UK and Channel Islands)

Group 2a: Trusted Government Documents

- Current driving licence photocard, full or provisional (All countries outside the EEA)
- Current driving licence, full or provisional - paper version if issued before 1998 (UK, Isle of Man, Channel Islands and EEA)
- Birth certificate - issued more than 12 months after time of birth (UK and Channel Islands)
- Marriage/civil partnership certificate (UK and Channel Islands)
- Immigration document, visa or work permit issued by a country outside the EEA. Valid only for roles whereby the applicant is living and working outside of the UK. Visa/permit must relate to the non EEA country in which the role is based
- HM Forces ID card (UK)
- Firearms Licence (UK, Isle of Man and Channel Islands)

Group 2b: Financial and Social History Documents

- Mortgage statement issued in last 12 months (UK or EEA)
- Bank/building society statement issued in last 3 months (UK and Channel Islands or EEA)
- Bank/building society statement issued in last 3 months (Countries outside EEA - branch must be in the country where the applicant lives and works)
- Bank/building society account opening confirmation letter issued in last 3 months (UK)
- Credit card statement (UK or EEA) issued in last 3 months
- Financial statement, for example pension or endowment (UK) issued in last 12 months

- P45/P60 statement (UK and Channel Islands) issued in last 12 months
- Council Tax statement (UK and Channel Islands) issued in last 12 months
- Letter of sponsorship from future employment provider (non-UK/non-EEA only – valid only for applicants residing outside of the UK at time of application)
- Utility bill (UK) (mobile telephone bill not acceptable) issued in last 3 months
- Benefit statement, for example Child Benefit, Pension issued in last 3 months
- A document from central/local government, government agency or local council giving entitlement, for example from the Department for Work and Pensions, the Employment Service, HM Revenue and Customs (UK and Channel Islands) issued in last 3 months
- Valid EU National ID Card.
- Valid Cards carrying the PASS accreditation logo (UK, Isle of Man and Channel Islands)
- Letter from head teacher or college principal - UK for 16 to 19 year olds in full time education - only used in exceptional circumstances if other documents cannot be provided