



Patients guide

How to obtain access to your medical records

A patient's guide

The Patients Association

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Introduction

This booklet is designed to help you obtain copies of your medical records, and to answer questions that you may have about the process. If you have further questions, please contact The Patients Association helpline on **0845 608 4455** and we will do our best to help you.

The information in this booklet relates to England and Wales only, as different laws apply in Scotland and Northern Ireland. If you live outside England and Wales, we recommend that you contact a local solicitor to check the position.

Frequently Asked Questions

Am I entitled to see my medical records?

Yes. Your medical records are made and kept under the provisions of the Data Protection Act 1998, which was implemented on 1 March 2000. This gives every living person the right to apply for access to their medical records.

Are there any exceptions?

If healthcare professionals believe that information in the records would cause serious harm to your physical or mental health, they are entitled to refuse access to some or all of your records. Access may also be withheld if the records relate to, and identify, another person. If you are applying for the records of another party (e.g. a child), you will not be allowed access to any information which the patient gave on the understanding that it would remain confidential. If access to any of the records is refused, the healthcare professional is not required to tell you the reasons why.

What about private health records?

The Data Protection Act 1988 covers private medical records as well as NHS records, so you are entitled to see them in the same way.

What constitutes my health records?

Your records consist of all information relating to your physical or mental health which is recorded by a healthcare professional. This covers records made by hospitals, GP's, dentists and opticians. It also applies to any records held by your employer relating to your physical or mental health, if the record has been made by a healthcare professional.

The Data Protection Act 1988 entitles you to see all health records which have information about you on them. This covers: letters, handwritten notes, imaging such as x-rays, laboratory reports, print-outs, photographs and tape recordings of telephone conversations. Appendix 1 gives a list of the type of information which may be included in your records.

How do I go about accessing my records?

You should write to the body holding your records e.g. your GP or the Records Manager of the hospital to make a formal request for copies of your records. See Appendix 2 for a sample letter. You should give your full name, address, date of birth and any hospital number, if you know it. You may then be sent an application form to be completed and returned to the healthcare provider. You will usually need to provide proof of your identity. It is helpful to keep copies of any letters that you send, and any replies.

You may prefer to speak to your doctor when you see him/her, to ask for copies of your records. The doctor might then give you an application form to be completed with details of your request. If you make an informal request in this way, bear in mind that the organisation holding your records is not legally required to provide a response. It is therefore preferable to make a formal written request.

Do I have to give a reason for wanting the records?

There is no requirement to explain why you want access to the records. However, you may be asked whether you are contemplating legal proceedings against the healthcare provider. You may want to say that for the time being, you simply want to see your records, and that you will consider the legal position further once you have done this. You are entitled to see your records whether or not legal proceedings are being considered.

How much will it cost?

Under the Data Protection Act 1998, the charges that can be applied for copies of your records are:-

- records held totally on computer: up to a maximum £10 charge,
- records held in part on computer and in part manually: up to a maximum £50 charge
- records held totally manually: up to a maximum £50 charge.

The records do not have to be released until the fee has been paid.

Unfortunately, these charges apply to all patients, regardless of their means. However, if your records have been added to in the 40 days prior to the request, no fee should be charged. If you are overcharged for copies of your records, you should make a complaint to the healthcare provider and draw their attention to the Data Protection Act 1988.

How long will it take to get my records?

The Data Protection Act advises that, once a request for records has been made, copies should be provided within 40 days. In exceptional circumstances, where this is not possible, you should be informed that there will be a delay.

Can I access the records of someone who has died?

The legislation which applies to the medical records of someone who has died is the Access to Healthcare Records Act 1990, not the Data Protection Act 1988. This entitles the personal representative or anyone having a claim resulting from a person's death to apply for access to their records. When a person dies, their GP records are passed to the local Primary Care Trust, so applications for records should be made to the Records Manager of the relevant Trust. The deceased person's GP will be able to tell you which Primary Care Trust to write to.

Applications for hospital records should be made to the Records Manager of the relevant hospital. If you do not know where the deceased person was treated, you can contact the NHS Central Register at NHS Information Centre, Smedley Hydro, Trafalgar Road, Birkdale, Southport PR8 2HH, telephone 0845 300 616.

You may be charged a fee of £10 for access to the health records and a further fee for photocopying and postage. There is no maximum fee, so it is a good idea to ask what the cost will be when you apply for the records.

Who is entitled to access a child's records?

A person with parental responsibility will usually be entitled to access the records of a child who is under 16. The law regards 16 and 17 year olds as adults for the purposes of consent to treatment and right to confidentiality, so if they want their treatment to be confidential, their wish should be respected. The same applies to younger children, if they are able to understand the nature of the application.

Can I see my original records?

It is Department of Health policy that patients should be able to see their original records if they wish to do so, unless there are compelling reasons to the contrary e.g. if the healthcare provider believes that seeing the original records would cause harm to your physical or mental health. If you want to inspect your records, you should make an appointment with your GP or hospital.

What if I don't understand the records?

If the information in your records is difficult to understand, the healthcare provider should give you an explanation eg. of medical terminology or abbreviations. Health records often contain a lot of medical jargon, and the doctor should be able to help you to understand what has been written.

Can anybody else see my records?

The general principle is that your medical records are confidential, and nobody else is permitted to access them, unless you give them written authority or they have Power of Attorney to deal with your affairs. However, the national electronic database of records currently being implemented has opened the door to records being shared by the NHS with other organisations. If you have concerns about this, you should discuss the position with your healthcare provider. If you want somebody else to obtain your records on your behalf, you will need to give your written consent to this.

What if I live abroad?

If you have moved abroad permanently, your GP records will have been sent to your local Primary Care Trust, and they will be kept for at least 10 years. Your hospital records will be stored at the relevant hospital for a minimum of 8 years. You cannot take your original records abroad, but you can apply for copies to take with you.

What if I am denied access to my records?

If you disagree with a decision to refuse access to your records, or have a complaint about the process, you can make a complaint to the healthcare provider. If you are still not satisfied, you can make a complaint to the Information Commissioner (see the contact details in Further Information on page 10). You will need to provide the Information Commissioner with your details, and information about what you think the healthcare provider has done wrong. You should also send the Commissioner copies of any relevant correspondence between you and the healthcare provider. You should contact the Information Commissioner as soon as possible, as usually they will not investigate complaints if there has been a delay of more than 1 year.

How long are records kept for?

When a person dies, their GP records should be kept for at least 10 years. Hospital records are kept for at least 8 years following the end of the treatment or a person's death. Children's records should be kept until they are aged 25. See Appendix 4 which provides a guide to the minimum retention period for health records.

What can I do if I think that some of the information in my records is incorrect?

If you find something in your records which you think is wrong, you should write to your GP or to the hospital. You need to tell them what you think is incorrect, giving any evidence that you have to support your view. Medical records cannot usually be changed, because they are supposed to show what was written at the relevant time. However, a note can be added to your records explaining why you think the records are incorrect, and giving the correct version of events. You do not have to pay for a note to be added in this way.

Further Information and Help

If you need more information on accessing your records, contact the Information Commissioner's Office. Their helpline number is 0845 306 060 and website address is www.ico.gov.uk.

Information Commissioner's Office – England

Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF
Telephone: 01625 545 745, 08456 306 060
Fax: 01625 545 510 E-mail: mail@ico.gsi.gov.uk

Information Commissioner's Office - Wales

Cambrian Buildings, Mount Stuart Square, Cardiff CF10 5FL
Telephone: 029 2044 8044, Fax: 029 2044 8045, E-mail: wales@ico.gsi.gov.uk

Patient Advice and Liaison Service (PALS)

PALS may be able to help with your request. You can find your local PALS service through their website, which is www.pals.nhs.uk.

Independent Complaints Advocacy Services (ICAS)

To find which of the local ICAS offices covers your area, look at their website www.pohwer.net.

London	0845 120 3784
South East	0845 600 8616
South West	0845 120 3782
West Midlands	0845 120 3748
East Midlands	0845 650 0088
North West	0845 120 3735
North East	0845 120 3732
Yorkshire & Humberside	0845 120 3734
Eastern (Cambridgeshire, Norfolk, Suffolk)	0845 456 1084
Eastern (Bedfordshire, Hertfordshire)	0845 456 1082
Eastern (Essex)	0845 456 1083

Appendix 1 – Documents which may be included in your medical records

These are some of the documents which may be included in your records. Bear in mind that this is a general list, and your own records will not necessarily include documents in all of these categories.

- 1 Out-patient clinical notes
- 2 Accident and emergency department records
- 3 Admitting doctor's clinical notes
- 4 In-patient clinical notes
- 5 Consent / anaesthetic / operation records
- 6 Intensive care unit records / charts
- 7 Nursing documentation
- 8 Temperature / pulse / blood pressure charts
- 9 Neurological observation charts
- 10 Intake / output / weight charts
- 11 Prescription charts
- 12 Laboratory reports blood/ bodily samples
- 13 X-ray / scan images and reports
- 14 ECG / EEG reports
- 15 Diabetic charts
- 16 Medical photographs
- 17 Physiotherapy / occupational therapy records
- 18 Adverse incident reports
- 19 Risk management records
- 20 Correspondence to / from hospitals / general practitioner

Appendix 2 – Suggested application letter

Dear

I wish to make an application for copies of my medical records under the Data Protection Act 1988 (Access to Health Records Act 1990 if the request relates to a deceased patient). I would like to see all my records/my records from (insert date) to (insert date). Please could you let me know what the fee will be and send me your application form.

I look forward to hearing from you.

Yours sincerely

Name

Appendix 3 – Sample application form

When you have written to the hospital/GP, you are likely to receive from them an application form, which you will need to complete. The application forms differ between different hospitals and GP practices, but this is a common format.

APPLICATION FOR ACCESS TO HEALTH RECORDS UNDER THE DATA PROTECTION ACT 1998

Patient Details:

Surname:

Forenames(s):

Address:

..... Postcode:

Date of Birth:/...../..... Hospital Number:

NHS Number:

Episode of Treatment for Which Access Is Required

Condition/Treatment:

Date (approximate if unknown):

Please submit the following documents when you submit this form.

If you are Requesting Copies of Your Own Medical Records

- A copy of your driving licence or passport.

If you are Requesting Copies of a Child's Medical Records

- A copy of your driving licence or passport.
- A copy of the child's birth certificate.
- A letter from the child authorising the application, if they are capable of giving consent themselves.

Declaration

I declare that the information given by me is correct to the best of my knowledge, that I am entitled to apply for access to the health records referred to under the terms of the Data Protection Act 1998 and that (tick as appropriate).

- I am the patient.
- I have been asked to act on behalf of the patient and attach the patient's authority to do so.
- I am acting in loco parentis. The patient is under 16 and is incapable of understanding the request.

Signature Date

Appendix 4 – Guide to the retention of health records

This guide refers to minimum periods for which records must be retained and there may be conditions in which records need to be retained for longer. The Data Protection Act 1998 prohibits the retention of personal data for longer than is necessary. Although the definition of “necessary” will vary, where a decision is made to retain records for longer than the periods given below, there must be explicit reasons; which should ordinarily be recorded in the records.

GP records (England, Wales, and Northern Ireland):

Maternity records	25 years
Children and young people	Until the patient’s 25th birthday, or 26th if an entry was made when the young person was 17, or 8 years after death of a patient if sooner
Persons receiving treatment for mental disorder within the meaning of mental health legislation	20 years after no further treatment considered necessary or 10 years after the patient’s death if sooner
Those serving in HM Armed Forces:	Not to be destroyed
Those serving a prison sentence	Not to be destroyed
All other records	10 years after conclusion of treatment, the patient’s death or after the patient has permanently left the country

Hospital records (England, Wales and Northern Ireland):

Maternity records (including obstetric and midwifery records, including those of episodes of maternity care that end in stillbirth or where the child dies later	25 years
Children and young people	Patient’s 25th birthday, or 26th if an entry was made when the young person was 17, or 8 years after death of a patient if death occurred before 18th birthday
Mentally disordered person within the meaning of mental health legislation	20 years after no further treatment considered necessary or 8 years after the patient’s death if the patient died while still receiving treatment
Donor records	30 years post transplantation
Oncology	30 years after conclusion of treatment or 8 years after death
All other records	8 years after conclusion of treatment

Notes

Summary of minimum retention periods for personal health records (Scotland):

Maternity records	25 years after the birth of the last child
Children and young people (16 years on admission)	Until the patient 25th birthday or 26th if an entry was made when the young person was 17 or 3 years after death of the patient if sooner
Psychiatric records	20 years after last contact, or 3 years after the patient's death
Oncology	30 years or 3 years after the patient's death
All other records	6 years after last entry or 3 years after the patient's death
GP records	For the patient's lifetime and 3 years after the patient's death

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Text CLAIM to 61993 and someone will call you back

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