

Document Control Report

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1. Introduction

The following is a guide to Accessing Patient Healthcare Records held by the Northern Devon Healthcare Trust (hereafter referred to as the Trust).

Under the Access to Healthcare Records Act 1990 and the Data Protection Act 1998, **all patients have a right to request access to all their Healthcare Records.** Persons wishing to access the records of a deceased individual may do so under the terms of the Access to Medical records Act 1990.

Please note, the Trust reserves the right to refuse to release patient healthcare records under certain specified circumstances if:

- Disclosure is likely to cause serious harm to the physical and/or mental well being of the patient or any other individual connected with that patient
- The patient is deemed incapable of understanding the nature of the application
- The patient is under 16 years of age and is deemed not in their best interest to have access to his/her records

- A third party has applied for access to a patient's records and that patient has clearly stated that he/she does not wish any disclosure
- The medical records were created prior to the 1st of November 1991 (Except when it helps to explain a record made on or after this date)
- The medical records contain any information showing that the person was or may have been born following treatment defined in the Human Fertilisation & Embryology Act 1990

2. When Can Patients Request Copies of their Records

If you wish to have access to the records of a patient, currently receiving treatment in the Trust:

- If you wish to view a current patient's records you may do so, provided the clinician currently treating the patient has been informed and he/she has given consent (subject to the exclusions listed in this document)

Note: a copy of this consent will be retained in your records for future reference.

- The Trust may not be able to conduct an immediate review of a patient's records but the department will endeavour to make an appointment that is convenient to all parties as soon as possible
- Viewing of patient records will be supervised. Where possible it will be undertaken by the patient's current clinician or clinical representative.
- Patients who have been treated within the last 40 days may also make a request to review their most recent records (without charge) under the same conditions listed above.

Note: requests for copies of records of current patients will not be provided until after they have been discharged from hospital.

3. Who may be given Access to Healthcare Records?

All patients have a right to be confident at all times that their privacy will be respected and that all information relating to their care will remain confidential

- You may apply direct to the Trust for access to your own notes by completing the Application form (see Appendix 1).
- If you wish to allow a third party to access your records, written consent must be supplied along with a completed Application form

*Note: if a person gives consent for a third party to access their healthcare records **all records** will be supplied unless otherwise specified*

- If the patient is too ill to undertake a review of their own records a court may appoint a person to undertake that review for them

- Proof of identity (listed in the Application form/ Guidance leaflet) will be required of all applicants, visiting to view records.

Under the Data Protection Act 1998 the unlawful processing or disclosure of personal data to a third party is a criminal offence

Note: the Trust retains records for a specified minimum storage period, in accordance with the NHS Code of Practice: Records Management 2006 (revised 2007).

4. Who may be given Access to a Child's Healthcare Records?

- If a patient is under the age of 16 and the Trust agrees that disclosure would not be detrimental to his/her physical and/or mental well being, access may be granted to a parent or guardian.
- Dependant on age and/or understanding, children may be asked whether they agree to the release of their records

Note: The Trust reserves the right to contact both parents/guardians

5. Accessing a Deceased Person's Healthcare Records

- If the patient is deceased, access to records can only be granted if written consent was obtained before the date of death or if the requestor has been named in the subject's records as the next of kin or named executor of the estate.
- For deceased patients where no written consent is available, access to records may only be granted to an authorised third party

Note: if there is doubt about the identity of the person making a request, the Trust will contact the named next of kin (as retained in the case notes) to verify the validity of any such request.

- The Trust reserves the right to request proof of the requestor's right to Access the notes of a deceased person

*Note: for all such requests there is no limit to the fees chargeable. The Trust reserves the right to recoup **all** costs incurred in producing copy records of the deceased.*

6. Charges Related to Accessing Healthcare Records

- The Trust issues a £10 fee for accessing/ reviewing healthcare records to cover the administrative costs undertaken in the retrieval and validation of case notes.

Note: persons treated in the previous 30 days who wish to review their records may do so without charge but there will be a charge if copying is required.

- Images that can be arranged during a visit to hospital:

There is a standard charge of £4 per item in the Maternity Unit.

The Radiology Department can arrange for images to be transferred to compact disc from £15 per examination with viewer software.

- For copies of records requested under the terms of the Data Protection Act 1998, the following charges will be raised to cover administration and photocopying costs:
- A standard rate of £50 for all applications made through a solicitor or legal representative.

For all other Data Protection requests for healthcare records:

- £5 for 3 sheets or less
- £10 for 4 to 30 sheets
- £50 for more than 30 sheets up to a full set of notes and for any request requiring copies of full size x-rays.
- Requests for deceased persons' records fall under the terms of the Access to Records Act 1990. Charges are at the above rates but there is no maximum fee limit. If there is more than one folder of notes, reasonable charges will be levied to cover time and resources required to provide copies.

7. Process Following Receipt of a Valid Request

- Access applications are logged on receipt of a valid request (subject to the above limitations). An immediate request is made to all areas that hold the relevant patient records.
- Requests for copy records may be forwarded to more than one area if the applicant is requesting copies of all the records. This may include requests to the A&E Department, to services such as Physiotherapy, Maternity and Psychiatry, and to clinical support services such as Radiology.

Note: delay may be incurred where staff have to collate copies from several areas

- Proof of Third Party entitlement to a patient's record will be required before any access requests can be processed. You will be informed in writing of any requirements.
- Patient records may not be immediately accessible if they are in current use, as all clinical usage **must** take priority over an access claim.
- Once all the required records have been located, they will be compiled for copying or review. Permission to release the information will then be sought from each relevant treating clinician.
- Under the Terms (updated in 2003) of the Data Protection Act, the Trust is expected to provide copies of requested documentation within 40 working days of receipt of a valid request. If for some reason the Trust is unable to meet this deadline, the applicant will be informed of the delay and its causes in writing before the 40 working days elapse.
- All completed requests will be sent via Recorded Delivery unless otherwise specified

- An invoice for costs incurred in the production/ reviewing of records will be sent to the applicant via the Trust's Financial Services Department. Payment must be received before release of copies of the records.

8. Procedures for Complaints in Relation to Healthcare Records Access and/or Contents

As stated in the Trust's Healthcare Records & Patient Documentation Policy:

'All entries into a Healthcare Record relating to patient care or treatment will be made in a concise objective and accurate manner and will relate only to the Healthcare episode'

If you feel that your records do not reflect the above statement then:

- You may contact the Healthcare Records Manager in writing, detailing the records to wish to have amended. Your letter will be placed on file within the written records.
- If you remain dissatisfied with the quality/availability of the requested records, you may contact the Trust's Complaints Office on (01271) 322334 for further advice.
- In the event of the Trust upholding a complaint, fees paid for provision of the associated records will be reimbursed.

For further information please contact:

- The Access to Records Team on (01271) 322760 for details on your application

The Access to Records Office,
Healthcare Records, Level 0,
North Devon District Hospital,
Raleigh Park,
Barnstaple, Devon EX31 4JB

You may also find our web site useful: www.northdevonhealth.nhs.uk

Appendix A – [Application Form/ Guidance Leaflet](#)

Appendix B – Equality Impact Assessment Screening Form

Equality Impact Assessment Screening Form			
Title	Access to Records – Guidance for Accessing Patient Records at the Northern Devon Healthcare Trust		
Author	Janet Hillman, Healthcare Records Manager		
Directorate	Operations		
Team/ Dept.	Healthcare Records		
Document Class	Document Status	Issue Date	Review Date
Policy	Review	June 2009	June 2012
1	What are the aims of the document?		
	This document sets out Northern Devon Healthcare NHS Trust's approach to providing access to healthcare records.		
2	What are the objectives of the document?		
	The purpose of this document is to ensure:		
	i) compliance with the Data Protection Act 1998, the Access to Healthcare Records Act 1990 and best practice within the NHS,		
	ii) public and staff understand how access to patient records is provided.		
3	How will the document be implemented?		
	This guidance will be posted on the Trust's public website and intranet.		
4	How will the effectiveness of the document be monitored?		
	The General Manager, Patient Access and Support Services, will request reports on the access to records service, and assess demand, costs and fees and satisfaction levels with reference to timeliness of delivery and commendations and complaints.		
5	Who is the target audience of the document?		
	This Guidance is for the public and all Trust employees that handle healthcare records.		
6	Is consultation required with stakeholders, e.g. Trust committees and equality groups?		
	No		
7	Which stakeholders have been consulted with?		
	<ul style="list-style-type: none"> • Staff involved in provision of access to records • The Healthcare Records Operational Group 		
8	Equality Impact Assessment		
	Please complete the following table using a cross, i.e. X . Please refer to the document "A Practical Guide to Equality Impact Assessment", Appendix 3, on Tarkanet for areas of possible impact.		
	<ul style="list-style-type: none"> • Where you think that the policy could have a positive impact on any of the equality group(s) like promoting equality and equal opportunities or improving relations within equality groups, cross the 'Positive impact' box. • Where you think that the policy could have a negative impact on any of the equality group(s) i.e. it could disadvantage them, cross the 'Negative impact' box. • Where you think that the policy has no impact on any of the equality group(s) listed below i.e. it has no effect currently on equality groups, cross the 'No impact' box. 		

Equality Group	Positive Impact	Negative Impact	No Impact	Comments
Age			X	
Disability			X	
Gender			X	
Race / Ethnic Origins			X	
Religion or Belief			X	
Sexual Orientation			X	
	<p>If you have identified a negative discriminatory impact of this procedural document, ensure you detail the action taken to avoid/reduce this impact in the Comments column. If you have identified a high negative impact, you will need to do a Full Equality Impact Assessment, please refer to the document "A Practical Guide to Equality Impact Assessments", Appendix 3, on Tarkanet.</p> <p>For advice in respect of answering the above questions, please contact the Equality and Diversity Lead.</p>			
9	<p>If there is no evidence that the document promotes equality, equal opportunities or improved relations, could it be adapted so that it does? If so, how?</p> <p>No</p>			

Completed by:

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Trust Northern Devon Healthcare NHS Trust
Date August 2009