Document Control Report

Title
Access to Patient Records Procedure

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Contents

1 Introduction

This document sets out Northern Devon Healthcare NHS Trust's system for requests for access to patient healthcare records. It provides a robust framework to ensure a consistent approach across the whole organisation, and supports our statutory duties as set out in the NHS Constitution.

2 Purpose

The purpose of this document is to ensure adherence to the Access to Healthcare Records Act 1990 and the Data Protection Act 1998, which states that all patients have the right to request access to all their healthcare records. Persons wishing to access the healthcare records of a deceased individual may do so under the terms of the Access to Medical records Act 1990.

It is important that all healthcare staff that handle medical records understand the requirements of these Acts and the part they have to play in ensuring that the Trust complies with its legal obligations.

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

Whilst the Trust has certain rights to withhold records (see section 6.2), it is required to provide copies of requested documentation within 40 working days of receipt of a valid request

In accordance with the above Acts, the Trust reserves the right to refuse to release patient healthcare records 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 Fertilization & Embryology Act 1990.

The original healthcare records must not leave the Trust.

The procedure applies to all healthcare staff that handles medical records

Implementation of this procedure will ensure that:

- Access to patient records is controlled and managed within the Trust.

3 Definitions

3.1 Healthcare Record

These may consist of; x-rays, scans observations charts, prescription records etc., and all information relevant to the patients care.

3.2 Access

Access to healthcare records can be either to view them by appointment or to have a copy made. Viewing of patients records will be supervised.

3.3 Requestor

The person requesting access to the healthcare record may be the patient, their next of kin, healthcare professionals, solicitors, or Police.

4 Responsibilities

4.1 Role of the Chief Executive

The Chief Executive has executive responsibility for:

- The management and safety of Trust healthcare records.

4.2 Role of the Healthcare Records Manager

The Healthcare Records Manager for the North and the Deputy Divisional General Manager for the East is responsible for:

- Overseeing the day-to-day management of the procedure and ensuring it is adhered to.

4.3 Role of the Access to Records staff

The Access to Records staff are responsible for:

- Ensuring that the day-to-day operation of this procedure are actioned within the relevant timescales
- The appropriate healthcare professional reviews the record prior to release.

4.4 Role of the Legal Claims Manager

The Legal Claims Manager is responsible for:

- Ensuring that the Access to Records procedure is adhered to
- Ensuring that originals are not sent to solicitors

4.5 Role of the Requestor

The Requestor is responsible for:

- Ensuring that consent is given and signed for each request
- Ensuring that payment has been made prior to the release of healthcare information.

4.6 Role of all staff within the Trust

All staff are responsible for:

- Ensuring that this procedure is adhered to at all times.

5 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 healthcare will remain confidential. This is a commitment in the NHS Constitution.

A request to access healthcare records can be for all records, or a specific episode or period of care. The Trust is not responsible for requests for other hospitals or G.P. patient information.

5.1 Who can access healthcare records?

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

- You may apply direct to the Trust for access to your own notes by completing the Access to records form (see Appendix A).
- If you wish to allow a third party to access your records, written consent must be supplied with proof of identity as stated on the rear of the Access to records form along with a completed Access to records form.
- 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 Access to Healthcare Records form) will be required of all applicants visiting the Trust to view records.
- Note: the Trust retains records for a specified minimum storage period, in accordance with the NHS Code of Practice: Records Management 2006 (revised 2007).

5.2 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: A consent form, email or letter must be completed in the usual manner.

- You may view a current patient's records provided the clinician currently treating the patient has been informed and he/she has given their consent (subject to the exclusions listed in this document). A copy of the clinician's consent will be retained with the request for future reference.
- The Healthcare Records Department may not be able to conduct an immediate review of a patient's records, but the department will strive to make an appointment that is convenient to all parties as soon as possible.
- Viewing of patient records will be supervised when necessary by the relevant clinician or by an access to records member of staff in the access to records office

Patients who have been treated within the last 40 days may 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.

5.3 Who can access a Child's healthcare records?

Any person with parental responsibility may apply for access to the 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

The Trust reserves the right to contact both parents/guardians of a child.

5.4 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 authorized third party.

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

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.

5.5 Charges for accessing healthcare records and processing insurance forms

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.

- 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.
- Persons treated in the previous 40 days who wish to review their records may do so without charge but there will be a charge if copying is required.
- For copies of records requested under the terms of the Data Protection Act 1998, the following charges will be raised to cover administrative and photocopying costs:
- A standard rate of £50 for all applications made through a solicitor or legal representative

For all other individual patient requests for healthcare records:

- £5 for 3 sheets or less
- £10 for 4 to 30 sheets
- £15 per X-ray examination/event on disc, will be added to the above if required
- £50 for more than 30 sheets up to a full set of notes and for any request requiring copies of x-rays.
- Requests for deceased persons' records fall under 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.

5.6 Procedure for complaints in relation to healthcare records access and/or contents

The Trust's Healthcare Records Policy states:

'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.'

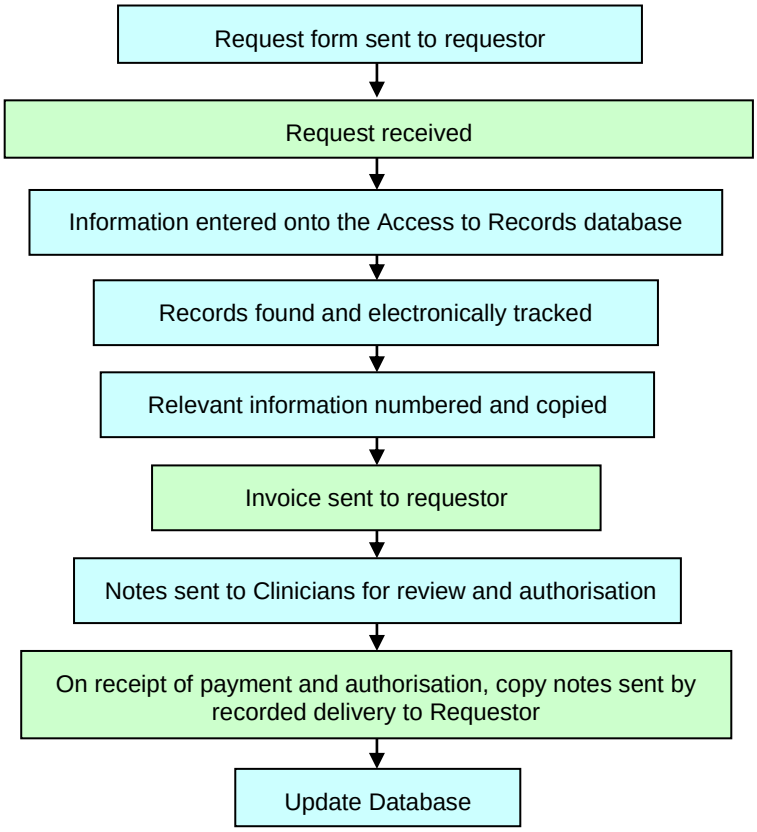
If you feel that the records do not reflect the above statement then:

Contact the Healthcare Records Manager for the North and the Deputy Divisional General Manager for the East in writing, detailing the records you wish to have amended. Your letter will be placed on file within the written records. The Data Protection and Confidentiality group, the Director of Nursing and the complaints department will be contacted. The healthcare professional may wish to have an informal meeting with the patient in the hope to resolve the complaint locally.

- If you still feel that your information has been recorded incorrectly within your notes, 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.

6 Procedure following receipt of a request for access



6.1 Procedure following clearance to release records

- Under the Terms (updated in 2003) of the Data Protection Act, the Trust is required 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 reason for the delay in writing before the 40 working days elapse.
- Proof of Third Party entitlement to a patient's record will be required before any access requests can be processed. The third party will be informed in writing of any such requirement.
- An immediate request is made to all areas that hold the relevant patient records.
- Requests for copy records, not originals 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 and Maternity, and to clinical support services such as Radiology. Delays may occur where staff have to collate copies from several areas.
- Once all the required records have been located, they will be compiled for copying or viewing. Permission to release the information will then be sought from each relevant treating clinician.
- Patient records may not be immediately accessible if they are in current use, as all clinical usage **must** take priority over an access claim.
- An invoice for costs incurred in the production/ reviewing of records will be sent to the applicant by Access to Records. Payment must be received before release of copies of the records.
- All completed copied healthcare records will be sent via Recorded Delivery unless otherwise specified.

6.2 Refusal for release of records

The Trust reserves the right to refuse to release patient healthcare records 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 under 16 years of age and is deemed not in their best interest to have access to his/her records
- The patient is deemed incapable of understanding the nature of the application
- 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.

7 Monitoring Compliance With and the Effectiveness of the procedure

7.1 Process for Monitoring Compliance and Effectiveness

Monitoring compliance with this procedure will be the responsibility of the Healthcare Records Manager for the North and the Deputy Divisional General Manager for the East. This will be undertaken quarterly by the Healthcare Records Manager for the North and the Deputy Divisional General Manager for the East of the Access to Records database.

These audits will be reported to the Divisional General Manager.

Where non compliance is identified from the audit results, support and advice will be provided by the Healthcare Records Manager for the North and the Deputy Divisional General Manager for the East reported to the Divisional General Manager.

7.2 Standards/ Key Performance Indicators

Key performance indicators comprise:

- Access to records provided within 40 days
- Any external monitoring/reporting
- Complaints regarding late or non delivery of healthcare records

8 References

- Access to Healthcare Records Act 1990
- Data Protection Act 1998
- Human Fertilisation & Embryology Act 1990
- NHS Code of Practice: Records Management 2006 (revised 2007)

9 Associated Documentation

- Healthcare Records Policy
- Records Lifecycle Management Strategy

Appendix A – Access to Records Form

Northern Devon Healthcare NHS
NHS Trust
Incorporating community services in Exeter, East and Mid Devon

ACCESS TO HEALTHCARE RECORDS* APPLICATION FORM

A. Patient Details

Patient Name:	
Date of Birth:	
Address:	
Postcode:	

B. Only complete this section IF YOU ARE NOT the patient detailed above. Please note that you will be required to provide proof of your right to access these records.

Name:	
Address:	
Postcode:	

Relationship to patient (Please tick): Guardian ☐ Executor ☐ Next of kin ☐

Other:

Contact Phone Number

C. Type of record /information required/

Specialist / Dr:	
Hospital / Dept.:	
Date(s) and other relevant information:	

#please tick if you require copies of x-rays

Otherwise we assume written reports suffice, limiting costs and charges ☐

D. How would you like to access? Please tick one box

To receive a copy of the records: ☐ An appointment to view the records: ☐

PROOF OF IDENTITY: Whether viewing records or requesting copies, you may be asked to supply your Driving Licence or Passport (for own records) in addition to: the child's birth certificate (for child's records) or a death certificate (for deceased person's records) or written consent authorisation (for another person's records)
CHARGES: A fee will be charged to cover the costs of this service (see over)

E. Declaration : Please sign and date

I declare the information given by me is correct to the best of my knowledge and that I have read and understood the terms and conditions of access

Signed Date

PLEASE RETURN COMPLETED FORM TO: THE RELEVENT TREATING HOSPITAL WHERE YOUR MEDICAL INFORMATION IS HELD

Approved date: 25/09/13
Review date: 25/09/15

Lead: Janet Hillman
Version: 2

Access to Healthcare Records

Data Protection Act 1998 Access to Healthcare Records Act 1990
GUIDE AND APPLICATION FORM

This leaflet explains the procedure for accessing a Patient's Hospital Records. If you require clarification of any of the points raised or need further information please let us know. Our contact details can be found at the end.

Procedure for Accessing Healthcare Records

- Access applications are logged upon receipt of a completed form, letter, fax or email.
- A request is made to the areas that hold the relevant records.
  (There may be a delay if the patient is currently undergoing treatment)
- Once all the required records have been gathered they will be sent to each treating clinician for authorisation to release.
- An invoice for the photocopying / viewing the records will be sent to the applicant
- Upon receipt of payment:
  a. An appointment is arranged for the applicant to view the original records or
  b. The requested copy records are sent out via Recorded Delivery unless otherwise specified.
- The Trust expects to provide all requested documentation within 40 days of receipt of a valid request. If for any reason we are unable to meet this deadline, the applicant will be informed.

The Trust may refuse to release patient records if any of the following apply:

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

To access records of a patient currently being treated

- You can view these provided the clinician treating the patient has been informed and has given consent (subject to the exclusion listed in this document).
- An immediate review of the records may not always be possible, but the department will endeavour to make an appointment convenient to all parties as soon as possible.
- It will not be possible to photocopy case notes whilst the subject is an inpatient.

Access to Child's Healthcare Records

- If the patient is under the age of 16 and the Trust agrees that disclosure would not be detrimental to the physical and or mental wellbeing of the patient access may be granted to a parent or guardian.
- Dependant on age and or understanding of the child, they may be asked whether they agree to the release of their records.
  Note: The Trust may contact both parents/guardians if a request is made.

Access to a Deceased Persons Healthcare Records

- May be granted if the applicant has been named in the patient's records as a next of kin or is a named executor of the estate. *Note: If the Trust is unsure as to the identity of the person seeking access, the named next of kin (as retained in the case notes) will be contacted for verification.*
- Northern Devon healthcare Trust reserves the right to request proof of the applicant's right to Access the notes of a deceased person.

Charges Relating to Accessing Healthcare Records

- There is a £10 fee for viewing healthcare records to cover costs of retrieval and validation for case notes. , (waived for persons treated in the previous 40 days).
- Images arranged during a visit to hospital £4 per item in the Maternity Unit. Copies from Radiology: from £15 per examination on disc with viewer software.
- A standard rate of £50 for all applications made through a 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 under Access to Records: at the above rates but there is no maximum limit. If there is more than one folder of notes, reasonable charges will be levied to cover resources required to provide copies.

If you feel your Request has been unfairly denied or you wish to make a complaint with regards to the contents of your Records

- You may write to the Access to Records Manager, detailing your concerns. Your letter will then be filed with the case notes.
- If you require advice or have concerns about any aspect of patient care you can contact the PATIENT ADVICE AND LIAISON SERVICE on 01271314090.
- If you remain dissatisfied, you may contact the Northern Devon Healthcare Trust's Complaints Office on 01271 322334
- Any queries please contact Access to Records, Level 0, Northern Devon Healthcare Trust, Raleigh Park, Barnstaple, Devon. EX31 4JB. Tel: 01271 322760

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