

Standard Operating Procedure

Information Governance - Disclosure of Medical Records

Relevant to:

Information Governance Team, All Trust Staff

Purpose of SOP:

The Information Governance team deal with requests under the Data Protection Act 1998 and the Access to Health Records Act 1990.

The Trust has a statutory requirement to make records available within 40 calendar days of receiving a request from a third party, with an aim of 21 days for first party (the patient) access requests, and a requirement of 21 days for access to records of the recently deceased.

The purpose of this guidance is to ensure a stream-lined and timely approach for completion of patient identifiable Health Records requests.

Procedure to Follow:

THIRD PARTY REQUESTS UNDER DPA 1998 (LIVE SUBJECTS)

1. Open all post daily, date-stamp, and log onto PMI system (the Access Team database) tracking form, and Shared Drive spreadsheet.
2. Check The IG team generic email account : met-tr.informationgovernancemedft@nhs.net on a regular basis, and a minimum of 3 hourly
3. Check requests from solicitors for patient consent. If this is not present, send a standard email requesting the missing information. Put these requests 'on-hold' until all relevant paperwork is received.
4. Forward any requests that involve the Trust in litigation immediately to Legal Services.
5. Where requests do not include all necessary details required to process the request, ask the requester for these via a telephone call / e-mail / letter and put the request 'on-hold' until further information is available. If a further letter is received chasing the request, make either a telephone call (details to be logged on PMI and spread sheet) or send an email/ letter explaining why the request has not been dealt with.
6. Send a memo to the most recent treating clinician as soon as possible after receipt of the requests for his / her confirmation that they have no objection to the disclosure of the medical records.
7. If necessary, contact the requestor either by telephone, e-mail or letter and asked if they consent to the medical records being sent on a password-protected CD.
8. Check the letter and request information that may be necessary – Health Records, x-rays and A&E records (or all). Check patient details on OASIS, radiology systems, pathology and the ED systems as appropriate.
9. If only X-rays or MRI scans are requested, confirm the fee to the requester and raise the invoice memo for General Office.
10. File 'hold'.

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11. Check to see if the Consultant has returned a memo or otherwise confirming that disclosure can proceed. Send reminders to the Consultant and his/her secretary. If the Consultant requires original records, arrange for them to be taken to him/her.
12. Link any x-rays that arrive are with the request. If the fee has been paid and everything is present, update on PMI. If still awaiting notes, place back 'on hold'.
13. Link any Health Records folders that arrive with the request. Only photocopy or scan information relating to the enquiry. If records are to be sent on CD, save these under the patient's OASIS number in the shared drive and then copy onto a CD.
14. Password-protect the CD. A universal password, changed at the beginning of each month, is used for all CDs. It is the responsibility of the Information Governance officer to ensure the updated password is given to the Information Governance Team at the beginning of each month.
15. If everything is present and the fee has been paid, mail this out and update PMI/spreadsheet. If still awaiting x-rays, place back 'on hold'.
16. Where hard copy notes are sent, send them recorded delivery with a covering letter showing what has been sent. The recorded delivery forms are completed by the Information Governance Team.
17. When post and any outstanding notes/x-rays have been dealt with, check 'on-hold' cases and chase outstanding cases where necessary. Note what has been chased on PMI (in 'notes' part of PMI) and the tracking sheet in the request folder.
18. Where the request is for a medical report from the treating Consultant, pass the request to the appropriate Consultant and do not log on PMI.
19. Pass requests from the Criminal Injuries Compensation Authority (CICA) to the appropriate Consultant and do not log on PMI. They cannot be completed by the Information Governance Team.
20. Pass requests from the Department of Works and Pensions (DWP) to the appropriate Consultant and do not log on PMI.
21. Pass requests from the Army Services Medical Centres asking for a summary to the appropriate Consultant and do not log on PMI.
22. Health Insurance claim forms, i.e. HAS, DWP, SSP forms are passed to the Patient Service Centre.
23. Log any Freedom of Information requests on the system and redirect to:
FOI@medway.nhs.uk

FIRST PARTY REQUESTS (LIVING PATIENTS)

24. On receipt of a 'Patient Access' enquiry, send the requester either a form or email link to the Trust website where the form can be downloaded. This must be completed by the patient or the person making the applications on the patient's behalf.

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25. The form and webpage advises requesters that there will be a charge of up to the maximum of £50.00 which is payable before the request is processed.
26. Once a form is returned, check it for proof of identity e.g. copy of a driving license, passport, birth certificate or pension/benefit booklet.
27. Log the application on the spreadsheet.
28. As soon as all the required information is received, make arrangements to comply with the request to either view the health record, or to receive a copy.
29. Order the Health Records and once received, calculate the fee that the patient needs to pay.
30. The 40 day countdown starts on receipt of payment. It is not a lawful requirement to disclose records in under 21 days however where the Trust is likely to exceed this aim, contact the requester to let them know.
31. Copy the relevant areas identified, and / or imaging requested once pay is received..
32. Send the original health records, with a memo to the most recent treating Consultant, for him/ her to confirm that no significant harm is likely to be caused to any party by disclosing the record.
33. Once the Consultant has 'signed off' the notes in this way, track the medical records (with permit still attached to front) and sent back to the Information Governance Team (tracker code currently ACCESS, but will be changing to INFGOV in the near future).
34. At no point should the permit be removed from the front, or the notes sent back to the library.
35. Any breaches due to loss of notes/permit will be documented as such and correlated to the specific Department.
36. Once all information is collated, send the notes to the requester by Recorded Delivery if requested in hard copy or by encrypted pdf where file size permits.
37. Log any Freedom of Information requests on the system and redirect to:
FOI@medway.nhs.uk
38. If a patient wishes to view their medical records, make arrangements with the Information Governance Team who will make all necessary arrangements.
39. The same process for the supply of copy medical records (above) is followed.

INPATIENT REQUESTS:

40. If a patient on the ward requests to view his/her notes, make the Consultant aware of the request. They must confirm that no serious harm will be caused to any party. The patient may then be allowed to view the records but **MUST** be accompanied by a member of staff to ensure the notes are not altered or removed.

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THIRD PARTY REQUESTS TO VIEW INPATIENT NOTES:

41. If a third party makes a request to view a patient's notes, you **MUST** follow the procedures above and you **MUST** also have the patient's permission for this to take place.

THIRD PARTY REQUESTS TO VIEW INCAPACITATED INPATIENT NOTES:

42. If a third party makes a request to view medical notes, but the patient lacks capacity and is unable to give permission, the third party **MUST** contact the Legal Services Department on ext. 3881

ALL THE TIME A PATIENT IS AN INPATIENT THERE IS NO COST TO HIM/HER FOR ACCESS TO HIS / HER NOTES.

REQUESTS FOR ACCESS TO DECEASED PATIENT'S NOTES UNDER THE ACCESS TO HEALTH RECORDS ACT 1990

43. The Trust has a statutory requirement to make records available within 40 days of receiving a request for access to the notes of a deceased person (or within 21 days if entries have been made recently).
44. Such requests are processed under the Access to Health Records Act 1990.
45. On receipt of a request for a copy of the deceased person's medical records, or a request to view the deceased's records, send the requestor a form or link to the Trust's webpage to download and complete.
46. The form and webpage advises requesters that costs are :
- a maximum of £50 for copies of patient notes
 - £10 for imaging (CD only)
 - Postage and packing (at cost)
 - a. All fees must be paid before processing a request starts. The completed form should contain the following information:
 - Name, date of birth and address of the deceased.
 - Name and address of the requestor and their relationship to the deceased.
 - Whether the request is made in order to make a claim
 - The type of records requested with approximate dates of treatment.
 - Confirmation the records can be supplied on CD.
 - Type of access (view records or obtain a copy).

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47. Enclosed with the completed form there should be proof of identity which can be a photocopy of a birth certificate, driving licence or passport or a proforma signed by a solicitor acting on behalf of the estate of the deceased
48. .
49. Records can only be disclosed to those with a lawful authority to have access to them – personal representative or any person making a claim.

Implications of not following procedure

Breach of statutory obligations leading to fines, damages, adverse legal costs and loss of reputation.

Useful Contacts:

Information Governance Assistants	ext. 3495
Information Governance Officer (Data Protection Lead)	ext. 5360
Information Governance Manager	ext. 3210

Monitoring the Process:

The spread sheet is monitored by the Information Governance Officer and any problems in meeting deadlines are discussed with the Team.

National Definitions:

- Data Protection Act 1998
- Access to Medical Reports Act 1988
- Department of Health Guidance for Access to Health Records Requests Feb 2010
- Access to Health Records Act 1990

Reference Material & Associated Documents:

- Information Governance Policy - POLCGR017
- Information Governance Framework - OTCGR141
- Information Governance Strategy - STRCGR013
- Information Governance Guidance - Fax - Email - Internet – Telephone - GUCGR022
- Information Governance - Use of cameras, video and audio recorders on Trust premises - GUCGR023

Document History

POLCGR008	1	Review and update into new format
POLCGR008	2	Review date due
POLCGR008	3	Review and update due to change of Department from Health

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		Records to Legal Services and also minor change to policy
POLCGR008 and AGN00045 amalgamated into SOP format.		

Approval Signatures:

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