

A guide to obtaining medical records

The legislation

- Your medical records do not belong to you. They are the property of the Secretary of State for Health; who delegates that responsibility to the different health bodies which produce and store your records.
- Your records are made and kept under the provisions of the Data Protection Act 1998, which was implemented on 1 March 2000.
- Records must be kept confidential. No information can be passed to anyone else outside the health service without your express permission.
- Information can only be shared using the Caldicott Principles, which state:
 - Justify the purpose(s) for using patient data
 - Don't use patient-identifiable information unless it is absolutely necessary
 - Use the minimum necessary patient-identifiable information
 - Access to patient-identifiable information should be on a strict need-to-know basis
 - Everyone should be aware of their responsibilities to maintain confidentiality
 - Understand and comply with the law, in particular the Data Protection Act.

How long are records kept?

Health authorities are obliged to keep confidential records for the minimum time that is practical. They must keep any records relating to a child for twenty one years. They should keep adult records for at least three years and usually for seven. Most hospitals have records going back longer than seven years, especially if the person has been using services for a long time.

Accessing your records

The Data Protection Act enables you to ask to see any records which have information about you on them. You can be charged a maximum of ten pounds for accessing your records and can be charged a maximum of fifty pounds for a copy of your medical records (this includes x-rays).

If you want to see your records, most GPs and Hospitals have special forms which must be filled in beforehand. You have to tell them why you want to see the records, which records you want to see and whether you are intending to take legal action. This form is then sent to the GP practice manager or the medical records department and they will either arrange an appointment for you to go and see the records or they will send you a copy. Sometimes it can take several months before a copy of your records can be sent to you.

If you are going to go and see your records in the place where they are kept, it is a good idea to ask if a doctor or a nurse can go through them with you. People who write in your notes often use a lot of medical terms and jargon. It can also be difficult to read some people's handwriting, especially if it is written in a hurry, which medical records often are. The doctor or nurse will be able to translate the records for you and explain what is meant. Records also include a lot of forms, e.g. tests which are ordered from a laboratory. These forms are often difficult to understand, especially if you do not know what 'good/normal' results are as opposed to 'worrying/abnormal' results.

Sometimes a doctor will refuse to let you see your medical records because they think it will make your mental health deteriorate or it will upset you too much to find out what is written there. This is always a subjective judgement and if you are adamant you wish to see what is written about you, you need to put systems in place to support you to enable you to see your records.

If you want help to access or view your records, you can always ask the Patient Advice and Liaison Service (PALS) or the Independent Complaints Advocacy Service (ICAS) to help you. There is no charge for this help. There may also be a local advocacy service which can help you.

Accessing the records of someone who has died

If you want to see the records belonging to someone who has died, you need to apply under the Access to Medical Records Act 1990. You will be asked if you are next of kin or legal executor or if you have permission from the next of kin or written permission from the deceased person given to you before they died. If you do not fall into any of these categories, you will not be allowed to access the records of the deceased person. You will also be asked which records you wish to access and if you are taking or intending to take legal action. Currently there is no maximum charge for this service.

If you write and ask to access GP records more than three months after a person has died, it may be better to write to the local Primary Care Trust (PCT) rather than the GP surgery. GPs usually pass the medical records back to the PCT for storage three months after someone has died. The PCT will usually know where someone's records are because they have responsibility to keep track of records between surgeries during a person's lifetime and then to store them for up to seven years after their death.

Changing your records

If you find something in your records which you think is wrong, you need to write to the person responsible for keeping your records. This may be your GP or the chief executive of the hospital or specialist NHS Trust. If it is a private hospital you should write to the chief executive of that hospital. Tell them what you have found and what you think is wrong with it. Try to have some reason or evidence to show why it is wrong. If you cannot show why it is wrong, the response may be that your memory is at fault, especially if you were very ill at the time. If you can, it is helpful to include a letter or statement written by someone else as well as you who can show why the record entry is wrong.

Medical records cannot normally be changed or parts removed because they are the property of the Secretary of State and are supposed to be contemporaneous accounts of events (i.e. they were written at the time.) If you know something is wrong, you can ask to have a note attached to the record stating why it is wrong and giving the correct version of events. If you feel that something has been written about you which has been subsequently damaging to you later in life, you can ask for it to be amended and for an apology, but you do not have the right to insist that this is done.

You cannot ask for something to be changed in your records because a new diagnosis has been provided for you at a later date. You could ask for a note to be put on the file pointing out that a new diagnosis has been made and flagging where that information can be found.

Helpful Organisations

If you need more information or advice, contact the Information Commissioner's Office:
Helpline: 0845 306060
Website: www.ico.gov.uk

Information Commissioner's Office - England

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545 745
E-mail: mail@ico.gsi.gov.uk

Information Commissioner's Office - Scotland

28 Thistle Street
Edinburgh
EH2 1EN
Telephone: 0131 225 6341
E-mail: scotland@ico.gsi.gov.uk

Information Commissioner's Office - Wales

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

Patient Advice and Liaison Service

To find the appropriate PALS Service go to www.pals.nhs.uk and search their database for your local hospital or Primary Care Trust. There are also PALS in the community and mental health services who are there to help and support you. They can also put you in touch with your local ICAS service.

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