**STANDARD OPERATING PROCEDURE FOR OSWALD MEDICAL CENTRE FOR THE MANAGEMENT OF SUBJECT ACCESS REQUESTS**

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| **Information Reader Box** |
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| Practice OSWALD MEDICAL CENTRE |
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# Introduction

This Standing Operating Procedure sets out what staff should do when receiving a request for personal information and applies to OSWALD MEDICAL CENTRE for records for which they are the Data Controller (or Data Processor as required). OSWALD MEDICAL CENTRE is required to provide a procedure to respond to requests made under the Data Protection Act 2018/GDPR. In addition, requests can be made under the Access to Health Records Act 1990.

Under most circumstances these requests will be received and/or processed by the named contact at OSWALD MEDICAL CENTRE however there may be rare occasions when requests will be processed by other staff within practice top ensure a seamless approach to requests. Staff should follow the guidance in this Standard Operating Procedure (SOP) to ensure compliance with current legislation.

It is important that all staff are familiar with the contents of this SOP as they may be the first point of contact for a request for personal information or they may be required to advise others including patients and other service users who make a request for personal information.

Requests for access to records have strict timeframes therefore it is imperative that any request are dealt with as expediently as possible.

## Data Protection Act 2018 and General Data Protection Regulation

Both pieces of legislation give individuals, or their authorised representative, the right to apply to access the personal data that the practice holds about them.

## Access To Health Records Act 1990 and pcse

The Access to Health Records Act 1990 provides a right for authorised people to apply to access information contained within a deceased person’s health record. It must be noted that when a person dies, their medical records are securely sent to Primary Care Support England (PCSE), who become responsible for those records so requests under the Access to Health Records Act for a former patient would need to be directed to PCSE.

NHS England is the data controller of GP health records where an individual is deceased. To request access to health records of a deceased person, the most efficient way to submit the request is to complete the application form which can be downloaded [**here**](https://pcse.england.nhs.uk/media/1268/application-form-and-guidance-notes-v17.doc).  This will ensure all the relevant details are captured and will avoid confusion or misunderstanding.  The application form contains information regarding individual’s rights and how your application will be dealt with.

To receive a copy of a medical record, appropriate identification documents must be provided. If you are making the application as an individual’s legal representative (e.g. a solicitor), PCSE would need to receive written authorisation or proof that you are the executor of the will of the deceased person or are entitled to a claim arising from the deceased person’s death..

Completed application forms and copies of relevant identification documentation would need to be sent via email to **pcse.accessrequests@nhs.net**. If you are unable to submit your request via email, please forward your completed application to the following postal address:

FAO Access Team, Primary Care Support England, 3 Caxton Road, Fulwood, Preston PR2 9ZZ

For any queries please email: **pcse.accessrequests@nhs.net** or call on: 0333 014 2884

# Who Can Make A REQUEST?

## Subject Access Requests for the living –Data protection act 2018

Subject Access Requests can be made by:

* The individual themselves, referred to as the ‘data subject’
* Those who have parental responsibility (if requesting a child’s record)
* A representative nominated by the individual to act on their behalf; this could be a friend or relative. In these circumstances, valid consent by the individual granting the authority must accompany the application
* A person granted an attorney or agent by the Court of Protection on behalf of an adult who is not capable of providing their consent
* A solicitor acting on behalf of the individual (if the claim is or likely to be against the practice it should be treated no differently)
* Via a Court Order

Individual requests can be made verbally or in in writing, but for completeness the practice advocates making a request in writing or by using the Application for Personal Information form at Appendix B which will ensure the appropriate information is available to process the application. Requests can also come in via social media and the same process must be followed.

Requests must also have the appropriate documentation, for example identification documents if necessary, see Appendix M to support the application for access.

When a SAR from an insurance company is received, the practice will contact the patient to explain the implications of the request and the extent of the disclosure. Based on the ICO’s advice, the practice will offer patients a choice between a SAR which would involve the medical record being provided to them to share with the insurer as they wish or asking their insurance company to request a GP report  under the provisions of the Access to Medical Reports Act 1988.  If the patient then agrees to the SAR, the practice must then provide the medical record to the patient – not the insurance company. Appendix C is to support the process of wring out to patients in the event that a request for medical records has come from an insurance company.

## Subject access facilitation

This process will be facilitated by OSWALD MEDICAL CENTRE, who will provide a single point of access for the processing of Subject Access Requests and the management of these matters, especially relating to securing appropriate consent documentation.

## Where to send a request

For requests made in writing it is recommended using the Application for Personal Information form at Appendix B and sent with copies of any necessary identification documents, to

OSWALD MEDICAL CENTRE,296 UNION ROAD, OSWALDTWISTLE, ACCRINGTON, LANCASHIRE , BB5 3JB:

Requests received by post should be date stamped on receipt and passed to OSWALD MEDICAL CENTRE Manager.

## Key Roles

 OSWALD MEDICAL CENTRE has staff with specialist knowledge to process requests and are fully versed in the legislation surrounding requests for personal information and to provide assurance that requests are dealt with lawfully and that legislation is not breached.

 OSWALD MEDICAL CENTRE Caldicott Guardian is Dr George Manjoorran and the practice Data Protection Officer is Hayley Gidman. The DPO/Caldicott Guardian is responsible for overseeing the Subject Access Request process and providing support, direction and management to the practice team.

## Timescales

Applications made under the new General Data Protection Regulation/Data Protection Act 2018 must be responded to within **one month (28 calendar days)** unless exceptional circumstances apply when the time for a response can be extend by a further 2 months, in which case the applicant will be informed within the first month of this extension and the reasons for it,taking into account the complexity and number of the requests received by the applicant. Any requests to access personal information received should be directed to OSWALD MEDICAL CENTRE Manager.

Applications made under the Access to Health Records Act 1990 have a historic ministerial commitment that requests for access to health records should normally be handled within 21 days where the record has been added to within the last 40 days, otherwise a timescale of releasing the information within 40 days is applied. Again, requests for a deceased person’s records must be made to PCSE who will be the data controller for the records of the deceased.

## fees

Under the Data Protection Act (2018)/GDPR fees are no longer applicable, so your information can be released to the applicant free of charge. However, a reasonable fee can be charged if the practice determines the request is manifestly unfounded or excessive, yet the practice still decide to process the request. If this applies to a request, the practice will notify the applicant of the fee and why it applies.

When determining what fee is reasonable you can take into account administrative costs such as photocopying, printing or postage. You cannot charge for the time taken to deal with the request.

## manifestly unfounded or excessive requests

Under the Data Protection Act 2018/GDPR the practice has rights, as data controllers, to refuse a request for information if it is deemed to be manifestly unfounded or excessive. A request may be manifestly unfounded if the individual has no clear intention to access the information or is malicious in intent and is using the request to harass the practice, with no real purposes other than to cause disruption.

Whether a request is excessive, depends on its particular circumstances. A request may be excessive if it:

* repeats the substance of previous requests and a reasonable interval has not elapsed; or
* overlaps with other requests.

The practice will review every Subject Access Request on a case-by-case basis, but if the practice reaches the decision to refuse to comply with a request, the practice will inform the requestor as to why OSWALD MEDICAL CENTRE has not complied with the request along with information on the complaints process and their right to seek enforcement through a judicial remedy. The practice will always be as clear and transparent as possible when informing an individual that their request has been refused giving details of any exemptions applied and reasons why.

## redactions

When patients, their representatives, or other third parties ask for copies of their medical records, the practice staff should be aware that some information from these notes may need to be redacted ('blanked-out'). Redaction should be considered for information that relates to third parties, or which could cause serious harm to the patient or others if it were disclosed.

Identifying what third party information should be removed can be difficult. The extent of redaction will depend on who has asked for the records, who the third party is, and where that information came from.

## Information likely to cause serious harm

When complying with a Subject Access Request, it is important to understand what information can and can't be released. For example, under the Data Protection Act 2018 schedule 3, part 2, paragraph 2(2), access can be limited or denied if it would be 'likely to cause serious harm to the physical or mental health of the data subject or another individual', unless it is information of which the patient is already aware. In such cases, there must first be an assessment by the doctor responsible for the patient's care, and this should be recorded.

The threshold for serious harm redactions is relatively high and therefore information cannot be excluded simply because it may be harmful to your position or it might upset the patient. The decision must be made by an appropriate health professional.

## Third-party data

The practice should redact part of the record or withhold specific documents that relate to third parties - such as another individual who can be identified - unless the practice is able to get consent from the third-party. An example of this might be information disclosed in confidence from a relative of a patient, without the patient's knowledge. Each case of third-party redaction needs to be considered individually, but we will endeavour to release as much information as possible without disclosing the third-party individual’s identity

If information about a third party is in the notes because the patient has provided that information and they are making the SAR, then redacting this won't be necessary. This is because the patient will not be given any new information that is unknown to them. For example, if a patient tells you that their mother misuses drugs, this does not need redacting. If, on the other hand, the patient's notes show that the patient's mother had confided in the doctor that they thought the patient misuses drugs, then this information may need to be redacted. If the SAR is made by someone else on behalf of the patient however, then even third-party references that originate from the patient would need to be redacted. In keeping with ICO guidance decisions about third party information, redactions should be made on a case-by-case basis.

## removal of healthcare professionals information

The practice will ensure it adheres to the ICO's guidance which states that, 'special rules govern subject access to health, educational and social-work records. In practice, these rules mean that relevant information about health, education or social work professionals (acting in their professional capacities) should usually be disclosed in response to a SAR. However, if the patient's mother for example happens to be a healthcare professional and has provided information that has been incorporated into the notes, without the patient's knowledge, this would need to be removed before disclosing the records, as she is not acting in her professional capacity.

# Process summary flow chart

One **month** to respond – it’s the law. Enforced by the ICO

Request received into Practice. Date stamp hardcopy records.

Forward the request immediately to Practice Manager or appointed staff member

Requests for information must be returned as quickly as possible and certainly by no later than the date shown in the request**.**

Once records relevant to request have been obtained, complete final check of records

The Practice Manager will inform the requestor the practice does not hold records using App I

The Practice Manager will contact relevant services if required to request records using App G

The Practice Manager or responsible person will acknowledge (App D or E) and enter onto SARs log

The Practice Manager will contact applicant to request further information. Use App E

Does the request contain adequate information to process the request?

Yes

No

Does the Practice hold the records?

Yes

No

# Other Areas For Consideration

## Supervised access to view records

Viewing the records is an option but only if both parties agree.

If the viewing is supported, the process of reviewing the data sources and records follows the same process. The records must not be left unattended with the requestor, so the Practice Manager or appropriate practice team member must remain in the room to ensure that the records are not tampered with and to explain any entries or terminology or decipher and help with any legibility queries.

On occasions research organisations will request access to the records as part of a research project. Access can only be approved to relevant information with the prior written consent of the person or their personal representative. The Practice Manager must be informed, and the records reviewed as per the process above and the information disclosed to the research organisation.

If a person wishes to view their records and then wants to be provided with copies this would still come under the one access request.

## online access to health records

OSWALD MEDICAL CENTRE willallow make patients’ records available online which will allow access to GP records including medication, allergies, vaccinations, previous illnesses, test results to name but a few. To request access to online records a patient would need to request log in details from the practice who would provide this information. Requests can also be made by a third party acting on behalf of the patient, but like the process detailed, the relevant identification and approval would be required to verify this.

## Police requests

Requests where the consent is available may be processed in the same way as solicitors or third-party requests to release notes to the police. The Practice Manager and the Caldicott Guardian should be informed of any requests for records from the police which are not accompanied by the written consent of the data subject. The request from the police must be in writing to comply with the Data Protection Law Enforcement Directive. This is a more extensive data processing right and all requests by the police must comply with this directive.

The most relevant exemption for Law Enforcement is that within the Data Protection Act 2018 at Schedule 2 Part 1 Paragraph 2 (Crime & taxation: general). This applies where personal data is disclosed by an organisation subject to the GDPR to the police for the purposes of *the prevention or detection of crime* or *the apprehension or prosecution of offenders*.

It restricts the application of the GDPR data protection principles and subject rights (as listed in the Data Protection Act 2018 at Schedule 2 Part 1 Paragraph 1) to the extent that the application of those provisions would be likely to prejudice *the prevention or detection of crime* or *the apprehension or prosecution of offenders*.

In effect the exemption means that an organisation can provide personal data to the police where necessary for the prevention or detection of crime or the apprehension or prosecution of offenders without fear of breaching the GDPR or Data Protection Act 2018.

**Vital Interests** –GDPR Article 6(1)(d) provides a lawful basis for organisations to disclose personal data to the police where the disclosure *is necessary in order to protect the vital interests of the data subject or of another natural person.*

Original health records must not be given to the police and there will be no charge for copies of records.

## Court Order requests

All Court orders and associated documents must be brought to the attention of the Practice Manager and the Caldicott Guardian. Authorisation will be requested from the professional involved and copies of records will be given to the Court. The original records must not be released.

# Records not held by the practice

## Records held by another organisation contracted to provide services on behalf of the practice

There are instances where the practice contracts out services to another organisation. In these instances, the practice does not hold the records therefore the service that holds those records is responsible for processing the request for records, on behalf of the practice. In any instance where the practice instructs a data processor to process information on the practice behalf, the data processor will work with the practice to provide any information as requested by the Subject Access Request.

## Records held by another organisation to whom the practice does not contract services

If the request relates to a request for records where the practice is not the Data Controller, a letter should be sent to the applicant (see [Appendix A](#_APPENDIX_A_–)) advising the practice is not the Data Controller and provide suggestions to where the request should be forwarded to.

# Complaints and judicial review and remedy

If the applicant is dissatisfied with the information provided or the manner the request has been handled by the practice, they are entitled to complain following OSWALD MEDICAL CENTRE complaints procedure using the contact details below:

OSWALD MEDICAL CENTRE

296 UNION ROAD, OSWALDTWISTLE, ACCRINGTON, LANCASHIRE

BB5 3JB

01282282501

If the applicant is still dissatisfied once the complaints process is completed, they are entitled to make a complaint to the Information Commissioners Office (ICO).

The Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Telephone: 0303 123 1113

Email: casework@ico.org.uk

Website: <https://ico.org.uk/>

Under [Article 77 GDPR](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN#page=80), data subjects have **the right to lodge a complaint with the supervisory authority** in the Member State where they live and work and places of alleged infringements if they think that the processing of their personal data infringes the GDPR. It means that if an individual believes they personal data has been processed in a way that is incompatible with the regulation, a complaint can be lodged about this with the ICO.

There is also **a right to an effective judicial remedy against decisions of supervisory authorities** found in [Article 78 GDPR](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN#page=80) that is granted to natural and legal persons. In addition to this, data subjects have the right to obtain an effective judicial remedy when supervisory authorities do not address their complaints or do not inform them within three months about the progress or outcome of the complaints. The effective judicial remedy under this provision is to be obtained from the courts of England and Wales. Any data subject can thus have an effective judicial remedy against a legal binding decision of a supervisory authority and initiate legal proceedings before a national court. Recital 143 explains that decisions and actions that may be challenged in the courts include the exercise of investigative, corrective, and authorisation powers by the supervisory authority or the dismissal or rejection of complaints. The right does not encompass other measures by supervisory authorities which are not legally binding, such as opinions issued, or advice provided by supervisory authorities.

Furthermore, there is the **right to an effective judicial remedy against a controller or processor** as laid down in [Article 79 GDPR](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN#page=80). It allows data subjects to initiate proceedings against data controllers or processors before a court within England and Wales (if they live within England or Wales) unless controllers or processors are public authorities of the Member States and exercise their public powers.

# Monitoring and Audit

As part of the practice quality control measures and to meet the requirements of the Data Security and Protection Toolkit, audits will be undertaken in respect of both the Subject Access Request processes followed and the logs on an on-going basis. OSWALD MEDICAL CENTREwill consistently check for accuracy and quality of content and issues arising from the audits will be recorded along with necessary corrective actions and recommendations.

## Corrective Action

As a result of the regular monitoring and audits that will be undertaken any areas of concern (including staff not following processes) will be monitored and reviewed within a 1-month period to ensure that the practice meet the desired standard.

# Appendices

## APPENDIX A – SAR REQUEST FORM – FOR PATIENT AND THIRD PARTY USE

**APPLICATION FOR ACCESS TO PERSONAL INFORMATION**

**Please complete the form below and return this to you to request a copy of your medical records.**

|  |  |
| --- | --- |
| Once completed, please send this form to: | Oswald Medical Centre, 274 Union Road, Oswaldtwistle, Lancashire, BB5 3JB |

**Section 1 – Individual’s Details Requested**

|  |  |
| --- | --- |
| Individual’s full name |  |
| Previous name(s) |  |
| Date of birth |  |
| NHS Number (if known) |  |
| Applicant’s Current Address |  |
| Applicant’s Previous Address (if applicable) |  |
| Contact information – Telephone number, email address |  |

**Section 2 – Description of the information you require**

Please provide as much information as possible giving full details of the periods you are interested in.

|  |  |
| --- | --- |
| Types of Information Required | Date |
|  |  |
| Information Format |  |
| Please detail how you wish to receive your information, i.e. paper copies, USB stick etc. Please note we can only provide email copies to a secure email address.Also stipulate if information needs to be provided in an alternative language |  |

**Section 3 – Declaration**

I declare that the information given by me is correct to the best of my knowledge and that I am entitled to apply for access to the personal information referred to above under the terms of the General Data Protection Regulation/Data Protection Act 2018/Access to Health Records Act 1990.

|  |  |
| --- | --- |
| Applicants Name |  |
| Address to which reply should be sent (if different from above) including postcode |  |
| Signature of applicant |  |

(If you are not the person named in Section 1, please tick 🗹 one of the following boxes)

|  |  |
| --- | --- |
| I am the parent/guardian of an individual under 16 years old who has completed the Authorisation section (Section 5). |  |
| I am the parent/guardian of an individual under 16 years old who (is unable to understand the request/has consented to my making this request). |  |
| I am the deceased patient’s personal representative and attach confirmation of my appointment by a court to manage the patient’s affairs |  |
| I am the legal representative of the individual, and they have given signed authorisation (Section 5) |  |
| Other (please specify) |  |

**Section 4 – Authorisation**

I hereby authorise OSWALD MEDICAL CENTRE to release the requested personal data that they may hold relating to me to ………………………………………. **(Enter the name of the person acting on your behalf**), to whom I have given consent to act on my behalf.

Signature of Applicant…………………………………………………………………Date………………………………….

**Upon receipt of this form, OSWALD MEDICAL CENTRE will process your application in line with the 28 day requirement stipulated by legislation. If for any reason, the practice cannot fulfil your request within this timeframe, we will write to you to advise you.**

**Your medical record will usually be posted to you via Royal Mail to the address on our records. Before they are released we will either request sight of your identification or we will telephone you to perform ID checks remotely. Your records will only be released once we are satisfied that you have passed the necessary ID checks.**

**FOR OFFICE USE ONLY:**

|  |  |
| --- | --- |
| **ID CHECKS** | **Tick which ID checks performed** |
| **A minimum of 3 x ID checks must be performed verbally with the patient before release of records – this must be recorded on the patient record.** |  |
| **If the patient is unable to answer all questions correctly, ask the patient to join you on a video consultation and hold up 2 forms of primary (photographic ID – eg driving licence, passport, ID card etc.** |  |

## APPENDIX b – acknowledgement of request letter – no delays expected

Short date letter merged

Home Full Address (stacked)

Dear Full Name

**RE: Full Name Title Date of Birth NHS Number**

CONFIDENTIAL

Thank you for your letter / request form dated ………., which was received by the OSWALD MEDICAL CENTRE on (insert date), requesting a copy of your personal information as follows:

* + A full copy of your entire medical record\*
	+ Partial copies of your medical record\*
	+ Information pertaining to: [insert details]\*

\*delete as appropriate

We will deal with your request in accordance with the General Data Protection Regulation/Data Protection Act 2018/Access to Health Records Act 1990.

We will fulfil your request within the statutory timescales.

Yours sincerely

Mrs S Driver

Practice Manager

## APPENDIX C – NOTIFICATION OF DELAYS

Short date letter merged

Address of requestor

Dear Sirs

RE: Full Name Home Full Address (single line) Date of Birth

I refer to your request for a SAR (Subject Access Request) for the above named patient.

Please accept this letter as notification that your SAR will take in excess of the statutory 28 days for us to send.

This is purely due to [the unprecedented pressure currently placed on the NHS due to COVID-19 / enter other reason] and we must apologise for this.

We understand that you are currently providing support to our patient and therefore we would like to assure you that we will send the patient record as soon as possible. We do place a great emphasis on providing information which in turn supports our patients.

If you require the information as a matter of urgency, please contact us and if possible please could you identify to us some defined parameters for the request as this may assist us in responding within a shorter timeframe. SARs do place a great deal of pressure on the practice and we often find that only a small amount of information is actually required which in turn represents a smaller amount of work for us and therefore a faster turnaround.

Thank you for your understanding in this matter. The SAR will be sent as soon as possible.

Yours sincerely

Oswald Medical Centre

## APPENDIX d – sar FULFILLED – LETTER TO PATIENT (FULL RECORD)

 Short date letter merged

Full Name

Home Full Address (stacked)

Dear Given Name

**RE:** **Full Name** **Date of Birth** **Home Full Address (single line)**

I refer to your request for a copy of your medical records.

I enclose a copy of all of the information held by us in your medical record for your attention.

Yours sincerely

Oswald Medical Centre

## APPENDIX e – sar FULFILLED – LETTER TO 3RD PARTY (FULL RECORD)

Short date letter merged

Enter requestors’ postal address

Dear Sirs

**RE: Full Name Date of Birth Home Full Address (single line)**

I refer to your request for a copy of the above named patient’s medical records.

I enclose herewith a copy of all information held by the Practice in the Patient’s medical record.

Yours sincerely

Oswald Medical Centre

## APPENDIX f – sar FULFILLED – LETTER TO patient (electronic RECORD only)

 Short date letter merged

Full Name

Home Full Address (stacked)

Dear Given Name

**RE: Full Name Date of Birth Home Full Address (single line)**

I refer to your request for a copy of your medical records.

I enclose a copy of your electronic medical records for your attention.

Yours sincerely

Oswald Medical Centre

## APPENDIX g – sar FULFILLED – LETTER TO 3rd party (electronic RECORD only)

 Short date letter merged

Enter requestors’ postal address

Dear Sirs

**RE: Full Name Date of Birth Home Full Address (single line)**

I refer to your request for a copy of the above named patient’s medical records.

Your request did not set any defined parameters for the provision of the record, therefore I enclose a copy of the patient’s electronic medical record, rather than the full and entire record (including paper notes) which can take considerable time and resource.

If the information does not meet your needs, please let us know. I must point out that a full subject access request can take a considerable amount of time and is particularly challenging during the current pandemic, and we hereby notify you that any such additional request is likely to take in excess of the standard and mandated 28 days.

Yours sincerely

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Oswald Medical Centre

## appendix h – letter to patient following request for records from insurance company

Short date letter merged

Home Full Address (stacked)

Dear Patient,

**RE: Full Name Date of Birth Home Full Address (single line) – SAR Request via Insurance Company**

Dear Full Name

I am writing to you as your insurance company has requested access to your full medical record. You will already be aware of this as you have agreed for the insurance company to make a Subject Access Request.

I understand that you have signed a form of consent, however, we need to be satisfied that you have provided explicit consent for your full medical records to be shared with the insurance company.

This is because your records may include extremely sensitive information which you may not expect to be shared or may not need to be shared as part of your application for insurance or the assessment of any claim.

I also want to let you know that our practice has questioned whether the law allows insurance companies to use Subject Access Requests to obtain confidential and sensitive personal data. The General Data Protection Regulation states that only data which is sufficient for the purpose for which it is required should be disclosed and sensitive personal data which is not relevant or excessive in relation to this purpose should not be disclosed.

The Information Commissioner’s Office (ICO) has written to the insurance industry to confirm that they consider the use of subject access rights in this way as inappropriate and an abuse of that right. As the data controller of your medical record we are responsible for ensuring only necessary and relevant information held on your record is shared with an insurance company, however we also have a duty to comply with a subject access request made by you as a patient and do not want to cause any delays to your application.

We are therefore giving you a choice. We can provide you with a copy of your full medical records under a Subject Access Request. This would not be considered as excessive as we are providing the information to you, not the insurance company. It is then entirely your decision whether you give your medical records to the insurance company in full or not.

Alternatively, you can ask your insurer to request a GP report from the practice which will only cover information in your record that is relevant to your application. Medical reports also exclude some information, in line with agreement reached with the insurance industry, such as genetic test results and certain information about sexually transmitted infections. Please therefore let us know if you would like a copy of your full medical records under a subject access request or whether you plan to ask your insurer to seek a medical report. The Practice will make a charge to your insurance company for the provision of the medical report, however, a subject access request made to yourself will not incur a charge, provided that you have not made a previous request. Where previous requests have been fulfilled by the practice, we will agree a price with you for the provision of your medical records (dispatched directly to you) which must be paid in full before any release of the records in made.

Alternatively, you may wish to sign up to the MyGP app which gives access to your medical records via the app which you may choose to share with your insurance company (you must agree with your insurer how you will share these and make arrangements between yourselves). The MyGp app is free to download and use and you will have ongoing access to your records for as long as you have the app installed. Please see our website for the relevant forms and information you need to access your records via the MyGP app – you can print and complete the forms directly or request these from the surgery by telephone 01254 282501.

The Practice will take no further action on this until we receive your instruction on how to proceed.

In summary your choices are as follows:

* Contact us to confirm that you would like your medical records to be sent in full to you – you may then send on information which is relevant to be shared. For your convenience I have enclosed the necessary forms with this letter, which you must complete and return to us.
* Complete the ‘Online Access’ request forms and return these to us so we can grant access to your medical records online for you to share with your insurer as required
* Speak with your insurer to advise them to make a formal written request for a medical report in writing which should outline the information required and contain your consent – we will then issue an invoice for the cost of completing the report and send this directly to your insurer.

Yours sincerely,

Mrs S Driver

Practice Manager

## APPENDIX i – RECORDS NOT HELD BY PRACTICE

Short date letter merged

[ENTER POSTAL ADDRESS OF REQUESTOR]

**CONFIDENTIAL**

Dear Sirs

**RE:** **Full Name** **Title** **Date of Birth** **NHS Number**

Dear ,

Thank you for your request dated XXXXXX, which was received by OSWALD MEDICAL CENTRE on xxxxxxxxxxx, regarding your personal information under the General Data Protection Regulation/Data Protection Act 2018.

OSWALD MEDICAL CENTRE only provide information held by this organisation, as the registered Data Controller.

As the information you require is held by INSERT NAMES / ADDRESSES OF POSSIBLE DATA CONTROLLERS, a request will have to be sent to these organisation(s) individually, following their Subject Access process, as they are Data Controllers in their own right.

If you wish to discuss the matter further, please contact me on the above number.

Yours sincerely

***Mrs S Driver***

Practice Manager

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## APPENDIX J – SAR CANNOT BE PROCESSED – PATIENT DECEASED

 Short date letter merged

[Enter Address of requestor]

Dear Sirs,

**RE:** Full Name Title Date of Birth NHS Number Home Full Address (single line)

I write further to your request for a copy of Full Name medical records.

To view the health records of someone who has died, you can apply in writing to the record holder under the Access to Health Records Act (1990).

Under the terms of the act, you will only be able to access the deceased health records if you’re either;

* A personal representative (the executor or administrator of the deceased person’s estate).
* Someone who has a claim resulting from the death (this could be a relative or another person).

Only information directly relevant to a claim will be disclosed.

After a person has died, their GP Health records will be passed to Primary care support England so that they can be stored. Since the above named patient has sadly passed away, the records are now the property of primary care support England.

To access their GP records, you can access a list of local services on the primary care support England website, where you can also find information about any fees that may apply and an application form.

GP records are generally retained for 10 years after the patient’s death before they are destroyed.

For hospital records, the record holder is the records manager at the hospital the person attended. Fees may apply for accessing these records.

I hope that this assists you in accessing the information that you need.

Kind Regards,

Oswald Medical Centre

## APPENDIX K – Acknowledgement letter – requesting further information

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 Short date letter merged

[ENTER POSTAL ADDRESS OF REQUESTOR]

**CONFIDENTIAL**

Dear Sir/Madam,

Re: Full Name , Date of Birth , Hospital Number, EMIS Number

I refer to your request for personal information under the Data Protection Act 2018/General Data Protection Regulation (GDPR) /Access to Health Records 1990 about the above-named individual.

I am writing to advise you that OSWALD MEDICAL CENTRE has not yet received an application form/proof of identity/address information to continue with this request. (\*delete/amend as appropriate)

If the information is still required, you may wish to return the previously sent application form (completed in full) to the address above – 274 Union Road, Oswaldrwistle.

If no further communication is received within **10 days of the date of this letter** the OSWALD MEDICAL CENTRE will assume the information is no longer required and close this request

If you have any queries about this letter, please contact the practice. Please remember to quote the patient details as above in future correspondence relating to this request.

Yours sincerely

Mrs S Driver

Practice Manager

## APPENDIX L – Authorisation to Release Records Form

**AGREEMENT TO DISCLOSURE OF RECORDS – SCAN TO PATIENT RECORD OR COMPLETE IN EMIS**

Where it is suspected that DEDACTION is necessary in relation to a Patient’s medical records, the following form must be completed after review by the GP. This will inform the Data Quality Officer what is to be sent and what information needs to be redacted before the records are released. **Dr George Manjooran or Dr Jacob Skaria 296 UNION ROAD, OSWALDTWISTLE, ACCRINGTON, LANCASHIRE, BB5 3JB**

|  |  |
| --- | --- |
| Person’s Name |  |
| Date of Birth |  |
| Address |  |

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| --- |
| **AUTHORISER’S DECLARATION** – Please tick relevant box or boxes1 I agree to the attached records being released to the above named person or the person’s authorised representative.2 Part or the whole of the records has been withheld on grounds that:Disclosure is likely to cause serious harm to the physical ormental health of the person or of another individualAccess would disclose information relating to, or provided by, athird party who is not an NHS health care professional and has not consented to their information being disclosedThe record contains information the person expressly stated must not be releasedThe person is under 16 and I do not think he/she fully understandswhat an application to see their records means**LIST OF EXEMPTIONS/REDACTIONS ON PAGE 2 PROVIDED – Please include page number and reason****LIST OF RECORDS TO SEND: -**1.2.3.Subject Access Administrator Name (please print) Post held Signature ………………………………………………………. Date Caldicott Guardian name (please print) Signature ………………………………………………………. Date  |
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| --- | --- | --- |
| **No.** | **Page Number** | **Reason for exemption/redaction** |
| **1** |  |  |
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## APPENDIX K – Response to the Applicant – Partial Disclosure

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Short date letter merged

Full Name

Home Full Address (stacked)

CONFIDENTIAL

Dear Calling Name

Re: Full Name , Date of Birth , Home Full Address (single line) , NHS Number

Further to your request for ………. records in relation to the above-named person, please find enclosed the following records:

* …………

We are unable to provide you with a complete copy of the information requested due to it falling under the following exemption(s):

* ***…………..***

If you wish to discuss the matter further, please contact the Practice on the above number.

Should you be unhappy with the response received, you have the right to complain to the Information Commissioner’s Office. The Information Commissioner can be contacted by:

Information Commissioner's Office
Wycliffe House Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 0303 123 1113

Email: casework@ico.org.uk

Website: <https://ico.org.uk/>

You also have the right to apply to a court if you believe that there has been a contravention of your rights under data protection legislation.

Yours sincerely

Mrs S Driver

Practice Manager

## Subject Access Exemptions – Where right of subject access does not apply

|  |  |
| --- | --- |
| **Category** | **Exemption** |
| Crime and Taxation | Section of the personal information contained in the records, or individual records that relate to the prevention and detection of crime or the apprehension or prosecution of offenders. |
| Health, Education and Social Work | Social work records exemptions come under the Data Protection (Subject Access Modification) (Social Work) Order 2000 relates to personal information used for social work purposes: Where release of information may prejudice the carrying out of social work by causing serious harm to the physical or mental condition of the data subject or others.Certain third party’s information can be released if they are a “relevant person “(a list is contained in the order) as long as release of the information does not cause serious harm to the relevant person’s physical or mental condition. |
| Research, history statistics | Where the personal data is used solely for research purposes and as long as resulting statistics are not made available which identify the person. |
| Human fertilisation and embryology | Personal information can be withheld in certain circumstances where it relates to human fertilization and embryology.  |
| **The full list of subject areas where exemptions as designated by Data Protection Act 2018 may apply:** |
| * National security
* Crime and taxation
* Health, education and social work
* Regulatory activity
* Journalism, literature and art
* Research, history and statistics
* Information made available to the public or by under enactment
* Domestic purpose
* Confidential references
* Armed forces
* Judicial appointments
* Crown employment
* Management forecasts
* Negotiations
* Examination marks
* Examination scripts
* Legal professional privilege
* Self-incrimination
* Crown appointments
* Human fertilisation and embryology, and adoption records and reports
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## APPENDIX L – Response to Applicant – Refusal of Disclosure

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 Short date letter merged

Full Name

Home Full Address (stacked)

Dear Calling Name

Re: Full Name , Date of Birth , Home Full Address (single line) , NHS Number

I write further to your request for ………. records in relation to the above-named person.

We are unable to provide you with the information you requested due to it falling under the following exemption(s):

If you wish to discuss the matter further, please contact me on the above number.

Should you be unhappy with the response received, you have the right to complain to the Information Commissioner’s Office using the following details:

Information Commissioner’s Office

Wycliffe House Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 0303 123 1113

Email: casework@ico.org.uk

Website: <https://ico.org.uk/>

You also have the right to apply to a court if you believe that there has been a contravention of your rights under data protection legislation.

Yours sincerely

Mrs S Driver

Practice Manager

## APPENDIX A – Subject Access Exemptions – Where right of subject access does not apply

|  |  |
| --- | --- |
| **Category** | **Exemption** |
| Crime and Taxation | Section of the personal information contained in the records, or individual records that relate to the prevention and detection of crime or the apprehension or prosecution of offenders. |
| Health, Education and Social Work | Social work records exemptions come under the Data Protection (Subject Access Modification) (Social Work) Order 2000 relates to personal information used for social work purposes: Where release of information may prejudice the carrying out of social work by causing serious harm to the physical or mental condition of the data subject or others.Certain third party’s information can be released if they are a “relevant person “(a list is contained in the order) as long as release of the information does not cause serious harm to the relevant person’s physical or mental condition. |
| Research, history statistics | Where the personal data is used solely for research purposes and as long as resulting statistics are not made available which identify the person. |
| Human fertilisation and embryology | Personal information can be withheld in certain circumstances where it relates to human fertilization and embryology.  |
| **The full list of subject areas where exemptions as designated by Data Protection Act 2018 may apply:** |
| * National security
* Crime and taxation
* Health, education and social work
* Regulatory activity
* Journalism, literature and art
* Research, history and statistics
* Information made available to the public or by under enactment
* Domestic purpose
* Confidential references
* Armed forces
* Judicial appointments
* Crown employment
* Management forecasts
* Negotiations
* Examination marks
* Examination scripts
* Legal professional privilege
* Self-incrimination
* Crown appointments
* Human fertilisation and embryology, and adoption records and reports
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## APPENDIX M – Subject Access Exemptions – Where right of subject access does not apply

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| **Category** | **Exemption** |
| Crime and Taxation | Section of the personal information contained in the records, or individual records that relate to the prevention and detection of crime or the apprehension or prosecution of offenders. |
| Health, Education and Social Work | Social work records exemptions come under the Data Protection (Subject Access Modification) (Social Work) Order 2000 relates to personal information used for social work purposes: Where release of information may prejudice the carrying out of social work by causing serious harm to the physical or mental condition of the data subject or others.Certain third party’s information can be released if they are a “relevant person “(a list is contained in the order) as long as release of the information does not cause serious harm to the relevant person’s physical or mental condition. |
| Research, history statistics | Where the personal data is used solely for research purposes and as long as resulting statistics are not made available which identify the person. |
| Human fertilisation and embryology | Personal information can be withheld in certain circumstances where it relates to human fertilization and embryology.  |
| **The full list of subject areas where exemptions as designated by Data Protection Act 2018 may apply:** |
| * National security
* Crime and taxation
* Health, education and social work
* Regulatory activity
* Journalism, literature and art
* Research, history and statistics
* Information made available to the public or by under enactment
* Domestic purpose
* Confidential references
* Armed forces
* Judicial appointments
* Crown employment
* Management forecasts
* Negotiations
* Examination marks
* Examination scripts
* Legal professional privilege
* Self-incrimination
* Crown appointments
* Human fertilisation and embryology, and adoption records and reports
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## APPENDIX N – Acceptable Forms of Identification

For verification of identity the following combinations are acceptable when applying for a request for personal information\*:

* A form of photographic personal identification and a document confirming their address

**Note\***

* If you are applying on behalf of an individual proof of entitlement will also be required separately.

**Acceptable Photo Personal Identity Documents**

* Current UK (Channel Islands, Isle of Man or Irish) passport or EU/other nationalities passports.
* Passports of non-EU nationals containing UK stamps, a visa or a UK residence permit showing the immigration status of the holder in the UK\*
* Current UK (or EU/other nationalities) Photo-card Driving License (providing that the person checking is confident that non-UK Photo-card Driving Licenses are genuine)
* A national ID card and/or other valid documentation relating to immigration status and permission to work\*

Note, documents such as an organizational ID card are not acceptable forms of identification.

**Acceptable Non-Photo Personal Identity Documents**

* Current Driving License (old version);
* Birth certificate
* Residence permit issued by Home Office to EU Nationals on inspection of own-country passport;
* Adoption certificate;
* Marriage/Civil Partnership certificate;
* Divorce or annulment papers;
* Police registration document;
* Certificate of employment in HM Forces;
* Current benefit book or card or original notification letter from the Department of Work and Pensions (DWP) confirming legal right to benefit;
* Most recent HM Revenues and Customs (previously Inland Revenue) tax notification;
* Current firearms certificate;
* Application Registration Card (ARC) issued to people seeking asylum in the UK (or previously issued standard acknowledgement letters, SAL1 or SAL2 forms);
* GV3 form issued to people who want to travel in the UK without valid travel documents;
* Home Office letter IS KOS EX or KOS EX2;
* Building industry sub-contractor’s certificate issued by HM Revenues and Customs (previously Inland Revenue)

**To confirm the address, the following documents are acceptable:**

* Recent utility bill or a certificate from a supplier of utilities confirming the arrangement to pay for the services on pre-payment terms (note: mobile telephone bills should not be accepted as they can be sent to different addresses). Utility bills in joint names are permissible; **\***
* Local authority tax bill (valid for current year); **\***
* Current UK photocard driving license (if not already presented as a personal ID document);
* Current Full UK driving license (old version) (if not already presented as a personal ID document);
* Bank, building society or credit union statement or passbook containing current address;
* Most recent mortgage statement from a recognised lender; **\***
* Current local council rent card or tenancy agreement;
* Current benefit book or card or original notification letter from Department of Work and Pensions (DWP) confirming the rights to benefit;
* Confirmation from an electoral register search that a person of that name lives at the claimed address; **\***
* Court Order. **\***

**Proof of Entitlement**

* Copy of the section of the Will which names you as Executor;
* Copy of Grant of Probate;
* Copy of Letters of Administration;
* Letter from solicitor confirming entitlement;

*\*****The date on these documents should ideally be within the last 6 months (unless there is a good reason for it not to be e.g. clear evidence that the person was not living in the UK for 6 months or more) and the must contain the name and address of the applicant.***

## Appendix o – Process Summary Flow

## Appendix p – Standard Process

|  |  |  |  |
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| Stage |  | Overview of Tasks | CRM System Entries |
| Log |  | Check SARs log for existing requestsLog all details onto the SARs logCreate folder in the shared driveScan and attach any related correspondence (including e-mails)Ensure all necessary checks have been undertaken |  |
| Review |  | Acknowledge receipt of requestReview to confirm which service request relates toForward request onto relevant service |  |
| Collate |  | Records received from serviceUndertake relevant checks for completeness including Authorisation to Release Records FormCarry out any recommendations included within Authorisation to Release Records FormEnsure all copies are correct and redactions correct (including ensuring redacted entries are no longer visible) |  |
| Close |  | Ensure Subject Access Lead/Caldicott Guard approve release of records in their final formatEnsure response to applicant is correctResponse sent to applicantUpdate all log entries and ensure that all documents are included within the SARs log and the shared driveClose the case on the SARs log |  |