

Data Subject right of access to health records Guidance

The General Data Protection Regulation (GDPR) allows you access to information that is held about you by the Trust. This is known as “Data Subject or Subject Access Request” (SAR). This provides you the right to request, make amendments and changes to the information we hold on our records about you.

You should be aware that in certain circumstances your right to see some details in your health records may be limited or withheld in your own interest or for other reasons; this will always be in accordance with GDPR / Data Protection Act 2018.

The “serious harms test” will be applied to all information requests before it is disclosed by the Trust. This means some information may be withheld based on Health Care Professional (Clinician) Judgement.

Please note that in certain circumstances where erasure request would adversely affect freedom of expression, our corporate retention guidelines, a contract obligation or a public interest in areas of scientific, historical research or prohibit the establishment of a legal claim to exercise a defence for legal claims we may not be able to erase the information you have requested in accordance with Article 17(3) of the GDPR. In such cases, you will be informed promptly and given full reasons for that decision.

The Trust will endeavour to respond to your request within the 30days.

Your request may be delayed if it is complex and require more time to process, in which case an extension will be applied which may be up to 2 months or more. If this applies to your request, the team dealing with your request will notify you before the expiration of the 30days timeline.

Information you supplied in making this request will be treated in confidence. It will only be used for the purpose of carrying out the search and changes you request for.

Barnet Enfield and Haringey Mental HealthTrust is only responsible for providing information, that is held by us. You do not need to give a reason to access your health records.

To request for access or changes to your own records, or access to the records of a deceased person you will need to do the following:

- Make a request in writing or speak to your Clinician.
- Complete our information request form also known as Subject Access Request (SAR) form.
- Provide 2 forms of suitable ID e.g. copy of a passport and a utility bill or statement within 3 months of the request date.
- Provide as much information as possible to help us with our search for your record and identify the informations you are requesting.
- Ensure that all information provided is accurate and up to date.

In most cases, unless a request is complex, the Trust has one month in which to respond to your request.

Be aware that if access has recently been given, access may not be given again, until a reasonable time interval has passed.

A reasonable fee may apply if your request is manifestly unfounded (repetitive) or excessive in nature (complex) and require additional resource to process.

There is no minimum age for applications. Children can apply for their own records provided they are at the competent age and capable of understanding the nature of the request.

A parent or guardian can only apply on a child's behalf if:

- (a) the child is too young to have the understanding or does not have the capacity to make the request,
- (b) the child has given consent.

Please note that a parent does not have a legal right of access to their child's health records in all circumstance.

Requesting access to records of the deceased

The Access to Health Records Act 1990, provides opportunity for certain individuals to have access to a deceased person health record. These rights of request are available to:

- Personal representative of the deceased
- An executor of the deceased estate
- Someone who has a claim resulting from the death (this could be a relative or another person)

You need to complete our SAR form to access a deceased person's record.

Request by representatives or other persons

A Power of Attorney or written consent from the data subject is required if you want us to release information to someone other than yourself (e.g. a solicitor, insurance company or relative).

We also need to be satisfied that the person acting on your behalf or making the request is entitled to do so, we will require evidence of their authority and or proof of their legitimate responsibility / relationship to you.

Collection of your request

We can provide your request to you by Post, Electronically by Email or you may want to collect by hand in person. Please note it will not be possible to send request that are large in volume electronically. Please select the relevant section on the application form.

Complaints about any aspect of an application to obtain access to health records should be discussed in the first instance with the Trust.

If this avenue is unsuccessful a complaint can be made to the Information Commissioner, at Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Tel 0303 123 1113 or <https://ico.org.uk/>