

**SUBJECT ACCESS REQUEST POLICY**

**Contents**

1 Aim ..... 2

2 Definitions ..... 2

3 Process A flow chart of the process is shown in appendix a ..... 2

4 Who Has a Right to Apply..... 2

    4.1 Records of Patients under the Age of 16..... 3

    4.2 Records of Patients over the Age of 16..... 3

    4.3 Third Party Requests ..... 3

5 Timescales ..... 3

6 Fee ..... 3

7 Mistakes or Inaccuracies ..... 3

8 Information you will receive ..... 4

9 Circumstances in which we may refuse your request..... 4

10 Appendices ..... 5

    10.1 Appendix a – Subject Access Request Process..... 5

    10.2 Appendix b – subject access application form..... 6

## 1 Aim

All patients have a right, under the General Data Protection Regulation, to access the personal data held by the practice. To do so, a patient should make a subject access request, and this policy sets out how a request should be made, and the actions of the practice upon receiving the request.

This policy has been produced to ensure that Weaver Vale Practice meets its obligations regarding requests for Access to Health Records.

*The unauthorised passing on of patient personal information by staff is a serious matter and will result in disciplinary action and the risk of legal action by others*

Staff must not allow personal details of patients to be passed on or sold for fund-raising or commercial marketing purposes

## 2 Definitions

“Personal data” is any information relating to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier, including your name.

“Special categories of personal data” includes information relating to:

- race
- ethnic origin
- politics
- religion
- trade union membership
- genetics
- biometrics (where used for ID purposes)
- health
- sex life or
- sexual orientation.

## 3 Process

A flow chart of the process is shown in appendix a

If a patient wishes to make a request, please use the Subject Access Request form (appendix b) so that a request may be dealt with more efficiently and effectively if it is made in writing

Requests that are made directly by the patient should be accompanied by evidence of their identity. This can be a passport, driving licence, utility bill or birth certificate. If this is not provided, we will be unable to comply with the request.

If the request is made to view the records, the patient will be accompanied by a member of staff whilst the records are viewed.

Requests made in relation to a patient's data from a third party should be accompanied by evidence that the third party is able to act on your behalf. If this is not provided, we will be unable to comply with the request.

## 4 Who Has a Right to Apply

- The patient
- Any person authorised in writing, to apply on behalf of the patient.

- The person having parental responsibility for a child under 16, if the child agrees.

#### **4.1 Records of Patients under the Age of 16**

If the child is competent of understanding the application, their consent is needed to allow access to the records, unless, in exceptional circumstances, the record holder considers that it is in the child's best interest to allow access without their consent i.e. There is a real justification for allowing access without consent. If the child is not capable of understanding the application, the person with parental responsibility has a right of access, subject to the usual safeguards/examples.

#### **4.2 Records of Patients over the Age of 16**

Patients capable of managing their own affairs - the applicant must have the written authority of the patient if they are capable of managing their own affairs.

Patients incapable of managing their own affairs - the applicant must have proof that they have the authority to act on behalf of the patient.

This will be by way of one of the following:

- a) They have been appointed by the Court to manage the patient's affairs. Documentation will exist if this is the case, and a photocopy of it should be obtained.
- b) They are the deceased patient's personal representatives.
- c) Documentation will exist if this is the case, and a photocopy of it should be obtained.

#### **4.3 Third Party Requests**

Where the patient has consented to a third party disclosure Weaver Vale Practice is obliged to comply with the request and disclose the third party information.

However, consent may not have been given for one or more reasons, examples of which are:

- a) Consent has not been sought;
- b) It is not possible to obtain consent because the patients whereabouts are unknown;
- c) The patient does not have legal capacity to consent;
- d) The patient declines to consent.

#### **5 Timescales**

Usually, the practice will comply with the patients request within one month. Where requests are complex or numerous, the practice may contact the applicant to inform them that an extension of time is required. The maximum extension period is two months.

#### **6 Fee**

The practice will normally comply with a request at no cost. However, if the request is manifestly unfounded or excessive, or if it is repetitive, the practice may contact the applicant requesting a fee. This fee must be paid in order for the practice to comply with the request. The fee will be determined at the relevant time and will be set at a level which is reasonable in the circumstances.

In addition, the practice may also charge a reasonable fee if a request for further copies of the same information is received.

#### **7 Mistakes or Inaccuracies**

If the applicant considers that there are mistakes or inaccuracies in the record they can ask the record holder for a note to be made in the records stating their opinion. If the practitioner agrees that the information is inaccurate, they should make the correction.

Care must be taken not to simply obliterate information, which may have significance for the future care and treatment of the patient, or for litigation purposes.

If the practitioner does not agree, a note recording why the applicant considers the information to be inaccurate must be made in the relevant part of the record.

Consideration should also be given to whether it is appropriate to note any associated records, e.g. computer records. It should be understood that in Law nothing may be erased from a paper health record but a correction may be added.

A copy of any correction or note should be supplied to the patient. No fee may be charged for this.

## **8 Information you will receive**

When you make a subject access request, you will be informed of:

- whether or not your data is processed and the reasons for the processing of your data;
- the categories of personal data concerning you;
- where your data has been collected from if it was not collected from you;
- anyone who your personal data has been disclosed to or will be disclosed to, including anyone outside of the EEA and the safeguards utilised to ensure data security;
- how long your data is kept for (or how that period is decided);
- your rights in relation to data rectification, erasure, restriction of and objection to processing;
- your right to complain to the Information Commissioner if you are of the opinion that your rights have been infringed;
- the reasoning behind any automated decisions taken about you.

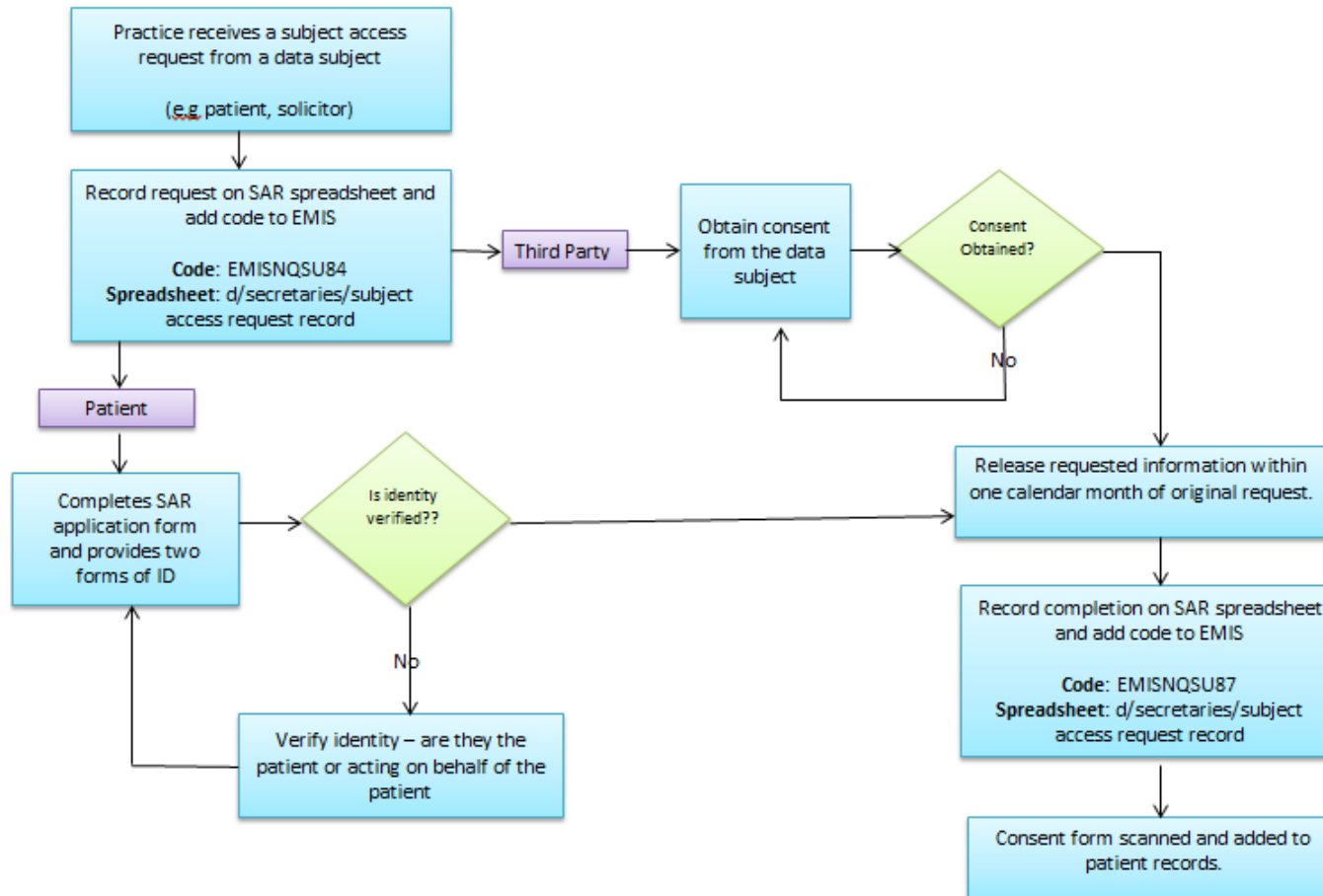
## **9 Circumstances in which we may refuse your request.**

We may refuse to deal with your subject access request if it is manifestly unfounded or excessive, or if it is repetitive. Where it is our decision to refuse your request, we will contact you without undue delay, and at the latest within one month of receipt, to inform you of this and to provide an explanation. You will be informed of your right to complain to the Information Commissioner and to a judicial remedy.

We may also refuse to deal with your request, or part of it, because of the types of information requested. For example, information which is subject to legal privilege or relates to management planning is not required to be disclosed. Where this is the case, we will inform you that your request cannot be complied with and an explanation of the reason will be provided.

## 10 Appendices

### 10.1 Appendix a – Subject Access Request Process



## 10.2 Appendix b – subject access application form

Weaver Vale Practice

### Subject Access Request Form

**Details of the Record to be accessed:**

Patients Name:	Date of Birth:
Address:	

**Details of the Person who wishes to access the records, if different to above:**

Name:	
Address:	
Telephone Number:	
Relationship to Patient	

**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 health records referred to above under the terms of the General Data Protection Regulation (GDPR).

Tick which ever of the following statements apply.

<input type="checkbox"/>	I am the patient.
<input type="checkbox"/>	I have been asked to act by the patient and attach the patient's written authorisation.
<input type="checkbox"/>	I am acting in Loco Parentis and the patient is under age sixteen, and is incapable of understanding the request / has consented to me making this request. (*delete as appropriate).
<input type="checkbox"/>	I am the deceased patient's Personal Representative and attach confirmation of my appointment.
<input type="checkbox"/>	I have a claim arising from the patient's death and wish to access information relevant to my claim on the grounds that (please supply your reasons below).

SIGNATURE.....

DATE.....

**Details of my Application**

(please mark as appropriate)

**Patient to complete**

I am applying for access to view my records only	<input type="checkbox"/>
I am applying for copies of my medical record	<input type="checkbox"/>
I am applying for access to my records on-line	<input type="checkbox"/>
I have instructed someone else to apply on my behalf	<input type="checkbox"/>

**Notes:**

Under the General Data Protection Regulation (GDPR) you do not have to give a reason for applying for access to your health records.

**Optional** - Please use this space below to inform us of certain periods and parts of your health record you may require, or provide more information as requested above.

This may include specific dates, consultant name and location, and parts of the records you require e.g. written diagnosis and reports. Note: defining the specific records you need may result a quicker response.

I would like a copy of all records	<input type="checkbox"/>
I would like a copy of records between specific dates only (please give date range) below:	<input type="checkbox"/>
I would like copy records relating to a specific condition/ specific incident only (please detail below)	<input type="checkbox"/>

*Usually, the practice will comply with the patient's request within one month. Where requests are complex or numerous, the practice may contact the applicant to inform them that an extension of time is required. The maximum extension period is two months.*

More information can be found about General Data Protection Regulation (GDPR) by visiting the Information Commissioners Office Website [www.ico.org.uk](http://www.ico.org.uk)

**For Practice Use Only - ID seen**

- Current Valid Driving Licence   
  Current Valid Passport   
  Utility Bill (less than 3mths old)  
 Birth Certificate   
  Adoption Certificate   
  Bank Statement (less than 3mths old)

Signature \_\_\_\_\_