



STANDARD OPERATING PROCEDURE FOR THE MANAGEMENT OF SUBJECT ACCESS REQUESTS

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Version 1.0	July 2022	This process has been adopted in full from NHS Shropshire, Telford and Wrekin NHS STW Policy of the same name
Version 3.0	March 2024	Due to office move address and addresses on appendices updated.

Contents Page

Introduction	5
Data Protection Act 1998 and General Data Protection Regulation	5
Access To Health Records Act 1990	5
Who Can Make a request?	5
Subject Access Requests – General Data Protection Regulation/Data Protection Act 2018	5
Requests made under Access to Health Records Act 1990 for deceased person's records	6
Service Introduction	6
Where the request is to be sent to	6
Key Roles	7
Timescales	7
Process summary flow chart	8
Other Areas For Consideration	9
Supervised access to view records	9
Police requests	9
Court Order requests	9
Records not held by NHS STW	9
Records held by another organisation contracted to provide service on behalf of NHS STW	/9
Records held by another organisation to whom NHS STW does not contract services	10
Complaints	10
Monitoring and Audit	10
Corrective Action	10
Appendices	11
APPENDIX A – Incorrect Data Controller Response	11
APPENDIX B – Application for Access to Personal information	12
APPENDIX C – Acknowledgement Letter – If no further information required	14
APPENDIX D – Acknowledgement letter – requesting further information	15
APPENDIX E – Authorisation to Release Records Form	16
APPENDIX F - Request for Records to Service Area	18

APPENDIX G – No Response Letter	19
APPENDIX H – Personal Information not held	20
APPENDIX I - Response to the Applicant – Full Disclosure	21
APPENDIX J – Response to the Applicant – Partial Disclosure	22
APPENDIX K – Response to Applicant – Refusal of Disclosure	23
APPENDIX L – Subject Access Exemptions – Where right of subject access does not apply .	24
APPENDIX M – Acceptable Forms of Identification	25
APPENDIX N – Process Summary Flow	28
APPENDIX O – Escalation Triggers	29

Introduction

This Standing Operating Procedure (SOP) sets out what staff should do when receiving a request for personal information, such as medical information or staff information, and applies to NHS Shropshire, Telford and Wrekin (NHS STW) for records for which they are the Data Controller (or Data Processor as required). NHS STW are 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 NHS STW Patient Services Team, however, there may be rare occasions when requests will be processed by staff not part of this team. Staff should follow the guidance in this SOP to ensure compliance with current legislation. If staff are unsure, they should contact the Patient Services Team for advice and assistance.

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 1998 and General Data Protection Regulation

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

Access to Health Records Act 1990

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.

Who can make the request?

Subject Access Requests – General Data Protection Regulation/Data Protection Act 2018

Subject Access Requests can be made by:

- The individual themselves, 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 such as solicitors or a relative. In these circumstances, valid consent by the individual granting the authority must accompany the application
- In certain situations, a person granted an attorney or agent by the Court of Protection on behalf of an adult who is capable of consent
- The police
- A solicitor acting on behalf of the individual (if the claim is or likely to be against the

Organisation it should be treated no differently), valid documentation granting the authority must accompany the application.

Via a Court Order

Individual requests should be made 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 must also have the appropriate documentation, for example identification documents if necessary, see Appendix M to support the application for access.

Requests made under the Access to Health Records Act 1990 For Deceased Person's Records

Requests made under the Access to Health Records Act 1990 can be requested by:

- The patient's personal representative a personal representative is the executor or administrator of the deceased person's estate, valid documentation granting the authority must accompany the application.
- Any person who may have a claim arising out of the patient's death, valid documentation granting the authority must accompany the application.

Service Introduction

This process will be facilitated by the Patient Services Team. The team provides 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 the request is to be sent to

Requests should be made in writing and it is recommended using the Application for Personal Information form at Appendix B and sent with copies of any necessary identification documents, to the NHS STW Patient Services email address:

stw.patientservices@nhs.net

Requests may still be received by post and these should be date stamped on receipt and sent to the Patient Services team either in hardcopy by internal mail. All requests should be made to:

Patient Services Team
Wellington Civic Offices
Larkin Way
Tan Bank
Wellington
Telford
TF1 1LX

If verbal requests for information are received, then the requester should be directed to complete the Application for Personal Information form and return it along with supporting documents to:

stw.patientservices@nhs.net

There may also be requests via social media and direction should be given as above.

Key Roles

The Patient Services Team have 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.

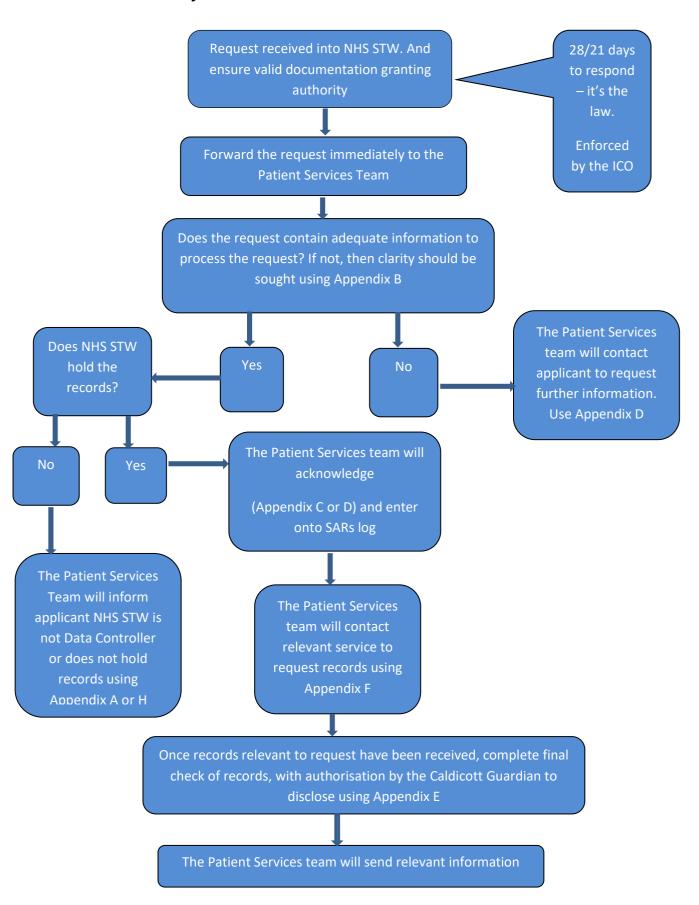
NHS STW's Caldicott Guardian is the Chief Medical Officer and the Data Protection Officer (DPO) is the Midlands and Lancashire CSU Head of Information Governance. The DPO and Caldicott Guardian are responsible for overseeing the subject access request process and providing support, direction and management to the Patient Services 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 in which case the applicant should be informed. Any requests to access personal information received should be directed to the Patient Services team immediately.

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.

Process Summary Flow Chart



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 appropriate senior manager 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 appropriate senior 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.

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 Information Governance Team and/or 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.

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 Information Governance Team and/or 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 NHS STW

Records held by another organisation contracted to provide services on behalf of NHS STW

There are instances where NHS STW contracts out services to another organisation. In these instances, NHS STW does not hold the records therefore the service that holds those records is responsible for processing the request for records, on behalf of NHS STW. Therefore, NHS STW need to redirect the request to the relevant team and request that they follow their procedure to manage the request on behalf of NHS STW. NHS STW should advise the applicant of this by amending the acknowledgement letter at Appendix C to provide contact details for the team who will be processing the request on behalf of NHS STW and the reasons why they will be doing so.

Records held by another organisation to whom the NHS STW does not contract services

If the request relates to a request for records where NHS STW is not the Data Controller, a letter should be sent to the applicant (see Appendix A) advising NHS STW is not the Data Controller and provide suggestions to where the request should be forwarded to.

Complaints

If the applicant is dissatisfied with the information provided or the manner the request has been handled by NHS STW, they are entitled to complain following NHS STW's complaints procedure.

Patient Services Team
Wellington Civic Offices
Larkin Way
Tan Bank
Wellington
Telford
TF1 1LX

Email: stw.patientservices@nhs.net

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.gsi.gov.uk Website: www.ico.gov.uk

Monitoring and Audit

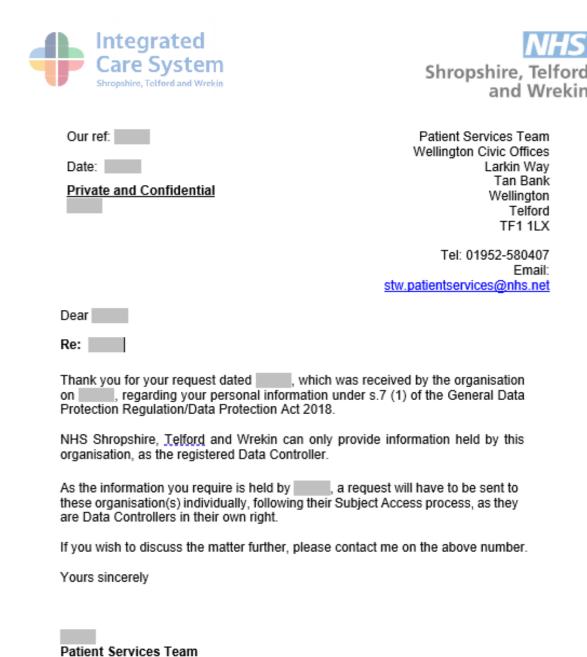
As part of our quality control measures and to meet the requirements of the Data Security and Protection Toolkit, audits will be undertaken in respect of both the Subject Access Request processes followed and the logs on an on-going basis. NHS STW and the CSU IG Team will consistently check for accuracy 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 practices meet the desired standard.

APPENDICES

APPENDIX A - INCORRECT DATA CONTROLLER RESPONSE



NHS Shropshire Telford & Wrekin

APPENDIX B - APPLICATION FOR ACCESS TO PERSONAL INFORMATION





APPLICATION FOR ACCESS TO PERSONAL INFORMATION

Once completed, please send this form to:	NHS Shropshire, <i>Telfotd</i> and Wrekin Wellington Civic Offices Larkin Way Tan Bank Wellington Telford TF1 1LX
	Or via email to: stw.patientservices@nhs.net

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 <u>address</u>	

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.

Date



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 postsodo	
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 <u>affairs</u>	
I am the legal representative of the Individual, and they have given signed authorisation (Section 5)	
Other (please specify)	

Section 4 - Authorisation

hereby authorise NHS Shropshire, Jelford and Wrekin to release the requested personal data that they may hold relating to me to
Signature of Applicant
Date

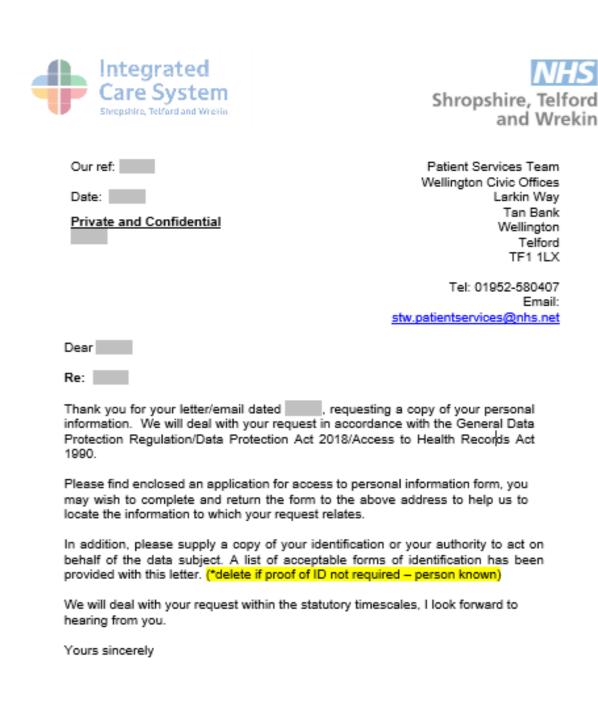
APPENDIX C – ACKNOWLEDGEMENT LETTER – IF NO FURTHER INFORMATION REQUIRED





Shrepshire, Telford and Wreitin	Shropshire, Tel and Wr
Our ref: Date: Private and Confidential	Patient Services Team Wellington Civic Offices Larkin Way Tan Bank Wellington Telford TF1 1LX
	Tel: 01952-580407 Email: stw.patientservices@nhs.net
Dear	
Thank you for your letter dated, which organisation on, requesting a copy of your follows:	
:	
We will deal with your request in accordance wit Regulation/Data Protection Act 2018/Access to F	
We will deal with your request within the statutor	y timescales.
Yours sincerely	
Patient Services Team NHS Shropshire, Jelford and Wrekin	

APPENDIX D – ACKNOWLEDGEMENT LETTER – REQUESTING FURTHER INFORMATION



Patient Services Team NHS Shropshire, Jelford and Wrekin

APPENDIX E - AUTHORISATION TO RELEASE RECORDS FORM





AGREEMENT TO DISCLOSURE OF RECORDS

The form and documents to be released (copies of health/personnel records) must be sent to:

Nick White. Chief Medical Officer

Documents must not be released directly to the applicant				
	on's Name		•	
Date	of Birth			
Addr	ess			
AUTI	HORISER'S D	CLARATION - Please t	tick relevant box or boxes	
1			ng released to the above norised representative.	
2	Part or the	hole of the records ha	s been withheld on grounds that:	
		likely to cause seriou: h of the person or of a	s harm to the physical or nother individual	
	third party		relating to, or provided by, a th care professional and tion being disclosed	
	The record not be rele		e person expressly stated must	
		s under 16 and I do no lication to see their rec	ot think he/she fully understands cords means	
LIST OF EXEMPTIONS/REDACTIONS ON PAGE 2 PROVIDED - Please include page number and reason				
LIST	OF RECORD	TO SEND:		
1. 2. 3.				
Subject Access Administrator Name (please print)				
Post held				

Signature				
Date	Date			
Caldic	ott Guardian name (please pri	nt)		
Signat	ure	Date		
	Page Number	Reason for exemption/redaction		
	_			

APPENDIX F - REQUEST FOR RECORDS TO SERVICE AREA





Our ref:	Patient Services Team
	Wellington Civic Offices
Date:	Larkin Way
Division and Confidential	Tan Bank
Private and Confidential	Wellington
	Telford
	TE1 11 V

Vellington Civic Offices Larkin Way Tan Bank Wellington Telford TF1 1LX

Tel: 01952-580407 Email: stw.patientservices@nhs.net

Dear			
Please find attached a request for records in relation to			
Please could you kindly retrieve a copy of these records and ensure that they are checked and redacted if necessary.			
Should you have any questions please contact myself.			
The ICB's Caldicott Guardian will be approving all records prior to release to the applicant.			
Please could these be returned to me no later than (10 working days).			
With kind regards			
Yours sincerely			
Patient Services Team NHS Shropshire, <u>Telford</u> and Wrekin			

APPENDIX G - NO RESPONSE LETTER





Our ref:	
Date:	
Private and Confidential	

Patient Services Team
Wellington Civic Offices
Larkin Way
Tan Bank
Wellington
Telford
TF1 1LX

Tel: 01952-580407 Email: stw.patientservices@nhs.net

Dear	
Re:	
Re.	

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 we have 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 to the address below.

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

If you have any queries about this <u>letter</u> please do not hesitate to contact me. Please remember to quote the reference number above in any future communication.

Yours sincerely

Patient Services Team NHS Shropshire, Telford and Wrekin

APPENDIX H - PERSONAL INFORMATION NOT HELD





Larkin Way Tan Bank Wellington Telford TF1 1LX

Our ref:	Patient Services Team
our rei.	
	Wellington Civic Offices
Date:	Larkin Way
Director and Confederation	Tan Bank
Private and Confidential	Wellington
	Telford
	TE4 41 32

Tel: 01952-580407 Email: stw.patientservices@nhs.net

Dear Re:

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

I am writing to advise you that following a search of our paper and electronic records, we have established that the information you requested is not held by this organisation.

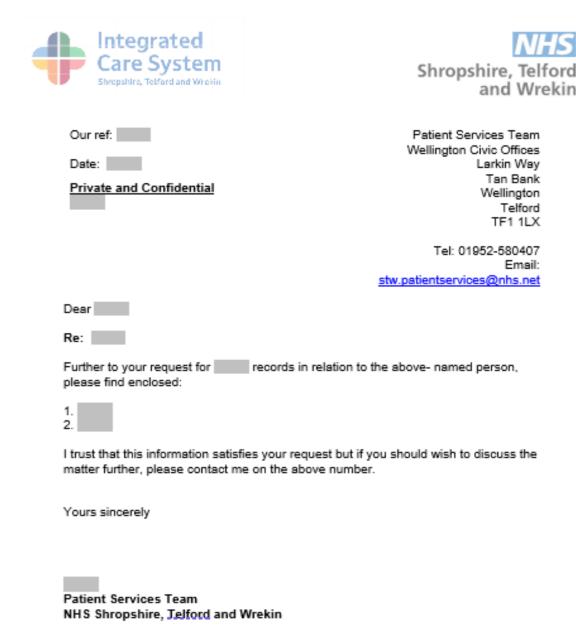
However, we think it may be held by the following:

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communication.

Yours sincerely

Patient Services Team NHS Shropshire, Jelford and Wrekin

APPENDIX I - RESPONSE TO THE APPLICANT - FULL DISCLOSURE



APPENDIX J - RESPONSE TO THE APPLICANT - PARTIAL DISCLOSURE





Our ref:			
OHIP PAT:			
	C DH H	net:	

Date:

Private and Confidential

Patient Services Team Wellington Civic Offices Larkin Way Tan Bank Wellington Telford TF1 1LX

Tel: 01952-580407

Email:

stw.patientservices@nhs.net

Re:

Further to your request for a copy of the medical records in relation to the abovenamed person, please find enclosed the records we hold, which have been redacted where necessary.

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

.

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

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

Yours sincerely

Patient Services Team NHS Shropshire, <u>Jelford</u> and Wrekin

APPENDIX K - RESPONSE TO APPLICANT - REFUSAL OF DISCLOSURE





Shrepshire, Tetrard and Wrekin	and Wrek
Our ref: Date: Private and Confidential	Patient Services Team Wellington Civic Offices Larkin Way Tan Bank Wellington Telford TF1 1LX
Dear	Tel: 01952-580407 Email: stw.patientservices@nhs.net
Re:	
I write further to your request for person.	records in relation to the above-named
We are unable to provide you with the under the following exemption(s):	information you requested due to it falling
If you wish to discuss the matter further	er, please contact me on the above number.
	onse received, you have the right to complain fice. The Information Commissioner can be
Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF	
Tel: 0303 123 1113	
Yours sincerely	
Patient Services Team NHS Shropshire, <u>Jelford</u> and Wreki	n

APPENDIX L – SUBJECT ACCESS EXEMPTIONS – WHERE RIGHT OF SUBJECT ACCESS DOES NOT APPLY





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

2





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.

• The details of the request and all attachments are logged within the SARs log and saved within the shared drive.

Log

- The request is reviewed to ascertain which service and NHS STW it relates to
- Establish if the request relates to Subject Access or Access to Health Records
- Ensure that all supporting documentation has been provided (such as proof of identification or proof of authorisation) and confirm of information
- Forward the request onto the correct Subject Access Administrator for action

Review

- The requested information is received back from the service
- The authorisation to release records form is reviewed and any necessary actions taken (such as redactions)
- All required documentation is saved to the SARs log and the shared drive

Collate

If no records are held the requestor is notified accordingly

- If records are held and all actions have been taken and approved for release, all applicable documentation is released to the applicant (in the format agreed between the organisation and the requestor)
- The SARs log case is updated and closed

Close

APPENDIX O - ESCALATION TRIGGERS

Trigger	Method	Who
11 Days	If the requested information has not been provided by the service, the Patient Services Team will send out a reminder email.	Patient Services Team
	The service will be reminded of the pending deadline date.	
	If the requested information has not been received by Patient Services Team	
14 Days	The team will send out a reminder and copy in the Chief Medical Officer and Corporate Affairs Manager. SARs log must be updated to reflect all contacts that take place.	Patient Services Team
16 Days	If the requested information has not been received by the Patient Services Team the Corporate Affairs Manager will send out a reminder. SARs log must be updated to reflect all contacts that take place.	Corporate Affairs Manager
19 Days	If the requested information has not been received by the Patient Services Team, the Chief Medical Officer should escalate to the Service Area Lead that has not provided the requested information. SARs log must be updated to reflect all contacts that take place.	Chief Medical Officer