

Hook Surgery Policy on patient access to medical notes

The Law

(A fuller description and further information may be obtained from the Office of the Information Commissioner www.informationcommissioner.gov.uk)

A patient has a right of access to their medical notes through both the Data Protection Act 1998 and the Access to Health Records Act 1990. The latter is now mostly covered by the Data Protection Act but still applies to access to notes of a patient who has died.

A patient is allowed access to records of which he is the subject and to have communicated to him, in an intelligible form, what that information is. The request for access to such personal data should be made in writing and a charge may be made. The patient must provide suitable identification. Some information may not be disclosed e.g. data identifying someone other than the subject unless that person has consented to the disclosure. The law allows 40 days for the requested information to be provided.

In 1997 the government published the Caldicott Report regarding 'patient identifiable information' which set the principles by which the NHS should handle information relating to patients and recommended action to maintain the security and confidentiality of such information. Hook surgery abides by these recommendations.

Children and Young People

Children over the age of 12 are generally considered to have the capacity to give or withhold consent to release medical records. In Scotland, there is a legal assumption that this is the case, but not in England Wales or Northern Ireland where those under 16 should demonstrate that they have the capacity to make these decisions. Where the child is considered to be capable, then their consent must be sought before access is given to a third party.

Access can be refused by the health professional where they consider that the child does not have capacity to give consent / decline decisions.

Individuals with parental responsibility for an under 18 year old will have a right to request access to those medical records. Access may be granted if access is not

contrary to the wishes of the competent child. Not all parents have Parental

Responsibility. A person with parental responsibility is either:

- i the birth mother, or
- ii the birth father (if married to the mother at the time of child's birth or subsequently) if both are on the birth certificate, or,
- iii an individual given parental responsibility by a court.

Parental responsibility is not lost on divorce. If parents have never been married only the mother has automatic parental responsibility, however the father may subsequently "acquire" it.

If the appropriate health professional considers that a child patient is Gillick competent (i.e. has sufficient maturity and understanding to make decisions about disclosure of their records) then the child should be asked for his or her consent before disclosure is given to someone with parental responsibility.

If the child is not Gillick competent and there is more than one person with parental responsibility, each may independently exercise their right of access. Technically, if a child lives with, for example, its mother, and the father applies for access to the child's records, there is no "obligation" to inform the mother. In practical terms, however, this may not be possible and both parents should be made aware of access requests unless there is a good reason not to do so.

In all circumstances good practice dictates that a Gillick competent child should be encouraged to involve parents or other legal guardians in any treatment/disclosure decisions.

The data controller may refuse access to the record where the information contained in it could cause serious harm to the patient or another person.

Hook Surgery procedure

Please put your request in writing to the Practice Manager (the staff will assist you with this if necessary). Please specify what information you require if known.

The Hook surgery will offer you an appointment with a GP to discuss the information. This is offered as medical data can be difficult for the 'layperson' to understand and the GP will be able to explain any information that you may not understand. If you are sure that you do not require this, the receptionist will make a note of your request

and inform the Partners. The practice will then contact you to arrange an appointment.

In exceptional circumstances your GP may feel that some information contained in the notes may be harmful if disclosed to you. This may mean harmful to your physical or mental health. In such circumstances it is permissible for the surgery to withhold such information but this is very rare.

We can provide copies of the information on request and are entitled to charge up to £10 where the record is held solely in electronic form, or up to £50 where the record is held in manual form or as a mixture of manual and electronic data. If the records are for your own use we will normally make a charge for photocopying at the rate of 20p per sheet.

We will require proof of your identity e.g. a document, which includes a photograph of you, such as passport or driving licence.

If we are requested to provide access to the medical notes of a patient who has died we are obliged to seek the permission of that persons next of kin.

Access to medical records by a solicitor.

Where a patient approaches a solicitor to seek compensation e.g. for injury in an accident, the solicitor will often seek medical information from your GP. The solicitor will write to us and we will in turn contact you to confirm that you are happy for information to be disclosed. You may well have signed a 'form of consent' for your solicitor, which he will send to us. It is the policy of the Kingston Primary Care Trust and of this surgery that we will seek your permission directly and clarify whether you wish all your medical records to be released or just those parts that relate to your claim. We will then seek payment from the solicitor before releasing the information.

If you have any questions about this policy please discuss with the Practice Manager

Policy agreed: June 2004

Reviewed:

July 06

Aug 07

Nov 07

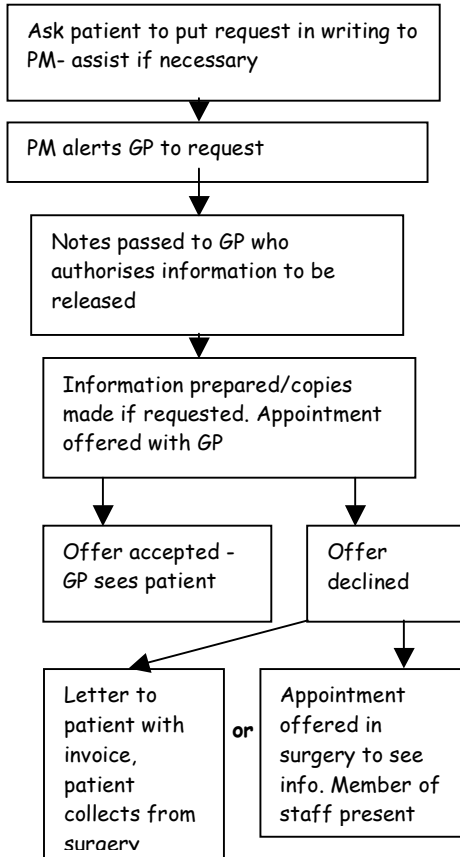
May 09

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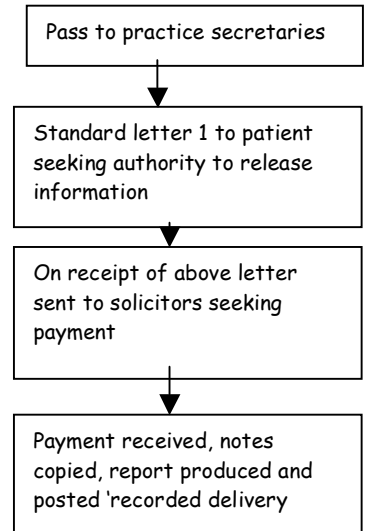
FLOWCHART FOR RECEPTIONISTS
Patients' access to medical notes

Request received for access to patient notes

From patient



From solicitor



Standard letters

1.

Dear

Your solicitor has recently contacted us to request copies of all your medical notes. It is the policy of the Hook Surgery to contact our patient in such circumstances and request your permission to release all your notes (which may contain information irrelevant to your claim or of a personal nature) or just that portion relevant to your claim.

Would you please indicate below whether you wish all your notes or just those parts relating to your claim to be released. In the latter case please indicate ' notes relating to accident on DD/MM/YYYY' Or 'all notes between DD/MM/YYYY'

Please tick appropriate

box

I authorise you to release all my medical notes

I authorise you to release notes relating to

My accident on:

All notes between :

Yours sincerely,

Lorna Campbell
Practice Manager

2.To solicitor

Dear

Re:

Thank you for your request for copies of the above patient's medical notes. It is the policy of this practice to consult our patient as to whether s/he wishes all his/her notes released or just those parts relating to his/her claim. Our patient has indicated s/he wishes all/only those parts related to the claim to be released. I shall be happy to do so on receipt of your cheque in settlement of the attached invoice.

Yours sincerely,

Lorna Campbell
Practice Manager

Standard letter 4

Patients request for access to their notes

Dear Practice Manager

I would be grateful if you would arrange for me to see my medical notes.

Please indicate what information you would like to see by ticking the appropriate box.

- I would like to see information relating to
(e.g. my operation for appendicitis in March 2004)
- I would like to see all information between and
(e.g. 1.3.200 and 1.3.2004)
- I would like to see all my records from birth to present date.

I understand that there will be a charge of 20p per sheet photocopied up to a limit of £10 if records are held in electronic format (on computer) or £50 if they are held in paper and electronic format.

- I would like to see my GP so that unfamiliar terms can be explained to me.
- I do not wish to see my GP but undertake to collect the information from reception.

Yours sincerely,

Standard letter 5

Parents request for access to their child's notes

Dear Practice Manager

I would be grateful if you would arrange for me to see the medical notes held regarding my children

Names:

Please indicate what information you would like to see by ticking the appropriate box.

- I would like to see information relating to
(e.g. an operation for appendicitis in March 2004)
- I would like to see all information between and
(e.g. 1.3.200 and 1.3.2004)
- I would like to see all my child's records from birth to present date.

I understand that there will be a charge of 20p per sheet photocopied up to a limit of £10 if records are held in electronic format (on computer) or £50 if they are held in paper and electronic format.

- I would like to see my GP so that unfamiliar terms can be explained to me.
- I do not wish to see my GP but undertake to collect the information from reception.

Yours sincerely,