

DATA PROTECTION OFFICE NEWS

September 2022

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DPO Newsletter 39

Management of Deceased patient records

From August 1st, 2022, GP Practices are no longer required to send a copy of the medical record of the deceased patient to PCSE and any Access to Health Records Act requests should be dealt with by the practice.

Records should be held for 10 years after death and while the deceased are out of the scope of the Data Protection legislation, a Duty of Confidentiality should of course continue after a patient has died.

The Access to Health Records Act (AHRA) 1990 provides certain individuals with a right of access to the health records of a deceased individual. These individuals are defined under Section 3(1)(f) of that Act as, *'the patient's personal representative and any person who may have a claim arising out of the patient's death'*.

A personal representative is the executor or administrator of the deceased person's estate. They must apply to access the record in writing and, if they are the Administrator, provide proof of Grant of probate. Access requests can take up to 40 days to process. Please be mindful that the following information can be withheld:

* 3rd Party information, except those who were involved in the deceased's healthcare

* Information that may cause serious physical or mental harm to someone else

* Information that the deceased wished or expected to remain confidential

Storage of Lloyd George Records of deceased patients

This remained a grey area and I have tried to get clarification on this. I received the following message from NHS England, which doesn't feel like particularly definitive/ official advice! I would suggest though, for the time being, you continue to send Lloyd George notes to PCSE.

Dear Jane

This was passed to us in the records management team, but I've just checked with IG colleagues on this one to be sure, considering some of the recent changes, but yes, LG folders can continue to be sent to PCSE as previously. Hope this is useful, if we can assist with anything else, please let us know.

Kind Regards

Lindsay

Lindsay Ince, Corporate Records Manager, Information Governance Team NHS England

Access to patient records via NHS App – implementation date November 2022

From November 1st, patients, aged 16 and over, will be able to access prospective data in their health record via the NHS App. To enable this, you will need to activate the functionality in your clinical system, in advance of November 1st 2022.

You may wish to apply the new Snomed code "*Enhanced review indicated before granting own access to health record*": **1364731000000104** to selected records; this would need to be done in advance of November 1st, 2022. Please do remember though that patients will only see prospective data - data entered into the health record on or after November 1st 2022.

For further information, please see the following: [Access to patient records through the NHS App - NHS Digital](#)

For Oldham Practices - Medical Examiners DPIA (Data Protection Impact Assessment) on Information Sharing Gateway

The national Medical Examiners programme, which is intended to add further scrutiny to non-coronial deaths is currently being rolled out in the Oldham area. This programme of work will require practices to allow Medical Examiners to access the clinical system to review the record of deceased patients and access Next of Kin contact details, as outlined in the DPIA on the Information Sharing Gateway. If you haven't already done so, can you please log onto the ISG to sign off this agreement: [Log in - Information Sharing Gateway](#)

If you require any further information about the above, or any other Data Protection issues, please do not hesitate to contact me at jane.hilldpo@nhs.net or westpennine.lmc@nhs.net or mobile 07951 530 417.