

GETTING HOLD OF PERSONAL MEDICAL RECORDS FROM WEST SUSSEX HOSPITALS

May 2019

In West Sussex, Healthwatch provide a free and **Independent Health Complaints Advocacy Service (IHCAAS)**, helping local people explore options for getting their voice heard when they feel something has gone wrong with their health service.

As well as supporting people to explore their complaint options, providing practical assistance, attending a resolution meeting, and putting your complaint to the Health Service Ombudsman, we also work with the healthcare organisation and system to make sure learning from complaints helps to improve services for those who need them now and in the future. Part of this work is looking at how NHS organisations can improve on how they handle complaints.

Our insight, from people needing advocacy support to make a health complaint, suggested mixed experiences in trying to getting copies of medical records from hospital Trusts (which is something that can help when making a complaint). The advocates recognised this had, and has, the potential to affect many residents of West Sussex and therefore raised this as a Healthwatch issue.

Accessing your personal medical records is free, and healthcare professionals have a legal requirement to allow you to see them. (A reasonable fee may be charged in some cases, for example if repeated requests are made.)

Your GP will have records and so will any hospitals that have provided treatment.

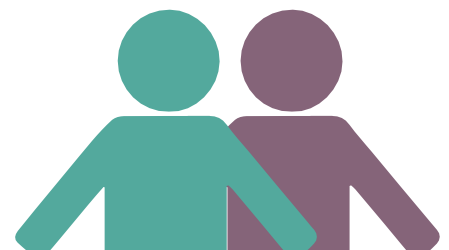
This insight in this report was referred to Healthwatch West Sussex Team (as it has the potential to affect many residents of West Sussex) in order that we could look at this issue and use our statutory powers to make a difference.

What we looked at?

We asked one of our *Authorised Representatives* to carry out an online investigation and this report details the findings.

The main website for each of the hospitals was searched for '*obtaining medical records*', then again for '*patient records*', and finally '*Subject Access Request*' (the formal term for this).

Supporting local people through Independence
Health Complaints Advocacy Service



What we found?

There were two instances where information was not available: Queen Victoria Hospital and Sussex Partnership NHS Foundation Trust. Elsewhere, it was not too difficult to get the information for other hospitals/Trusts. Although it was noticeable how different the procedures are.

The details for each Trust can be found in Appendix A.

Applying process:



I've been putting off filling in the Subject Access Request application form for 2 weeks as it looked so daunting. After completing it, I now feel it was an easy process but not sure about the legal action question.

Most of the Trusts asked for a form to be completed. However, in other parts of the country, Trusts simply state:

How to request your records

Your request may be submitted in writing or verbally. To help us process your request faster, please include a name and address for correspondence and describe the information that you are requesting, giving us enough detail about the information to allow us to correctly identify and locate it.

Requests in writing should be sent to:

A leaflet outlining how your information is used by the Trust is available [here](#).

We suggest this is good practice but recognise that in this example, the need for supplying proof of identity is not covered and could lead to delays in patients or their families getting the records.

The [Information Commissioner's Office](#) says on this matter:

.... even if you have a form, you should note that a subject access request is valid if it is submitted by any means, so you will still need to comply with any requests you receive in a letter, a standard email or verbally.

Therefore, although you may invite individuals to use a form, you must make it clear that it is not compulsory and do not try to use this as a way of extending the one month time limit for responding.

Verifying who you are:

To protect patient confidentiality, it is important that NHS organisations ask for proof of identity (ID) before supplying records.

The [ICO](#) states:

If you have doubts about the identity of the person making the request you can ask for more information. However, it is important that you only request information that is necessary to confirm who they are. The key to this is proportionality.

You need to let the individual know as soon as possible that you need more information from them to confirm their identity before responding to their request. The period for responding to the request begins when you receive the additional information.

We recognise the risk to a Trust of someone challenging this, if they believed a Trust's processes were not robust enough in protecting their confidentiality.

The clearest example of what forms of ID were acceptable were found was on the Brighton and Sussex NHS Foundation Trust website, as this information also helps those without all of the usual forms of ID. It recognises that not everyone has utility bills in their name.

Not all Trusts made it clear that copies of ID are acceptable or how old the proof document can be, i.e. a utility bill must be under 6 months for example. One hospital stated it would not return original documents, such as passports.

Information required:

Most forms patients would be asked to complete to get a copy of their medical records included a question asking if the request for information was in respect of making a claim against the hospital. Only Brighton and Sussex NHS Foundation Trust gave an option to tick *I do not want to complete this section*.

People are under no obligation to tell the NHS organisation for what purpose they require their medical records. The [ICO](#) states:

SARs are designed to be 'purpose-blind' because access is a cornerstone right of data protection, so GPs cannot query the reason for a patient or their representative requesting the information.

We would suggest that many people, who may have sought legal advice may well not answer this question or put a false answer.

For these reasons, we challenge the use of any question that asks if the request for information is in respect of making a claim against the hospital and recommend this question is removed.

Timeframe for responding:

Not all the information states when a person can expect to receive their records. This may be due to the NHS organisation assuming a statutory position, e.g. they are required to respond to a request within one calendar month, upon receipt of valid proof that the requestor has a legitimate right to access the medical data.

However, it should not be assumed people know their legal rights.

Recommendations

1. We recommend both the **Queen Victoria NHS Foundation Trust** and **Sussex Partnership NHS Foundation Trust** quickly review their website information considering the information in this document, to make it easy for people to obtain their medical records without delay, as is their right.
2. We recommend **all Trusts** review their information to ensure people know what proof of identity information is needed (include how old the information can be) and what can be accepted if a person does not have *for example* a utility bill in their name.
3. We recommend **all Trusts** review their information to make sure it is clear when a person can expect to receive the medical records and what to do if they have not been received within the statutory one calendar month.
4. We recommend **all Trusts** review the process by which people can request a copy of their records, to make this as easy and timely as possible.
5. We recommend **all Trusts** who continue to use a request form remove the question from their forms that ask the person if the information is in respect of making a claim against the hospital, to reduce the need for answering inappropriate questions.
6. We recommend **Western Sussex NHS Foundation Trust** review the Subject Access Form, to ensure this is easy to use and compliant with the Accessible Information Standard guidance.
7. We recommend **all Trusts** consider providing all leaflets and forms in **both** Word and PDF formats on their websites. A PDF document will be accessible to those with all computer systems: a word document can be translated online and can be saved on a computer, completed on a computer and emailed to the Trust, for example those who may be housebound or using software for the blind or partially sighted.

The above recommendations have been added to our *Recommendations Tracker*, which is review and reported on periodically, to check the outcomes of recommendations and to escalate, where necessary.

Western Sussex Hospitals NHS Foundation Trust

<https://www.westernsussexhospitals.nhs.uk>

For Worthing Hospital; St Richards Hospital (Chichester) and Southlands Hospital (Shoreham-by-Sea).

Searching for '**obtaining medical records**' provided a link to a page where there is a link to 'How we use your information'. Further down this page is a section '**Subject Access Requests - How you can arrange to see your own health records**', with another link to an application form in Word format. A word document may be problematic for someone who does not have this software, but it is good for translating to other languages (which is not possible with a PDF). This form is dated April 2017 and is quite *busy* and is 5 pages long. It would benefit from being updated and condensed.

A list of what ID is required, in a PDF format

<https://www.westernsussexhospitals.nhs.uk/your-trust/about/how-we-use-your-information-2>

<https://www.westernsussexhospitals.nhs.uk/wp-content/uploads/2018/05/Patient-Your-Medical-Information-Leaflet-v11.0-20171219.pdf> but we could not see any reference to filling in a request form in this leaflet, only to contact the Subject Access Request Team.

There is also a link '**View your medical records online**' once a patient has registered. The patient can also set it up so that a second person (e.g. family member or carer) can also view the records. There is reference to seeing copies of letters, appointments and discharge summaries. *"However, once you have registered for an account we will use it to send all letters, including appointment letters, instead of the post. You will receive email alerts when you have new information in your account."*

<https://www.westernsussexhospitals.nhs.uk/your-trust/about/how-we-use-your-information-2/patients-know-best>

Searching on '**patient records**' provided a link where the same links as above was given, further down the page.

Searching on '**Subject Access Request**' provided a first link as above. The second link '**Making a request**' provided information on Freedom of Information requests.

Normal response time: We could not easily find this information.

ID: Copy of passport or driving licence and copy of a utility bill. Plus, multiple other options if you are not the patient.

Sussex Partnership NHS Foundation Trust

<https://www.sussexpartnership.nhs.uk>

This Trust provides mental health services from a variety of [locations](#), including *Langley Green Hospital (Crawley)* and *Meadowfields Hospital (Worthing)*.

Searching under '**obtaining medical records**' provided the correct link <https://www.sussexpartnership.nhs.uk/your-health-records> "*If you want to request access to your health records, all you need to do is send your request to health.records@sussexpartnership.nhs.uk or send your request by post to: [Swandean address]*"

No guidance is given on what the requestor needs to do to get the information, for example what ID a person should supply? This is likely to mean a delay, due to correspondence exchange between the requestor and the Trust, to resolve the request.

Searching under '**patient records**' provides the same link.

Searching under **Subject Access Request** provides the same link.

Normal time response time: 1 month from receiving all required information.

ID: no information given.

Sussex Community NHS Foundation Trust

<https://www.sussexcommunity.nhs.uk>

For the following hospitals in West Sussex: Arundel; Bognor Regis; Crawley; Horsham; Midhurst; St Richards; Worthing; Zachary Merton, Littlehampton.

Searching under '**obtaining medical records**', information was found on page 2 of the search results under 'Patient Records'.

<https://www.sussexcommunity.nhs.uk/contact-us/patient-records.htm>

The procedure for requesting information comes a long way down this page, under 'Requesting to see a Health Record', where there was a downloadable application form (2 pages) but in a Word format only. A word document may be problematic for someone who does not have this software, but it is good for translating to other languages (which is not possible with a PDF). The Leaflet mentioned below is also available from this webpage.

Searching under '**patient records**' provided a downloadable PDF leaflet about Patient information and how we use it. This provided the information, but not the application form <https://www.sussexcommunity.nhs.uk/downloads/contact-us/Patient%20information%20and%20how%20we%20use%20it%20-%20Leaflet.pdf>

Searching under '**Subject Access Request**' provided the same information as above, although this phrase is not used.

Normal time response time: 21 days and states that if the information required is going to take longer than 30 days the Trust will inform the person.

ID: (i) copy of passport, driving licence, or birth certificate plus (ii) copy of proof of address.

Brighton and Sussex University Hospitals NHS Trust

<https://www.bsuh.nhs.uk>

For Princess Royal Hospital (Haywards Heath) and also Royal Sussex Hospital (Brighton)

Searching under '**obtaining medical records**' provided a link to information which included a downloadable Subject Access Request form but in a Word format <https://www.bsuh.nhs.uk/your-visit/your-information-and-rights/information-we-hold-about-you> . (The full heading of Trust did not print). A word document may be problematic for someone who does not have this software, but it is good for translating to other languages (which is not possible with a PDF).

Searching under '**patient records**' provided the same information as above

Searching under '**Subject Access Request**' provided the same information as above

Normal time response time: within 1 calendar month.

ID: Extensive list of options given.

Applicants are asked the question on whether or not they intend to make a claim or complaint but have the option to state that "I do not wish to complete this section" (Section 5)

Note: there are some discrepancies between the information on the website and the form:

- (a) Proof of Identity Section 6 does not refer to 'copies' whereas the General Information refers to copies and there is reference to sending only copies under Section 9.
- (b) There is reference on the website that the request does not have to be in a particular format, but the form says, "you will need to complete the following application".

Queen Victoria Hospital, East Grinstead

<https://www.qvh.nhs.uk>

Searching under '**obtaining medical records**' produced no results

Searching under '**patient records**' produced no results

Searching under '**Subject Access Request**' produced no results

Searching the whole website didn't provide any information on how to obtain medical records.

Surrey and Sussex Healthcare NHS Trust

<https://www.surreyandsussex.nhs.uk>

For: Crawley Hospital; Horsham Hospital, and East Surrey Hospital (Redhill).

Searching under '**obtaining medical records**' provided a link to Access to Information where there is a link to Accessing your personal Information: information leaflet in a PDF format <https://www.surreyandsussex.nhs.uk/wp-content/uploads/2018/05/Accessing-your-personal-information-May-2018.pdf> but there is a separate link to an application form which is only in a Word format (5 pages). A word document may be problematic for someone who does not have this software, but it is good for translating to other languages (which is not possible with a PDF).

The leaflet says that information on *why* the information is needed is not required, unless "you want to commence legal proceedings." Also, there is no requirement to complete their application form, so long as all the information they need is provided.

Searching under '**patient records**' did not bring up any useful links.

Searching under '**Subject Access Request**' provided the correct link.

Normal time response: 1 month after receiving all required information.

ID: (i) copy of passport or driving licence plus (ii) copy of proof of address. Other options given if requesting information on behalf of someone else including a child under 16 years.