**ACCESS TO HEALTH RECORDS POLICY**

**INTRODUCTION**

* 1. ***Legislation***

On the 1 March 2000 the Data Protection Act 1998 came into force and as a consequence rescinds the Access to Health Records Act 1990, except in the case of deceased individuals. This allows individuals access to their records, both manually and electronically, going back to when the records were originally created within the Practice.

The Act Applies to records relating to personal information.

**Rights of access**

The right of access is principally for the individual who is the subject of the record, but the individual may authorise another person, to make an application for access on his or her behalf, in writing. Other instances where an application to another person’s records may be granted are:

* In the case of parents, who usually have this right when the individual is a child.In such cases the needs of the child to confidentiality have to be balanced against parental responsibility, to ensure that only accurate and non-prejudicial information is recorded about the child
* Where an individual is incapable of managing his or her own affairs it may be necessary for the person managing those affairs to have access.
* Where the individual has died, the individual’s personal representative and any person who may have a claim arising out of the individual’s death have a right of access to relevant parts of the deceased’s Health records. Deceased individuals’ records are not protected under the Data Protection Act but do fall under the common law duty of confidentiality.
* A Health Professional may withhold access to information if, in their opinion, the release of the information might cause serious harm or if it identifies third parties.

**Health Professionals**

Health Professionals as defined in the Data Protection Act 1998 are:

* A registered medical practitioner
* A registered dentist as defined by section 53(1) of the Dentists Act 1984
* A registered optician as defined by section 36(1) of the Opticians Act 1989
* A registered pharmaceutical chemist as defined by section 24(1) of the Pharmacy Act 1954 or a registered person as defined by Article 2(2) of the pharmacy order of 1976 (Northern Ireland)
* A registered nurse, midwife or health visitor
* A registered osteopath as defined by section 41 of the Osteopaths Act 1993
* A registered chiropractor as defined by section 43 of the Chiropractors Act 1994
* Any person who is registered as a member of a profession to which the Professionals Supplementary to Medicine Act 1960 for the time being extends
* A clinical Psychologist, Child Psychologist or Speech Therapist
* A Music Therapist employed by a health service body
* A Scientist employed by a health service body as head of department.

Health Professionals are encouraged to enter into voluntary agreements whereby individuals, or those caring for them, who, during or at the end of their treatment, ask to know what has been recorded about them, are allowed to see their records at the discretion of the Health Care Professional responsible for their clinical care, and subject to the non-disclosure of the information which may cause serious harm or identify third parties.

***The Holder of the record***

Where a record was made by a Health Professional providing health services for the patient at the Practice, it is Practice which is the legal holder of the record and has a duty to provide access to it, after consultation with the appropriate Health Professional. This will normally be the Medical Director or the Health Professional responsible for the provision of care if access is requested. The Health Professional may instruct that they do not wish to look over the medical records before disclosure, however should this be the case, that Health Professional is responsible in the event that a data subject be caused substantial harm or damage or a third party be disclosed.

***Employee Requests***

Requests from past or present employees will be directed to an Ephedra Healthcare Manager who will be responsible for ensuring that appropriate identity checks are carried out and will then liaise with the Directors as necessary.

It is extremely unlikely that any exemption (on medical grounds) could be made as regards personnel data. All data must therefore be disclosed if a formal Subject Access Request is made, unless there is a danger of identifying a third party. In this situation the third party’s consent must be sought and agreement had in writing before disclosure can occur.

***Identification of systems where Personal Data is held***

* All patient data is entered on SystmOne or Emis (clinical systems used)
* A copy of the information held on SystmOne or Emis pertaining to all the relevant data held about the individual.
* If the patient is registered with a particular practice, the paper records are summarised within 8 weeks of being received from Health Authority and then filed.
* The Ephedra Healthcare Manager/Director will be responsible for keeping the Enquirer informed regarding the progress towards answering their enquiries.

***Sensitive Data***

If the data is likely to be of a highly sensitive nature further proof of identification may be required by Ephedra Healthcare, such as personal presentation of a current driving licence, NHS Card or birth certificate, before the data is released.

**Verbal Requests for Access**

Where an individual makes a verbal request for access to their health records during the course of treatment, the Health Care Professional responsible for that episode of treatment may wish to hand the record to the individual for inspection or go through the record with them. This would not constitute an Application for Access under either act and no charge will be levied.

**PROVIDING ACCESS TO RECORDS**

***Application for Access***

Application for Access to records under the Data Protection Act 1998 should be made in writing to the Ephedra Healthcare Manager/Director

***Timetable for Access***

The period of time within which Ephedra Healthcare Ltd must provide an applicant with information requested under the Data Protection Act 1998 is 21 calendar days from the receipt of a signed and fully completed application form and the fee.

Exemptions to this are where there have been additions to the records in the previous 40 days in which case the information should be provided within 21 days and with no charge for access, only a copying charge will apply.

**Disclosure of Information to the Enquirer**

The Ephedra Healthcare Ltd Manager/Directorwill provide the Enquirer with the relevant information concerning the request.

If no data is to be sent to the Enquirer or the data is wholly exempt from disclosure then a standard letter will be sent from Ephedra Healthcare, stating the reasons for withholding it.

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