

Information Fact Sheet

This fact sheet is to be Read in Conjunction with Access to Health Records Request Form

Introduction

Current data protection legislations grant individuals the right of access to their personal data, which includes information held in health and social care records.

Access requests are formally known as Subject Access Requests (or SAR's for short). Compton Care's SAR's are processed in accordance with the EU General Data Protection Regulations 2016 and the Information Commissioners Office (ICO) 'Subject Access Request Code of Practice'. Where there is a request to access a deceased individual's health records, the request will be processed in accordance with the Access to Health Records Act 1990 (AHRA).

Compton Care are passionate about respecting your data protection access rights, but they can be a little complex. So, we've listed a few questions you might have about this process and your rights which we hope you will find both informative and helpful. However, if you have any further questions that are not answered here, please feel free to ask your healthcare professional at any time or email our Data Protection Officer at dpo@comptoncare.org.uk.

1. What records can I see?

A health record is one which relates to the physical or mental health of an individual which has been made by or on behalf of a health professional in connection with the care of that individual.

2. Will there be a charge?

Current legislation states that copy information will be free of charge. However, a 'reasonable fee' may be charged when a request is considered either 'manifestly unfounded or excessive', particularly if it is repetitive.

***Note:** Current advice states that 'excessive' is currently anything that takes more than 18 hours to complete which Compton Care will apply whilst waiting for further guidance. In addition, a 'reasonable fee' may be charged to comply with repeat requests (i.e. copies of the same information already supplied to the requester). The reasonable fee will only be based on the administrative cost of providing the information.*

3. How do I apply for access to my records?

Applications should be made in writing which is why we ask you to complete our application form as it contains all the questions we require to deal with your request as efficiently and effectively as possible.

4. Who has the right of access?

- The patient/service user.
- A person authorised in writing to apply on behalf of the patient/service user.
- The person that has parental responsibility for a child service user.
The term "parental responsibility" means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to that child or their property. Proof of parental responsibility may be requested, such as birth certificate, court award, etc.
- Any person appointed by the Courts to manage the affairs of a patient/service user who is deemed to be incapable.
- Where a patient/service user has died, the patient's personal/legal representative (usually the executor of the will, or person granted probate or administration), or any person having a claim arising from the death.

5. Do I need to provide identification documents?

Current legislation states that we have to take all 'reasonable measures' to ensure we're sending the information to the right person. This is so we can protect you from somebody gaining unlawful access to your personal data. Please provide the ID outlined in Section 2 of our Access to Health Records Request Form.

6. Can I be denied access?

There are sections within the current legislation which state that under certain conditions, access can be refused. Instances of where this could apply are:

- Where inappropriate or inadequate identification has been supplied.
- Where the patient has died, and it is recorded in the notes that they did not wish to grant access to anyone, including family, personal representative or someone with a claim (as confidentiality continues after death).
- Where in the opinion of the record holder, the information may cause serious harm to the physical or mental health of the requester or another individual.
- Where information is provided by a third party, who would be identified from that information. This is where we would look to provide you with the information but with redactions.

7. Do I have the right to confidentiality?

Compton Care takes positive action to maintain the confidentiality of its patients/service user's personal information. All individuals have a right to confidentiality, even after death. Compton are obliged by law to be satisfied that an applicant is entitled to access the requested records which involves us at least checking your identity or the identity/powers of someone acting on your behalf.

8. How long does the process take?

Legislation states that information must be provided without delay and at the latest within one month of receipt of the request. However, this can be extended to a further two months where requests are complex or numerous. If this is the case, you will be informed within one month of the receipt of the request with an explanation as to why the extension has been applied.

9. What if I do not agree with what is written in the records?

Legislation covers your right to rectification of inaccurate personal data. However, this does not extend to the sensitive information that has been recorded by a healthcare professional in their capacity as a care giver. So, in other words, we can alter information such as your address or the name of your next of kin, but we can't alter what a clinician has written about you during the treatment process. However, if you have a strong objection, we can file this in your records, so the reader is clear that you have raised an objection. But please note, the original information cannot and will not be removed or replaced.