



St Wilfrid's Hospice

## SUBJECT ACCESS REQUEST POLICY AND PROCEDURE

<b>Approved by:</b>	<b>Audit Committee</b>
<b>Date of approval:</b>	<b>16 January 2015</b>
<b>Review:</b>	<b>15 May 2018</b>

### 1. Policy Statement:

The right to subject access is created by the Data Protection Act (DPA) and updated under the new General Data Protection Regulations (GDPR). It is most often used by individuals who want to see a copy of the information an organisation holds about them. An individual who makes a request is entitled to be:

- Told whether any personal data is being processed
- Given a description of the personal data, the reasons it is being processed and whether it will be given to any other organisation or people
- Given a copy of the information comprising the data and given details of the source of the data (where this is available).

St Wilfrid's Hospice aims to be open and transparent in its processing of personal sensitive information and support access to information.

### 2. Aim and Scope:

The policy and procedure sets out guidelines by which an individual or their authorised representative can access information held about them. This can relate to any information held by the hospice and the retail company e.g. health records, employee records, supporter information or customer details. Detailed information can be viewed in the 'Subject Access Code of Practice' available on the Information Commissioner's Office (ICO) website. Detailed guidance on requests to access health records can be found in the document 'Guidance for Access to Health Records Requests' at the Department of Health website.

### 3. Related Hospice Policies and Procedures:

Accident, Incident and Near Miss Reporting Policy and Procedure  
 Archive Policy and Procedure  
 Arrangements for Assessment, Diagnosis and Treatment of Patients Policy and Procedure  
 Child Protection Policy  
 Confidentiality Policy  
 Health Records Keeping Policy and Procedure  
 Information Governance Policy  
 Information Management Policy and Procedure  
 Media and Marketing Confidentiality Policy  
 Mental Capacity Policy and Procedure  
 Patient Confidentiality Policy and Procedure  
 Patient Privacy and Dignity Policy and Procedure  
 Safeguarding Vulnerable Adults Policy and Procedure

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## Verification of Death Procedure

### 4. Responsibility/Accountability:

The **Chief Executive** holds ultimate accountability for adherence to the policy and procedure and ensuring that reasonable resources are made available for its implementation.

The **Registered Manager** is the designated Senior Information Risk Office (SIRO) and responsible for taking receipt of subject access requests, initiating the response, and ensuring this document is compliant with statutory legislation and implemented into practice. They must ensure adequate deputising in their absence for requests to be dealt with.

The **Caldicott Guardian** is responsible for ensuring that access to patient health records is appropriate and complies with the law.

The **Insight & Information Manager** is the designated Information Governance (IG) lead, working closely with the SIRO and Caldicott Guardian to achieve robust and compliant information governance so that person-identifiable data is properly safeguarded.

**Line Managers** are responsible for informing and educating all existing employees, volunteers and contractors with practising privileges about the requirements of the procedure and dealing with any immediate concerns.

All **employees, volunteers and contractors with practising privileges** are responsible for adherence to the Subject Access Request Policy and Procedure.

### 5. Definition:

Where the term “employee” is used in this document it includes volunteers and contractors with practising privileges (see Practising Privileges Policy for definition).

### 6. Method:

A subject access request is only valid if made in writing. It is not required to respond to a request made verbally but depending on circumstances it might be reasonable to do so. Request may also be validly made by means of social media. If a disabled person finds it impossible or unreasonably difficult to make a subject access request in writing the hospice may make a reasonable adjustment for them under the Equality Act 2010. Whilst the hospice has a form for request for audit purposes, any request in writing is a valid request, whatever the format. A request is valid even if the individual has not sent it directly to the person who normally deals with such requests – so it is important to ensure that all employees can recognise a subject access request and treat it appropriately.

The GDPR clarifies that the reason for allowing individuals to access their personal data is so that they are aware of and can verify the lawfulness of the processing. The hospice must verify the identity of the person making the request using ‘reasonable means’. The DPA allows the hospice to confirm two things before it is obliged to respond. First, to ask for enough information to judge whether the person making the request is the individual whom the person relates to. This is to avoid personal data about one individual being sent to another, accidentally or as a result of deception. The second thing the hospice is entitled to do before responding to a subject access request is to ask for information that it reasonably needs to find the personal data covered by the request. It is not necessary to comply with the subject access request until this information is received. In some cases, personal data may be difficult to retrieve and collate. However, it is not acceptable to delay responding to a subject access request unless the hospice reasonably requires more information to help find the data in question.

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GDPR dictates information must be provided without delay and at the latest within one month of receipt. It is possible to extend the period by a further two months where the requests are complex or numerous. In this circumstance, the individual must be informed within one month of receipt of the request and an explanation provided.

All Subject Access Request must be passed to the Registered Manager or their deputy.

#### **6.1 Deceased Patient's Records and requests made on behalf of others**

The hospice will treat requests for access to health records of deceased patients under the broad principles of those made for living patients.

It is necessary to be satisfied that the third party making the request is entitled to act on behalf of the individual, but it is the third party's responsibility to provide evidence of this entitlement. This might be a written authority to make the request or it might be a more general power of attorney.

#### **6.2 Charges**

The hospice must provide a copy of information free of charge. However, GDPR dictates an organisation may charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive.

#### **7. Training Needs:**

Employees will be made aware of the Subject Access Request Policy and Procedure at induction. Role specific training will be provided to those who require it.

#### **8. Policy Review:**

The policy and procedure will be reviewed every three years or following introduction of any new legislation, significant changes within the organisation or three years following implementation of this document.

#### **9. Compliance with Statutory and other Requirements:**

Access to Health Records Act 1990

Access to Medical Reports Act 1988

Care Quality Commission (CQC) – Essential Standards of Quality and Safety

Data Protection Act 2018

#### **10. References:**

Department of Health (2010) Guidance for Access to Health Records Requests

Information Commissioners Office: [www.ico.org.uk](http://www.ico.org.uk)

GDPR: [www.eugdpr.org](http://www.eugdpr.org)

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## IN CONFIDENCE

### REQUEST FOR ACCESS TO PERSONAL DATA

*(DATA PROTECTION ACT 2018)*

Complete in block capitals and black ink.

Return to the Nursing Director, St Wilfrid's Hospice at the address on the top of the enclosed covering letter, together with proof of identity as stated on the reverse of this form.

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#### PARTICULARS OF PERSON WHOSE INFORMATION IS REQUESTED

Surname: \_\_\_\_\_ Forename: \_\_\_\_\_

Sex: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Current Address: \_\_\_\_\_

Postcode: \_\_\_\_\_ Telephone No: \_\_\_\_\_

Hospice or NHS Number (if known): \_\_\_\_\_

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Please provide as much information as possible to enable us to respond to your request.

**Please indicate below the approximate periods you require**

Treatment between the following dates from \_\_\_\_\_ to \_\_\_\_\_

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## DECLARATION

I declare that the information given by me is correct to the best of my knowledge and that I am entitled to apply for access to the health record referred above under the terms of the *Data Protection Act 2018*.

❖ **Delete as appropriate**

❖ I am the patient.

❖ I have been asked to act by the patient and attach the patient's written authorisation.

I am giving consent: \_\_\_\_\_

Signed: \_\_\_\_\_ Name: \_\_\_\_\_

Date: \_\_\_\_\_

## FOR INFORMATION

### ***Proof of identity and current address***

*(NB: Required to ensure that disclosure is not made to an unauthorised person)*

To establish your identity and address, this application must be accompanied by **original document(s)** bearing your full name and current address. *Photocopies are NOT acceptable.*

The following documents may serve this purpose: -

- Medical Card,
- Any household bill (e. gas, telephone, etc.), or
- Any other official document which has your name and current address on it.

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## IN CONFIDENCE

### **ACCESS TO HEALTH RECORDS**

### **REQUEST FOR ACCESS TO PERSONAL DATA**

### **ENQUIRIES RELATING TO DECEASED PATIENTS ONLY**

Complete in block capital and black ink.

Return to the Nursing Director, St Wilfrid's Hospice at the address on the top of the enclosed covering letter, together with proof of identity as stated on the reverse of this form.

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#### **PARTICULARS OF PERSON WHOSE INFORMATION IS REQUESTED**

Surname: \_\_\_\_\_ Forename: \_\_\_\_\_

Sex: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Current Address: \_\_\_\_\_  
\_\_\_\_\_

Postcode: \_\_\_\_\_ Telephone No: \_\_\_\_\_

Hospice or NHS Number (if known): \_\_\_\_\_

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Please provide as much information as possible to enable us to respond to your request.

**Please indicate below the approximate periods you require**

Treatment between the following dates from \_\_\_\_\_ to \_\_\_\_\_

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## **DECLARATION**

I declare that the information given by me is correct to the best of my knowledge and that I am entitled to apply for access to the health record referred above under the terms of the *Access to Health Records Act 1990*.

- ❖ I am the deceased patient's personal representative and attach confirmation of my appointment by way of copy Grant of Probate or Grant of Letters of Administration.
- ❖ I have a claim arising from the patient's death and wish to access information relevant to my claim on the grounds that:

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❖ Delete as appropriate

Name:

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## **PROOF OF IDENTITY AND CURRENT ADDRESS**

***(NB: Required to ensure that disclosure is not made to an unauthorised person)***

To establish your identity and address, this application must be accompanied by **original document(s)** bearing your full name and current address. *Photocopies are NOT acceptable*. The following documents may serve this purpose: Medical Card, any household bill (e.g. gas, telephone, etc.), or any other official document which has your name and current address on it.

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