

Introduction to Requests for Personal Information

Individuals asking for a copy of their personal data (usually files, folders, records) are entitled to receive a copy of it in line with the Data Protection Act 2018. This is called a Subject Access Request (SAR).

The four most common types of requests that will be received are from:

- Staff or volunteers
- Unsuccessful job applicants
- Patients and families
- Donors, supporters or members of the public

The basic obligation is to give people a copy of their own data within one month. Any subject access request only applies to a living person. Where a person is deceased then a Subject Access Request cannot be made.

All requests should be made to the data controller at gdpr@shootingstar.org.uk. Shooting Star Children's Hospices is not required to comply with freedom of information requests as it is not a "public sector organisation". Any requests for FOI should be responded to politely on this basis via the Director of Care.

For any request made for health data, the Management of Health records policy should be followed:

Informal access

1. Shooting Star Children's Hospices encourages informal, voluntary arrangements whereby young people and their family are able to ask what has been written about them, during that episode of care.
2. Young people and their family are allowed to see their records at the discretion of the appropriate **health care professional**. The appropriate health care professional is the person principally responsible for their clinical care and often will be a medical practitioner, but may also be a nurse or a therapist; and any other care team member employed by Shooting Star Children's Hospices hospice services.
3. Informal access is subject to the nondisclosure of information, which might cause serious harm to the child, young person, the family or may identify third parties.
4. If the young person or their family wishes to have photocopies of their records, they may request to do so under the formal access guidelines that follow.

Formal access – Subject Access Request (SAR) under the DPA 2018

1. If a member of the Shooting Star Children's Hospices care team is asked by a young person or their family to provide them with access to their records in compliance with a SAR Act, the following points should be noted.
 - a. The right of access is to records made after 1st November 1991. However any record made or held prior to 1st November 1991, which is necessary to make, these intelligible must also be made available.
 - b. The young person or their family has the right to inspect and receive a copy of the record and to be given an explanation of any terms that are required to make them intelligible.
2. All requests should be notified to the Data Controller (gdpr@shootingstar.org.uk) so that the requests can be recorded centrally.

3. Any subject access request must be satisfied within one month from date request was made.

Safeguards and exceptions to access

The right of access is subject to a number of safeguards and exceptions which are designed to ensure the following:

1. The identity of the applicant has been verified.
2. Access is not given to any part of the record likely to cause serious harm to the physical or mental health of the child, young person, their family or any other individual.
3. Access is not given to information, which relates to or was provided by an individual (other than the young person or their family) who could be identified from that information except if the third party health professional or other individual gave consent to the application.
4. In the case of a deceased child, the young person's representative, access shall not be given to any part of the record which is not relevant to any claim which may arise out of the young person's death.
5. A child or young person, who, in the view of the appropriate health professional is capable of understanding what the application is about, can prevent a person with parental responsibility from having access to the records. Also, where in the view of the health professional, a young person is not capable of understanding the nature of the application, the holder of the record is entitled to deny access if it were not felt to be in the young person's best interest.
6. The right of access must be provided within a given period of time, which depends upon the age of the records. For information less than forty days old, access must be provided within twenty-one days. In all other cases, access must be provided within forty days.
7. All formal requests for access to family records must be made in writing to the CEO, the Director of Care (Caldicott Guardian) or the nominated deputy.
8. The Director or Head of Care will then correspond with the young person and their family and ask the appropriate health professionals for their consent. The Head of Care and where possible the appropriate health professional will be available when the records are viewed by the applicant(s), so that he/she can respond to any queries immediately.
9. Where a person has been given access under the Act considers that any information contained in the record is inaccurate (i.e. incorrect, misleading or incomplete) he/she may apply to the record holder for the necessary correction to be made. If the record holder is satisfied that the information is inaccurate, the necessary correction must be made. If the record holder is not satisfied that the information is inaccurate, a note must be made in the relevant part of the record of the matters considered by the applicant to be incorrect. In both cases the record holder must supply the applicant with a copy of the correction or the note.
10. The introduction of this Act means that solicitors will no longer need to make a formal request for copies of health records prior to starting legal proceedings. It is anticipated that these requests will now be directed through the young person or their representative. The Director of Care should be notified immediately if there is a request for formal access to records and if there is thought to be a substantial likelihood of legal action. If this is considered to be the case the Director of Care and Chief Executive should be informed immediately. The Shooting Star Children's Hospices designated person for safeguarding children may also need to be advised.

Electronic information

1. Under the Data Protection Act, people with information held electronically are also entitled to apply for access, subject to similar safeguards. All applications should be made to the Director of Care or nominated deputy.
2. For information, access to health records under the Data Protection Act 2018 can mean that even rough scribbling on scrap paper can constitute an entry to health record.

Do all requests need to be dealt with as a SAR?

No. Please discuss each individual case with your line manager.

However, if someone does cite the Data Protection Act or SAR, please treat it as one, passing it to the Data Protection Officer, for advice and support.

When to deal with as a SAR:

- If data protection or subject access request has been mentioned
- If the data is controversial (such as a workplace dispute, or related to a complaint)
- If there is lots of people's data mixed together, so it is not easy to separate
- If there is a complaint from a donor that feels likely to escalate

What makes a SAR valid?

A request can be made:

- Verbally, including by phone
- In writing (note that this can be done via social media (eg Facebook, Twitter))
- To anyone at Shooting Star Children's Hospices

Also note:

- The person needs to prove their identity if you do not know them, or cannot verify it through records you have (appendix B)
- There cannot be a fee charged for this.

What type of information do you have to give?

General information can include:

- WHY you are processing the data
- WHAT the categories of personal data concerned
- With WHOM you are sharing the data
- HOW LONG you are storing the data
- RIGHTS to request rectification, erasure, restriction of use, or objection
- RIGHTS to complain to the ICO
- SOURCE of the information (if not directly from the individual)
- PROFILING information, including automatic decision making

Plus, you need to actually give them the information that has been requested.

How do I prepare files and records for release to an individual?

The critical thing is to ensure that you remove the personal data of any third parties. However, where a person interacts with the individual in their official capacity, you should leave that information in, unless the information is sensitive to that official person.

Changes to data

If an individual wishes to request any changes to their data following an SAR then they should write to supportercare@shootingstar.org.uk if they are a donor, supporter or member of the public; or otherwise to gdpr@shootingstar.org.uk if they are an employee, volunteer or a patient or patient's family.