

INFORMATION RIGHTS REQUEST FORM

Part 1 – Background Information

Introduction to the Legislation

The **General Data Protection Regulation (GDPR)** and the **Data Protection Act 2018 (DPA 2018)** came into force in May 2018 replacing the Data Protection Act 1998 (DPA 1998).

Under the terms of this legislation, individuals have a number of rights which they can exercise in relation to their information. Please note, these are not absolute rights and there are a number of factors which must be considered. These rights include:

- **To Access** – You can ask to view or have a copy of any information we hold about you. This is known as a **subject access request (SAR)**.
- **To Rectification** – We will amend any errors in the information we hold about you if it is agreed to be inaccurate or incomplete. Please be aware that sometimes we may hold information that you do not agree with, but it is not adjudged to be incorrect, e.g. a clinical opinion recorded by a health professional. In such instances, we may (by mutual agreement) add a statement from you to your record regarding your concern, but not change the information.
- **To Erasure** – Also known as ‘the right to be forgotten’. This empowers individuals to have personal data about them erased where there is no overriding legal justification for its processing. As such, this is unlikely to apply to health records or staff records where there is strong legal justification for the records to be kept.
- **To Restriction** – You have the right to request that we stop processing your personal data on a temporary basis, without deleting it. This is mostly likely to apply while a request for rectification, erasure, or objection is being considered.
- **To Portability** – This enables individuals to obtain and reuse their personal data for their own purposes across different services i.e. copy or transfer personal data easily from one IT environment to another in a safe and secure way, without affecting its usability. This right only applies where processing is based on consent or as part of a contract and is carried out by automated means.
- **To Object** - This provides the right for you to object to us processing your data under certain circumstances.

If you would like to know more about how your information is used you also have another right – **To be Informed**. The Trust is required to tell you about how it processes the information we hold about you. We do this via our Privacy Notice; you can find a full copy on the Trusts’ website:

<https://www.bfwh.nhs.uk/privacy-notice-for-our-service-users/>

Please note, the GDPR only applies to living individuals who are identifiable from the data, often referred to as ‘data subjects’.

The Access to Health Records Act 1990 (AHRA)

The AHRA grants specified persons access to a deceased individual's health records. This does not include any other record, e.g. personnel records, as the legislation is explicitly for health records. The person who is requesting this information must be the deceased's personal representative or have a valid claim arising from the patient's death; further details are outlined in the section, 'If You Request Access to Health Records Under AHRA' (pg.3). Requests for personal information under AHRA are dealt with on a case-by-case basis and the Trust will consider all applications with due care and consideration.

Exercising Your Rights

If You Make a Request to Exercise Your Rights:

- We always check the identity of a person making a request before we act on it. We need to establish that a request is genuine, either from the individual (data subject) or their representative:
 - Adults with Capacity
 - Adults with capacity may act on their own behalf, e.g. to request access to their own personal information (e.g. health records, personnel records).
 - Or, they may choose to nominate someone to act on their behalf, e.g. a friend, a relative, a solicitor or an insurance company. A request made by someone else must be accompanied by the consent of the individual.
 - Adults without Capacity
 - If an adult lacks capacity, then a person who holds Lasting Power of Attorney for Health and Welfare, or has been appointed as the Mental Capacity Advocate for them, may be able to act on their behalf.
 - Children
 - A young person does not need to be over 16 before they can make decisions about their healthcare and their healthcare information.
 - For children **under 13 years of age**, a person with parental responsibility for them can act on their behalf.
 - Children **aged 13 or over** are able to act on their own behalf if they have Gillick competence. If it is assessed that a child has enough intelligence, competence and understanding to fully appreciate the situation then they are Gillick competent. As such, the child can make decisions about their information without the consent of their parents, and their parents can only make decisions about their information with the child's consent.
 - If a child is aged 13 or over but lacks Gillick competence, a person with parental responsibility for them can act on their behalf.
 - If a request is made on behalf of a child aged 13 or over then we will ask for either their consent or evidence that their consent is not necessary; further details are outlined in the section 'Relationship to the Data Subject' (pg.8).
 - All decisions we make regarding requests relating to children will consider the best interests of the child and whether or not the child is likely to understand the situation.

- We aim to act on requests as soon as possible and usually **within one month** of the receipt of a valid request.
 - Occasionally, we may need more time, for example, if a request is complex. This can extend the response time by up to a further two months. If we need more time we will contact you as soon as possible and within the first month to state that we are extending the time-frame and to explain the reasons for the delay.
 - We will always send you an acknowledgment letter when your request has been received. This will include the date by which the Trust is obliged to provide you with the information.
 - If we require further information or documentation to enable us to process your request, then we will contact you to request this and your request will be on hold until this is received.
- If you make your request by electronic means, we will aim to respond in the same way, unless you request otherwise. Please be aware that this may not always be possible.
- We may refuse a request, not provide everything you have requested, or not do everything that you have asked of us. If this happens we will:
 - Tell you as soon as possible and within one month.
 - Outline our reasons for not taking the action you have requested.
 - Explain how you can make a complaint if you are unhappy with our decision. We would always ask that you come back to us in the first instance, either informally or via our Trust's complaints procedure, to try to resolve the situation.
 - We will also provide you with information about how to complain to our supervisory authority, the Information Commissioner's Office (ICO): <https://ico.org.uk/concerns/>
- If we have disclosed your data to a third party (e.g. your GP) and we then rectify, restrict or erase your data upon your request, (if applicable) we will:
 - Inform the third party of the decision, unless it is impossible or would involve a disproportionate effort to do so (in which case we will explain the reasons).
 - Tell you to whom we disclosed your data.
- We will normally undertake our duties regarding your rights without charging a fee but occasionally we may consider that it is appropriate to do so. If so, we will tell you as soon as possible, within one month, and before undertaking any related activity that has been requested.

If You Request Access to Health Records Under AHRA:

- We always check the identity of a person making a request before we act upon it. We need to establish that a request is genuine and that the person making it is authorised to do so. Access to relevant parts of a deceased patient's records can be given only to:
 - The deceased person's 'personal representative'. A personal representative is either an executor named in the will or, if the patient died without a will, the administrator of the estate. This is not necessarily the next of kin.
 - Any person who may have a claim arising out of the patient's death and who wishes to access information relevant to the claim. An explanation of the claim and appropriate supporting evidence will be required and no information which is not directly relevant to the claim will be released. This must be a formal legal claim, e.g. where there may be reason to believe harm has been caused to the deceased.

- Please note, a duty of confidence remains even after death. Information may be withheld if the deceased person had specifically requested their information must not be disclosed.
- The Trust will consider all applications carefully and will not disclose information unless satisfied that the data subject would have been content for it to be released.
- We aim to act on requests as soon as possible and usually **within one month** of the receipt of a valid request.
- We will normally undertake our duties regarding your rights without charging a fee but occasionally we may consider that it is appropriate to do so. If so, we will tell you as soon as possible, within one month, and before undertaking any related activity that has been requested.

More About Subject Access Requests

The most frequently exercised of the information rights is the 'Right to Access', in the form of a subject access request. (And, similar requests made under the AHRA.) This provides individuals (or their representatives) with the right to access the personal information held about them by an organisation.

Will Any Information Be Withheld?

There are a number of reasons why it may be appropriate to exempt information from disclosure, for example:

- If disclosing the information will also disclose information about another person, and whether this disclosure is deemed inappropriate.
- For health records, if a healthcare professional determines that disclosing the information could cause serious harm to the physical or mental health of the patient or another person.
- If you are applying on someone else's behalf, and the data subject has only agreed to the disclosure of certain information, e.g. a patient may only want their solicitor to access information relating to a specific event.
- If you are a parent (or have parental responsibility) of a child or young person, and a healthcare professional does not believe that it is in the best interests of the child or young person to disclose the information.
- If the information relates to human fertilisation and embryology; adoption records and reports; or, information supplied by a court.

How Will I Receive the Information?

We take the security of you information very seriously. Your healthcare information is legally classified under GDPR as 'special category' information, which requires extra protection.

- Collection
 - This is recommended as the most secure method.
 - You may choose to collect your information in person once we have notified you that your information is ready to pick up.
 - To collect in person, you will need to make an appointment with the Data Access team; contact details and collection times are outlined in the section, 'Making a Request and How to Contact Us' (pg.5).
 - You will need to bring photographic ID with you when collecting; details of requirements

are outlined in the section, 'Confirmation of Identity' (**pg.10**). Only one form of photographic ID is required when collecting.

- **Postage**

- If you choose to have the information posted then this will be sent by recorded delivery and will require a signature.
- Postage may take up to 10 working days.
- If the information sent by post includes information on disc or other electronic formats then this will be sent encrypted, requiring a password to use, and the password will be posted separately.

- **Email**

- If you choose to have the information sent by email then this will be sent by secure, encrypted email and the information will be contained within a password-protected attachment.
- As previously stated, if you make your request by electronic means, e.g. email, then we will aim to respond in the same way, unless you request otherwise. Please be aware that this may not always be possible.

Can I Simply View the Information?

Yes, you can. Please ensure that you state clearly on your request that you only wish to view the records, rather than obtain a copy of the information.

The Data Access team will contact you to arrange a suitable appointment to view your records. Please note, viewings are normally facilitated by a member the Data Access team who will not be clinically-trained and will not be able to comment on the content of your records. If you wish to discuss your healthcare, please contact the clinician in charge of your care.

Making a Request and How to Contact Us

Where Should I Send My Request To?

You can make a request in writing to the following postal address:

The Data Access Team
Blackpool Teaching Hospitals NHS Foundation Trust
Home 15
Blackpool Victoria Hospital
Whinney Heys Road
Blackpool
Lancashire
FY3 8NR

You can also send your request by email to:

bfwh.data.access@nhs.net

If you prefer to hand-deliver your request, please contact the Data Access team in advance to arrange a convenient time to do so.

You are legally-entitled to make a request verbally, but we are still obliged to undertake appropriate checks and follow relevant procedures. If you are unable or unwilling to submit a written request (including email), please contact the Data Access team who will look to facilitate your request.

Where Should I Collect My Information From?

As outlined in the section, 'More About Subject Access Requests' (**pg.4**), you may choose to collect your information in person if you wish. Your information can be collected from the address above.

Collection times are:

Monday to Friday, excluding bank holidays, from **9:00 to 11:00** and **13:00 to 16:00**.

Please only attend during those times and once we have notified you that your information is ready to collect. You will need to bring photographic ID with you when collecting as outlined in the section, 'Confirmation of Identity' (**pg.10**). Only one form of ID is required to collect. (If you would like someone else to collect on your behalf then this will need to be arranged in advance with the Data Access team and the person collecting will need to bring photographic ID for both you and them.)

How Can I Contact You to Discuss a Request?

The **Data Access team** are available to assist you with any information rights requests.

They can be contacted by email at the address above, or by telephone on:

(01253) 953056

They can be contacted during the following hours:

Monday to Friday, excluding bank holidays, from **8:30 to 17:00**.

INFORMATION RIGHTS REQUEST FORM

Part 2 – Making a Request

Please note, this form is designed to assist you in providing us with the required information to enable us to process your request as effectively as possible and in-line with our legal obligations, but it is not required that you use this form in order to submit a valid request.

Section 1 – Data Subject Details

This is the person who the request is about. If you are applying on your own behalf, then you are the data subject. If you are applying on someone else's behalf, then they are the data subject.

Surname:	
Previous Surname(s):	
Forename(s):	
Date of Birth:	
Hospital Number (if known):	
NHS Number (if known):	
Address:	House Number/Name:
	Postcode:
<i>If the data subject has lived at this address for less than 2 years, please provide the previous address.</i> Address:	House Number/Name:
	Postcode:
Contact Telephone Number:	
Email Address:	

*If you are making this application on your own behalf, please go to **Section 4**.*

Section 2 – Applicant Details

This is the person making the request, if not the data subject. This section only needs to be completed if you are making the request on the behalf of someone else.

Surname:	
Forename(s):	
Date of Birth:	
Address:	House Number/Name:
	County:
	Postcode:
Contact Telephone Number:	
Email Address:	

Section 3 – Relationship to the Data Subject

This section only needs to be completed if you are making the request on the behalf of someone else.

Please note, all requests made on the behalf of someone else are assessed on a case-by-case basis in consideration of the evidence which has been submitted. We endeavour to act according to the best interests and wishes of the data subject at all times.

If you are sending your request by post or email, please send **copies** of your documentation to the Data Access team along with your request. The copies must be certified copies.

A certified copy is one which has been counter-signed by a professional person or an individual of some standing in their community as being a true copy of the original. Further guidance can be found at the following link: <https://www.gov.uk/certifying-a-document>

If you are hand-delivering your request then you may bring your **original** documentation with you. We will produce copies while you wait, which we will certify as true copies of the originals.

Please see the details outlined in the section, 'Making a Request and How to Contact Us' (**pg.5**), for how to send a request by post or email, or how to visit the department in person.

If we require further information or documentation to support a request then we will contact you and your request will be put on hold.

Relationship:		Please Tick to Confirm:
<p>I have been authorised by the data subject (who has capacity) to act on their behalf.</p> <p><i>This may be, for example, a friend, a relative, a solicitor or an insurance company.</i></p>	<p><i>You will need to provide evidence that the data subject has consented to this, e.g. a signed declaration from the data subject.</i></p>	
<p>I am acting on the behalf of the data subject, who lacks capacity, and I hold Lasting Power of Attorney for Health and Welfare, or I have been appointed as the Independent Mental Capacity Advocate.</p>	<p><i>You will need to provide evidence of your status in relation to the data subject, e.g. valid letters of administration.</i></p>	
<p>I have been authorised to act on the behalf on the data subject by other means.</p>	<p><i>You will need to provide evidence of your status in relation to the data subject, e.g. a signed declaration from a healthcare professional, police officer or MP.</i></p>	
<p><u>For children:</u> I am acting on the behalf of a child under 13 years old and I have parental responsibility for them.</p>	<p><i>It may be necessary to provide evidence of parental responsibility. Please see here for further information: https://www.gov.uk/parental-rights-responsibilities/who-has-parental-responsibility</i></p>	
<p><u>For children:</u> I am acting on the behalf of a child aged 13 or over and I have parental responsibility for them. I can confirm they <u>are not</u> capable of understanding the request (not Gillick competent).</p>	<p><i>It may be necessary to provide evidence of parental responsibility, see above.</i></p> <p><i>You will need to provide evidence that the child is not capable of understanding the request, e.g. a signed declaration from a healthcare professional. If you are unable to prove that the child is not capable of understanding then we will need their consent, see below.</i></p>	
<p><u>For children:</u> I am acting on the behalf of a child aged 13 or over and I have parental responsibility for them. I can confirm they <u>are</u> capable of understanding the request (Gillick competent).</p>	<p><i>It may be necessary to provide evidence of parental responsibility, see above.</i></p> <p><i>You will need to provide evidence of consent from the child.</i></p>	

<p><u>For AHRA:</u> I am the deceased person's 'personal representative'.</p> <p><i>A personal representative is either an executor named in the will or, if the patient died without a will, the administrator of the estate. This is not necessarily the next of kin.</i></p>	<p><i>You will need to provide evidence that you are the deceased patient's personal representative e.g. a Grant of Representation, a letter of administration, or a copy of the will naming you as executor.</i></p>	
<p><u>For AHRA:</u> I have a claim arising out of the patient's death and I wish to access information relevant to the claim</p> <p><i>This must be a formal legal claim, e.g. where there may be reason to believe harm has been caused to the deceased. Only information which is directly relevant to the claim will be released.</i></p>	<p><i>You will need to provide an explanation of the claim and appropriate supporting evidence, e.g. a copy of a claim instruction from a solicitor.</i></p>	

Section 4 – Confirmation of Identity

If you are making a request on the behalf of another person then you will need to provide proof of identity **for both yourself and the data subject.**

You will need to provide one of the following combinations:

- Two forms of photographic personal identification from **List 1**, and one document confirming your current residing address from **List 2**.
- One form of photographic personal identification from **List 1**, and two documents confirming your current residing address from **List 2**.

If you are unable to fulfil these proof of identity requirements then please contact the Data Access team to discuss. Please note, if you are unable to fulfil these requirements then we may be unable to process your request. If we require further information or documentation to support a request then we will contact you and your request will be put on hold.

If you are sending your request by post or email, please send **copies** of your documentation to the Data Access team along with your request. The copies must be certified copies.

A certified copy is one which has been counter-signed by a professional person or an individual of some standing in their community as being a true copy of the original. Further guidance can be found at the following link: <https://www.gov.uk/certifying-a-document>

If you are hand-delivering your request then you may bring your **original** documentation with you. We will produce copies while you wait, which we will certify as true copies of the originals.

Please see the details outlined in the section, 'Making a Request and How to Contact Us' (**pg.5**), for how to send a request by post or email, or how to visit the department in person.

Further guidance on our proof of identity checks can be found at the following link: <http://www.nhsemployers.org/identitychecks>

List 1: Examples of Photographic Personal Identity Documents

Full, signed UK (Channel Islands, Isle of Man or Irish) passport or EU/other nationalities passport.

UK Biometric Residence Permit (BRP) card.

UK/EU full or provisional photocard driving licence.

If issued in the UK by the DVLA, you are not required to present the paper counterpart. Licences issued in Northern Ireland by the DVA must be presented with the paper counterpart.

Other nationalities photocard driving licence.

Valid up to 12 months from when the individual entered the UK.

HM Armed Forces Identity card (UK).

Identity cards carrying the PASS (Proof of Age Standards Scheme) accreditation logo (issued in the UK, Channel Islands and Isle of Man only).

Organisation identity cards are not acceptable as they do not contain watermarks, holograms or other security markings.

List 2: Examples of Confirmation of Address Documents

Utility bill or letter from the service provider confirming the pre-payment terms of services at a fixed address (e.g. gas, water, electricity or landline telephone), dated from the last 6 months (UK).

More than one utility bill can be accepted if they are from two different suppliers. Utility bills in joint names are acceptable

Local authority tax statement (e.g. a council tax statement), dated from the last 12 months (UK and Channel Islands).

UK full or provisional photocard driving licence.

If not already presented as a form of personal photographic identity.

Full old-style paper driving licence (that was issued before the photocard was introduced in 1998 and remains current and in-date).

Old-style paper provisional driving licences are not acceptable.

HM Revenue & Customs (HMRC) tax notification (e.g. an assessment, statement of account, or notice of coding), dated from the last 12 months.

A financial statement (e.g. bank, building society, or credit card statement), dated from the last 6 months (UK and EEA).

Statements issued outside of the EEA are not acceptable.

Credit union statement, dated from the last 6 months (UK).

Mortgage statement from a recognised lender, dated from the last 12 months (UK and EEA).

Statements issued outside of the EEA are not acceptable.

Local council rent card or tenancy agreement, dated from the last 6 months.

Evidence of entitlement to Department for Work and Pensions (DWP) benefits (e.g. child allowance, pension, etc.), dated from the last 12 months (UK).

Section 5 – Type of Request

Which data subject right under the GDPR would you like to exercise? Or, would you like to make a request under the AHRA?

Type of Request:	Please Tick to Confirm:
GDPR: The Right of Access – i.e. a subject access request (SAR). Please note, this type of request incorporates requests made under the Right to Data Portability .	
AHRA: Request to Access Health Records – of a deceased patient.	
GDPR/AHRA: As above, viewing only, not copies.	
GDPR: The Right to Rectification – To have incorrect information amended.	
GDPR: The Right to Erasure – To have information about you deleted, also known as, ‘the right to be forgotten’.	
GDPR: The Right to Object – To object to how your data is being processed.	

Please note, your **Right to be Informed** is satisfied via our Privacy Notice. You can find a full copy on the Trusts' website: <https://www.bfwh.nhs.uk/privacy-notice-for-our-service-users/>

Please also note, the **Right to Restriction of Processing** is mostly likely to only apply while a request for rectification, erasure, or objection is being considered.

Section 6 – Content of the Request

To help us accurately identify the correct information, and all of the information, to which your request relates, please outline the content of your request below. Please provide as much detail as possible.

Please note, for a request for access (SAR/AHRA), you may choose to simply request that we provide all information that we hold about you, and we will endeavour to meet this request, but please be aware that your records may be held in different locations in the Trust and in different formats, so any further detail you can provide is helpful in enabling us to provide you with everything we hold about you.

Date Range (if known):	Healthcare Record/ Staff Record/ Other Information	Type of Information, e.g. Acute Health Record, Community Health Record (such as District Nursing, Health Visitors, Physiotherapy), X-Rays, Scans, Staff Record (such as Personnel File).	<i>If the request relates to health records:</i> Consultant/ Speciality/ Service, e.g. Orthopaedics, Maternity, A&E.	<i>If not requesting access (SAR/AHRA):</i> The nature of your request, e.g. 'I would like the notes made during my attendance to be amended'.

If you are making a request for access (SAR/AHRA), please go to **Section 7**. If you are making any other type of request, please go to **Section 8**.

Section 7 – Delivery Method

For SAR/AHRA only.

Further details on collections, delivery and viewings are outlined in the sections, 'More About Subject Access Requests' (pg.4) and 'Making a Request and How to Contact Us' (pg.5).

Delivery Method:	Please Tick to Confirm:
I would like to be provided with a copy of the information to be collected in person .	
I would like to be provided with a copy of the information by post . (Postage may take up to 10 working days.)	
I would like to be provided with a copy of the information by email .	
I would like to view the information in person, not copies.	

Section 8 – Certification and Signature

I am aware that it is an offence to unlawfully exercise the rights outlined above or access the information above, e.g. by impersonating the data subject or impersonating a person with authority to act on their behalf. I understand that it is necessary for Blackpool Teaching Hospitals NHS Foundation Trust to confirm my identity and my authority to exercise the rights outlined above or access the information above. I certify that the information I have provided and the supporting documentation I have provided is true, correct, accurate and authentic.

Signed _____ Date _____

Print name _____

Please ensure that you have:

- **Completed the form in full;**
- **Signed the declaration above; and,**
- **Enclosed all necessary supporting documentation.**

Please return all completed forms, either by post, email or in person, to the Data Access team. If you have any queries about making a request, please contact the Data Access team. Full contact details are outlined in the section, 'Making a Request and How to Contact Us' (pg.5).