

STANDARD OPERATING PROCEDURE FOR THE MANAGEMENT OF SUBJECT ACCESS REQUESTS

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Introduction

This Standing Operating Procedure (SOP) sets out what staff should do when receiving a request for personal information, such as medical information or staff information, and applies to NHS Shropshire, Telford and Wrekin Clinical Commissioning Group for records for which they are the Data Controller (or Data Processor as required). The CCG are required to provide a procedure in place to respond to requests made under the Data Protection Act 2018/GDPR. In addition, requests can be made under the Access to Health Records Act 1990.

Under most circumstances these requests will be received and/or processed by the NHS Shropshire, Telford And Wrekin Clinical Commissioning Group Patient Services Team, however, there may be rare occasions when requests will be processed by staff not part of this team. Staff should follow the guidance in this SOP to ensure compliance with current legislation. If staff are unsure, they should contact the Patient Services Team for advice and assistance.

It is important that all staff are familiar with the contents of this SOP as they may be the first point of contact for a request for personal information or they may be required to advise others including patients and other service users who make a request for personal information.

Requests for access to records have strict timeframes therefore it is imperative that any request are dealt with as expediently as possible.

Data Protection Act 1998 and General Data Protection Regulation

Both pieces of legislation give individuals the right, or their authorised representative, the right to apply to access their personal data that an organisation holds about them.

Access to Health Records Act 1990

The Access to Health Records Act 1990 provides a right for authorised people to apply to access information contained within a deceased person's health record.

Who can make the request?

Subject Access Requests – General Data Protection Regulation/Data Protection Act 2018

Subject Access Requests can be made by:

- The individual themselves, the 'data subject'
- Those who have parental responsibility (if requesting a child's record)
- A representative nominated by the individual to act on their behalf such as solicitors or a relative. In these circumstances, valid consent by the individual granting the authority must accompany the application

- In certain situations, a person granted an attorney or agent by the Court of Protection on behalf of an adult who is capable of consent
- The police
- A solicitor acting on behalf of the individual (if the claim is or likely to be against the Organisation it should be treated no differently), valid documentation granting the authority must accompany the application.
- Via a Court Order

Individual requests should be made in writing or by using the Application for Personal Information form at Appendix B which will ensure the appropriate information is available to process the application.

Requests must also have the appropriate documentation, for example identification documents if necessary, see Appendix M to support the application for access.

Requests made under the Access to Health Records Act 1990 For Deceased Person's Records

Requests made under the Access to Health Records Act 1990 can be requested by:

- The patient's personal representative - a personal representative is the executor or administrator of the deceased person's estate, valid documentation granting the authority must accompany the application.
- Any person who may have a claim arising out of the patient's death, valid documentation granting the authority must accompany the application.

Service Introduction

This process will be facilitated by the Patient Services Team. The team provides a single point of access for the processing of Subject Access Requests and the management of these matters, especially relating to securing appropriate consent documentation.

Where the request is to be sent to

Requests should be made in writing and it is recommended using the Application for Personal Information form at Appendix B and sent with copies of any necessary identification documents, to the CCG Patient Services email address:

STWCCG.PatientServices@nhs.net

Requests may still be received by post and these should be date stamped on receipt and sent to the Patient Services team either in hardcopy by internal mail. All requests should be made to:

Patient Services Team
 NHS Shropshire, Telford and Wrekin Clinical Commissioning Group
 Halesfield 6
 Telford
 TF7 4BF

If verbal requests for information are received, then the requester should be directed to complete the Application for Personal Information form and return it along with supporting documents to:

STWCCG.PatientServices@nhs.net

There may also be requests via social media and direction should be given as above.

Key Roles

The Patient Services Team have specialist knowledge to process requests and are fully versed in the legislation surrounding requests for personal information and to provide assurance that requests are dealt with lawfully and that legislation is not breached.

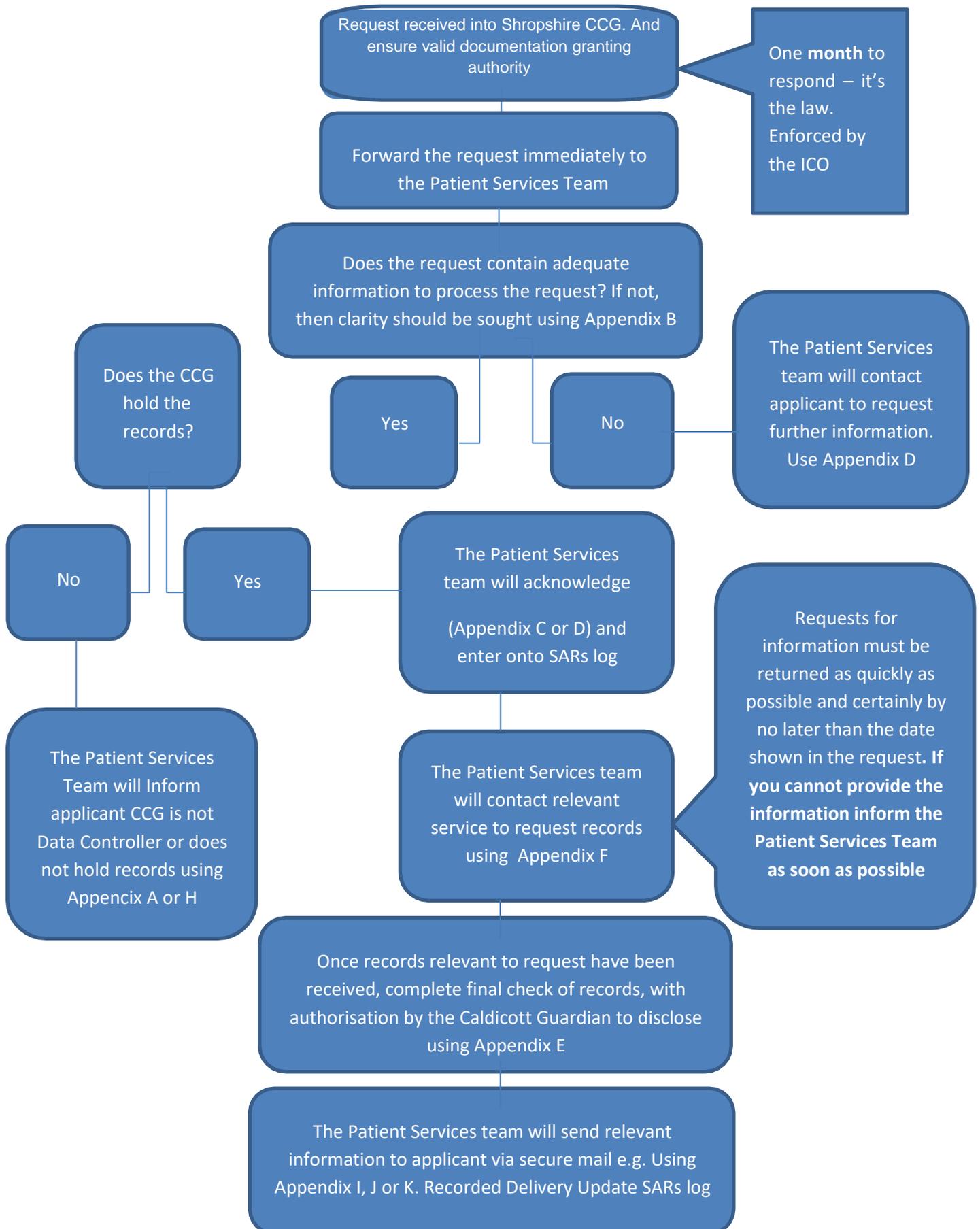
The CCG's Caldicott Guardian is the Director of Quality, Nursing and Patient Experience and Data Protection Officer (DPO) is the Midlands and Lancashire CSU Head of Information Governance. The DPO/Caldicott Guardian is responsible for overseeing the subject access request process and providing support, direction and management to the Patient Services Team.

Timescales

Applications made under the new **General Data Protection Regulation/Data Protection Act 2018** must be responded to within **one month (28 calendar days)** unless exceptional circumstances apply in which case the applicant should be informed. Any requests to access personal information received should be directed to the Patient Services team immediately.

Applications made under the **Access to Health Records Act 1990** have a historic ministerial commitment that requests for access to health records should normally be handled within **21 days** where the record has been added to within the last 40 days otherwise a timescale of releasing the information within 40 days is applied.

PROCESS SUMMARY FLOW CHART



Other Areas for Consideration

Supervised Access to view Records

Viewing the records is an option but only if both parties agree.

If the viewing is supported, the process of reviewing the data sources and records follows the same process. The records must not be left unattended with the requestor, so the appropriate senior manager must remain in the room to ensure that the records are not tampered with and to explain any entries or terminology or decipher and help with any legibility queries.

On occasions research organisations will request access to the records as part of a research project. Access can only be approved to relevant information with the prior written consent of the person or their personal representative. The appropriate senior manager must be informed, and the records reviewed as per the process above and the information disclosed to the research organisation.

If a person wishes to view their records and then wants to be provided with copies this would still come under the one access request.

Police Requests

Requests where the consent is available may be processed in the same way as solicitors or third- party requests to release notes to the police. The Information Governance Team and/or the Caldicott Guardian should be informed of any requests for records from the police which are not accompanied by the written consent of the data subject. The request from the police must be in writing to comply with the Data Protection Law Enforcement Directive. This is a more extensive data processing right and all requests by the police must comply with this directive.

Original health records must not be given to the police and there will be no charge for copies of records.

Court Order Requests

All court orders and associated documents must be brought to the attention of the Information Governance Team and/or the Caldicott Guardian. Authorisation will be requested from the professional involved and copies of records will be given to the Court. The original records must not be released.

Records not held by the CCG

Records held by another organisation contracted to provide services on behalf of the CCG

There are instances where the CCG contracts out services to another organisation. In these instances, the CCG does not hold the records therefore the service that holds those records is responsible for processing the request for records, on behalf of the CCG. Therefore, the CCG need to redirect the request to the relevant team and request that they follow their procedure to manage the request on behalf of the CCG. The CCG should advise the applicant of this by amending the acknowledgement letter at Appendix C to provide contact details for the team who will be processing the request on behalf of the CCG and the reasons why they will be doing so.

Records held by another organisation to whom the CCG does not contract services

If the request relates to a request for records where the CCG is not the Data Controller, a letter should be sent to the applicant (see Appendix A) advising the CCG is not the Data Controller and provide suggestions to where the request should be forwarded to.

Complaints

If the applicant is dissatisfied with the information provided or the manner the request has been handled by the CCG, they are entitled to complain following the CCG's complaints procedure.

Patient Services Team
NHS Shropshire, Telford and Wrekin Clinical Commissioning Group
Halesfield 6
Telford
TF7 4BF
Email: STWCCG.PatientServices@nhs.net

If the applicant is still dissatisfied once the complaints process is completed, they are entitled to make a complaint to the Information Commissioners Office (ICO).

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone: 0303 123 1113 Email: casework@ico.gsi.gov.uk Website: www.ico.gov.uk

Monitoring and Audit

As part of our quality control measures and to meet the requirements of the Data Security and Protection Toolkit, audits will be undertaken in respect of both the Subject Access Request processes followed and the logs on an on-going basis. The CCG and the CSI IG Team will consistently check for accuracy and quality of content and issues arising from the audits will be recorded along with necessary corrective actions and recommendations.

Corrective Action

As a result of the regular monitoring and audits that will be undertaken any areas of concern (including staff not following processes) will be monitored and reviewed within a 1-month period to ensure that the practices meet the desired standard.

APPENDICES

APPENDIX A – INCORRECT DATA CONTROLLER RESPONSE

Enquires directed to:

Direct No:

Email:

Our ref:

Your ref:

Address

Address

Address

Postcode

Date

CONFIDENTIAL

Dear Sir/madam

Re: Name -

D.O.B.

Thank you for your request dated XXXXXX, which was received by the organisation on xxxxxxxxxxxx, regarding your personal information under s.7 (1) of the General Data Protection Regulation/Data Protection Act 2018.

NHS Shropshire, Telford and Wrekin CCG can only provide information held by this organisation, as the registered Data Controller.

As the information you require is held by **INSERT NAMES / ADDRESSES OF POSSIBLE DATA CONTROLLERS**, a request will have to be sent to these organisation(s) individually, following their Subject Access process, as they are Data Controllers in their own right.

If you wish to discuss the matter further, please contact me on the above number. Yours sincerely

Department Name

APPENDIX B – APPLICATION FOR ACCESS TO PERSONAL INFORMATION

APPLICATION FOR ACCESS TO PERSONAL INFORMATION

| | |
|---|-----|
| Once completed, please send this form to: | XXX |
|---|-----|

Section 1 – Individual’s Details Requested

| | |
|---|--|
| Individual’s full name | |
| Previous name(s) | |
| Date of birth | |
| NHS Number (if known) | |
| Applicant’s Current Address | |
| Applicant’s Previous Address (if applicable) | |
| Contact information – Telephone number, email address | |

Section 2 – Description of the information you require

Please provide as much information as possible giving full details of the periods you are interested in.

| Types of Information Required | Date |
|--|------|
| <p>Right of data portability adhered to</p> <p>Confirm method of data release, ie paper, email, USB etc.</p> | |

Section 3 – 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 personal information referred to above under the terms of the General Data Protection Regulation/Data Protection Act 2018/Access to Health Records Act 1990.

| | |
|--|--|
| Applicants Name | |
| Address to which reply should be sent (if different from above) including postcode | |
| Signature of applicant | |

(If you are not the person named in Section 1, please tick one of the following boxes)

| | |
|---|--|
| I am the parent/guardian of an individual under 16 years old who has completed the Authorisation section (Section 5). | |
| I am the parent/guardian of an individual under 16 years old who (is unable to understand the request/has consented to my making this request). | |
| I am the deceased patient's personal representative and attach confirmation of my appointment by a court to manage the patient's affairs | |
| I am the legal representative of the individual, and they have given signed authorisation (Section 5) | |
| Other (please specify) | |

Section 4 – Authorisation

I hereby authorise NHS Shropshire, Telford and Wrekin CCG to release the requested personal data that they may hold relating to me to
 (Enter the name of the person acting on your behalf), to whom I have given consent to act on my behalf.

Signature of Applicant.....

Date.....

APPENDIX C – ACKNOWLEDGEMENT LETTER – IF NO FURTHER INFORMATION REQUIRED

Enquires directed to:

Direct No:

Email:

Our ref:

Your ref:

Address

Address

Address

Postcode

Date

CONFIDENTIAL

Dear Sir/madam

Re: **Name - D.O.B.**

Thank you for your letter dated, which was received by the organisation on , requesting a copy of your personal information as follows:

-
-
-

We will deal with your request in accordance with the General Data Protection Regulation/Data Protection Act 2018/Access to Health Records Act 1990.

We will deal with your request within the statutory

timescales. Yours sincerely

Department Name

APPENDIX D – ACKNOWLEDGEMENT LETTER – REQUESTING FURTHER INFORMATION

Enquires directed to:

Direct No:

Email:

Our ref: SARS

IDXXXX

Your ref:

Address

Address

Address

Postcode

Date

CONFIDENTIAL

Dear Sir/madam

Re: Name -

D.O.B.

Thank you for your letter/email dated, requesting a copy of your personal information We will deal with your request in accordance with the General Data Protection Regulation/Data Protection Act 2018/Access to Health Records Act 1990.

Please find enclosed an application for access to personal information form, you may wish to complete and return the form to the above address to help us to locate the information to which your request relates.

In addition, please supply a copy of your identification or your authority to act on behalf of the data subject. A list of acceptable forms of identification has been provided with this letter. (*delete if proof of ID not required – person known)

We will deal with your request within the statutory timescales, I look forward to hearing from you. Yours sincerely

Department Name

Enc. Application for Access to Personal Information form, list of acceptable forms of identification

APPENDIX E – AUTHORISATION TO RELEASE RECORDS FORM

AGREEMENT TO DISCLOSURE OF RECORDS

The form and documents to be released (copies of health/personnel records) must be sent to:

Name and job title of Caldicott Guardian Here

Documents must not be released directly to the applicant

| | |
|---------------|--|
| Person's Name | |
| Date of Birth | |
| Address | |

AUTHORISER'S DECLARATION – Please tick relevant

- 1 I agree to the attached records being released to the above
- 2 Part or the whole of the records has been withheld on grounds
Disclosure is likely to cause serious harm to the physical or
mental health of the person or of another individual
- Access would disclose information relating to, or provided by, a
third party who is not an NHS health care professional and has not consented
to their information being disclosed
- The record contains information the person expressly stated
must not be released

The person is under 16 and I do not think he/she fully
understands what an application to see their records means

LIST OF EXEMPTIONS/REDACTIONS ON PAGE 2 PROVIDED – Please include page

number and reason LIST OF RECORDS TO SEND: -

- 1.
- 2.
- 3.

| No. | Page Number | Reason for exemption/redaction |
|-----|-------------|--------------------------------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |

APPENDIX F - REQUEST FOR RECORDS TO SERVICE AREA

Dear [REDACTED],

Please find attached a request for records in relation to [REDACTED].

Please could you kindly retrieve a copy of these records and ensure that they are checked and redacted if necessary.

Should you have any questions please contact myself.

The CCG's Caldicott Guardian will be approving all records prior to release to the applicant.

Please could these be returned to me no later than [REDACTED] (10 working days). Kind regards

APPENDIX G – NO RESPONSE LETTER

Enquires directed to:

Direct No:

Email:

Our ref:

Your ref:

Address

Postcode

Date

CONFIDENTIAL

Dear Sir/Madam,

Re: Name - D.O.B.

I refer to your request for personal information under the Data Protection Act 2018/General Data Protection Regulation (GDPR) /Access to Health Records 1990 about the above-named individual.

I am writing to advise you that NHS Shropshire, Telford and Wrekin CCG has not yet received an application form/proof of identity/address information to continue with this request.
(*delete/amend as appropriate)

If the information is still required, you may wish to return the previously sent application form completed to the address below.

If no further communication is received within 10 days of the date of this letter the CCG will assume the information is no longer required and close this request

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communication.

Yours sincerely

Department Name

APPENDIX H – PERSONAL INFORMATION NOT HELD

Enquires directed to:

Direct No:

Email:

Our ref:

Your ref:

Address

Address

Address

Postcode

Date

CONFIDENTIAL

Dear Sir/Madam,

Re: **Name - D.O.B.**

I refer to your request for personal information under the General Data Protection Regulations/Data Protection Act 2018 /Access to Health Records 1990 about the above-named individual.

I am writing to advise you that following a search of our paper and electronic records, we have established that the information you requested is not held by this organisation.

However, we think it may be held by the following:
INSERT – Names / Addresses on possible data controllers

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communication.

Yours sincerely

Department Name

APPENDIX I - RESPONSE TO THE APPLICANT – FULL DISCLOSURE

Enquires directed to:

Direct No:

Email:

Our ref:

Your ref:

Address

Address

Address

Postcode

Date

CONFIDENTIAL

Dear Sir/Madam,

Re: **Name - D.O.B.**

Further to your request for records in relation to the above- named person, please find enclosed: -

- 1.
- 2.

I trust that this information satisfies your request but if you should wish to discuss the matter further, please contact me on the above number.

Yours sincerely

Department Name

APPENDIX J – RESPONSE TO THE APPLICANT – PARTIAL DISCLOSURE

Enquires directed to:

Direct No:

Email:

Our ref:

Your ref:

Address

Address

Address

Postcode

Date

CONFIDENTIAL

Dear Sir/Madam,

Re: **Name - D.O.B**

Further to your request for records in relation to the above-named person, please find enclosed the following records:

-
.....

We are unable to provide you with a complete copy of the information requested due to it falling

under the following exemption(s):

-

If you wish to discuss the matter further, please contact me on the above number.

Should you be unhappy with the response received, you have the right to complain to the Information Commissioner's Office. The Information Commissioner can be contacted by:

Information Commissioner's
Office Wycliffe House Water
Lane Wilmslow
Cheshire
SK9
5AF
Tel: 0303 123 1113

Yours sincerely

Department Name

APPENDIX K – RESPONSE TO APPLICANT – REFUSAL OF DISCLOSURE

Enquires directed to:

Direct No:

Email:

Our ref:

Your ref:

Address

Address

Address

Postcode

Date

CONFIDENTIAL

Dear Sir/Madam,

Re: **Name - D.O.B**

I write further to your request for records in relation to the above-named person.

We are unable to provide you with the information you requested due to it falling under the following exemption(s):

□

If you wish to discuss the matter further, please contact me on the above number.

Should you be unhappy with the response received, you have the right to complain to the Information Commissioner's Office. The Information Commissioner can be contacted by:

Information Commissioner's
Office Wycliffe House Water
Lane Wilmslow
Cheshire
SK9 5AF
Tel: 0303 123 1113

Yours sincerely

Department Name

APPENDIX L – SUBJECT ACCESS EXEMPTIONS – WHERE RIGHT OF SUBJECT ACCESS DOES NOT APPLY

| Category | Exemption |
|------------------------------------|--|
| Crime and Taxation | Section of the personal information contained in the records, or individual records that relate to the prevention and detection of crime or the apprehension or prosecution of offenders. |
| Health, Education and Social Work | Social work records exemptions come under the Data Protection (Subject Access Modification) (Social Work) Order 2000 relates to personal information used for social work purposes: Where release of information may prejudice the carrying out of social work by causing serious harm to the physical or mental condition of the data subject or others. Certain third party's information can be released if they are a "relevant person "(a list is contained in the order) as long as release of the information does not cause serious harm to the relevant person's physical or mental condition. |
| Research, history statistics | Where the personal data is used solely for research purposes and as long as resulting statistics are not made available which identify the person. |
| Human fertilisation and embryology | Personal information can be withheld in certain circumstances where it relates to human fertilization and embryology. |

The full list of subject areas where exemptions as designated by Data Protection Act 2018

- National security
- Crime and taxation
- Health, education and social work
- Regulatory activity
- Journalism, literature and art
- Research, history and statistics
- Information made available to the public or by under enactment
- Domestic purpose
- Confidential references
- Armed forces
- Judicial appointments
- Crown employment
- Management forecasts
- Negotiations
- Examination marks
- Examination scripts
- Legal professional privilege
- Self-incrimination
- Crown appointments
- Human fertilisation and embryology, and adoption records and reports

APPENDIX M – ACCEPTABLE FORMS OF IDENTIFICATION

For verification of identity the following combinations are acceptable when applying for a request for personal information*:

- A form of photographic personal identification and a document confirming their address

Note*

If you are applying on behalf of an individual proof of entitlement will also be required separately.

Acceptable Photo Personal Identity Documents

- Current UK (Channel Islands, Isle of Man or Irish) passport or EU/other nationalities passports.
- Passports of non-EU nationals containing UK stamps, a visa or a UK residence permit showing the immigration status of the holder in the UK*
- Current UK (or EU/other nationalities) Photo-card Driving License (providing that the person checking is confident that non-UK Photo-card Driving Licenses are genuine)
- A national ID card and/or other valid documentation relating to immigration status and permission to work*

Note, documents such as an organizational ID card are not acceptable forms of identification.

Acceptable Non-Photo Personal Identity Documents

- Current Driving License (old version);
- Birth certificate
- Residence permit issued by Home Office to EU Nationals on inspection of own-country passport;
- Adoption certificate;
- Marriage/Civil Partnership certificate;
- Divorce or annulment papers;
- Police registration document;
- Certificate of employment in HM Forces;
- Current benefit book or card or original notification letter from the Department of Work and Pensions (DWP) confirming legal right to benefit;
- Most recent HM Revenues and Customs (previously Inland Revenue) tax notification;

- Current firearms certificate;
- Application Registration Card (ARC) issued to people seeking asylum in the UK (or previously issued standard acknowledgement letters, SAL1 or SAL2 forms);
- GV3 form issued to people who want to travel in the UK without valid travel documents;
- Home Office letter IS KOS EX or KOS EX2;
- Building industry sub-contractor's certificate issued by HM Revenues and Customs (previously Inland Revenue)

To confirm the address, the following documents are acceptable:

- Recent utility bill or a certificate from a supplier of utilities confirming the arrangement to pay for the services on pre-payment terms (note: mobile telephone bills should not be accepted as they can be sent to different addresses). Utility bills in joint names are permissible; *
- Local authority tax bill (valid for current year); *
- Current UK photocard driving license (if not already presented as a personal ID document);
- Current Full UK driving license (old version) (if not already presented as a personal ID document);
- Bank, building society or credit union statement or passbook containing current address;
- Most recent mortgage statement from a recognised lender; *
- Current local council rent card or tenancy agreement;
- Current benefit book or card or original notification letter from Department of Work and Pensions (DWP) confirming the rights to benefit;
- Confirmation from an electoral register search that a person of that name lives at the claimed address; *
- Court Order.

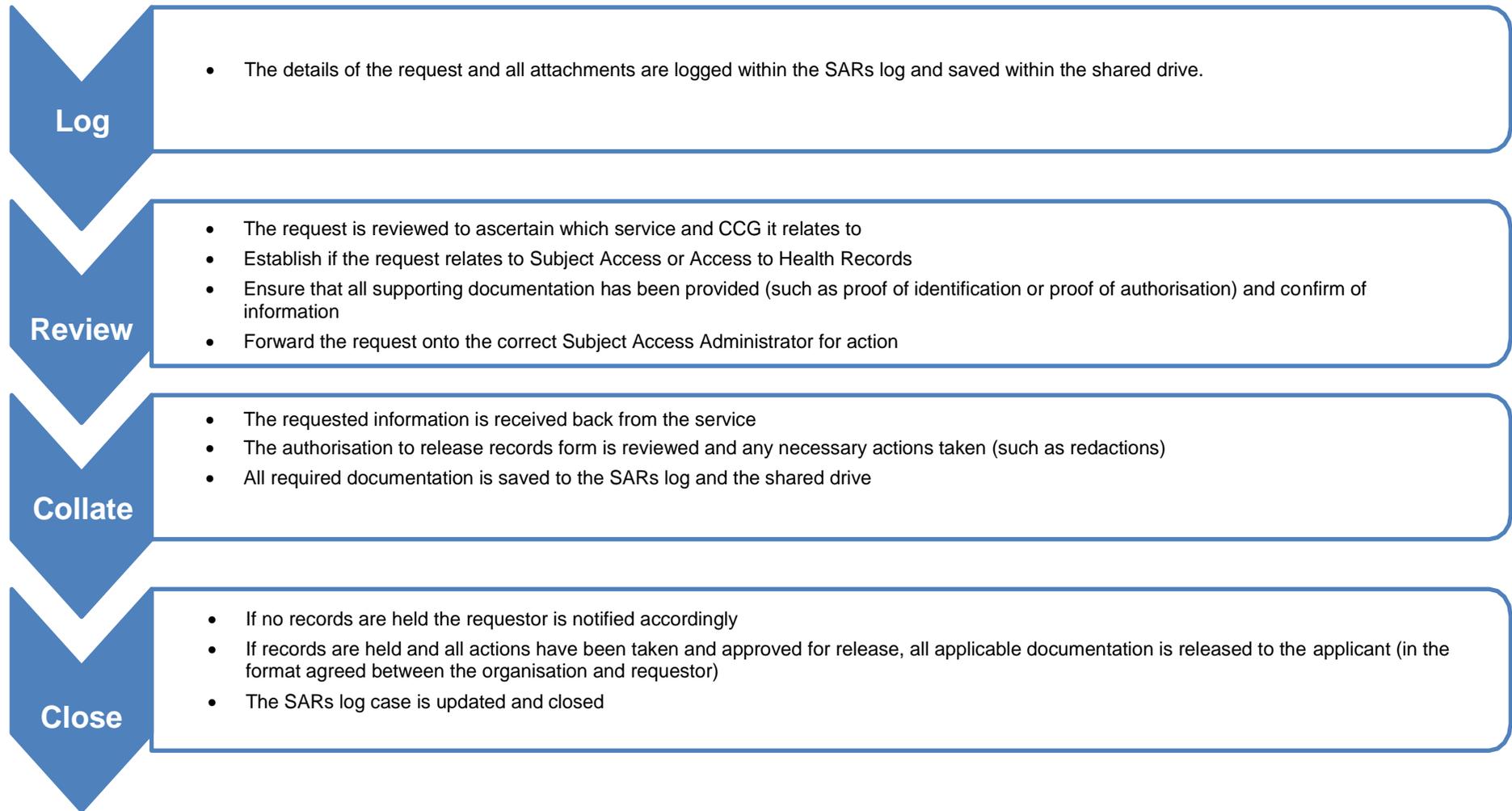
*** Proof of**

Entitlement

- Copy of the section of the Will which names you as Executor;
- Copy of Grant of Probate;
- Copy of Letters of Administration;
- Letter from solicitor confirming entitlement;

****The date on these documents should ideally be within the last 6 months (unless there is a good reason for it not to be e.g. clear evidence that the person was not living in the UK for 6 months or more) and they must contain the name and address of the applicant.***

APPENDIX N – PROCESS SUMMARY FLOW



APPENDIX O – ESCALATION TRIGGERS

| Trigger | Method | Who |
|---------|--|-------------------------------|
| 11 Days | <p>If the requested information has not been provided by the service, the Patient Services Team will send out a reminder email.</p> <p>The service will be reminded of the pending deadline date.</p> <p>If the requested information has not been received by the Patient Services</p> | Subject Access Administrator |
| 14 Days | <p>Team, the team will send out a reminder and copy in the Director of Corporate Affairs. SARs log must be updated to reflect all telephone calls that take place.</p> | Subject Access Administrator |
| 16 Days | <p>If the requested information has not been received by the Patient Services Team the Corporate Affairs Manager will send out a reminder. SARs log must be updated to reflect all telephone calls that take place.</p> | Corporate Affairs Manager |
| 19 Days | <p>If the requested information has not been received by the Patient Services Team, the Director of Corporate Affairs should escalate to the Service Area Lead that has not provided the requested information. SARs log must be updated to reflect all telephone calls that take place.</p> | Director of Corporate Affairs |