

Elizabeth Denham

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

17 July 2018

Dear Ms Denham

As chairs of the BMA's Professional fees and General Practitioners Committees, we are writing to you to seek greater clarity over specific terminology used within the newly enforced General Data Protection Regulations (GDPR).

As you will be aware the regulations brought in at the end of May prevents data controllers (in this case general practitioners) from charging a fee for providing access to their patient's medical record as a Subject Access Request (SAR). The only exception to this is if the request is deemed 'manifestly unfounded' or 'excessive' in which case a 'reasonable' fee can be charged. The lack of any guidance as to what is considered 'manifestly unfounded' or 'excessive' is causing considerable confusion and serious concern to our members who regularly receive SARs from their patients or via third parties such as solicitors. It would therefore be extremely helpful to be able to share with our members some scenarios or benchmarking for them to judge when this exception could potentially be used.

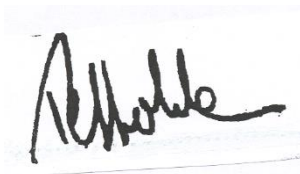
The costs associated with providing access to a patient's full record, or a redacted version for third parties, is by no means insignificant or uncommon. This can typically involve a member of staff photocopying a patient's record, that can often extend over a hundred pages, and a GP then reviewing this to look for and remove third party information. It is a task that can take hours to complete. At a time when general practice is under extreme pressure and severely financially stretched, it is impossible for practices to merely accept or consume these costs without having a long-term impact on the resources available for direct patient care. The NHS has not provided any resources to cover this additional burden for practices, consequently the costs of this exercise are born by the GP personally.

We would also like to take the opportunity to clarify if the cost of the postage for sending copies of medical records to patients or third parties falls within the GDPR / SAR process or whether practices are able to charge for this?

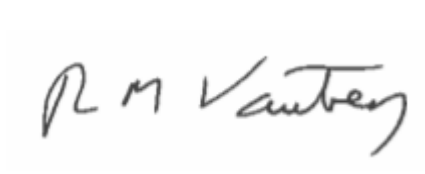


We look forward to hearing from you on these points and would also be happy to meet with you if you would like to discuss anything further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P Holden', written on a light blue horizontal-lined background.

Peter Holden
Chair, BMA Professional Fees committee

A handwritten signature in black ink, appearing to read 'R M Vautrey', written on a light blue horizontal-lined background.

Richard Vautrey
Chair, BMA General Practitioners committee (England)