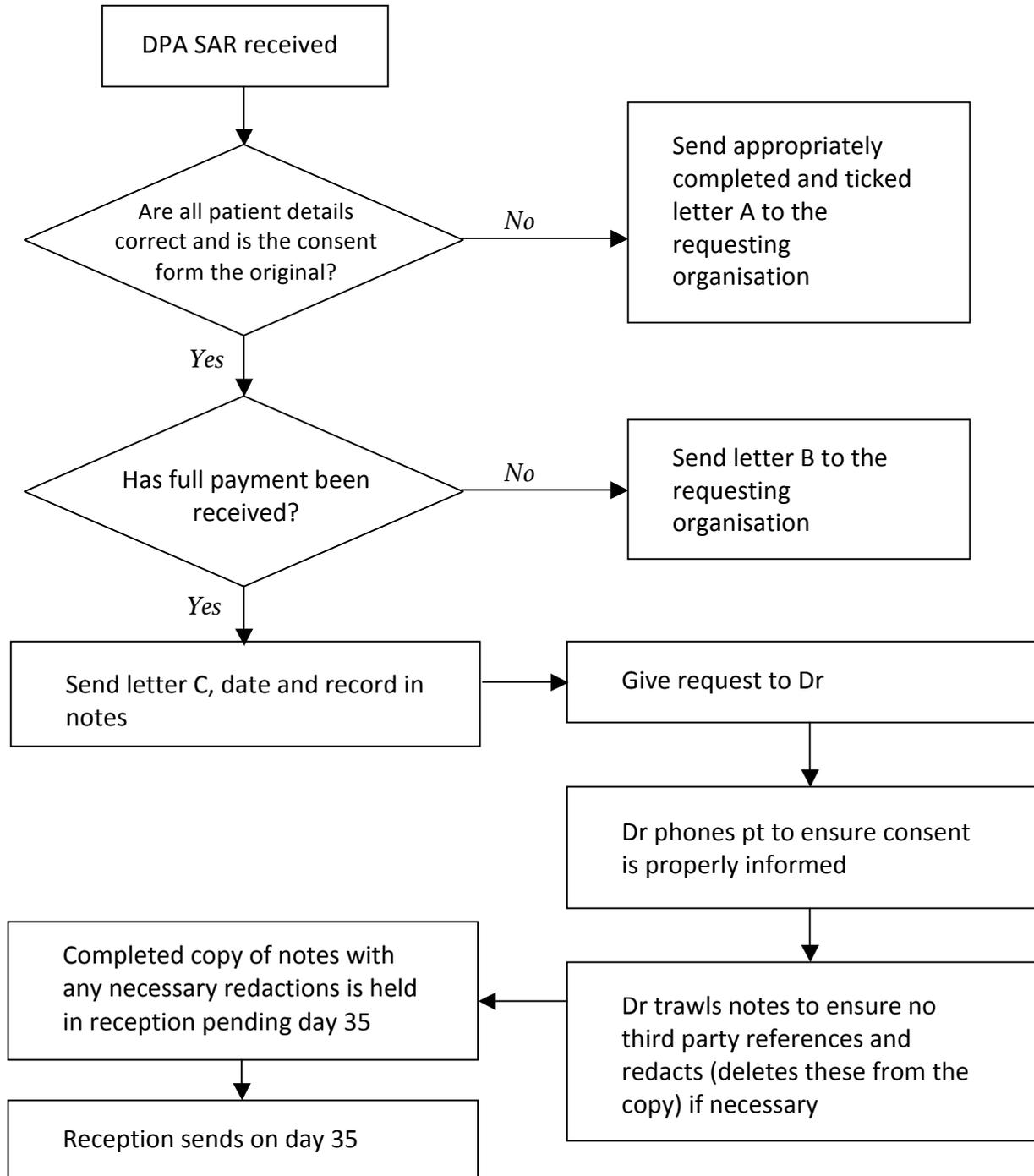


Data Protection Act (DPA) Subject Access Request (SAR)
Response Flowchart

Increasing numbers of requests for copies of notes are being received from organisations quoting the Data Protection Act. This is a specific piece of law and the following flow chart is the way in which such requests should be processed in order to comply. Any request for notes or extracts from notes that include reference to the DPA should be handled through this protocol. All correspondence should be dated and filed in the notes as a permanent record in the event of dispute.



Letter A

Date

Dear Sir,

Re:

Thank you for your Subject Access Request (SAR) under the Data Protection Act 1998 for the above named individual. As the data controller for highly sensitive medical data we are sure that you will be conscious of the very high standards of patient identification that are required before we can provide such information. Such a SAR will result in the release of sensitive and confidential information contained within an individual's medical record and we must therefore be absolutely sure that the details and consent offered are completely accurate and of an acceptable standard.

We are returning your SAR on this occasion for the following reason:

- you have not provided a date of birth on the consent form, or the date of birth you have given does not match the date of birth of the patient record we hold.
- you have not provided an address on the consent form, or the address you have given does not match the address of the patient record we hold.
- you have not provided an NHS number, or the NHS number you have given does not match the NHS number of the patient record we hold. If your client does not know his or her NHS number then they can contact the surgery to find this.
- the consent form you have sent us is not the original. This is an important safeguard in ensuring the security of the data we hold

Please find attached the Information Commissioner's Office checklist and guidance for the handling of SARs for medical records.

Should you wish to proceed with this SAR we look forward to receiving an appropriately completed consent form complying with the requirements set out above. Our standard model SAR form is enclosed, and we would be grateful if you could return the original signed document to us along with payment of £50. In accordance with the Act, we shall return the records you request within 40 days of receipt of these items, unless the data subject contacts us in the meantime to cancel their consent. We are sure that you will understand the reasons for the need for such strict adherence to the ICO's code of conduct.

Yours faithfully,

[Surgery Name]

Technical Guidance Note

Subject access to health records by members of the public

A health record is defined in the Data Protection Act 1998 (the Act) as any record that:

- consists of information relating to the physical or mental health or condition of an individual, and
- has been made by or on behalf of a health professional in connection with the care of that individual.
- The importance attached to the information in health records often results in individuals requesting access to their health records.
- This guidance aims to explain to people who work with medical records how you should deal with these requests and what your responsibilities are under the Act. You may, for example, be working in GPs' surgeries, hospitals, or for other care providers.

How should we process a request once we receive it?

When you receive a subject access request, you will need to consider the following before deciding how to respond:

Section 7 of the Act gives individuals the statutory right, subject to some exemptions, to see information that organisations hold about them. Requests must be made in writing to the person or organisation holding the health records. The type of access you must provide and the fee you are allowed to charge may vary depending on how the records are held.

Organisations should have procedures for handling requests for health information. A request does not have to use the term 'subject access' or 'data protection' for it to be valid. Staff should be trained to recognise requests and must deal with them within 40 days or sooner if possible.

Requests should include the full name and address of the person seeking access to their health record, plus any other information that may help identify them, such as their NHS number. If the record is open and there is an ongoing relationship between a health professional and the person making the request, you should confirm their identity with the lead practitioner. Confirming identity is very important if the request is for old information from closed records and there is no ongoing relationship that can be relied on to help with identification.

Consider all information held about the individual, not only medical records, bearing in mind that the person may say they wish to restrict their request to specific information.

You can ask the person to give you more information to help you find the information they are requesting.

It is good practice to record all incoming requests for information and track them through to completion. You should acknowledge all requests for information and let the person know when they can expect a response.

Fees

You are allowed to charge between £10 and £50 for complying with a subject access request, which will allow you to cover some of your costs, such as for photocopying. The fee is optional.

The amount you can charge varies depending on how the health records are held.

You can charge a maximum of £10 for complying with a subject access request to health records held on a computer system only.

You can charge a maximum of £50 for complying with a subject access request to health records held in a manual filing system, or a combination of electronic and manual filing systems. Or you can offer the applicant the opportunity to inspect the documents in person free of charge, outside the right of subject access (see also below).

Subject Access Request

made to

[Surgery Name]

Full Name:

Address:

Postcode:

Date of Birth:

NHS Number:

(If you are unsure of your NHS Number you can request this by contacting the surgery)

Under the terms of the Data Protection Act 1998 I wish to request a **FULL/PARTIAL** copy of my medical record (please delete as appropriate).

Please send this record to my home address

Please tick
one box

Please send this record to my representative as detailed below

Details of representative:

Address:

I understand that the whole of my medical record including all correspondence, test results and details of every consultation will be forwarded to the above named person or persons if I have consented to full disclosure. Any liability for this disclosure rests with me.

I enclose the statutory fee of £50 and I understand that my records will be made available within 40 days of receipt by the practice of payment.

Signed:

Date:

Letter B

Date

Dear Sir,

Re:

Thank you for your Subject Access Request (SAR) under the Data Protection Act 1998 for the above named individual.

We shall be delighted to proceed with your request on the receipt of pre-payment in full of £50. I enclose a copy of the Information Commissioner's Office guidelines on SARs for medical notes, and as this request involves some information not held electronically the fee scale is of the amount indicated.

Please make cheques payable to [Surgery Name]. Upon the clearing of this fee we shall return the requested notes to you within the statutory period of 40 days.

Yours faithfully,

[Surgery Name]

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Letter C

Date

Dear Sir,

Re:

Thank you for your Subject Access Request (SAR) under the Data Protection Act 1998 for the above named individual and for pre-payment in full. Please find attached the Information Commissioner's Office checklist and guidance for the handling of SAR for medical records. Your payment cleared today and the 40 day statutory timeframe for the return of these records begins now.

The patient's doctor will now contact the patient to ensure that the consent given is fully informed and that the patient is aware that a full copy of their entire medical record will be forwarded to you.

Please note that it is our medical centre's policy to send such requested records by first class recorded delivery on day 35 in order to ensure full compliance with the Data Protection Act. Please do not contact us before that date as we are not resourced to comply with other timescales not stipulated in statute.

Yours faithfully,

[Surgery Name]

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