



Access to Health Records

Accessing your own records

You are entitled to see and obtain copies of your medical records. You can request a copy of the records verbally or in writing to the relevant healthcare provider (i.e. the GP practice, hospital, or private practitioner who holds the records).

Why are my medical records required?

If you are considering bringing a medical negligence claim, it will be necessary to obtain a copy of the records held by the practitioner against whom you have a complaint.

The notes of any practitioners against whom you have no complaint are also extremely important when bringing a claim. They provide relevant background information together with information about your treatment, current condition, and your prognosis. The information in these records may assist a solicitor to assess whether your current condition is related to medical negligence and some of the ways in which your condition has affected your life.

You can request these records yourself. If we act for you in a claim, we will ask that you provide written authority to allow us to request records on your behalf as well.

What should the medical records contain?

The records should contain the personal data held about you by that healthcare organisation or practitioner. Typically this includes (but is not limited to) notes made by the treating healthcare professional(s), correspondence, test results, scans, x-rays, and any reports or investigations into your treatment that may have been carried out.



Who do I contact to obtain copies of my records?

If you have received treatment through the NHS, the records will usually be held by the institution which provided the treatment. For example: records of your treatment in hospital can be requested from the hospital where you were treated. Your complete GP records can be requested from your current GP practice.

Records of treatment provided by a private practitioner can usually be requested directly from that practitioner.

It is recommended that you make your request in writing, if possible.

Can my request be refused?

Generally, the records holder must comply with your request and cannot refuse it.

If a request is “*manifestly unfounded or excessive*”, the records holder is allowed to refuse to supply the records or to charge a fee for doing so; however this is unlikely to be the case where an individual is requesting a copy of their medical records.

Records holders may withhold information when supplying records; in particular, if the information is likely to cause serious harm to you or another person, or if the information relates to a third party. In these situations, part of your records may not be supplied or some of the information in the records may be redacted (i.e. deleted or removed from the records you receive).

How long should it take to receive copies of my records?

Your records should be provided within one month of receiving your request. The records holder can extend time by a further two months if the request is complex; however, they must inform you about this extension.

In some cases the records holder may seek to confirm your identity. The time period for them to provide the records will not begin until you have supplied the requested identity documents.



Is a fee payable in order to obtain my records?

A fee cannot usually be charged for providing you with a copy of your records.

The records holder can only charge a fee if a request is “*manifestly unfounded or excessive*” or if you make repeated requests for the same records. In those circumstances, a reasonable fee to cover administrative costs may be charged.



Accessing someone else's records

To access someone else's medical records you must either have their consent to do so or have a legal basis for accessing their records.

Children

A request for a child's records can either be made by the child themselves or by a person (usually a parent or guardian) who has parental responsibility for them. Where a request is made on behalf of an older child, who is likely to be able to understand their rights in respect of access to their medical records, the provider may respond directly to the child.

Adults without mental capacity to manage their affairs

The records of a person who lacks the mental capacity to consent to release of their records, can be requested by someone who has authority to act on their behalf (such as someone with Power of Attorney).

A person who has died

Where someone has died, their Personal Representative (the Executor or Administrator of their Estate), or any person who may have a legal claim arising out of their death, may apply for a copy of their records. The copy of records should be provided free of charge within 40 days of the request.

The records relating to the deceased's treatment in hospital should be requested from the hospital that provided the treatment.

The deceased's GP records are likely to have been passed from the GP practice to Primary Care Support England. You should contact the deceased's GP surgery to confirm whom to contact to request those records.



Suggested format of requests for copy of medical records

If the request is for your own records:

To Whom It May Concern

I [name] of [address] born on [date of birth] request that you provide a copy of my medical records relating to my treatment from [dd/mm/yyyy] to date, including (but not limited to) clinical notes, surgical notes, nursing records, tests and investigation records, correspondence, x-rays, adverse incident reports and internal investigation documents. This is a subject access request pursuant to the GDPR/Data Protection Act 2018; therefore, I do not anticipate that a fee will be payable. I look forward to receiving a copy of these records within one month of receipt of this request.

If the request is for the medical records of a deceased person:

To Whom It May Concern

I [name] of [address] born on [date of birth] Personal Representative of the Estate of 'x' [or the widow/widower/child/parent etc of 'x' deceased] (who may have a claim in respect of the death of 'x') request that you provide a copy of the medical records which you hold relating to 'x' from [dd/mm/yyyy] to date, including (but not limited to) clinical notes, surgical notes, nursing records, tests and investigation records, correspondence, x-rays, adverse incident reports and internal investigation documents. As this is a request for the records of a deceased person, pursuant to the Access to Health Records Act 1990, I do not anticipate that a fee will be payable. I look forward to receiving copies of these records within 40 days.



Contact details

For further information on all aspects of making a medical negligence or personal injury claim, please contact one of our Medical Negligence and Personal Injury team on 020 7814 1200, or email us at clinnegenquiries@kingsleynapley.co.uk.

You can find full details about Kingsley Napley and our services at our website – please see www.kingsleynapley.co.uk.



Terrence Donovan

Partner and Head of Medical Negligence and Personal Injury

T +44 (0)20 7814 1260

E tdonovan@kingsleynapley.co.uk



Kate Rohde

Partner, Medical Negligence and Personal Injury

T +44 (0)20 7814 1237

E krohde@kingsleynapley.co.uk



Richard Lodge

Partner, Medical Negligence and Personal Injury

T +44 (0)20 7814 1249

E rlodge@kingsleynapley.co.uk

Kingsley Napley LLP is authorised and regulated by the Solicitors Regulation Authority. The firm is located at Knights Quarter | 14 St John's Lane | London EC1M 4AJ.

This document is provided by Kingsley Napley LLP for information purposes only. It does not constitute legal advice and should not be relied upon as such. If you require legal advice or assistance in respect of the issues referred to in this document, please contact the Medical Negligence and Personal Injury team at Kingsley Napley LLP or other specialist legal advisors.