

# The Vale Of Neath Practice

## Access to Health Records

<b>Version:</b>	<b>Review date:</b>	<b>Edited by:</b>	<b>Approved by:</b>	<b>Comments:</b>
1.0	25/05/2018	Mr Alex Davies	Mr Alex Davies	
1.1	21/09/2021	Mr Alex Davies	Mr Alex Davies	
1.2	21/09/2022	Mr Alex Davies	Mr Alex Davies	

<b><u>CONTENTS</u></b>	<b><u>PAGE</u></b>
Introduction	3
• The relevant legislative acts	3
• Procedures detailed within this policy	3
• Template usage	3
Accessibility	4
• Mechanisms in place to provide access	4
• Coded information	4
• Non-disclosure	4
• Group types requesting information	5
• Deceased patient records	6
Procedure	7
• SAR form timescales	7
• SAR log recommendation	7
• Desktop aide-memoire	7

## ACCESS TO HEALTH RECORDS

### 1. Introduction

This policy is written in conjunction with the information provided in the following government legislation:

1. The Access to Health Records Act 1990
2. The Access to Medical Reports Act 1988
3. The Freedom of Information Act 2000
4. The Data Protection (Subject Access Modification) (Health) Order 2000
5. General Data Protection Regulations (GDPR) 2018

The Vale Of Neath Practice will ensure appropriate procedures are in place to enable individuals to apply for access to information held about them, and for authorised individuals, information held about other people.

In accordance with the [Access to Health Records Act 1990](#) individuals have the right to access health records held by a healthcare provider who has treated that individual and/or access a summary care record (SCR) created by the individual's GP. The General Data Protection Regulations (GDPR) 2018 gives individuals the right to ask for a copy of the information an organisation holds about them; this right is commonly known as a subject access request (SAR). In the case of health records, a request for information has to be made with the organisation that holds the individual's health records, otherwise known as the data controller.

This policy will outline the procedure to access health records at The Vale Of Neath Practice as follows:

- For an individual for information about themselves
- For access to the health records of a deceased individual
- Access to health records of an individual by an authorised person (by a court), when the individual does not have the capacity to make such a decision

- Organisations requesting information about an individual for employment or insurance purposes (governed by [The Access to Medical Reports Act 1988](#) and [GDPR 2018](#))

This policy will be reviewed on a regular basis and users must ensure any reference to information within this policy is extant at the time of reference. If you are unsure about any of the content, the references provided as footnotes should be read as they provide supporting information and guidance.

## **2. Accessibility**

The Vale Of Neath Practice has mechanisms in place informing patients of their right to access the information held about them, which include the fee and how long it will take for a SAR process to be completed.

With effect from April 2016, NHS practices have, as part of their contractual obligation, provided patients with access to coded information held within their health records. Such information includes:

- Demographics
- Allergies
- Immunisations
- Medication
- Results
- Procedures
- Values
- Problems/diagnoses
- Other (ethnicity, QOF etc.)

There are occasions when a GP may firmly believe that it is not appropriate to share all of the information contained in the individual's record, particularly if there is potential for such information to cause harm or distress to individuals, or when the record has information relating to a third party.

Patients may request a CD or paper copies of health records and regardless of the preferred method of access, patients and authorised third parties must initially complete a SAR form. However, patients may request access to their health records informally<sup>1</sup>. Any such requests should be annotated within the individual's health record by the clinician dealing with the patient.

## 2. Requests may be received from the following:

**Competent patients** may apply for access to their own records or authorise third-party access to their records.

**Children and young people** may also apply in the same manner as other competent patients and The Vale Of Neath Practice will not automatically presume a child or young person has capacity under the age of 16. However, those aged 12 or over are expected to have the capacity to consent to medical information being disclosed<sup>2</sup>.

**Parents** may apply to access their child's health record so long as it is not in contradiction to the wishes of the competent child<sup>3</sup>.

---

<sup>1</sup> How do I access my medical records (health records)? <http://www.nhs.uk/chq/pages/1309.aspx?categoryid=68>

<sup>2</sup> Access to health records

<https://www.bma.org.uk/advice/employment/ethics/confidentiality-and-health-records/access-to-health-records>

<sup>3</sup> Parental responsibility

<https://www.bma.org.uk/advice/employment/ethics/children-and-young-people/parental-responsibility>

**Individuals with a responsibility for adults who lack capacity** are not automatically entitled to access the individuals' health records. The Vale Of Neath Practice will ensure the patient's capacity is judged in relation to the particular decision being made. Considerations to nominate an authorised individual to make proxy decisions for an individual who lacks capacity will comply with the Mental Capacity Act in England and Wales, and the Adults with Incapacity Act Scotland.

**Next of kin** have no rights of access to health records.

**Police** are not able to access health records without first obtaining a court order or warrant. However, health professionals at The Vale Of Neath Practice may disclose relevant information to the police if the patient has consented or there is overriding public interest. For detailed information see section 4.1.6 of footnote

**Solicitors and insurance companies** in most cases will provide the patient's signed consent to release information held in their health record. The Vale Of Neath Practice will ensure patients are fully aware of the information being provided to the solicitor who is acting for that patient. In the case of a solicitor requesting information, the BMA have provided the following templates:

- [Consent form to release information to solicitors in England & Wales](#)
- [Consent form to release information to solicitors in Scotland](#)

The Vale Of Neath Practice will request that solicitors use the appropriate form when requesting information.

**Deceased patients** retain the right of confidentiality. There are a number of considerations to be taken into account prior to disclosing the health record of a deceased patient. Such considerations are detailed in The Access to Health Records Act 1990. Under the terms of this Act, The Vale Of Neath Practice will only grant access if you are either:

- a personal representative (executor of the deceased person's estate), or
- someone who has a claim resulting from the death

The medical records of the deceased will be passed to NHS Wales Shared Services Partnership (NWSSP) for storage. The Vale Of Neath Practice can advise you of who you need to contact in such instances. NWSSP will retain the GP records of deceased patients for ten years, after which time they will be destroyed. NWSSP have provided an [application form](#) which can be used to request copies of a deceased patient's record.

In the cases of **any** third-party requests, The Vale Of Neath Practice will ensure the patient has consented to the disclosure of this information by means of a valid signature of the patient.

In accordance with current GDPR from 25<sup>th</sup> May 2018, patients are entitled to receive a response within the maximum given time frame of one calendar month from the date of submission of the SAR. Yet the government has advised the NHS that 21 days is a more appropriate time frame and organisations should aim to respond within this period. In order to ensure full compliance regarding SARs, The Vale Of Neath Practice will adhere to the guidance provided in the Information Commissioner's Office (ICO) [Subject Access Code of Practice](#) which details supplementary information regarding access to information held by organisations.

Under [The Data Protection \(Subject Access Modification\) \(Health\) Order 2000 and GDPR 2018](#), The Vale Of Neath Practice will ensure that an appropriate healthcare professional manages all access matters. At The Vale Of Neath Practice there are a number of such professionals, and wherever possible the

individual most recently involved in the care of the patient will review and deal with the request. If, for some reason, they are unable to manage the request, an appropriate professional will assume responsibility and manage the access request.

### **3. Procedure for access**

A SAR form (Annex A) must be completed and passed to the data controller. At The Vale Of Neath Practice the data controller is the GP Partnership. Access to health records is free, as are requests for hard copies of records. We provide copies of records on CDs, or if required in the form of paper copies. Please specify if you do not want your records on a CD.

Upon receipt of a SAR, The Vale Of Neath Practice will record the SAR within the health record of the individual to whom it relates, as well as annotating a SAR log. Furthermore, once processed, an entry onto the health record should be made, including the date of postage or the date the record was collected by the patient or authorised individual.

Individuals will have to verify their ID<sup>4</sup> at The Vale Of Neath Practice when requesting either online access or copies of health records. This ensures that only authorised access is granted.

---

<sup>4</sup> Good Practice Guidance on ID Verification

<https://www.england.nhs.uk/wp-content/uploads/2015/03/identity-verification.pdf>

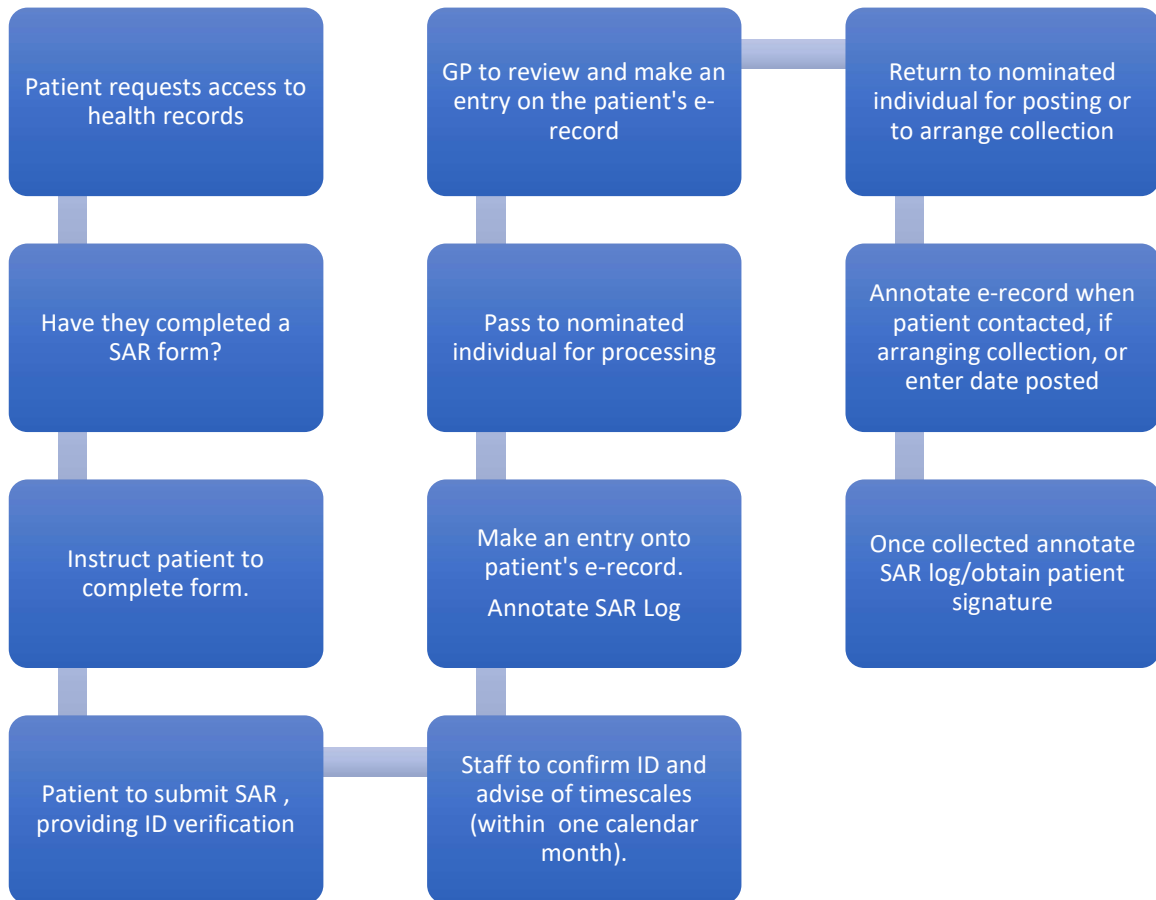


**SUBJECT ACCESS REQUEST LOG THE VALE OF NEATH PRACTICE**

<b>SERIAL NO.</b>	<b>PT ID NO. (EMIS etc.)</b>	<b>DATE RECEIVED</b>	<b>CLINICIAN RESPONSIBLE</b>	<b>DATE PROCESSED</b>	<b>SYSTEM UPDATED</b>	<b>DATE POSTED OR COLLECTED</b>	<b>SIGNED (By Pt if collected)</b>

--	--	--	--	--	--	--	--

## THE VALE OF NEATH PRACTICE SUBJECT ACCESS REQUEST DESKTOP AIDE-MEMOIRE



# ACCESSING YOUR MEDICAL RECORDS AT THE VALE OF NEATH PRACTICE

## **Introduction**

In accordance with the General Data Protection Regulations (GDPR) 2018, every living person has a right to access information that an organisation holds about them, and this includes accessing your health record.

## **Options for access**

You can make a request to be provided with copies of your health record. To do so, you must ask for a Subject Access Request (SAR) form, which is available from reception. You will need to return the completed SAR to this practice. Your health record will be provided to you on a CD, or if you should require, in the form of paper notes.

## **Time frame**

Once the SAR is submitted, The Vale Of Neath Practice will aim to process the request within 21 days; however, this may not always be possible. The maximum time permitted to process SARs is 30 days.

## **Exemptions**

There may be occasions when the data controller will withhold information held in the health record, particularly if the disclosure of such information is likely to cause undue stress or harm to you or any other person.

## **Data controller**

At The Vale Of Neath Practice the data controller is the GP Partnership, and should you have any questions relating to accessing your medical records, please ask to discuss this with the Caldicott Guardian, Dr Steve Harrowing.