Subject Access Request & Access to Records Act Protocol

NHS North Central London CCGs (Camden, Barnet, Enfield, Haringey and Islington)

Document revision history

Date	Version	Revision	Comment	Author
May 2018	2.0	NEL IG Hub	Reflecting GDPR and DPA (2018) changes	IG Hub
August 2018	2.1	NEL IG Hub	Reflecting revised processes	IG Hub
October 2018	2.1	Adopted for North Central London CCGs	Information for staff	NEL IG
March 2019	3.0	Revision	Localised for NHS North Central London CCGs	Dayo Adebari – Information Governance and FOI Manager – NCL CCGs

Document approval

Date	Version	Revision	Role of approver	Approver
23/05/2018	2	For Data Protection Act 2018 and GDPR	Head of Information Governance	Finance and Audit Group
16/10/2018	3	GDPR / DPA 2018 Compliance		Information Governance Group

Contents

1. Introduction

This Protocol details what we do and why we do it and it contains all the key definitions as they relate to Subject Access Requests made under the Data Protection Act 2018 and General Data Protection Regulation as referenced in the DPA 2018 for living individuals and Access to Health Records Act Requests for deceased individuals. This protocol describes the objectives, design, methodology, constraints, monitoring, audit, risks, document controls, performance metrics and any other defining factors behind the process. It also outlines any relevant customs, values, behaviours, ethics or morals to be followed for the accomplishment of a given task.

This protocol should be used in conjunction with the relevant SAR Process Map, Client SAR and ATHRA Log and any other supporting process templates.

1.1 Supporting Notes

The Protocol should contain sufficient detail, clearly expressed, to enable a trained person to use the Protocol as an operational reference document without supervision.

When users are trained on the SAR and ATHRA process, they will also receive training on the relevant Process Map and relevant Protocol.

It is the responsibility of all staff when using Protocols to identify and report any inaccuracies or areas that need updating so that a uniform set of Protocols covering all Information Governance procedures can be maintained.

Protocols must only be updated by a named person or team, in this case the NEL IG Hub team. Users of Protocols must not update or amend Protocols directly themselves. All changes must be communicated centrally and must meet team style and content guidelines and be worded for clarity and efficiency.

Table 1: Protocol descriptive

Constraint	Description
Policy	Information Governance
Protocol scope	SAR and ATHRA Processes
Process purpose	To effectively describe and implement a Subject Access Request and Access to Health Records Act process
Process outcome	Legally compliant SAR and ATHRA responses
Accountable person	Client Data Protection Officer (DPO) and Senior Information Risk Owner (SIRO)
Risks, controls and mitigation	Define the key risks relevant to the process, the controls to be implemented and how they will mitigate the risks. How will risk mitigation be monitored? • **SARs not produced to legal timeframe** Central management of client SARs within the NEL IG Hub team ensures that SARs are logged and managed to meet timeframes. A central log of all SARs auto-calculates the number of days elapsed for each SAR and auto-flags individual SARs which are approaching the legal timeframe. In cases where an extension is required, the NEL IG Hub team will communicate with the data subject, record the new deadline and continue to monitor. • **Inappropriate release of personal information** Central management of requests for data within the NEL IG Hub team ensures that all requests are managed to a uniform process including identity verification and authority to request / release data where needed such as power of attorney documents or Grant of Probate. The process includes Caldicott Guardian review of data for release to ensure that third party data and / or data likely to cause harm to the individual is not released as appropriate.

	• **Information Searches are not adequate** Guidance will be issued to managers to ensure that a record of all searches is maintained and communicated to the data subject. The NEL IG hub will clarify the scope of requests with data subjects to ensure information held can be better identified. • **Verbal requests are not identified** Staff training will include communication around the need to now also accept requests verbally to ensure these requests are captured and processed. • **Identification is inadequate** Copies of identity documentation (photographic and proof of address) will be requested. If a data subject makes a request through a Solicitor or legal representative, the authority of the legal representative will be accepted. However, it will be accepted as good practice to request a Solicitor/legal representative confirms the Identity checks completed. Should the identity be already known to the data controllers (CCGs) or if the data subject has made successive requests and their identity has already been established, then no additional identity checks will be required.
Audit	NEL IG team management of requests is overseen by client IG Steering Groups
National Policy	None, this meets legislative requirements
Legislation	The relevant legislation are: • The Data Protection Act 2018 • General Data Protection Regulation 2016/679 • Access to Health Records Act 1990
Data Security and Protection Toolkit (DSPT)	This protocol meets the following requirements: • 1.3.3: How have Individuals been informed about their rights and how to exercise them?

	• 1.3.4: There is a staff procedure about how to provide information about processing and individuals' rights at the correct time. • 1.3.5: There is an updated subject access process to meet shorter GDPR timescales. • 1.3.6: Provide details of how access to information requests have been complied with during the last twelve months.
Process definitions	None
Document controls	The NEL IG Hub team use a series of logs and templates to ensure adherence to statute and uniformity and accuracy of process and correspondence
Forms / Templates	• Client SAR & ATHRA Tracker • Hub SAR – ATHRA Process Flow • SAR Acknowledge Receipt Letter template • SAR Acknowledge Receipt Letter template – Manifestly Unfounded or Excessive • SAR Acknowledge Receipt Letter template – Complex or Numerous • SAR Redirect Letter template • SAR Verbal Request Application Form • SAR Completion of Request Letter template • AtHRA Acknowledge Receipt & Confirm Authority Received Letter • AtHRA Acknowledge Receipt & Request Authority Letter • AtHRA Completion of Request Letter
Performance	SAR and ATHRA performance is reported from the Client SAR & ATHRA Tracker on a regular basis
Technical specifications	No technical specifications
User requirements	For NCL CCGs and NEL, the process is managed by the NEL IG Hub team. The Hub logs, corresponds, administrate and liaise with the client for the collation

	of records. Templates and advice will be made available to GP Practices via the Self-Service Portal or through Helpdesk advice. However, Practices will self-manage the SAR and ATHRA process. All NEL staff who are engaged on SAR & ATHRA management undertake annual Information Governance training
Managerial approvals	Client DPO,SIRO/IGSG approval – noted in IGSG minutes
Process monitoring	The Client Tracker flags the current timeframe for all client SARs and is monitored regularly to flag any SARs which are ongoing and challenging timeframes
Other expectations and controls	None
Validation date	04/03/2020
Review period	At least every two years.
Authors	NEL IG Hub team