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**FURTHER INFORMATION REGARDING OUR
 POLICY FOR SUBJECT ACCESS REQUESTS**

<i>Where is the SAR?</i>	The SAR has been provided directly to the data subject (our patient).
<i>What has changed?</i>	The introduction of GDPR and the Data Protection Act 2018 require data controllers to <i>clearly</i> uphold data subject rights and be able to <i>demonstrate</i> lawful, fair and transparent processing of personal data.
<i>Is releasing the SAR “processing personal data”?</i>	Disclosing the SAR information <i>directly to the data subject</i> is not processing of personal data – it is a <i>data subject right</i> . Disclosing the requested information, with or without the data subject’s consent (or form of authority), to a third party <i>is processing</i> of personal data. It would be the transfer of confidential medical information from one data controller (the GP surgery) to another data controller (a third party). Were we to do this, we would be processing data that was not pursuant to the principle of data minimisation (as almost all of the requested information would not be relevant to the claim) and not pursuant to the principle of purpose limitation (as a SAR is motive blind - like a FOI request).
<i>Would the data subject know what information is likely to be in the SAR?</i>	The data subject cannot possibly know or understand, until he/she has seen it in its entirety, what information is in their SAR. If the entire GP record, or a very significant part of it, has been requested, it will contain a large amount of very sensitive information that has no bearing whatsoever upon a claim of this nature. Patients, in our experience, do not appreciate the sheer volume and detail contained within what is arguably the most comprehensive, cradle-to-grave, electronic primary care medical record anywhere in the world. The data subject has full capacity to receive and understand the SAR and make appropriate decisions on further sharing of that information with third parties. The data subject has control over the record, as is their right.
<i>Have we charged for providing the data subject with the SAR?</i>	No. Neither the data subject nor the third party making the SAR on behalf of our patient has been charged a penny. We can, however, charge a reasonable fee if the individual requests further copies of their data following this request.
<i>To whom has the SAR been provided?</i>	As is our policy, and in line with ICO guidance, we only disclose the SAR directly to the data subject. In doing so, we have fully complied with our obligations under Article 15 of the GDPR. We (the data controller) are not mandated to release the contents of a SAR <i>to anyone else but the data subject</i> , irrespective of the data subject’s “wishes”.
<i>How have we provided the SAR to our patient?</i>	The SAR has been made available for collection, in person and with suitable ID, at any of our surgery sites. Patients collect all other forms, letters, certificates, sick notes, or directly made SARs, that we provide them with. Our obligation is to provide the data subject with the SAR. We are under no obligation to post, fax, courier, or deliver in any other way, the printed SAR to the individual’s home (or other address).
<i>What about data subject rights?</i>	The ICO has clearly stated that “ <i>ultimately a SAR is an individual’s right therefore can be provided to the individual</i> ”. A third party does not become a data subject, or “inherit” data subject rights, by virtue of making the request on behalf of the individual.

<p><i>What about s184 and s185 of the DPA 2018?</i></p>	<p>Sections 184 and 185 of the DPA 2018 afford the data subject important protections and safeguards for their confidential medical information which would be bypassed, to his/her detriment, were we to disclose their SAR directly to a third party. It is not a criminal offence for a data controller to disclose a SAR to a data subject if it is believed, or suspected, that it could be an “enforced” SAR. It becomes a criminal offence when a third party asks, “invites”, “requests”, requires, compels, or coerces an individual to disclose the information so provided, to that third party, in relation to a contract for services or the provision of services. In addition, to require an individual to exercise their subject access rights and to supply their health records will render a term or condition of contract as void.</p>
<p><i>What does the ICO say about data controllers and “enforced” SARs?</i></p>	<p>The ICO states that: <i>“If you have received the enforced SAR, you should be providing the information to the individual who has the right to receive such information”</i>.</p>
<p><i>Has the SAR been amended or altered in any way?</i></p>	<p>We have disclosed the requested GP record to the data subject, suitably redacted to ensure that any information so released:</p> <ul style="list-style-type: none"> • Does not disclose anything that identifies any other individual (third party), unless that information was supplied directly by the data subject • Does not disclose anything that is likely to result in harm to the data subject or anyone else • Does not disclose anything subject to a court order or that is privileged or subject to fertilisation or adoption legislation
<p><i>A SAR is not....?</i></p>	<p>A SAR is not designed to allow third parties to obtain personal data that the data subject does not want disclosed. A SAR is not (and was never intended to be) the mechanism for the provision of medical records, for legal purposes, that can be relied upon to be unaltered or unamended (i.e. as a “chain of evidence”). A SAR is not, and never will be, a mechanism to force GP surgeries to be the post office or courier service for the legal profession.</p>
<p><i>How can third parties lawfully receive information for legal purposes?</i></p>	<p>The GDPR has an entirely separate and standalone lawful basis – a clear and established legal route - for processing health (special category) data to support the investigation, preparation and pursuit of legal claims, in the form of Article 9(2)(f). This would be a medical report, <i>not a SAR</i>. A medical report of this nature is a long-established service that GP surgeries provide out with their NHS contract. We would:</p> <ul style="list-style-type: none"> • charge a reasonable fee for such work - <i>as we are entitled to do</i> • require a simple <i>form of authority</i>: <ul style="list-style-type: none"> ○ providing explicit consent from the data subject; and ○ defining the <i>relevant</i> medical information sought • aim to provide you with the report within 42 days • retrieve the information • identify <i>any possibly relevant</i> information • exclude information that <i>was not possibly relevant</i> to the claim • check it for accuracy • redact any third-party information, if needed • not be disclosing the entire medical record to you • not be providing you with any medical opinions • be providing you only with factual extracts from their medical record • enable the data subject to view the information <i>first</i> (if he/she so wishes) • then securely provide you with the prepared records

Should you wish to pursue this avenue, then please write with the following details:

1. Reason for request
2. Exact information required
3. Date range of information required (e.g. for the last 10 years) as it very rare that older records, particularly childhood records, are required.

We will then be able to provide a quotation for this work to be completed.

