

# wake smith & tofields

## **How to Obtain Medical Records**

The Data Protection Act 1998 ('DPA') gives patients the right of access to their medical records, with the exception that it does not apply to the records of deceased patients.

### **What records are covered?**

All manual and computerised health records about living people are accessible under the DPA, including x-rays, scans and other investigation results. This extends to records made before the DPA came into force.

### **Who can apply for access?**

Competent patients can apply themselves or may authorise a third party (e.g. their Solicitor) to do so on their behalf. An application on behalf of a child is normally made by a parent.

### **Can access be refused?**

Yes, but only if:-

- Disclosure is likely to cause serious physical or mental harm to the patient; or
- The notes refer to a third party (other than a health professional) who has not given consent for disclosure.

### **How is the application made?**

Normally a request is made in writing for a copy of the records, but there is nothing to prevent the health professional from informally showing patients their original records.

### **How soon must access be given?**

Copies of records must be supplied within 40 days of the request.

### **Can a fee be charged?**

Yes. The fees are as follows:-

- £10.00 to allow patients to read their manual and/or computerised records where no copy is required (except no fee can be charged if the request relates only to manual records which have been added to in the previous 40 days).
- £10.00 for a print out of records held on the computer.
- A reasonable fee up to a maximum of £50.00 for a copy of records held totally manually or in part on a computer and in part manually, to include copy scans and x-rays.

### **Access to records of deceased patients**

This is still governed by the Access to Health Records Act 1990. The application will generally be made by the personal representative or a dependent of the deceased. The procedure is similar to the DPA, except that the fee structure is very different and can work out much more expensive where the notes are extensive (there is no £50.00 cap). If the notes have not been added to within the previous 40 days, the following charges can be made:-

- An access fee of up to £10.00.
- The cost of photocopying the records (check in advance how much will be charged per page!).
- Cost of postage of documents.