



**Kirklees**  
Local Medical Committee

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## BULLETIN - 10

**Issued: Wednesday 15 November 2017**

### **UPDATED BMA GUIDANCE REQUESTS FOR MEDICAL RECORDS FROM THE POLICE**

Please find below an updated pro forma for practices that receive requests for medical records from the police. The original pro forma was distributed in June 2017.

Following discussions with the NPCC (National Police Chief's Council) regarding signing off the BMA have agreed that the level of police seniority that the BMA recommend to GPs to obtain before considering releasing medical records to the police is lowered from Superintendent to Inspector. It has been restated to the NPCC the need for any request from the police for medical records is only made when absolutely necessary.

Please note that this is the only change to the guidance that has been made.

**\*\*\*\*Pro forma letter for practices – updated 6 November 2017\*\*\*\***

Dear xxxxxxxx

**Re: Request for copy of record**

We understand that your department has requested a copy of the GP record for {name of patient} for the purposes of investigating or preventing a crime, or apprehending or prosecuting an offender.

There is clear guidance regarding the obligations that GPs have with respect to copying and/or release of the GP record. For your reference, these circumstances are:

- The police may request voluntary disclosure of a patient's health records under section 29 of the Data Protection Act 1998.
- However, while health professionals have the power to disclose the records to the police where section 29 applies, there is no obligation to do so.
- In such cases health professionals remain bound by the long-established common law duty of confidentiality and may only disclose information where the patient has given consent, or there is an overriding public interest. They may also be required to defend their decision to disclose before the GMC which is a statutory tribunal.
- Disclosures in the public interest based on common law are made where disclosure is essential to prevent a serious threat to public health, national security, the life of the individual or a third party, or to prevent or detect serious crime. This includes crimes such as murder, manslaughter, rape, treason, kidnapping and abuse of children or other vulnerable people. Serious harm to the security of the state or to public order and serious fraud will also fall into this category.

Therefore, in order to proceed with your request, you will need to provide the practice with each of the following:

1. Written patient consent to release of their records OR written confirmation as to the nature of the serious crime of the type listed above allegedly committed by the patient and an explanation as to why the patient's records, or other information requested, are considered necessary for the specific purpose you are pursuing. We will require one of these in order to fulfil our responsibilities as the Caldicott Guardian.
2. Confirmation in writing that the fee of £xx will be paid within 28 days of the police receiving the record. This fee is due to the disproportionate effort placed on an already overburdened GP practice to provide these notes which recognises the need to support the police in their investigation of a crime, where appropriate to do so. The fee covers the administrative costs associated with processing such requests, including the removal of third party data where necessary or appropriate, in circumstances where such costs are not recoverable from any other source.
3. Written confirmation from a senior police officer – ranked Inspector or above – that he or she considers that the crime being investigated is a serious crime in line with the examples provided above.

Once the practice is in receipt of each of these, and a decision has been made that it is appropriate to release the records requested, a copy will be provided to you as soon as possible. If, upon receipt of the further information requested at requirement 1 above, the practice is not able to satisfy itself that it is appropriate to release the records, we will write to you to advise you of this decision and no fee will be chargeable in those circumstances.

Alternatively, should it be appropriate for the police to view the record (based on the answer to requirement 1 above), then there is the option for them to view the record in the practice in the presence of a practice staff member. In this situation a fee is not chargeable.

GPs will, in all cases where there is no patient consent, consider whether the benefits to an individual or to society of disclosing the records outweigh both the public and the patient's interest in keeping the information confidential and whether they will be able to defend any decision to disclose medical records before the GMC before agreeing to disclose the records.

Yours faithfully,

Dr xxxxxxxxxxxx

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