

Proxy Access for Children

What is Proxy Access?

Proxy Access enables a patient to grant a trusted individual access to their medical record. The trusted person will be able to view and order medications, book appointments and access medical records by switching to the patient's record from their online account.

An example of proxy access is parents wishing to have access to their child's medical records.

What is the background?

We are data controllers of your medical records with separate obligations pursuant to the Data Protection Act 2018 ("DPA 2018") and thus are caught between our contractual obligation to offer records access and our responsibilities to provide safe and appropriate data control.

The new contractual obligations change the way that GPs and Practices as data controllers of the GP-held medical record process their patients' personal data and, as such, a Data Protection Impact Assessment ("DPIA") is required to be completed by us, by law.

What is the problem?

Having carried out the required DPIA we find that by complying with our contractual obligations we risk being in breach of the Data Protection Act as the new way of processing our young patients' data, giving unvetted, automatic access, poses significant risks to a number of our patients and third parties named in our patients' records

What are these risks?

Children can grow very quickly into young adults, and experience all the changes in their physical and mental health that come with this stage in their lives. Granting access to records to a parent in early years may be a sensible thing to do, but a *Gillick-competent young person may not wish their parent to continue to have access to their online medical records, but without realising it, their parents can see everything.

This may particularly be the case where the young person is accessing family planning advice, or wishes to disclose to a GP about physical, sexual or psychological abuse within the family or elsewhere.

As a looked-after child moves from one legal guardian to another, there is a risk that multiple people have access to the child's medical records when they have no legitimate legal or practical interest in accessing those records. There is a risk that social services do not update the GP in a timely fashion as to the child's current legal guardian(s). This is particularly relevant where a child is moving from one foster placement to another in quick succession.

Granting access to a parent for an eleven-year-old could change when they are 12,13,14,15, depending on their competency, the content of their record and their wishes. This leaves us vulnerable as the data controllers.

**Gillick competence refers to the legal principle where a child under 16 can consent to their own medical treatment if they are deemed to have enough intelligence, competence, and understanding to fully appreciate the implications of the treatment. This means a child can make their own decisions about their healthcare if they are considered "Gillick competent," even without parental consent.*

Risk to resources:

In order to carry out our responsibilities as the data controller would require us to assess the competency of the young person to understand what they are agreeing to and the possible ramifications, which if the person is not known to the GP would need an extra appointment, something that is at a premium at this time trying to cope with the increase in demand from patients for medical care.

In addition, we would need to be in regular contact with the young person to ascertain their wishes for allowing continued access to their records.

We do not have the resources to provide either of these services without compromising care to patients who need medical care

Conclusion

As a result of our impact assessment the partners of Water Meadow Surgery find that providing patients with full access to their online record is fraught with risk and holds a high possibility of multiple data breaches. Procedures can be reviewed and updated, but general practice does not have the capacity to include all these additional checks sufficiently to allow us to bring the level of risk to an acceptable level. We will continue to follow the 'opt in' model and offer access to medical records in line with our current policy, which excludes documents and free text.

On a day-to-day basis, this means that there is no change in the way our patients can already access their data (including appointments, prescriptions, test results, problem codes and consultation encounters), and we will continue to offer this access.

We hope that our patients understand that we have taken these steps to protect them and others from harm and their data from potential misuse. We believe that we must take these steps to ensure we continue to comply with the requirements of the Data Protection Act.

We have not arrived at this decision easily, as we know that it will be disappointing to many and cause ongoing disruption to patients and the practice alike, either way. We are following advice from both the British Medical Association and the General Practitioners' Committee England, and know that many other practices across England have drawn the same conclusion. We ask that you please continue to treat all our staff with respect and patience, even if you do not agree.