BMA/The Law Society consent form

Consent form (Releasing health records under the General Data Protection Regulation and the Data Protection Act 2018)

Your health records

Your health records typically contain information from almost all consultations and contacts you have had with health professionals in the practice and information sent to the practice about you from others, such as hospital letters.

The information they contain usually includes:

- why you saw a health professional;
- details of clinical findings and diagnoses, investigations, tests and scans;
- any options or recommendations for care and treatment the health professional discussed with you;
- the decisions made about your care and treatment, including evidence that you agreed; and
- details of actions health professionals have taken and the outcomes.

Why your records are needed and what may happen to them

If you are making, or considering making, a legal claim for compensation related to an injury to your health, your solicitor will likely need to see copies of all your GP records. They will also need any hospital records made in connection with the incident and others that may be relevant. This is to enable the solicitor to understand the incident and your injury and give you legal advice on the merits and value of your claim.

If you decide to go ahead with your claim, your solicitor may advise that it is sensible (or that it may be necessary) to give copies of your records to:

- the expert whom your solicitor or agent instructs to produce a medical report as evidence for the case;
- the insurance company for the person or body you are making a claim against;
- the person or the body you are making a claim against and/or their solicitors;
- any insurance company or other organisation paying or providing an indemnity for your legal costs; and
- any other person (such as a barrister) or body (such as the court) officially involved with the claim.

Once you start your claim, the court can order you to give copies of your health records to the solicitor of the person you are making a claim against so he or she can see if any of the information in your records can be used to defend his or her client. The solicitor of the person or body you are making the claim against will likely show your records to their client in the normal course of advising them and may show them to others too (such as a barrister or medical expert). If the person you are making the claim against does not have a legal representative the court can order you to give copies to them directly.

You do not have to give permission for your health records to be obtained and disclosed in your case but if you don't, it is unlikely that your claim will be able to proceed if the medical records are crucial evidence in your claim. The court may not let you go ahead with your claim and your solicitor may be unable to continue to represent you.

If there is very sensitive information in the records that is not connected to the claim you should tell your solicitor. They will then consider whether this information may be relevant and needs to be disclosed in the case. Your solicitor can advise you on this and if appropriate may advise you to discuss the matter with your medical practitioner.

Important

By signing this form, you are agreeing to the health professional, hospital and others named on this form releasing copies of your health records to your solicitor or agent. During the process your records may be seen by people who are not health professionals, but they will keep the information confidential.

Part a – your details and those of your health professionals and your solicitors or agents

Your full name (and any other names by which you have been known):	
Your address:	
Date of birth:	
NHS number (if known):	
Hospital number (if known):	
Date of incident:	
Solicitor's or agent's name and address:	
GP's name and address (and phone number if known):	
Ambulance Service used (if any):	
Name (and address if known) of the hospital(s) you attended in relation to this incident:	
If you have seen any other person or organisation about your injuries (for example, a physiotherapist) or have had any investigations (for example, X-rays):	

Part b – your declaration and signature

I have read this form and fully understand the contents

To health professionals
I understand that filling in and signing this form gives you permission to give copies of all my health records including complete GP records, and any hospital records relating to this incident, to my solicitor or agent whose details are given below.

Please give my solicitor or agent copies of my health records, in line with the Data Protection Act 2018, within 30 days.

Your signature: Date

Part c – your solicitor's or agent's declaration and signature

Before you ask your client to fill in and sign this form you should ask your client to read the notes above. You should explain that signing this form will permit release of his or her complete health records and how the information in them may be used. You should explain that this form only applies to the release of the medical record to you and that separate consent will be obtained for any onward disclosures which are required.

If your client is not capable of giving his or her permission in this form, it may be possible for someone to give consent and sign it on their behalf, for example:

- your client's litigation friend;
- someone who has enduring/lasting power of attorney to act for your client; or
- your client's deputy appointed by the Court of Protection.

You must only use health records for specific purposes that your client has agreed to in advance.

Under the General Data Protection Regulation and Data Protection Act 2018 you have responsibilities relating to sensitive information. The entire health record should not be revealed without the client's permission and you should not keep health records for any longer than is necessary for agreed-to purposes. You should return copies of health records to the client at the end of the claim if they want them. If they do not want them, you will be responsible for confidentially destroying them.

To health professionals
I have told my client the implications of giving me access to his or her health records. I confirm that I need the full records in this case.

Solicitor's or agent's signature:		Date	

Notes for the medical records controller

This form shows your patient's permission for you to give copies of his or her complete record, and any hospital and other records relating to this incident, to his or her solicitor or agent.

You must give the solicitor or agent copies of these health records unless any of the exemptions set out in Schedules 3 and 4 of the Data Protection Act 2018 apply. The main exemptions are that you must not release information that:

- is likely to cause serious physical or mental harm to the patient or another person; or
- relates to someone who would normally need to give their permission (where that person is not a health professional who has cared for the patient).

Your patient's permission for you to release information is valid only if that patient understands the consequences of his or her records being released, and how the information will be used. The solicitor or agent named on this form must explain these issues to the patient. If you have any doubt about whether this has happened, you should contact the solicitor or agent, or your patient.

This form does not contain a comprehensive statement of solicitors' or health professionals' obligations under the relevant data protection legislation. If you are in any doubt about your legal obligations, seek advice.

The BMA publishes detailed guidance for doctors on giving access to health records. You can view that guidance by visiting: **www.bma.org.uk/ethics.**

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