

NHS Business Services Authority Subject Access Application Procedure

Issue Sheet

Document reference	NHSBSADPN001
Document location	F:\CEO\HoIG\DP\BSA
Title	NHS Business Services – Subject Access Application Procedure
Author	Gordon Wanless
Issued to	All NHSBSA staff
Why issued	For information / action
Last Reviewed	3 November 2010

Revision Details

Version	Date	Amended by	Approved by	Details of amendments
Initial Release	30.05.2007		IGSG	
a	14.07.2009	G Wanless	IGSG	<i>Information Governance Manager (IGM) changed to Head of Information Governance (HoIG)</i>

Step	Responsibility	Action
1. Individual requests access to their personal data		
	All	A request for access to an individual's personal information held by the NHSBSA must be directed to either the local Divisional Data Protection Manager (DDPM) or the NHSBSA Head of Information Governance (HoIG).
2. Types of application		
	HoIG/DDPM	<p>An application may be made by either:</p> <ul style="list-style-type: none"> • <u>Telephone:</u> The HoIG/DDPM will advise the applicant that an application must be in writing. If the applicant wishes to make a request, then log details of the request and allocate a unique reference number for future internal / external correspondence regarding the applicant. A Subject Access application form (NHSBSADPN002) will be customised and issued with a covering letter (Letter Template 5). If after 3 months no reply has been received, inform the applicant using Letter Template 14. Class the request as a negative result and go to step 16. • <u>Letter/email/fax:</u> The HoIG/DDPM will ensure sufficient information has been included to locate the information requested as well as a copy of an identification document (e.g. driving licence). Go to step 3. If either is incomplete, log details of the request and allocate a unique reference number for future internal / external correspondence regarding the applicant, customise and issue a Subject Access application form (NHSBSADPN002) with a covering letter (Letter Template 5). If after 3 months no reply has been received, inform the applicant using Letter Template 14. Class the request as a negative result and go to step 16. • <u>Application form:</u> go to step 3.

3. To record application		
	HoIG/DDPM	<p>On receipt of the application the HoIG/DDPM will:</p> <ul style="list-style-type: none"> • Ensure the full name, address and date of birth of the applicant is provided. • Ensure an identification document is enclosed which confirms the personal data of the applicant and the details shown on the application. • Ensure the application is signed and dated by the applicant. Should someone be acting on behalf of the applicant (i.e. solicitor or parent etc.) the HoIG/DDPM will ensure the additional agent's authorisation section of the application form is completed. • Ensure the applicant provides sufficient information to identify which NHSBSA system needs to be searched to locate the personal data. • Should the application not be completed correctly then the HoIG/DDPM should log details of the request and allocate a unique reference number for future internal / external correspondence regarding the applicant, contact the applicant via e-mail or letter, as shown on the application form, to resolve the matter using covering letter (<i>Letter Template 5</i>). If after 3 months no reply has been received, inform the applicant using <i>Letter Template 14</i>. Class the request as a negative result and go to step 16.
4. Administration		
	HoIG/DDPM	<ul style="list-style-type: none"> • Log details of the request • Allocate a unique reference number for future internal / external correspondence regarding the applicant. • Record the date the application received • Record the name, address, date of birth of the applicant. • Send an acknowledgement to the applicant using <i>Letter Template 1</i> • Identify which NHSBSA system requires searching (see step 5) • Record date request was sent to the appropriate internal staff member responsible for the system • Record date request to the appropriate internal

		staff member responsible for the system was returned
5. What does applicant indicate		
	HoIG/DDPM	<p>The applicant will indicate (HoIG/DDPM will confirm) which NHSBSA system requires searching, there are five categories shown on the application form:</p> <ul style="list-style-type: none"> • Prescription • Dental • Pension • CCTV – the HoIG/DDPM hold a list of NHSBSA CCTV locations. The list will be checked to ensure that the NHSBSA CCTV cameras cover the location requested by the applicant. If the NHSBSA CCTV location is not covered, the HoIG/DDPM will issue a negative response letter to the applicant (Letter Template 9). • Other – this could include access to personal files, e-mail etc. If the applicant has asked for copies of his / her own references provided by the NHSBSA, then refuse the request using Letter Template 8 and go to step 16.
6. Initiate search		
	HoIG/DDPM	<p>The HoIG/DDPM will e-mail with scanned copies / or post copies of the Subject Access application form to the appropriate internal staff member responsible for the relevant system(s) that the applicant wishes to access.</p> <p>The HoIG/DDPM will advise the appropriate internal staff member of the following (using Email Template 4):</p> <ul style="list-style-type: none"> • Date the subject access application received. • Date the subject access response needs to be issued to comply with the legal 40 day requirement. • Date the DDPM should respond to the HoIG to enable responses within 40 days. • The subject access application form (passport photograph for CCTV search) will provide sufficient information to search the system(s) requested. <p>Any anticipated delays in responding in the timescale quoted or any questions should be directed to the HoIG/DDPM.</p>

7. Search the relevant system		
	Internal Staff Member	<p>The appropriate internal staff member will search the relevant systems the subject access applicant has requested.</p> <p>In the case of CCTV tapes the security officer may be required to search the system on behalf of the appropriate internal staff member. The search of the CCTV tape will initially be undertaken by date / month order, as provided on the subject access application form</p> <ul style="list-style-type: none"> • No information / CCTV tape found after the search, go to step 8 • Information / CCTV tape located CCTV tape extracted from the system and held by the appropriate internal staff member in a secure manner. Go to step 9.
8. Negative search result.		
	Internal staff member	<p>The appropriate internal staff member will respond to the HoIG/DDPM stating no information / CCTV tape found, the search parameters used and reasons where appropriate why the information / CCTV not found (i.e. out of date and weeded / destroyed). The appropriate internal staff member will also return the original Subject Access application forms (in the case of CCTV also the passport photograph) to the HoIG / DDPM. Go to step 15</p>
9. Positive search result		
	Internal staff member	<p>The appropriate internal staff member will in the case of: -</p> <ul style="list-style-type: none"> • Electronic information – send e-mail with the electronic information attached to the HoIG/DDPM, (if the HoIG/DDPM forwarded the subject access application by post, return those documents to HoIG/DDPM). Go to step 15 • Structured manual files / prescriptions etc. –

		<ul style="list-style-type: none"> • Make two photocopies of the information ensuring they are of good quality. • Return original structured manual files / prescriptions etc. to the relevant system. • Forward both photocopies of the information to the HoIG/DDPM with the subject access application request. Go to step 15 <ul style="list-style-type: none"> • CCTV tapes – the tape will now be searched 15 minutes either side of the times indicated on the Subject Access application, using the circumstances of the ‘incident’ and individual description shown on the subject access application along with the passport photograph <ul style="list-style-type: none"> • No image located – the appropriate internal staff member will advise the HoIG/DDPM that no image relating to the information provided in the Subject Access application was located. Return the Subject Access Application form and passport photograph to the HoIG/DDPM. Return the CCTV tape to the system. Go to step 15 • Image located, the appropriate internal staff member will hold the CCTV tape in a secure manner. • Should the applicant wish to view the CCTV tape – Go to step 10. • Should the applicant wish for a copy of the CCTV tape – Go to step 14.
	10. Applicant views the CCTV tape	
	Internal staff member	The subject access applicant has indicated they wish to view the CCTV tape, which has been located, and an image of the applicant found. The appropriate internal staff member will issue letter template 13 to the subject access applicant to arrange a mutually convenient time to view the CCTV tape.

	11. Applicant attends to view the CCTV tape	
	Internal staff member	<p>One other person may accompany the applicant to view the CCTV tape. The applicant and the other person must be signed into the building and accompanied at all times. The applicant and the other person must provide proof of identity (e.g. driving licence etc.) before viewing the CCTV tape. The applicant's proof of identity details must correspond to those on the subject access application form. Any doubts or problems regarding the identity of the applicant, the internal staff member will either question the applicant regarding the discrepancy or seek advice from the HoIG/DDPM. Only when the internal staff member is satisfied that the subject access applicant and the individual presenting themselves to view the CCTV is one and the same person will the viewing of the CCTV tape commence.</p> <p>There are restrictions to the viewing of the CCTV tape (as outlined in Letter Template 13). These restrictions are in place to ensure the safety of personnel and premises as well as causing the least disruption to operational work:</p> <ul style="list-style-type: none"> • Viewing will be in a separate room to the security screening of CCTV footage, or operational areas. • Only the actual times when the subject access applicant appears in the CCTV tape will be played. • The taped 'incident' will be played through no more than twice. • The tape will be played at normal speed. • The tape will not be 'freeze framed' or played in slow motion or 'shuffled' back and forth. • The operator will not enter into any dialogue, nor offer an opinion upon the contents of the CCTV tape.

	12. Applicant is satisfied with viewing the CCTV tape.	
	Internal staff member	<p>The <i>NHSBSADPN004 - CCTV Completion Form</i> will be completed by the internal staff member and the subject access applicant when viewing of the CCTV tape is finished.</p> <p>The internal staff member will forward the completed <i>NHSBSADPN004 - CCTV Completion Form</i>, the subject access application documents to the HoIG/DDPM.</p> <p>Return the CCTV master tape to the system. Go to step 16.</p> <p>The applicant has finished viewing the CCTV tape but has requested a copy of the tape. The internal staff member will:</p> <ul style="list-style-type: none"> • Indicate the subject access applicant request on the CCTV completion form . • Advise the subject access applicant that requests for copies of the CCTV tape are dealt with by the HoIG/DDPM (the internal staff member will not provide a copy). • Advise the subject access applicant that extra cost may be involved and the HoIG/DDPM will advise these. • The subject access applicant and the other person will be escorted off site. <p>The internal staff member will retain the CCTV master tape in a secure manner with the original subject access application, identification document and passport photograph until the HoIG/DDPM makes contact.</p>
	13. Applicant requests copy of CCTV tape	
	HoIG/DDPM	<p>Subject access applicant has requested a copy of the CCTV tape by either:</p> <ul style="list-style-type: none"> • Indicating the request for a copy of the CCTV tape on the Subject Access application form . <p>OR</p> <ul style="list-style-type: none"> • Indicating the request after viewing the CCTV tape, the internal staff member completing the CCTV completion form and returning to

		<p>HoIG/DDPM.</p> <p>The HoIG/DDPM will request the internal staff member to provide two separate copies of the CCTV tape. The CCTV tape copies will only contain the footage, which refers to the subject access applicant.</p> <p>The internal staff member will forward the CCTV tape copies to the HoIG/DDPM in a secure manner (i.e. using a 'jiffy bag'). Go to step 14</p> <p>The internal staff member will return the CCTV master tape to the system.</p>
	14. Types of CCTV tape footage	
	HoIG/DDPM	<p>The HoIG/DDPM will review the CCTV tapes determining the category of CCTV footage and action necessary prior to provision to the subject access applicant. CCTV tape footage will fall into the following categories:</p> <ul style="list-style-type: none"> • In a public place – this could include images taken from cameras positioned outside NHSBSA premises as well as communal areas within NHSBSA premises (e.g. teapoints, canteens etc.) Images of the subject access applicant and other individuals who have been innocently captured upon CCTV footage will be issued without technical means to delete identities. Go to step 15 • In a less public place - images captured in offices etc. Where the subject access applicant is the sole image upon CCTV tape, the CCTV tape will be issued. Go to step 15 • In a less public place – where the subject access applicant and easily identified third parties innocently captured on CCTV tape footage. The HoIG/DDPM will contact the third parties using Letter Template 6, to obtain permission to disclose the CCTV tape footage with their images on. If all third parties agree the CCTV tape will be issued. Send replies to third parties

		<p>using Letter Template 3. Go to step 15</p> <p>Should any of the third parties disagree to their image being disclosed upon CCTV tape then issue Letter Template 2 to each dissenting third party and continue to next bullet point.</p> <ul style="list-style-type: none"> Wherever the CCTV tape footage places third parties innocently captured in a compromising or inappropriate situation, or the third party has requested their image be 'processed out' of the CCTV prior to provision to the subject access applicant, the HoIG/DDPM will take the decision to 'process out' the third parties images (e.g. <i>pixel out</i>). The decision to process out the images from CCTV tape footage is subject to: - <ul style="list-style-type: none"> Subject access applicant agreeing to pay the fee as outlined in Letter Template 12, issued by the HoIG/DDPM. Subject access applicant has forwarded a cheque covering the estimated cost of pixel out and this has cleared through the banking system. One copy of the CCTV tape will be submitted to the agreed commercial organisation to pixel out the images. The processed CCTV tape will be returned to the HoIG/DDPM with the invoice detailing the actual cost of the process. If necessary, a refund of any overpayment by the subject access applicant will be addressed. <p>The HoIG/DDPM will review the processed CCTV tape to ensure all is in order prior to issue.</p> <p>Go to step 15</p>
	15. Information to applicant	
	HoIG/DDPM	<p>The result of the internal staff member search of systems / CCTV tapes received by HoIG/DDPM. Where: -</p> <ul style="list-style-type: none"> Information not found – Electronic / Structured Manual files, CCTV tape not found or CCTV tape located but no image displayed of the subject access applicant, the HoIG/DDPM will issue a negative response letter (Letter Template 9) to the subject access applicant. Go to step 16

		<ul style="list-style-type: none"> • Information found – Electronic/structured manual files / CCTV tape / CCTV tape with ‘pixel out’ images. The HoIG/DDPM will ensure: <ul style="list-style-type: none"> - The information received refers to the subject access applicant. - The information is of a suitable quality for disclosure. - That any third parties, whose information is included, are consulted by using Letter Templates 6, 3 and 2 as appropriate. - Review the information and claim appropriate exemptions against disclosure. Inform applicant using Letter Template 7. Go to step 16 - If no exemptions are to be claimed, then issue a positive subject access response letter to the subject access applicant with a copy of the information (Letter Template 10) / CCTV tape (Letter Template 11). - Envelopes (‘jiffy bag’ envelopes will be used for transport of CCTV tapes, to ensure no breakage in transit) will be marked as ‘Private and Confidential’. Go to step 16.
16. File papers		
	HoIG/DDPM	<p>Upon completion of subject access application, all documentation should be filed by the HoIG/DDPM.</p> <p>Where the subject access response is: -</p> <ol style="list-style-type: none"> a. Negative - files must be retained for one year and destroyed via shredding and/or confidential waste. b. Positive - files containing the subject access application, associate correspondence, a copy of the information supplied (CCTV tape) will be retained for two years and destroyed via shredding and/or confidential waste.