Covid-19
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Guidance for practices

Date: 19.01.2021
Please be aware that this is a rapidly evolving situation.

Managing Data Subject Access Requests (DSARs)

The overarching priority is to respond to matters arising from the Coronavirus pandemic and this is recognised by the Information Commissioner's Office (ICO) in their guidance Data protection and coronavirus: what you need to know, which recognises the unprecedented challenges posed by the Coronavirus pandemic.

Therefore, whilst practices still have an obligation to respond to **Data Subject Access Requests (DSARs)** under the provisions of the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA2018), the ICO have confirmed **that they will be flexible in their approach regarding regulatory action, 'taking into account where organisations need to prioritise other areas such as those engaged in tackling the pandemic or supporting vulnerable people[1],** and where this results in a delay in the provision of information to requests.

The ICO cannot extend statutory timescales, but they will tell people through their own communications channels that they may experience understandable delays when making information rights requests during the pandemic. The ICO also expect organisations with a backlog of requests to have robust recovery plans in place to ensure they reduce these backlogs within a reasonable timeframe.

You will still need to act on the DSAR and provide the information as soon as is reasonably practicable. We have drafted a proforma letter for your practice to use to acknowledge the DSAR within one calendar month of receipt and explain the reason for the delay in providing the information. When you are able to respond, it is important to follow your normal thorough DSAR process, only allowing trained people to handle the DSAR and to ensure it has a clinical review, as required under DPA2018.

If you receive a DSAR, we suggest the following steps:

1) **Log the DSAR with the name of the individual, the date received and the date the proforma letter was sent in the practice DSAR log.**
2) **Acknowledge the request by sending the proforma letter, which can be downloaded here (link), within the statutory timescale of one calendar month from receipt of the DSAR. This will ensure you remain within the law by notifying the data subject of the delay and managing expectations.**
3) **Review the log and process the request providing your response as soon as reasonably practicable to do so.**

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[1]Information Commissioner's Office, *Health, social care organisations and coronavirus – what you need to know'*, (Health, social care organisations and coronavirus - what you need to know | ICO) accessed 19 January 2021.

If patients can access the information that they are requesting online, then they could be reasonably directed to do so (this would not override your obligations under the provisions of the DPA2018 to provide the information in hard copy format if the patient makes such a request).

Freedom of Information Requests

The ICO have also recognised the unprecedented challenges posed by the Coronavirus pandemic in relation to Freedom of Information requests and have confirmed that whilst they can't extend statutory guidelines, they will not penalise public authorities (including GP Practices) for prioritising other areas of work during this time. The ICO updated their regulatory approach in October 2020 and whilst their stated 'approach remains pragmatic and [they] will continue to support public authorities to ensure people's information rights are protected'[2], they 'expect public authorities, with request back logs, to establish recovery plans to return to compliance with the Freedom of Information Act within a reasonable timeframe'.[3]

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[2] Information Commissioner's Office, *ICO's blog on its information rights work*, (https://ico.org.uk/about-the-ico/news-and-events/icos-blog-on-its-information-rights-work/) accessed 19 January 2021.
[3] Information Commissioner's Office, *ICO's blog on its information rights work*, (https://ico.org.uk/about-the-ico/news-and-events/icos-blog-on-its-information-rights-work/) accessed 19 January 2021.

DSAR Proforma Letter

Date

Dear <<Data Subject>>

Thank you for your request for information, which has been made under the provisions of the UK General Data Protection Regulation (UK GDPR), and the Data Protection Act 2018 as a Data Subject Access Request (DSAR), which was received on <<date>>.

We acknowledge this as a valid DSAR and ask you to consider the information below.

We are sure that you will understand that the practice is overwhelmed with work associated with the Coronavirus pandemic.

We are therefore having to prioritise our resources to deal with matters arising from the Coronavirus pandemic and whilst we will deal with your request as soon as is practicably possible, we may not be able to do so within the prescribed timeframes.

If you are able to focus your request in any way, to help reduce the amount of resource required to process your DSAR, please let us know as soon as you can.

For example, you may wish to focus your request on:

- a specific, limited time period;
- a particular letter, document or piece of information, or
- a particular issue or concern.

Any focus you can bring to your request will increase the likelihood of us being able to provide your response within the statutory timescales in this challenging time.

Focusing your request now does not stop you submitting an additional request for other information in the future.

Please note that Article 12(3) of the UK GDPR allows us to require an additional two months to fully comply with your request. Responding to a DSAR is a through and legal process requiring a clinical review and at this time, clinicians cannot be freed from frontline duties to perform this review and delays in responding are likely during this pandemic.

We are appreciative of your understanding and patience during these challenging times.

Yours sincerely

<<Signature>>