

Consent form
(Releasing health records under the Data Protection Act 1998)

About this form

In order to proceed with your claim, your solicitor may need to see your health records. Solicitors usually need to see all your records as they need to assess which parts are relevant to your case. (Past medical history is often relevant to a claim for compensation.) Also, if your claim goes ahead, the person you are making the claim against will ask for copies of important documents. Under court rules, they may see all your health records. So your solicitor needs to be familiar with all your records.

Part a – your, your solicitor’s and the appropriate health professional’s details

Your name:

Your address:

Solicitor’s name:

Solicitor’s address:

Health professional’s name:

Health professional’s address:

Part b – your declaration and signature

Please see the ‘Notes for the client’ over the page before you sign this form.

To the health professional

I understand that filling in and signing this form gives you permission to give all my health records to my solicitor whose details are given above.

Please give my solicitor copies of my health records, in line with the Data Protection Act 1998, within 40 days.

Your signature:

Date:

Part c – your solicitor’s declaration and signature

Please see the ‘Notes for the solicitor’ over the page before you sign this form.

To the health professional

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 signature:

Date:

Notes for the client

Your health records contain information from almost all consultations you have had with health professionals. The information they contain usually includes:

- why you saw a health professional;
- details of clinical findings and diagnoses;
- any options 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 action health professionals have taken and the outcomes.

By signing this form, you are agreeing to your solicitor receiving copies of your health records held by the health professional named on this form.

If you are making, or considering making, a legal claim against someone, your solicitor will need to see copies of all your health records so he or she can see if there is anything in your records that may affect your 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.

You do not have to give permission for your health records to be released but if you don't, the court may not let you go ahead with your claim and, in some circumstances, your solicitor may refuse to represent you.

Notes for the solicitor

Before you ask your client to fill in and sign this form you should explain that this will involve his or her full health records being released and how the information in them may be used. You should also tell your client to read the notes above.

If your client is not capable of giving his or her permission in this form, this form should be signed by:

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

When you send this form to the appropriate health professional, please also send a covering letter to confirm the authorised fees for getting access to records, and that you will pay those fees.

Unless your client agrees otherwise, you must use his or her health records only for the purpose for which the client signed this form (that is, making his or her claim). You should not keep health records for any longer than you need them. You should return them to the client at the end of the claim.

Notes for the health professional

This form shows your patient's permission for you to give copies of his or her full health records to his or her solicitor, in line with the Data Protection Act 1998.

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You must give the solicitor copies of your patient's full health records unless any of the exemptions set out in The Data Protection (Subject Access Modification) (Health) Order 2000 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 named on this form must explain these issues to the patient. If you have any doubt about whether this has happened, contact the solicitor or your patient.

If your patient is not capable of giving his or her permission, this form should be signed by:

- a 'litigation friend' acting for your patient;
- someone with 'enduring power of attorney' to act for your patient; or
- a receiver appointed by the Court of Protection.

You may charge the usual fees authorised under the Data Protection Act for providing the records.

The BMA publishes detailed advice for doctors on giving access to health records, including the fees that you may charge. You can view that advice by visiting www.bma.org.uk/ap.nsf/Content/accesshealthrecords.

This form is published by the Law Society and British Medical Association.



The Law Society

