

Proxy access to online services information leaflet – Old Farm July 25

This is where someone is given access to another person's medical record. For example:

- A parent or guardian who has legal responsibility for a patient under 11.
- A parent or guardian where a patient aged 11 or over has given permission.
- A parent or guardian who has legal responsibility for a patient between 11 and 16 where a GP has assessed that the patient is not capable of making their own decisions about medical health.
- A carer for a patient over the age of 16 – we would need a letter from the patient giving them permission.

The proxy does not have to be a registered patient at the practice but must be registered for online services on the GP system and always use their own login credentials.

To be given proxy access, a patient's representative must have the informed consent (documented using our form 'Consent to proxy access to GP online services') of the patient or, in cases where the patient does not have capacity to consent; the GP has decided that it is in the best interests of the patient for them to have proxy access.

Patients aged 16 or above are assumed to have the capacity to consent unless there is an indication that they are not. Young patients between the ages of 11 and 15 who are judged as having capacity to consent by their GP may also consent to give proxy access to someone else.

Legitimate reasons for the practice to authorise proxy access without the patient's consent include:

- The patient has been assessed as lacking capacity to make a decision on granting proxy access; and,
- the applicant has a lasting power of attorney for health and welfare registered with the Office of the Public Guardian.
- the applicant is acting as a Court Appointed Deputy on behalf of the patient; or
- the GP considers it to be in the patient's interest in accordance with the Mental Capacity Act 2005 code of practice.
- The patient is a child who has been assessed as not competent to make a decision on granting proxy access.

The practice may refuse or withdraw proxy access if it judges that it is in the patient's best interests to do so.

On a child's 11th birthday, the scope of the current proxy access will be restricted, unless the GP has already assessed the child as able to make an informed decision and the child has given explicit consent for their record to be shared. This is a national standard imposed by NHS England to protect the confidentiality rights of young people. We will send a letter to the child and to their parent/legal guardian on their 11th birthday to inform them of this change.

From 11-16, a parent with proxy access will be able to manage certain elements of the young person's record, such as demographic data, and make appointments and order repeat prescriptions, but they will not be able to see the young person's past appointments or clinical record, although they would still be able to see the current repeat prescription record.

At the child's 16th birthday, the remaining proxy access will be switched off, except where the young person is competent and has given explicit consent to the parental access.

Again, we will send letters to the child and their parent/legal guardian to explain that all proxy access has now been switched off. If the child wants proxy access re-instated, they will need to come to the surgery in person, with proof of ID, to request it.

Parents may continue to be allowed proxy access to their child's online services, after careful discussion with the GP, if it is felt to be in the child's best interests.

Background Information

In UK law, a person's 18th birthday draws the line between childhood and adulthood (Children Act 1989 s105) – so in health care matters, an 18-year-old enjoys as much autonomy as any other adult. To a more limited extent, 16- and 17-year-olds can also take medical decisions independently of their parents. The right of younger children to provide independent consent is proportionate to their competence – a child's age alone is clearly an unreliable predictor of his or her competence to make decisions.

Gillick Competence

The 'Gillick Test' helps clinicians to identify children aged under 16 who have the legal capacity to consent to medical examination and treatment. They must be able to demonstrate sufficient maturity and intelligence to understand the nature and implications of the proposed treatment, including the risks and alternative courses of actions. In 1983, a judgment in the High Court laid down criteria for establishing whether a child had the capacity to provide valid consent to treatment in specified circumstances, irrespective of their age. Two years later, these criteria were approved in the House of Lords and became widely acknowledged as the Gillick test. The Gillick Test was named after a mother who had challenged health service guidance that would have allowed her daughters aged under 16 to receive confidential contraceptive advice without her knowledge.

Fraser Guidelines

As one of the Law Lords responsible for the Gillick judgment, Lord Fraser specifically addressed the dilemma of providing contraceptive advice to girls without the knowledge of their parents. He was particularly concerned with the welfare of girls who would not abstain from intercourse whether they were given contraception or not. The summary of his judgment referring to the provision of contraceptive advice was presented as the 'Fraser guidelines'. Fraser guidelines are narrower than Gillick competencies and relate specifically to contraception.