**LMC General Queries**

This information pack aims to cover some of the PM queries that would come through to the LMC.

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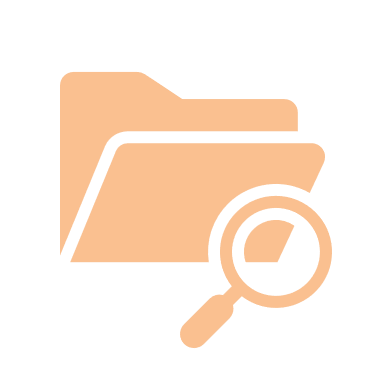
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# Access to Medical Records

Practices often receive requests from patients who wish to access health records. These requests can include requests from patients to view or obtain copies of their own health record using GDPR subject access request rights or the requests might come from third parties, such as the police. Sometimes the requests are for access to the records of deceased patients.

Patients must be given access to their medical records as a Subject Access Request (SAR) free of charge, including when a patient authorises access by a third party such as a solicitor. Only if the SAR is considered to be ‘manifestly unfounded’ or ‘excessive’ can a ‘reasonable’ fee be charged. The circumstances when a fee can be charged are rare and should be on a case by case basis.

If the request is for a medical report to be created, or for interpretation of information within a medical report/record, this will fall under the Access to Medical Report Act (AMRA) - as these both require new data to be created, which is out with the scope of the GDPR and Subject Access Requests. In these cases, a fee can be charged.

****A medical report/record that already exists will be accessible, for free, as a SAR. A ‘reasonable fee’ can be charged for a SAR if the request is manifestly unfounded or excessive, however, these circumstances are likely to be rare.

**For more information regarding access** [**click here.**](https://www.bma.org.uk/advice/employment/ethics/confidentiality-and-health-records/access-to-health-records)

**For information relating to children and young people** [**see here.**](https://www.bma.org.uk/media/1868/bma-access-to-health-records-nov-19.pdf)

# Adoption – NHS Number and Medical Record

Current adoption legislation requires that all adopted patients are given a new NHS number, and that all previous medical information relating to the patient is put into a newly created medical record. Any information relating to the identity or whereabouts of the birth parents should not be included in the new record. For more information and to see the registration process please see PCSE [guidance here.](https://pcse.england.nhs.uk/media/1290/adoption-medical-records-practice-guide.pdf)

# Asylum Seekers and Refugees

Anyone, regardless of nationality, residency, or immigration status, may register and consult with a GP without charge. Practices can only refuse to register a patient if they have ‘reasonable grounds’ to do so and any decision must not be discriminatory. Practices have a contractual duty to provide emergency treatment and immediately necessary treatment free of charge for up to 14 days. If the patient plans on staying in England for more than 24 hours and less than 3 months you can register them as a temporary resident.

# Business Plan

The CQC would expect GP Practices to prepare a Business Plan setting out a mission statement alongside the aspirations of the Practice for at least the next 5 years. This should cover recruitment, succession planning issues and any plans to improve services. The CQC also look for Practice Disaster or a Continuity Plan which should explain how a Practice will survive after a traumatic event. For information and advice visit the [CQC website](http://www.cqc.org.uk).

# Complaints Procedures

Practices must have in place a complaints procedure that informs patients of ways in which their views can be heard, including information on how the procedure works and information on how patients can give positive or constructive feedback. CQC inspectors may also ask the GP practice about how it shares the patterns and trends of complaints and the evidence of change to improve the service offered.

When a complaint is made directly to a practice it is the responsibility of the practice to deal with it. There is at present no requirement for the complaint to be sent to NHS England and no funding will be provided for any costs arising from the complaints process. It is a contractual obligation for practices to follow the complaints procedure and any failure to do so could be considered a breach.

If there are any concerns about the way that a complaint issue is handled, even if seems to be a simple problem, support can be sought from the LMC and your medical defence organisation. For more information see BMA guidance [here.](https://www.bma.org.uk/advice/employment/gp-practices/service-provision/nhs-complaints-procedure)

# Consent (Patient)

Consent is required in several different circumstances. For example, consent will be required to video a consultation, or to allow an observer to be present during a consultation such as a GP trainee. In relation to SARS from solicitors an electronic consent is acceptable. In any event the evidence of consent given should be recorded in the patient’s notes.

For information on parental responsibility for consent [see here.](https://www.bma.org.uk/advice-and-support/ethics/seeking-consent/parental-responsibility-and-consent)

# Criminal Records Check / Disclosure and Debarring Service

As employers Practices have a legal responsibility to check the criminal record history when employing staff to work with children or adults in specific situations. The Disclosure and Debarring Service is responsible for carrying checks requested by individuals or employers and employers need to ensure their employees have the appropriate certification from them.

# Image result for defibrillator in a GPDefibrillator

A Defibrillator is an apparatus used to deliver a dose of electrical current to the heart. CQC guidance and national standards suggest that it is best practice for practices to have rapid access to defibrillators and, whilst it is not a contractual obligation, they should be encouraged to have them.

# Fees

GPs are often asked to carry out work that is not part of their contract and, therefore, incurs a fee. The BMA has published guidance and general advice on setting fees and how to check what is and is not part of the GP contract. Please click [here](https://www.bma.org.uk/advice/employment/fees/check-your-fee/fee-finder-gp-contract) to see guidance.

# Fit notes

GPs are required to issue free of charge a fit note (Statement of Fitness for Work/ Med 3), to patients for whom they provide clinical care. GPs do not need to issue fit notes for a period of absence of 7 days or less. Patients can self-certify for this period. For more information on fit notes [click here.](https://www.bma.org.uk/advice-and-support/gp-practices/gp-service-provision/issuing-fit-notes)

# Gender Dysphoria

GPs and practice staff should address patients with gender dysphoria as they would prefer to be addressed. This is not dependent on any official name change. Sometimes practices are asked by patients with gender dysphoria to change their name and gender on the practice medical record, and patients have this right to change their personal details direct with the practice. Patients also have the right to change the name and gender on their official NHS registration documents without obtaining a Gender Recognition Certificate. For more information visit the [BMA website](https://www.bma.org.uk/advice/employment/gp-practices/service-provision/prescribing/gender-incongruence-in-primary-care)

# Gillick Competence and Fraser Guidelines

Gillick competence is the principle we use to judge capacity in children to consent to medical treatment. Fraser guidelines are used specifically for children requesting contraceptive or sexual health advice and treatment. Where a person under the age of 16 is not Gillick competent and, therefore, is deemed to lack the capacity to consent, it can be given on their behalf by someone with parental responsibility or by the court. However, there is still a duty to keep the child’s best interests at the heart of any decision, and the child or young person should be involved in the decision-making process as far as possible. For more information click [here.](https://www.cqc.org.uk/guidance-providers/gps/nigels-surgery-8-gillick-competency-fraser-guidelines)

# GP Performers List

The National GP Performs List provides an extra layer of reassurance for the public that GPs practising in the NHS are suitably qualified, have up to date training, have appropriate English language skills and have passed other relevant checks such as with the Disclosure and Barring Service and the NHS Litigation Authority. Practice Managers should check the Performers list when employing GPs to see whether the GP is approved to work in General Practice. You can check the performers list [here.](https://www.performer.england.nhs.uk/)

# Home visits

GPs are under an obligation as part of the Contract to undertake a home visit if the condition of the patient warrants it. The decision on whether a patient can be reasonably expected to attend surgery rests with the assessing clinician. The GP is only under obligation to visit the patient at any place other than surgery if it is the doctor’s reasonable opinion that it would be inappropriate for the patient to attend surgery. If the patient lives out of practice boundary area, then the GP is not obligated to visit.

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# Homeless patients

People who are homeless have particular health needs and often suffer some of the worst outcomes. Both the BMA and NHS England are committed to ensuring homeless patients receive the same level of care as those with permanent addresses.

The same obligation on practices regarding identity and proof of address apply to homeless patients as a population group. Homeless patients are entitled to register with a GP using a temporary address which may be a friend's address or a day centre. The practice may also use the practice address to register them CQC expects practices to register people who are homeless, people with no fixed abode, or those legitimately unable to provide documentation living within their catchment area who wish to register with them.

For more information please click [here.](https://www.bma.org.uk/advice/employment/gp-practices/service-provision/patient-registration-for-gp-practices)

# Jury Service

Both doctors and their staff may be called for Jury Service at any time. Doctors are not excusable as of right' from jury service. It is up to the practice whether they pay staff during their jury service. Practices cannot claim direct payment for locum cover in these circumstances. However, practices can claim for travel and parking costs, food and drink and a contribution towards loss of earnings and other expenses. For more information on what you can claim for visit the [Gov website](https://www.gov.uk/jury-service/what-you-can-claim).

# Image result for life support trainingLifesaving skills

Life Saving skills are mandatory training required by the CQC as part of making a GP Practice safe. Training can be provided by the St John’s Ambulance Service or the local NHS Ambulance Service. Practices should be able to provide evidence of certification of training for all clinicians and practice staff. In addition, staff should receive a demonstration of how to use a defibrillator if one is located at the Practice.

# Out of area patients

The Patient Choice Scheme allows GP practices to register new patients who live outside the practice area, without any obligation to provide home visits or out of hours services when the patient is unable to attend their registered practice. The scheme also allows patients who are currently registered with the practice, but move out of the area, to re-register as an out of area patient, again with no obligation for home visiting. For more information, please click [here.](https://www.bma.org.uk/advice/employment/gp-practices/service-provision/out-of-area-registered-patients)

# Overseas Patients

GPs are under an obligation to provide immediate treatment to overseas visitors who become ill whilst in the UK free of charge.

# Registration of patients

New patients register with a GP Practice using a GMS 1 form, which can be downloaded [here](https://www.gov.uk/government/publications/gms1). The overriding principle that applies to patient registration is anyone, regardless of nationality and residential status may register and consult with a GP without charge. Practices may only decline to register a patient if they have reasonable grounds to do so. These grounds must not be related to an applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition. For more information please click [here.](https://www.bma.org.uk/advice/employment/gp-practices/service-provision/patient-registration-for-gp-practices)

# Removal from practice list

A good patient-doctor relationship, based on mutual respect and trust, is the cornerstone of good patient care. The removal of patients from practice lists should continue to be an exceptional and rare event, and a last resort in an impaired patient-practice relationship. When trust has irretrievably broken down, it is in the patient’s interest, just as much as that of the practice, that they should find a new practice.

Practices have the right to ask for a patient to be removed from their list. These provisions require that a reason should be given to the patient by the practice and that normally a warning should have been given by the practice within the past year.

**Third party behaviour**: If, for example, a patient’s family member attends the practice and is not a registered patient, and they display unacceptable behaviour to practice staff the same principle can be applied. A warning can be given and then the patient related with the family member can be removed from the list if the practice feels there has been an irretrievable break down in relationship.

For further advice on patient removal [see BMA guidance here.](https://www.bma.org.uk/advice/employment/gp-practices/service-provision/removal-of-patients-from-gp-lists)

# Document outlineRetention of medical records

Record holders are under a legal and ethical obligation to maintain records safely and securely. The minimum length of retention for GP records should be retained 10 years after the patient’s death for practices in England, Wales, and Northern Ireland and 3 years after the patient’s death for practices in Scotland. Electronic patient records (EPRs) must not be destroyed, or deleted, for the foreseeable future. For more information see [BMA guidance here.](https://www.bma.org.uk/advice/employment/ethics/confidentiality-and-health-records/retention-of-health-records)

# Safeguarding

Practices should have systems and training in place for GPs and Staff to appropriately deal with situations where there are genuine concerns for the health, welfare and safety of vulnerable children and adults. It is one of the main questions to Practices raised by visiting CQC inspection teams. Practices should also consider appointing a safeguarding lead, publish their policies for reporting abuse, and ensure that staff and patients are aware of how to report situations of concern.

# Temporary residents

GP Practices are under an obligation to provide immediate treatment and care to patients residing on a temporary basis in their practice area. If the patient plans on staying in England for more than 24 hours and less than 3 months you should register them as a temporary resident.

# Whistleblowing

Whistleblowing is where doctors or practice staff, in confidence, report illegal incidents, or situations that cause serious concern, such as patient abuse, or fraudulent claims or theft that in a less open organisation might place their employment in jeopardy. GP Practices are expected by the CQC to have a policy in place which offers clinicians and employees a safe way of reporting areas of concern.

# Lindley Village Surgery - Zero Tolerance PolicyZero Tolerance

Practices should consider adopting a zero-tolerance policy for patients who behave in a threatening manner toward all practice staff. Patients adopting threatening or violent behaviour towards staff should be reported to the Police. This would allow for immediate removal of the patient from the Practice List.