

ONLINE PROXY ACCESS INFORMATION LEAFLET

What is Proxy Access?

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 years old
- A parent or guardian who has legal responsibility for a patient between 11 and 15 years old where a GP has assessed that the patient is not capable of making their own decisions regarding their health or
- A carer for a patient over the age of 16.

The proxy does not have to be a registered patient at Central Surgery, however they must be registered for online services on the NHS App and always use their own login credentials. They have to complete the practice's proxy application form completing the appropriate sections.

To be given proxy access, a patient's representative must have the informed consent 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 interest of the patient for the applicant to have proxy access.

Why is Proxy Access switched off at certain ages?

At 11 years old

On a child's 11th birthday, the scope of the current proxy access will be restricted. This is a national standard imposed by NHS England to protect the confidentiality rights of young people.

The patient can however, permit proxy access to continue after some checks have been carried out. The 11 year old will first need to attend a routine GP face to face appointment, to discuss with a doctor about giving a proxy access. An adult can bring the 11 year old to the appointment, however they will not be invited to go in to see the GP with the patient, initially.

With patient consent or/and a GP's agreement, for patients aged between 11-15 years old, it may be decided that a parent/legal guardian/representative granted proxy access has full access to the young person's record, but access could also be restricted and a proxy may not be granted access to see the young person's medications or clinical record.

At 16 years old

At the child's 16th birthday, proxy access that was previously granted, will be switched off, and we will send letters to the 16 year old and their parent/legal guardian/representative to explain that all proxy access has now been terminated. If the 16 year old wants proxy access re-instated, they will need to give their written consent again for the same proxy to have access, as it is deemed that the young person aged 16 years old, is competent and has given explicit consent to parental access.

Patients aged 16 or above are assumed to have the mental capacity to consent, unless there is an indication that they are not. 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.

Can Proxy Access be withdrawn or refused at any time?

The Practice can refuse or withdraw proxy access, if they believe that it is in the patient's best interests to do so.

Background Information leading to the Practice's Proxy Access Policy

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.