

To all practices Surrey and Sussex LMCs

22nd May 2018

Dear Colleagues

GDPR Update: GDPR and on-line access to records by children

GDPR makes provision for individual countries within the EU to define the age at which children can give consent to 'information society services', the Information Commissioner has recommended that in the UK this should be 13, in common with many countries in Europe. If agreed, this will be incorporated into the Data Protection Act 2018, although this has not yet passed through Parliament.

This will mean that once a child is 13, they should be asked to give consent directly if they wish to access their records on-line. GPs should follow professional guidance as below. Colleagues should be cautious in situations where there are known to be safe-guarding concerns or other clinical issues which may affect a child's independence of judgement. **GP practices may not feel it is a current priority to promote independent on-line access for under 16-year olds.** If children currently have their records accessible on-line by parents, the RCGP currently recommends that full access for those with parental responsibility should automatically be switched off when a child reaches 11. Subsequently the practice can decide whether to offer such children independent access to their on-line medical records, after the age of 13.

The MDU has up-to-date guidance on on-line access to records at:

<https://www.themdu.com/guidance-and-advice/guides/online-access-to-records>

within this article, there are links to:

- RCGP guidance on parental access, including proxy access
- The MDUs guidance on parental responsibility
- The RCGPs guidance on identity verification and coercion

It is important to note that in all other respects the GDPR **does not alter GPs professional responsibilities towards children**, either in terms of their records or treatment, and their parents retain parental responsibility, if they have it, until the age of 16, or in some cases 18. GPs should involve parents in the care provided to their children but take account of the evolving competence of children to make independent decisions through their early teens, just as occurs now.

Once the DPA 2018 has passed into law, and confirms, as is expected, the consent age of 13 in relation to on-line data information management, the Information Commissioner is likely to provide further advice, though only a small element of this will be relevant to General Practice, since it is the wider "information society" that is in the frame in relation to this issue.

Local Medical Committees for
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I hope this background is helpful.

With best wishes

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'JP' followed by a long horizontal line extending to the right.

Dr Julius Parker
Chief Executive