

## 7 Minute Briefing – Medical Disclosure Information to Lasting Power of Attorney or a Deputyship

### 1. What is it?

An attorney holding a Lasting Power of Attorney (either Property and Affairs or Health and Welfare) (LPA) or a court-appointed deputy should be able to access relevant medical records of the vulnerable adult.

### 2. Best Interest

Attorneys need to be able to make decisions in P's best interest as their legal representative. They will likely be unable to do so without P's medical records. Therefore, the relevant information can be disclosed to enable them to discharge their role as attorney or deputy.

### 7. Medical Disclosure Information to Lasting Power of Attorney or a Deputyship

<https://www.gov.uk/guidance/medical-disclosure-information-to-attorneys-and-deputies>



### 3. Relevant Information

This is not the same as the right of access under data protection law (Subject Access Request) as defined in Article 15, UK General Data Protection Regulation and Section 45 Part 3 Data Protection Act 2018, whereby a person can request all the information that a data controller has regarding them.

4. There are no specific statutory provisions enabling a third party to exercise subject access rights on behalf of an individual who does not have the mental capacity to manage their own affairs, but the Information Commissioner's Office advises that "it is reasonable to assume that an attorney with authority to manage the individual's property and affairs, or a person appointed by the Court of Protection to make decisions about such matters, will have the appropriate authority".

### 5. Assessing the validity of the request

Are you satisfied the person lacks capacity to agree to the disclosure?

Are you satisfied the attorney is acting in the person's best interest?

Have you obtained written confirmation?

6. Where NHS staff urgently need confirmation the person has an attorney or deputy, they can ask OPG by submitting an urgent request to search our registers.

<https://www.gov.uk/guidance/urgent-enquiries-check-if-someone-has-an-attorney-or-deputy>