

H4 – Access to Medical Reports Act 1988: Employee Guide H&SHS01

Employees have certain rights under the Access to Medical Reports Act 1988 and the Data Protection Act 1998 which are outlined below.

The following section explains these rights and lists the consents required by the occupational health specialist to obtain and process health related data from an employee or a GP/consultant.

Data Protection Act 1998 and Access to Information

The general information we ask about employees is known as “personal data”. Information about health, medical history and any treatment received is known as “sensitive personal data”, and due to the sensitive nature of this data a number of procedures need to be adopted:

- Informed consent is required in writing to obtain and process any health related information. Before personal and sensitive information can be processed a Consent Form must be completed. A summary of the employee’s rights is provided on the Consent Form.
 - An employee can ask for a copy of their medical reports, and this may include a copy of the independent medical assessment report, if one has taken place. If an employee wants access to his/her medical records, the request must be made in writing to the occupational health specialist. A security check will be made to verify the identity of the employee seeking the information and a charge may be made for the release of information.
 - If an employee believes his/her medical records are inaccurate or misleading he/she can request that the record is corrected or that an amendment is attached to the record.
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Access to Medical Reports Act 1988

These are the employee’s rights:

- An employee can withhold his/her consent to the occupational health specialist having access to any medical report. However, it is in the employee’s best interest to give consent otherwise a medical opinion may have to be formed on limited information.
 - The employee can see the report before it is sent, and during the six months after completion of the report, if he/she wishes. If he/she wants to see the report before it is sent, the occupational health specialist will notify the doctor in writing when the request for the report is made, and will inform the employee directly of the date of the request.
 - The occupational health specialist will tell the GP/consultant that:
 - The report must not be released unless the employee has written that he/she does not want to see it, or
 - The employee has seen the report, consented to it being supplied (and, if relevant, has attached a statement to it).
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- If 21 days have passed since the date of the request and the employee wants to see the report before it is sent, it is the employee's responsibility to liaise directly with his/her GP/consultant.
 - The GP/consultant can make a charge if a copy of the report is required. If the employee changes his/her mind and wants to see the report after it has been provided to us, the employee has the right to seek access to it from the GP/specialist at any time up to six months after it was supplied.
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Exemptions in the Access to Medical Reports Act 1988

The GP/consultant is not obliged to show the employee any part of the medical report if that disclosure would, in the GP's/consultant's opinion, be likely to cause serious harm to his/her physical or mental health. Similarly, if a report reveals information about a person other than the employee, that part of the report will not be disclosed.

Where the exemptions apply, the GP/consultant must inform the employee in writing that access is being denied but that access is still allowed to any part of the report not covered by the exemptions.

Independent Medical Assessment Consent

If an employee is asked to attend an independent medical assessment by an occupational physician who is not directly responsible for his/her care, the purpose of the examination must be explained to the employee.

The employee will be asked to sign a Consent Form at the time of the appointment:

- To agree to the examination being carried out;
- To authorise the examining occupational physician to directly release medical information from the assessment to the OHS and for the OHS to interpret the information to be released to the manager at the company; and
- To authorise the OHS to release medical information from the assessment to his/her GP/consultant and other medical specialists, if necessary.

