

Mr Christopher Graham
Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

27 September 2013

I have been approached in my capacity as Chair of the Health Committee by my parliamentary colleague [REDACTED] who is the constituency MP for [REDACTED]

As I understand them the facts of the case are as follows:

- 1) [REDACTED] revealed personal information to a fellow medical practitioner in the context of a referral which was not relevant to the referral.
- 2) [REDACTED] sought to have the relevant material expunged from [REDACTED] medical record.
- 3) The practice refused on the grounds that they have a legal obligation to maintain a full record.
- 4) [REDACTED] contested this decision but a district judge found in favour of the practice.

The question of policy seems straightforward. Should the citizen have the right to remove references from their records or does a doctor have the right to claim a higher professional authority? More simply, who owns the data?

STEPHEN DORRELL

Rt Hon Stephen Dorrell MP
House of Commons
London
SW1A 0AA

7 October 2013

Dear Mr Dorrell

Thank you for your letter of 29 September about the case of [REDACTED].

Patients do not necessarily have the right to have information removed from their medical record. Doctors are under various legal and professional duties to keep appropriate records about their patients. Clearly doctors cannot be expected to treat patients unless they have access to all the necessary information. Determining which information is necessary is ultimately a matter of professional judgement.

Whilst I am sympathetic to patients who have genuine concerns about the content of their medical records, the right in the Data Protection Act to have information removed is a limited one. It only applies where there is unwarranted substantial damage or substantial distress, or a likelihood of this. There is no general right to have information deleted.

As I understand it, medical records are, technically, owned by the Secretary of State for Health. However, in data protection terms, the issue is not one of ownership but rather of control over the information contained in the record.

I have explained to [REDACTED] that I have nothing to add to the numerous replies [REDACTED] has received from ICO staff in recent months.

*Yours sincerely
Christopher Graham*

Christopher Graham
Information Commissioner

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Mixed Sources
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Website: www.fsc.org

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