
EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the partial exemption from the provisions of the Data Protection Act 1984 which confer rights on data subjects to gain access to data held about them (“the subject access provisions”) of data relating to the physical or mental health of the data subject held by any data user where the data are held by a health professional or the information constituting the data was first recorded by or on behalf of a health professional. Schedule 1 to the Order lists the persons who are health professionals for the purposes of the Order.

The subject access provisions are disapplied only where to supply the data subject with particulars of the information constituting the data would be likely to cause serious harm to his physical or mental health or lead to the identification of another person (other than a health professional who has been involved in the care of the data subject). Before deciding whether either of those criteria is met (and, accordingly, whether to grant or withhold subject access) a data user who is not a health professional is obliged by the Order to consult the medical practitioner or dental practitioner responsible for the clinical care of the data subject or, if there is more than one, the most suitable available medical or dental practitioner or if there is none available a health professional who has the necessary experience and qualifications to advise on the matters to which the information which is requested relates.