

## Your Legal Questions

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Solicitor



**Q** I have been worried about my husband's physical health and memory loss over the last few months and he finally agreed to go and see his GP. My husband won't tell me what the GP said which is causing me concern as I am my husband's carer and I don't know what steps I can take. Is there anything I can do?

**A** The Data Protection Act 1998 covers medical records - GP's and other medical professionals often quote this legislation when family members ask to see a person's medical notes or ask to be kept informed about their care. Unfortunately, the Medical professionals can often find themselves in a difficult situation caught between observing patient confidentiality and a genuine desire to be helpful. They are within their rights to quote the Data Protection Act and can refuse to provide any information. Dependent upon the circumstances, it could be argued that it is in your husband's best interests for the information to be made available to you given that you are your husband's carer and need to be aware of and understand his condition in order that you can ensure that you act in his best interests.

If your husband still has capacity and refuses to discuss matters with you or to authorise his GP to discuss his condition with you there is little that can be done. If however your husband lacks capacity, I recommend that you seek legal advice with a view to applying to the Court of Protection to be appointed as your husband's health and welfare Deputy. If you are appointed as Deputy then you would be entitled to see your husband's records and be consulted on medical treatment. Anyone named as a Deputy for personal welfare ought to be able to see the medical records. If the medical team still refuses to comply, you can complain to the Primary Care Trust.

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