

GDPR05 - Subject Access Requests Policy and Procedure

Category: GDPR Sub-category: Policies







Policy Review Sheet

Last Reviewed: 06/03/19 Last Amended: 26/03/18

Next planned review in 12 months, or sooner as required.

Note: The full policy change history is available in your online management system.

Business Impact:	Low	Medium	High	Critical
			X	
These changes require action as soon as possible.				

 Reason for this review:	New Policy
 Were changes made?	Yes
 Summary:	This policy includes a Subject Access Request policy for all staff to review, a process map for the Data Protection Officer or other person with responsibility for GDPR compliance to follow when a Subject Access Request is received, and a template Subject Access Request letter that can be used by Data Subjects. A new custom field has been added so that providers can have the name, job title, email and contact phone number of their DPO/Privacy Officer included within the policy document and template letter. System details will need to be updated to include these details otherwise the details will remain blank.
 Relevant Legislation:	<ul style="list-style-type: none"> • General Data Protection Regulation 2016 • Data Protection Act 2018
 Underpinning Knowledge - What have we used to ensure that the policy is current:	<ul style="list-style-type: none"> • Information Commissioner's Office, (2018), <i>Rights of access</i>. [Online] Available from: https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/ [Accessed: 16/03/2018]
 Suggested action:	<ul style="list-style-type: none"> • Discuss in supervision sessions • Notify relevant staff of changes to the policy • Encourage sharing the policy through the use of the QCS App • Establish process to confirm the understanding of relevant staff • Arrange specific meetings to discuss the policy changes and implications • Ensure that the policy is on the agenda for all team meetings and staff handovers

GDPR05 - Subject Access Requests Policy and Procedure

This page is deliberately left blank

GDPR05 - Subject Access Requests Policy and Procedure

1. Purpose

1.1 The purpose of this policy is to explain Subject Access Requests and to ensure that all staff at 4SocialCare Ltd know how to recognise and deal with the receipt of a Subject Access Request.

1.2 To support 4SocialCare Ltd in meeting the following Key Lines of Enquiry:

Key Question	Key Line of Enquiry (KLOE)
WELL-LED	W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed?

1.3 To meet the legal requirements of the regulated activities that 4SocialCare Ltd is registered to provide:

- General Data Protection Regulation 2016
- Data Protection Act 2018



2. Scope

2.1 The following roles may be affected by this policy:

- All staff

2.2 The following people may be affected by this policy:

- Service Users

2.3 The following stakeholders may be affected by this policy:

- Family
- Advocates
- Representatives
- Commissioners
- External health professionals
- Local Authority
- NHS



3. Objectives

3.1 This policy will assist with defining accountability and establishing ways of working in terms of responding to Data Subjects exercising their rights.

3.2 This policy will enable GDPR compliance at 4SocialCare Ltd by ensuring that Subject Access Requests received from Data Subjects, including Service Users, are dealt with appropriately by staff and by Yvonne Jones, Data Protection Officer or other person responsible for GDPR compliance at 4SocialCare Ltd.

3.3 This policy will facilitate the process of making a Subject Access Request for the benefit of Data Subjects, including Service Users.

GDPR05 - Subject Access Requests Policy and Procedure



4. Policy

4.1 4SocialCare Ltd will ensure that the policy entries below are reviewed, understood and complied with by all staff at 4SocialCare Ltd. 4SocialCare Ltd acknowledges that if its processes differ from those set out in the policy, it will modify them to the extent necessary to reflect its processes and procedures.

4.2 4SocialCare Ltd will ensure that it has appointed either a Data Protection Officer (DPO) if required to do so, or has specified who will be responsible for Data Protection within 4SocialCare Ltd. Their name and contact details will be publicised so that staff know who to contact should any queries or Subject Access Requests be made. 4SocialCare Ltd will ensure that the details are kept up to date and that those up-to-date details are reflected in this policy and associated procedures. The Data Protection Officer is Yvonne Jones whose contact details are 03301135980, admin@4socialcare.co.

4.3 4SocialCare Ltd's DPO will read and understand this policy and procedure and adhere to the Subject Access Request process every time a Subject Access Request is received.

4.4 4SocialCare Ltd understands that an individual is legally entitled to require an organisation to provide access to, or copies of, all of that individual's personal data held by the Organisation. This is known as a "Subject Access Request".

4.5 At a high level, personal data is any information which identifies a living individual or could be used to identify that person. It includes first name and surname, email address, address, date of birth, medical and health records, Care Plans, photographs, CCTV images, right to work documentation, marriage certificates, National Insurance number, and political and religious views amongst others.

4.6 4SocialCare Ltd are not entitled to charge a fee to respond to the Subject Access Request (unless a person makes manifestly unfounded or excessive Subject Access Requests) and must respond to the Subject Access Request within one month of receipt of the Subject Access Request.

4.7 We understand that the Subject Access Request can be made to anybody in 4SocialCare Ltd. It is therefore possible that any member of staff could receive a Subject Access Request on behalf of 4SocialCare Ltd.

GDPR05 - Subject Access Requests Policy and Procedure

5. Procedure

5.1 Template Subject Access Request Letter

4SocialCare Ltd will consider providing 4SocialCare Ltd's template letter to Data Subjects, potentially via 4SocialCare Ltd's website. If 4SocialCare Ltd provides the template letter, 4SocialCare Ltd will notify the Data Subjects that they are not obliged to use the template letter and that they may ask 4SocialCare Ltd in writing by any means for access to their Personal Data. 4SocialCare Ltd will also notify the Data Subjects that they don't need to use any particular form of words to make a Subject Access Request.

5.2 Process Map Stage 1 - Maintaining a log of Subject Access Requests

4SocialCare Ltd will maintain a log of the Subject Access Requests it receives, setting out the dates on which the requests are received and the final response sent, together with any intermediary steps taken before sending a final response (for example, request for identification proof or further information in respect of the data). If 4SocialCare Ltd fails to respond to the request in accordance with GDPR timescales, this should also be noted together with an explanation of the failure and steps taken to avoid such failure in the future.

5.3 Process Map Stage 2 - Acknowledge Subject Access Request

4SocialCare Ltd acknowledges that it is best practice for 4SocialCare Ltd to acknowledge receipt of the Subject Access Request, although this is not strictly necessary.

5.4 Process Map Stage 3 - Confirmation of Identity

- 4SocialCare Ltd understands that it should only respond to a Subject Access Request if it is confident of the identity of the applicant
- 4SocialCare Ltd understands that it must be reasonable in terms of what it asks for and that it shouldn't ask for a significant amount of extra information if the identity of the person making the request is obvious, which is more likely to be the case if 4SocialCare Ltd has an ongoing relationship with that person. If, for example, an existing employee or Service User makes the request, 4SocialCare Ltd acknowledges that it is likely it will be able to confirm their identity easily
- If, however, 4SocialCare Ltd receives a request from an individual it does not recognise or the individual's email address/postal address has changed since 4SocialCare Ltd's last dealings with them, 4SocialCare Ltd will consider seeking further proof of identity such as a recent utility bill or copy of a driving licence or passport
- In this scenario, the one-month time period to respond will commence only once 4SocialCare Ltd has received the proof of identity. 4SocialCare Ltd will not delay in asking for further proof

5.5 Process Map Stage 4 - Checking if other information is required to find the records requested

- 4SocialCare Ltd is entitled to ask for further information it reasonably needs in order to comply with the Subject Access Request, although it should not delay responding to a Subject Access Request unless it requires more information to find the data in question
- 4SocialCare Ltd should not require the applicant to narrow the scope of the request (they are entitled to ask for all the information 4SocialCare Ltd holds), but 4SocialCare Ltd may ask them to provide some context around the information they are seeking such as relevant dates or if they want a particular document or type of document (for example, letter, email, application form), which may help 4SocialCare Ltd locate the data
- 4SocialCare Ltd will not delay in asking for further information and will be clear about what details it needs. Provided it does that, and it needs the additional information in order to be able to comply (rather than it being a tactic to delay timescales), the one-month time period will begin when 4SocialCare Ltd receives the information

5.6 Process Map Stage 5 - Gathering information

- Collating all relevant information will be the most time-consuming task. 4SocialCare Ltd will consider which departments may hold personal data and whether that personal data can be accessed centrally by one individual or team
- The fewer people who are involved in locating the data, the less impact it will have on 4SocialCare Ltd's day to day business
- 4SocialCare Ltd will consider how to search for the data. For example, does the Data Subject use a nickname or alternative name which would also need to be searched?

GDPR05 - Subject Access Requests Policy and Procedure

5.7 Process Map Stage 6 - Considering whether an exemption applies

Under GDPR, member states are entitled to restrict the application of individuals' rights (including Subject Access Requests). The Data Protection bill entitles a Data Controller to restrict Subject Access Requests to the extent that the restriction is (having regard to the fundamental rights and legitimate interests of the Data Subject) necessary and proportionate to:

- Avoid obstructing an official or legal inquiry, investigation or procedure
- Avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties
- Protect public security
- Protect national security
- Protect the rights and freedoms of others

These are relatively narrow in scope, but 4SocialCare Ltd will consider them when responding to a Subject Access Request. If in doubt as to whether an exemption applies, 4SocialCare Ltd will seek legal advice.

If a request is manifestly unfounded or excessive, 4SocialCare Ltd may charge a reasonable fee or refuse to act on the request, but 4SocialCare Ltd will have to demonstrate that the request is unfounded or excessive. If 4SocialCare Ltd processes large volumes of data, it is entitled to ask the Data Subject to specify the information or processing activities to which the request relates (as referred to above).

5.8 Process Map Stage 7 - Maintaining confidentiality

If personal data relating to other individuals is included in the documents that will be provided pursuant to the Subject Access Request, it will need to be redacted. 4SocialCare Ltd could alternatively obtain consent from the Data Subject to disclose the personal data, but that could be more time consuming than redaction.

5.9 Process Map Stage 8 - Reviewing what data has been requested

In some cases, the Data Subject may only request a copy of his or her personal data. They are entitled, however, to also request the following information:

- The purposes of and legal basis for the processing
- The categories of personal data that are processed
- The recipients or categories of recipients to whom the personal data has been disclosed (including recipients or categories of recipients in third countries or international organisations)
- The period for which it is envisaged that the personal data will be stored or, where that is not possible, the criteria used to determine the retention period
- The existence of the Data Subject's rights to request:
 - Rectification of personal data; and
 - Erasure of personal data or the restriction of its processing
- The existence of the Data Subject's right to lodge a complaint with the Information Commissioner's Office and the contact details of the Information Commissioner's Office; and
- Communication of the personal data undergoing processing and any information about its origin

If the above information is requested in the Subject Access Request, it must be provided.

5.10 Process Map Stage 9 - Retention of information

4SocialCare Ltd will consider keeping a copy of the information provided to the Data Subject until it receives confirmation from the Data Subject that it does not require any further information or for a period of 6 months from completion of the request, whichever happens first.

5.11 Training

4SocialCare Ltd will circulate the policy to all staff. 4SocialCare Ltd will consider whether providing training to staff in respect of Subject Access Requests and the policy would be beneficial.

GDPR05 - Subject Access Requests Policy and Procedure



6. Definitions

6.1 Data Protection Act 2018

- The Data Protection Act 2018 is a United Kingdom Act of Parliament that updates data protection laws in the UK. It sits alongside the General Data Protection Regulation and implements the EU's Law Enforcement Directive

6.2 Data Subject

- The individual about whom 4SocialCare Ltd has collected personal data

6.3 GDPR

- **General Data Protection Regulation (GDPR)** (EU) 2016/679 is a regulation in EU law on data protection and privacy for all individuals within the European Union. It was adopted on 14 April 2016 and after a two-year transition period became enforceable on 25 May 2018

6.4 Personal Data

- Any information that identifies a living person including but not limited to names, email addresses, postal addresses, job roles, photographs, CCTV and special categories of data, defined below

6.5 Process or Processing

- Doing anything with personal data, including but not limited to collecting, storing, holding, using, amending or transferring it. An organisation does not need to be doing anything actively with the personal data - at the point it collects it, it is processing it

6.6 Special Categories of Data

- Has an equivalent meaning to "Sensitive Personal Data" under the Data Protection Act 2018. Special categories of data include but are not limited to medical and health records and Care Plans (including information collected as a result of providing health care services) and information about a person's religious beliefs, ethnic origin and race, sexual orientation and political views



Key Facts - Professionals

Professionals providing this service should be aware of the following:

- All staff at 4SocialCare Ltd should follow the guidelines set out in this policy to ensure that Subject Access Requests are dealt with appropriately in compliance with GDPR
- Data Subjects can use the template request letter provided in the form attached to this policy or are able to request data in writing in other means. All Subject Access Requests must be responded to, irrespective of the form of communication



Key Facts - People Affected by The Service

People affected by this service should be aware of the following:

- If a Data Subject, including a Service User, wishes to make a Subject Access Request to 4SocialCare Ltd, they can use the template request letter provided. They do not have to use the template request letter and can instead make the Subject Access Request in writing by any other means

GDPR05 - Subject Access Requests Policy and Procedure

Further Reading

There is no further reading for this policy, but we recommend the 'Underpinning Knowledge' section of the review sheet to increase your knowledge and understanding.

Outstanding Practice

To be 'Outstanding' in this policy area you could provide evidence that:

- You provide training to all staff at 4SocialCare Ltd to ensure that they understand how to recognise and deal with a Subject Access Request
- You create a detailed log for GDPR compliance, including a log of all information relevant to Subject Access Requests received by 4SocialCare Ltd
- The wide understanding of the policy is enabled by proactive use of the QCS App

Forms

The following forms are included as part of this policy:

Title of form	When would the form be used?	Created by
Template Subject Access Request Letter	When a Data Subject submits a Subject Access Request	QCS
Subject Access Request Process Map	This form should be used by each organisation's Data Protection or Privacy Officer (or similar) each time a Subject Access Request is received. The process map should be reviewed alongside the corresponding procedure entries	QCS

Template Subject Access Request Letter

Yvonne Jones, Data Protection Officer

4SocialCare Ltd

35 Cantley Road
Great Denham
Bedford
Bedfordshire
MK40 4RX

Date:

Dear Yvonne Jones

Subject Access Request under the General Data Protection Regulation 2016

I am writing to make a Data Subject Access Request pursuant to the General Data Protection Regulation 2016.

Scope of Request

[This is a general request that relates to any personal data processed about me by or on behalf of 4SocialCare Ltd].

Or

I only require information in respect of the following:

[Insert any information you think would help us to find what you are seeking, or let us know if there is something in particular, you require]

[Locating the data]

[Please only provide documents and emails that were created and/or sent between [Insert date range].]

[Please only provide emails that were sent between [Insert names].]

Yours sincerely

[Please enter your full name]

Template Subject Access Request Letter

This page is deliberately left blank