

Subject Access Policy and Procedure

Compass Disability Services
Units 11 – 12 Belvedere Trading Estate
Taunton, TA1 1BH

February 2017
Review date: February 2022

Introduction

Under the Data Protection Act, individuals can ask to see personal data about themselves that is held on computer and in some paper records. If an individual wants to exercise this subject access right, there is a procedure to follow. Individuals also have the right to have incorrect information held about them changed.

Compass Disability Services complies with the Data Protection Act 1998 (the Act) and will comply with its legal obligations for subject access requests under the Act.

The key aims of this policy and procedure are:

- that all employees know how to process a subject access request;
- that an individual understands how to access personal information held about them and make corrections if necessary.

Definition of Personal Data

Personal data is any information that relates to a living individual who can be identified – a) from that information, or b) from that information and other information which is in the possession of, or is likely to come into the possession of the Data Controller. It includes any expression of opinion about the individual and any indication of the intentions of the Data Controller in respect of the individual.

Exemptions

Compass Disability Services is not obliged to comply with a request if doing so would reveal the identity of another individual, unless:

- the other individual has given their consent;
- it is reasonable to comply without gaining consent.

When deciding whether to release third party details without consent, consideration will be given to:

- whether there is a duty of confidence to the other individual;
- whether appropriate steps have been taken to gain consent;
- whether the other individual is capable of giving consent;
- whether the other individual has expressly refused to give consent.

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Roles and Responsibilities

Specific responsibility for Data Protection within the organisation is as follows:

- The Data Manager – Chief Executive Officer
- The Data Controller – Finance and HR Manager
- Assistant Data Controller – Operations Manager
- Data Processors – any employee, volunteer or trustee handling personal information.

No employee other than the Data Controller or Assistant Data Controller is authorised to release personal data.

Subject access request procedure

A subject access request must be made in writing to the Data Controller, marked Subject Access Request on the outside of the envelope and must be accompanied by the fee of £10. Cheques should be made payable to Compass Disability Services.

A request must include two forms of identification. Examples of suitable identification are a photocopy of a passport or driving licence and a recent utility bill or council tax letter.

On receipt of a subject access request, the envelopes must be passed unopened to the Data Controller or, in his/her absence, the Assistant Data Controller. This would then be date stamped and a Subject Access Request Form must be completed (Version Control Log/Template Forms)

A reply will be sent to the individual within 40 days as long as the necessary fee has been paid. The Data Controller will act promptly in requesting the fee or any further information necessary to fulfil the request.

If Compass Disability Services does not hold any personal information regarding the data subject, or if an exemption applies, the Data Controller will respond in writing to the individual explaining this.

If the individual considers any information held by Compass Disability Services to be inaccurate they must write to the Data Controller, including two items of identification as above, and clearly state what information is incorrect and what the correct information is.

Third Party Requests

Applications for access to information about another individual can be made following the procedures above, but only in certain circumstances. A third party (including solicitors) must provide a letter signed by the data subject authorising the release of the information.

Requests can be accepted from a third party, without the data subject's agreement if that person is deemed incapable of providing consent and the

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third party is the individual's authorised representative. If there is any doubt about the validity of the request, a copy of the power of attorney will be needed.

The police may also request information. The usual procedure for a written request should be followed and the request verified before information is released. The police do not have a right of access to information. Information may only be provided for one of the following reasons:

- for the prevention or detection of crime;
- for the apprehension or prosecution of offenders.

It is also possible to receive a request for personal information about a third party without the data subject's prior consent by claiming an 'exemption'. This is basically a valid reason, as detailed in the Act, to allow for the disclosure under certain circumstances. All the exemptions are listed in the Act, however, the most common ones are:

- Crime and taxation
- Required by law or made in connection with legal proceedings
- Confidential references given by the Trust.

A parent or guardian can request to see personal information relating to a minor without the child's consent. However, the age of the child must be taken into consideration and decisions surrounding obtaining a child's consent will be made on a case-by-case basis.

Monitoring

Subject access requests will be monitored by the Data Manager to ensure that the legal obligations of Data Protection are adhered to.

Policy Review

This policy will be reviewed every five years or earlier in accordance with any amendments to the Act or other relevant legislation. Suggestions for improvements to this policy should be made through the usual channels to the Chief Executive Officer.

Additional information

Data Protection Policy

Subject Access Request Form

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