

## **Access to Personal Records and Rights under GDPR**

All people that we work with have the right to see and receive a copy of information we hold about them in any Record. This is known as the right of subject access. This policy explains who can make a subject access request, and how they can make one.

The right to subject access is contained within:

- The Data Protection Act 2018 – incorporating and implementing the General Data Protection Regulation.

The Data Protection Act 2018 gives you more rights and control over the information that we hold about you.

## **Your Rights under the General Data Protection Regulation**

The **General Data Protection Regulation (GDPR)** (Regulation (EU) 2016/679) is a regulation by which the European Parliament, the Council of the European Union and the European Commission HAVE strengthened and unified data protection for all individuals within the European Union (EU). It replaces the 1995 Data Protection Directive

Under GDPR you have rights regarding the information (data) that is collected, stored or processed about you. These rights are:

1. **Right to be informed** – we must tell you what information we are going to collect and use. We must tell you why we are doing this and how long we will keep the information for.
2. **Right of access** – you have the right to access your personal data. You can ask to do this in writing or by telling us.
3. **Right of rectification** – if there are errors in the information we hold you have the right to ask us to put this right.
4. **Right to erasure** (right to be forgotten) – you have the right to ask us to erase all the personal information we hold about you. We have to consider your request. There will be times when we are not able to do this.
5. **Right to restrict processing** – you have a right to ask us not to ‘process’ or use your personal data. We have to consider your request. There will be times when we are not able to do this.
6. **Right to data portability** (only information received from the data subject) – you have the right to obtain and re use your personal information so you can move, copy or transfer your data to different services. This only applies to the information you have given us.

7. **Right to object** – You have the right to object to the processing of their personal data in certain circumstances.
8. **Right not to be subject to automated individual decision making** – this is not something that we use your information for.

## **Can information be withheld from you?**

Under the Data Protection Act 2018 a person, or their representative, has the right of access to information contained within our records, except where:

- It is considered that giving access to that information would cause serious harm to the physical or mental health or condition of the young person or any other individual.
- Any information that identifies a third party, where the third party is not a registered professional and has not consented to the disclosure.
- Where the applicant is acting as a representative of the young person, who is capable of understanding the request for access, but where the applicant is not considered to be acting with the young person's permission
- Where the young person is not capable of understanding the request for access, and it is considered that the release of information would not be in the best interests of them.
- Any information which is restricted by law from disclosure under other Acts of Parliament. These include the Human Fertilisation and Embryology Act 1990, the Human Fertilisation and Embryology (Disclosure of Information) Act 1992, NHS (Venereal Diseases) Regulations 1974, NHS Trust (Venereal Diseases) Regulations 1991 and the Abortion Regulations 1991.

Under the Access to Health Records Act the young person's representative has a right of access to all records kept on or after the 1st November 1991, or any records before that date if they are relevant in explaining records on or after the 1st November 1991. However, all the exceptions above for the Data Protection Act equally apply to the Access to Health Records Act. There is also an additional exemption:

- Access is not given to the young person's representative, where that young person has explicitly requested that no access be given to records, even after death if this has occurred.

## **Can your requests for data to be erased, amended or restricted be refused?**

Yes – we can refuse your requests BUT...

- We need to have a good reason for doing so (one that is in the Data Protection Act 2018)
- We will tell you why we are not able to support your request

## How to apply for your records

You may **verbally** ask the member of staff working with you for access to your records in their presence and to discuss it with them.

To **formally** make an application, you must do so in writing, ideally using the form provided. Once this has been received and the application considered, you can expect to receive a copy of your records within one month. If any of your record is abbreviated or has detailed medical terminology, which you do not understand, these will be explained to you. If you want to discuss any part of your record, you must contact the person responsible for your care directly.

Support is available here at the Zone to help you make a written application if you need it.

**Write to:**      **The Performance & Information Officer**  
                      **The Zone, 14-16 Union Street**  
                      **Derry's Cross, Plymouth**  
                      **PL1 2SR**

You need to send a completed 'Access to Personal Records Request Form' (which can be requested via the Performance & Information Officer), or send a letter that includes your:

- **Name,**
- **Date of birth,**
- **Address,**
- **Contact number (if available),**
- **Signature,**
- **The name of the particular service or project you attended, and who worked with you,**
- **details of where you wish us to send the notes.**

This information will ensure the prompt location of the records you wish to see.

For personal representatives making applications, please include the details outlined above for themselves and similar details for the person about whom they are making the request. Alternatively, complete the attached application form.

The representative will need to evidence in writing by that the person they are requesting information about has given written consent (unless they are incapable of understanding or consenting), or that they have been appointed by the court to act on the person's behalf.

Your application will be dealt with privately and confidentially at all times and all correspondence will be marked as such.

Once your request has been received by us your notes will be located, copies made and arrangements will be made for you to receive them. This will be done within one month of receiving your written request.

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**Document:** Guidance / Policy  
**Title:** Access to Personal Records  
and rights under GSPR  
**Updated:** April 18 CEO Approved  
April 2018 HR Officer  
**Date of review:** April 2020



## Access to Personal Records: Request Form

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### IMPORTANT NOTE:

Please ensure that you read every part of the form. Complete in full any section that applies to your access request.

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### 1. Personal Details

<b>Surname:</b>	
<b>Forename(s):</b>	
<b>Date of Birth:</b>	
<b>Address:</b>	
<b>Postcode:</b>	
<b>Telephone No:</b>	

Please enter below details of the specific service or project within the Zone that worked with you, with approximate dates covering the period that you were seen:

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## 2. Details of a Representative Making the Request

<b>Surname:</b>	
<b>Forename(s):</b>	
<b>Date of Birth:</b>	
<b>Address:</b>	
<b>Postcode:</b>	
<b>Telephone No:</b>	

Please indicate your relationship to the young person for whom you are requesting records:

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Please indicate if:

The young person that you are requesting information about has given their written consent (unless they are incapable of understanding or giving consent).	Is evidence provided? (office use)	YES / NO
You have been appointed by the court to act on the young person's behalf.	Is evidence provided? (office use)	YES / NO

## 3. Additional Information

Please use this section of the form to give any extra relevant information that you think might help us locate the records requested.

<b>Previous Address (1):</b>	
<b>Postcode:</b>	

<b>Previous Address (2):</b>	
<b>Postcode:</b>	

Any other information you think relevant:

If you wish to receive information relating to a specific aspect of any care provided, please specify below:

**4. Method of Obtaining Information ( tick preference)**

Please send the requested information to me at the addressed provided:	
When the information is available, please contact me to arrange collection of records and contact me at the address provided:	
When the information is available, please contact me to arrange collection of records and contact me via telephone on the number provided:	

**Or** send the information to the following alternative address:

**WARNING:** You are advised that the making of untrue statements in order to secure access to personal information to which you are not entitled to is a criminal offence.

**5. Declaration**

I declare that, to the best of my knowledge and belief, the information given on this form is correct:

<b>Name: (BLOCK CAPITALS):</b>	
<b>Signed:</b>	
<b>Date:</b>	

Please ensure that you have fully completed all sections of this form that apply to your access request. Omissions or incorrect information will cause delay and could result in access to the requested data being denied.

Completed forms should be returned to:

**The Performance & Information Officer,  
The Zone,  
14-16 Union Street,  
Derry's Cross,  
Plymouth,  
PL1 2SR**