

Subject Access Requests Policy and Procedure

Business Impact	High Impact These changes require action as soon as possible.
Summary	This policy supports with how to deal with subject access requests and the process to follow. It has been reviewed and with some content changes, namely the explanation of the timescales that apply for responding to a subject access request which has been updated in line with recent guidance. References have also been checked to ensure they remain current.
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:	Author: 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/
Actions	<ul style="list-style-type: none"> • Discuss in supervision sessions • Notify relevant staff of changes to the policy • Encourage sharing the policy • 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
Equality Impact Assessment	Team Brain Injury Support have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.

1. Purpose

1.1 To explain Subject Access Requests and to ensure that all staff at Team Brain Injury Support know how to recognise and deal with the receipt of a Subject Access Request.

1.2 To support Team Brain Injury Support in meeting the following Key Lines of Enquiry:

Key Question	Key Lines of Enquiry
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 {Team Brain Injury Support} 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 Clients may be affected by this policy:

- Clients

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 Team Brain Injury Support by ensuring that Subject Access Requests received from Data Subjects, including Clients, are dealt with appropriately by staff and by Liz Rusdale, Quality and Compliance Manager or a designated other responsible for GDPR compliance at Team Brain Injury Support.

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

4. Policy

4.1 Team Brain Injury Support will ensure that the policy entries below are reviewed, understood and complied with by all staff at Team Brain Injury Support. Team Brain Injury Support 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 Team Brain Injury Support 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 Team Brain Injury Support. Their name and contact details will be publicised so that staff know who to contact should any queries or Subject Access Requests be made. Team Brain Injury Support 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 Quality and Compliance Manager is Liz Rusdale, whose contact details are 07917 859189 or liz@teambmi.co.uk

4.3 The DPO at Team Brain Injury Support 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 Team Brain Injury Support 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 Team Brain Injury Support is not entitled to charge a fee to respond to the Subject Access Request (unless a person makes manifestly unfounded or excessive Subject Access Requests).

4.7 Team Brain Injury Support must respond to the Subject Access Request as soon as possible and no later than within one calendar month from the first day after the Subject Access Request was received. If the following month is shorter and there is no corresponding calendar date (e.g. the Subject Access Request is received on 31 May but there is no 31 June), the date for response is the last day of the following month (e.g. 30 June). If the corresponding date falls on a weekend or a public holiday, the response must be sent by the next working day. Team Brain Injury Support acknowledges that it may be simplest to adopt a 28-day default response period so that it has a consistent approach to responding to Subject Access Requests throughout the year.

4.8 We understand that the Subject Access Request can be made to anybody in Team Brain Injury Support. It is therefore possible that any member of staff may receive a Subject Access Request on behalf of Team Brain Injury Support.

5. Procedure

5.1 Template Subject Access Request Letter

Team Brain Injury Support will consider providing the template letter of Team Brain Injury Support to Data Subjects, potentially via its website.

If Team Brain Injury Support provides the template letter, it will notify the Data Subjects that they are not obliged to use the template letter and that they may ask Team Brain Injury Support in writing by any means for access to their Personal Data. Team Brain Injury Support will also notify the Data Subjects that they do not 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

Team Brain Injury Support 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 (e.g. request for identification proof or further information in respect of the data).

If Team Brain Injury Support fails to respond to the request in accordance with GDPR timescales, this must 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

Team Brain Injury Support acknowledges that it is best practice for Team Brain Injury Support to acknowledge receipt of the Subject Access Request, although this is not strictly necessary.

5.4 Process Map Stage 3 - Confirmation of Identity

- Team Brain Injury Support understands that it will only respond to a Subject Access Request if it is confident of the identity of the applicant
- Team Brain Injury Support understands that it must be reasonable in terms of what it asks for and that it must not 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 Team Brain Injury Support has an ongoing relationship with that person. If, for example, an existing employee or Client makes the request, Team Brain Injury Support acknowledges that it is likely it will be able to confirm their identity easily
- If, however, Team Brain Injury Support receives a request from an individual it does not recognise or the individual's email address/postal address has changed since the last dealings with them, Team Brain Injury Support 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 Team Brain Injury Support has received the proof of identity. Team Brain Injury Support 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

- Team Brain Injury Support is entitled to ask for further information it reasonably needs in order to comply with the Subject Access Request, although it must not delay responding to a Subject Access Request unless it requires more information to find the data in question
- Team Brain Injury Support will not require the applicant to narrow the scope of the request (they are entitled to ask for all the information Team Brain Injury Support holds), but Team Brain Injury Support 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 (e.g. letter, email, application form), which may help Team Brain Injury Support locate the data
- Team Brain Injury Support will not delay in asking for further information and will be clear about what details are needed. Provided Team Brain Injury Support 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 Team Brain Injury Support receives the information

5.6 Process Map Stage 5 - Gathering information

- Collating all relevant information will be the most time-consuming task. Team Brain Injury Support 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 the day-to-day business of Team Brain Injury Support
- Team Brain Injury Support 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?

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 Team Brain Injury Support will consider them when responding to a Subject Access Request. If in doubt as to whether an exemption applies, Team Brain Injury Support will seek legal advice.

If a request is manifestly unfounded or excessive, Team Brain Injury Support may charge a reasonable fee or refuse to act on the request, but Team Brain Injury Support will have to demonstrate that the request is unfounded or excessive. If Team Brain Injury Support 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. Team Brain Injury Support may alternatively obtain consent from the Data Subject to disclose the personal data, but that may 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
- 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

Team Brain Injury Support 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

Team Brain Injury Support will circulate this policy to all staff. Team Brain Injury Support will consider whether providing training to staff in respect of Subject Access Requests and this policy would be

Beneficial.

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 Team Brain Injury Support has collected personal data

6.3 GDPR

- General Data Protection Regulation (GDPR) (EU) 2016/679 is an EU regulation relating to data protection and privacy. 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

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 1998. 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 Team Brain Injury Support will follow the guidelines set out in this policy to ensure that Subject Access Requests are dealt with appropriately and in compliance with GDPR
- Data Subjects can use the template request letter provided in the form attached to this policy, or can 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 Client, wishes to make a Subject Access Request to Team Brain Injury Support, 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

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:

- Team Brain Injury Support provides training to all staff to ensure that they understand how to recognise and deal with a Subject Access Request
- Team Brain Injury Support creates a detailed log for GDPR compliance, including a log of all information relevant to Subject Access Requests received

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 - GDPR05	When a Data Subject submits a Subject Access Request.	Team Brain Injury
Subject Access Request Process Map - GDPR05	This form can be used by each organisation's Data Protection or Privacy Officer (or similar) each time a Subject Access Request is received. The process map must be reviewed alongside the corresponding procedure entries.	Team Brain Injury

Template Subject Access Request Letter

Liz Rusdale
Quality & Compliance Manager
Team Brain Injury Support
Surety House
Old Redbridge Road
Southampton
SO15 0NE

Date:

Dear Liz Rusdale

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 Team Brain Injury Support].

[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]

