



## 1. Purpose

**1.1** To explain Subject Access Requests and to ensure that all staff at Bespoke Health and Social Care know how to recognise and deal with the receipt of a Subject Access Request.

**1.2** To support Bespoke Health and Social Care 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 Bespoke Health and Social Care 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 Bespoke Health and Social Care by ensuring that Subject Access Requests received from Data Subjects, including Clients, are dealt with appropriately by staff and by Sonny Marcham, HR Advisor and Compliance Lead or a designated other responsible for GDPR compliance at Bespoke Health and Social Care.

**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** Bespoke Health and Social Care will ensure that the policy entries below are reviewed, understood and complied with by all staff at Bespoke Health and Social Care. Bespoke Health and Social Care 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** Bespoke Health and Social Care 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 Bespoke Health and Social Care. Their name and contact details will be publicised so that staff know who to contact should any queries or Subject Access Requests be made. Bespoke Health and Social Care 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 HR Advisor and Compliance Lead is Sonny Marcham, whose contact details are 0115 8573673/07508 348 304, sonny.marcham@bhsc.care.

**4.3** The DPO at Bespoke Health and Social Care 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** Bespoke Health and Social Care 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** Bespoke Health and Social Care 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** Bespoke Health and Social Care 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. Bespoke Health and Social Care 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 Bespoke Health and Social Care. It is therefore possible that any member of staff may receive a Subject Access Request on behalf of Bespoke Health and Social Care.



## 5. Procedure

### 5.1 Template Subject Access Request Letter

Bespoke Health and Social Care will consider providing the template letter of Bespoke Health and Social Care to Data Subjects, potentially via its website.

If Bespoke Health and Social Care 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 Bespoke Health and Social Care in writing by any means for access to their Personal Data. Bespoke Health and Social Care 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

Bespoke Health and Social Care 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 Bespoke Health and Social Care 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

Bespoke Health and Social Care acknowledges that it is best practice for Bespoke Health and Social Care to acknowledge receipt of the Subject Access Request, although this is not strictly necessary.

### 5.4 Process Map Stage 3 - Confirmation of Identity

- 1 Bespoke Health and Social Care understands that it will only respond to a Subject Access Request if it is confident of the identity of the applicant
- 1 Bespoke Health and Social Care 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 Bespoke Health and Social Care has an ongoing relationship with that person. If, for example, an existing employee or Client makes the request, Bespoke Health and Social Care acknowledges that it is likely it will be able to confirm their identity easily
- 1 If, however, Bespoke Health and Social Care 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, Bespoke Health and Social Care will consider seeking further proof of identity such as a recent utility bill or copy of a driving licence or passport
- 1 In this scenario, the one-month time period to respond will commence only once Bespoke Health and Social Care has received the proof of identity. Bespoke Health and Social Care 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

- 1 Bespoke Health and Social Care 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
- 1 Bespoke Health and Social Care will not require the applicant to narrow the scope of the request (they are entitled to ask for all the information Bespoke Health and Social Care holds), but Bespoke Health and Social Care 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 Bespoke Health and Social Care locate the data
- 1 Bespoke Health and Social Care will not delay in asking for further information and will be clear about what details are needed. Provided Bespoke Health and Social Care 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 Bespoke Health and Social Care receives the information

### 5.6 Process Map Stage 5 - Gathering information

- 1 Collating all relevant information will be the most time-consuming task. Bespoke Health and Social Care will consider which departments may hold personal data and whether that personal data can be

**Bespoke Health and Social Care**

First Floor Suite Shire Hall, High Pavement, Nottingham, NG1 1HN

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 Bespoke Health and Social Care
- | Bespoke Health and Social Care 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 Bespoke Health and Social Care will consider them when responding to a Subject Access Request. If in doubt as to whether an exemption applies, Bespoke Health and Social Care will seek legal advice.

If a request is manifestly unfounded or excessive, Bespoke Health and Social Care may charge a reasonable fee or refuse to act on the request, but Bespoke Health and Social Care will have to demonstrate that the request is unfounded or excessive. If Bespoke Health and Social Care 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. Bespoke Health and Social Care 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**

Bespoke Health and Social Care 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**

Bespoke Health and Social Care will circulate this policy to all staff. Bespoke Health and Social Care 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 Bespoke Health and Social Care 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



## 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.



## 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 Bespoke Health and Social Care, 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



## Key Facts - Professionals

Professionals providing this service should be aware of the following:

- | All staff at Bespoke Health and Social Care 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