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**Subject Access Request Procedure**

**Aims**

* To set out how Sutton Mencap will provide an appropriate and timely response to requests from individuals to access their personal data.
* To ensure that Sutton Mencap meets its legal obligations in relation to subject access requests.

**Introduction**

Sutton Mencap recognises that individuals have a legal right to access their personal data. This is commonly referred to as a Subject Access Request (SAR). In line with regulations, Sutton Mencap will respond to an SAR within one month of it being made and no charge will be made for dealing with the request.

**Scope**

This procedure relates to any individual whose personal data is processed by Sutton Mencap, including service users and carers, supporters, members, trustees, staff and volunteers.

Responsibility for responding to an SAR rests ultimately with the trustees, who delegate the task to senior staff, in particular the Office Manager and the Director. Other senior staff will be required to contribute to gathering the required data.

All staff and volunteers have a responsibility to recognise when an SAR has been made and ensure it is reported to the Office Manager in a timely fashion.

**An individual’s right to access their information**

Individuals have the right to obtain the following information from Sutton Mencap:

* confirmation that we are processing their personal data.
* a copy of their personal data, including information about the source of the data if it was not obtained directly from the individual.

Individuals should also be sent a copy of the relevant privacy notice, as this sets out the supporting information to which individuals are entitled. Sutton Mencap has privacy notices relating to 3 different groups of people:

* Service users and carers.
* Supporters and members.
* Staff and volunteers.

In each case, the privacy notice contains the following information:

* the reason(s) why we are processing this personal data.
* the legal basis used for processing the data.
* the categories of personal data concerned.
* the categories of information that are shared and the agencies that information is shared with.
* the criteria for retaining or destroying personal information, including retention periods where they have been set.
* the rights of the data subject, including to request rectification, erasure or restriction of data, to object to data processing, and/ or to lodge a complaint with the ICO or another supervisory authority.

**Making and receiving an SAR**

An individual can make an SAR in relation to their own personal data. They can also ask a third party to make an SAR on their behalf. (see third-party requests below).

There is no prescribed system for how people can make an SAR. A request can be made verbally or in writing. It can be made to any part of the organisation, including by social media and does not have to be made to a specific person or contact point. The request does not have to include the phrase 'subject access request' or Article 15 of the GDPR.

**Recording an SAR**

All SARs should be reported as soon as possible to the Office Manager to ensure a response is made within the required timescale. If the SAR is made to any member of staff other than the Office Manager, an e-mail should be sent to [emma@suttonmencap.org.uk](mailto:emma@suttonmencap.org.uk) setting out the following:

* The name of the individual making the SAR and where appropriate the name of any third party who has made the SAR on an individual’s behalf.
* The date on which the SAR was made.
* Whether the SAR covers specific data, or is a general request for information.
* The method of verifying the identity of the person making the SAR (e.g. face to face, e-mail address, etc.) Where necessary, further checks will be made to ensure any data is only released to the correct individual (see data security below).
* A copy of any written communication regarding the SAR.

**Gathering the data**

The Office Manager is responsible for co-ordinating the collection of data. This includes letting other relevant staff know about the request and creating a shared folder on the computer system for information to be saved to. The data set should normally contain all the data that is held about the person at the time the SAR is made.

Information in relation to different categories of people will be collated as follows:

Service users, carers, members and supporters.

* Charitylog record. A new ‘export record’ facility is due to be introduced in Summer 2018. Until this is available, use the ‘Print record’ function to download a full record for the individual. This can be exported to a spreadsheet and saved in the shared folder.
* Find My Shift: in some cases, attendance records may be held on find my shift in relation to a particular service user (currently children and young people). In response to an SAR, a log in will be created so that the individual can access their record online. This will not allow them to see any other individual‘s records.
* Computer records: Service managers will search their own computer records (shared folders and outlook) for information held on the individual. If necessary, these will be redacted to protect other people (see information about other people below). The records will be copied to the shared folder.
* Paper files: Where paper files exist, these will be gathered in one place and an appropriate time will be made for the individual to visit Sutton Mencap to view them. If this is not convenient, copies will be scanned and placed in the shared folder.

Employees and volunteers

* My HR Toolkit: Employees will be referred to the My HR toolkit website, which will provide them with access to all of the data held on them. If necessary, employees will be reminded of their log in details.
* Find My Shift: Employees have access to most of their details on Find My Shift. If necessary, employees will be reminded of their log in details. In addition, information in the employee’s notes page and managers’ notes on time off requests will be downloaded as a spreadsheet and saved in the shared folder.
* Computer records: Service managers will search their own computer records (shared folders and outlook) for any information held on the employee, e.g. supervision notes, letters, e.mails etc. If necessary, these will be redacted to protect other people (see information about other people below). The records will be copied to the shared folder.
* Paper files: Where paper files exist, these will be gathered in one place and an appropriate time will be made for the employee to visit Sutton Mencap to view them. If this is inconvenient (e.g. for an ex-staff member), the documents will be scanned and placed in the shared folder.

**Providing remote access to the shared folder**

Where convenient, a date should be made for an individual who has made the SAR to visit Sutton Mencap to view the files saved to the shared folder, plus any paper records. If this is not convenient, we will set up a password protected method for sharing the data online.

**Timescales**

All SAR’s should be completed within one month. The Information Commissioner’s Office states that this should be calculated by using the day after we receive the request (whether the day after is a working day or not) until the corresponding calendar date in the next month.

**Data Security**

It is essential that the SAR procedure takes account of the need for data security. Particular care must be made to ensure that data is not passed to anyone other than the person entitled to receive it. Care must be taken to verify the identity of the person requesting and receiving the data. If we have doubts about the identity of the person making the request we can ask for more information. In such circumstances we must let the individual know as soon as possible that we need more information from them to confirm their identity before responding to their request and we must only request information that is necessary to confirm who they are. The period for responding to the request will then begin from the date when we receive the additional information.

It should be noted that any breach of data security must be reported immediately in accordance with the data protection policy.

**Third party subject access requests**

The GDPR allows an individual to make an SAR via a third party. This may be a parent or carer, or a solicitor acting on behalf of a client.

In such cases, it is the third party’s responsibility to provide evidence that they are entitled to make the request on behalf of the individual, such as written authority to make the request or a more general power of attorney. If necessary, we can accept the third-party request, whilst providing the information directly to the individual so that they can choose whether to share it with the third party.

**The rights of children in relation to SARs**

Even if a child is too young to understand the implications of subject access rights, they have the same rights in relation to their data. This right is specific to the child, not the parent or guardian although it is likely that the right will be exercised by those with parental responsibility for the child.

Given the needs of the children (and some adults) supported by Sutton Mencap, it is likely that we will need to accept that a parent is exercising the child’s rights on their behalf. However we should still seek to ensure either that the child has authorised this, or that this it is evident that this is in the best interests of the child.

Care must be taken to ensure that the release of data does not compromise the safety of the child, e.g. where there are safeguarding concerns affecting a parent or carer.

**Information about other people**

Responding to a subject access request may involve providing information that relates both to the individual making the request and to another individual. In such cases the following actions will be considered:

* To seek the consent of the other individual to disclosing the information (or using prior consent, e,g. in the case of photographs).
* To provide the information if we believe it is reasonable to do so without the other individual’s consent.
* To provide a redacted version of the data.
* To decide not to comply with the request. In which case, we will explain why.

The Information Commissioner’s Office states that there will be further guidance on this, but for now the decision on how to proceed will involve balancing the data subject’s right of access against the other individual’s rights.

**Related policies and procedures**

* Data protection policy
* Safeguarding policy
* Confidentiality policy
* Information and Communication Technology policy

**Responsibilities**

Trustees

* To approve and review the procedure on a regular basis
* To take reasonable steps to satisfy themselves that the procedure is being implemented.

Senior staff

* To act in accordance with the procedure and comply with regulations covered bt the procedure.
* To communicate the procedure to other staff and volunteers and to ensure it is being implemented correctly.
* To monitor performance of the procedure and report to trustees

All Staff and volunteers

* To act in accordance with the policy
* If in doubt, to raise any issues or queries in relation to the policy with the Office Manager, a line manager or the Director.

**Signed on behalf of the Trustee Board of Sutton Mencap**

**Chairman:  Date: June 2018**

**Mavis Peart**

**Next review date: June 2021**