

# TD Homecare Services Ltd

3 Whittingham Place, The Avenue  
Freshwater, Isle of Wight, PO40 9UR

## Access to Information Policy and Procedure

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### Policy Statement

Personal data will be protected and only shared with other organisations where it is lawful to do so and in accordance with guidance on sharing personal information. Personal data will not be used for marketing or sharing information with anyone else who will use it for direct marketing.

### Policy Aims

The aim of this policy is to ensure that personal data is protected in line with Law make sure that your information is protected and treated securely.

Data will be stored securely at all times whilst maintaining accessibility for service users upon request.

### Policy Objectives

The objectives of this policy are to:

- To ensure that the service acts with openness, honesty and integrity whilst promoting service users' rights to equality and inclusion.
- To ensure there is competent and safe management of records and information.
- To facilitate the provision of requests for information from service users, other stakeholders and bodies.
- To ensure that there is compliance with statutory and regulatory requirements and that staff have a working knowledge of this.

### Policy Principles

6 principles when managing data will be followed in accordance with the General Data Protection Regulation (2016). They are:

- Lawful, fair and transparent use of personal data
- Using personal data for the purpose for which it was collected
- Ensuring the personal data is adequate and relevant
- Ensuring the personal data is accurate
- Ensuring the personal data is only retained for as long as it is needed
- Ensuring the personal data is kept safe and secure

### Freedom of Information Requests (FOIA)

- Requests can come from any individual or organisation worldwide.
- Requests for information must be made in writing and include the requestor's name, provide a postal or email address for the response as well as a description of the information being requested.
- There is no requirement for the requestor to mention the FOIA in the Information Access Request or to prove their identity. They are not obliged to state their reasoning for their request. If a request is not clear or is too general in content, the registered manager should ask the requestor for clarity as without this they may not be able to answer the request.
- Requests under the FOIA should be logged and the information shared should be recorded.

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## Access to Health Records Act 1990 (AHRA)

- Requests for deceased service users' records are made under the Access to Health Records Act 1990. Requests can only be made by:
  - Service user's personal representative (usually the executor of the Will or administrator of the Estate)
  - Any person who may have a claim arising out of the Service user's death - release of any information will only be the minimum necessary to process their claim. Only relevant information relating to any claim made can be released.
- The service must inspect records considering the following:
  - If it is known whether the deceased service user did not wish for their records to be disclosed or the records contain information that the deceased service user expected to remain confidential
  - If the release of the information is likely to cause serious harm to the physical or mental health of any individual
- The service will consider Information Access Requests and will seek legal advice where necessary.
- The service may disclose information about the health or social care of the deceased that is already in the public domain, for example, information considered at an inquest or coroner's court or recorded on the death certificate.

## Third Party Access to Information

If information about any staff or service user is requested by a third party, the information will not be shared unless the relevant staff or service user has given specific written permission for the data to be released.

If CQC request the information, service users will have the opportunity to decide whether they want they want to share their information. They will be supported to understand this.

The service will not disclose personal information about service users in compliance with the requirements of data protection and the Common Law Duty of Confidence. There may be occasions, however, when the service receives a request for personal information from third parties and may disclose some or all of the information requested, with or without the knowledge of the individual concerned. This will be in alignment with a legal requirement such as a Court Order, a Health Professional Order 2001 in relation to fitness to practise or a coroner's request in relation to an unexpected or suspicious death.

Other investigatory bodies may also request information, including the Police, and Revenue and Customs (HMRC). They must provide the service with a written explanation as to why the information is required, stating the section in the Data Protection Act under which they are applying, and the likely effect on investigation or prosecution if it is not provided. The service is not obliged to disclose personal information in these circumstances and will take account of all the relevant factors before reaching a decision about whether and how much to disclose.

Unless third parties have a Court Order for original documents, all information disclosed will be copies or retyped extracts from files and records.

A complete record of the Information Access Request, the decision process and outcome will be kept ensuring that disclosures can be justified if necessary, to the Information Commissioner and/or the individual concerned.

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## Policy

- Information access requests made under the Freedom of Information Act and Data Protection Laws must be made in writing.
- Where a person has communication difficulties, support will be sought to provide advice and assistance to enable equality of access for all.
- Due regard will be paid to the Accessible Information Standard to enable inclusion for all Service Users.
- Upon receipt of a request for information, due regard will be taken to identify the correct legislation that the request falls under.
- Service users are able to informally see parts of their care and support records at the discretion of the registered manager and appropriate health professional or staff member and be given an explanation of any terms to assist understanding.
- Information will not be provided if it identifies or refers to any other named person, unless the information can be anonymised or that named person has provided their consent for it to be shared, or if it is deemed exceptional circumstance which the registered manager must determine in line with legislation.
- It is recognised that some records are kept in service users' homes and the policy for this will be followed.

## Procedure

- Service users are able to ask at any time what has been recorded about them during their care and can view records kept in their homes.
  - A request to review further records does not need to be in writing.
- Service users should be advised that some information about them will be shared between healthcare professionals and the rationale for this should be given.
- Upon request, information should not be provided which relates to and identifies another person (such as the name of a service user or a note in the records that a relative has provided certain information) unless that other person has consented to the disclosure. Where consent cannot be obtained from the individuals named, staff should discuss this with the registered manager who must deem whether the information can be anonymised or shared in accordance with data protection and sharing of information codes of practice and law.
- These provisions do not apply where the person to be identified is a health professional who has compiled or contributed to the health record or has been involved in the care of the service user, unless serious harm to that health professional's physical or mental health is likely to be caused.
- Staff should be aware that requests for information can be made in a variety of ways and the procedures to follow for responses, should be referred to the registered manager.
- The CQC has the legal right to request and inspect any records held by the service in the normal course of its business. They also have the legal right to take copies of or remove original data and/or records from the normal place in which the records are held, with due cause.
- All service user's will be asked if they are happy for CQC to access their information and informed of why CQC would like to see their records. If the service user does not wish for the CQC to access information, an agreement will be made, in line with capacity and CQC will be informed at inspection.
- Service user's consent should be sought to access their records.