

A Subject Access Request is an application made by an individual for information held by the Council about them. This includes the Authority's opinions about them and the intentions that the Service has towards them.

The request may be submitted by an individual or by a third party acting on their behalf. Where the request is received from a third party, we must ensure that we have also received written authorisation from the individual to disclose their information to the person acting as their agent.

It is within the spirit of the Data Protection Act that we are as open and honest with our service users and customers as possible. At the same time we also have a duty to ensure that we only provide information about the Data Subject and not release unagreed data about other people

Therefore, when editing records for Subject Access Requests the following issues must be considered:

### **Third Party Information**

In general, information from or relating to third parties (including family members) should not be released to the Data Subject without first seeking the view/consent of that third party.

However we only ask for consent to release data when the data is solely about that person and not also about the applicant.

### **Relatives**

We need to distinguish between a relative's personal information and information about that relative that is simultaneously information about the person that we wish to release.

E.g. "The child was voluntarily accommodated as mum was unable to cope due to post natal depression"

Could be edited as follows:

*"The child was voluntarily accommodated ~~as mum was unable to cope due to post natal depression~~"*

or

*"The child was voluntarily accommodated as mum was unable to cope ~~due to post natal depression~~"*

In balancing the Subject's right to know with Mum's right to privacy, disclosing in line with the second option provides a context that would probably have been shared through life story work without disclosing Mum's mental health issues.

### **Foster Carers**

Again we need to distinguish between factual information provided by Carers in their role as agents for the Authority and personal opinions/ information they would provide in the same way that a relative might.

*E.g. Last night the young person returned home drunk ~~which felt like a slap in the face~~*

We delete the personal view of the foster carer as to how they felt. If the foster carer subsequently told the young person how they felt, the subsequent statement would be released e.g. this recording would be released *'I told ... that it felt like a slap in the face'*.

### **Third Party Opinion**

If an external professional is stating facts that the Data Subject has already been told (e.g. within a multi-agency meeting where the client was involved in the discussion) they can be disclosed.

However, where a third party is giving an opinion then this would not normally be released without that person or their organisation giving consent. Even so, where we do not have consent we still need to consider whether it, would be reasonable to release the statement as it is likely that this opinion would have affected the way that the Council has dealt with the person.

### **Medical Professionals**

Where the disclosure of information relating to the Subject's mental or physical health is likely to result in harm to the person or another individual then this should not be disclosed without first obtaining the view of the relevant medical professional. This could be the professional who treated the person and wrote the report/letter/opinion, or a current medical practitioner. We do not need the person's consent to contact a medical practitioner as we are asking the practitioner whether releasing the information would harm the person's physical or mental health.

### **Crime**

Information can be withheld if its disclosure would actually prejudice the prevention or detection of a crime or the apprehension or prosecution of offenders.

### **Social Work**

Information held for Social Work purposes can be withheld if its disclosure would prejudice the carrying out of Social Work because of the likelihood of serious harm to the Data Subject or another person arising out of the release of the information. There must however be a quantifiable likelihood of serious harm to a person before this exemption is applied.

### **Legal Privilege**

Discussions with and advice from our legal advisors are privileged and should not be disclosed. No emails, letters, or advice from the Council's legal advisor can be provided to the applicant. Court documents including Court ordered statements are the property of the Court and should not be released. The requestor should be directed to their own legal representative or the Court to obtain these documents.

### **References**

We do not have to provide references that have been written on behalf of the Council as an employer, but we may choose to do so.

References provided by other people should be treated as third party information.

### **Staff Names**

The Information Commissioner's advice is that staff names are disclosed provided there is no risk of harm to the staff involved. The names of the staff that have provided direct services to the person will usually already be known.

### **Self Incrimination**

We do not have to provide information which would reveal evidence of an offence and thereby expose the Council to criminal proceedings. If information is discovered that may fall into this category then it must be reported to the Head of Service.

### **Request made on behalf of the Data Subject**

If the Data Subject has expressly asked that some or all of the information should not be disclosed or if they have provided the Authority with information on the assumption that it will not be disclosed, the information should be withheld until consent is obtained from them. Similarly the records may contain information about the person that they may not think is relevant to the application (e.g. change of gender, medical status or assaults they have suffered). Their consent should be obtained before providing sensitive personal information to their representative.

### **Helpful Links**

**[Plymouth City Council's Subject Access Request Process](#)**

**[Data Protection Act - Legal Guidance](#)**

**[Department of Health Social Services Guide to the Data Protection Act](#)**

**[Employment References - Technical Guidance](#)**

**[Other People's Information - Technical Guidance](#)**

**[Information about Employees - Technical Guidance](#)**

**[Information Commissioner's Office](#)**

**The Children's Services Information Management Team must be consulted if there is any concern over the provision or withholding of Children's Services data.**

**Tel: 01752 307323**

**Email: [IMT@plymouth.gov.uk](mailto:IMT@plymouth.gov.uk)**

**For the provision of data for other directorates please contact the directorates Freedom of Information Rep in the first instance. Directorates representatives may be found in Outlook>Public Folders>Freedom of Information>Fol Reps for Directorates.**