

Confidentiality & General Data Protection Regulation (GDPR) Policy

Statement of Policy

Under General Data Protection Regulation (GDPR)

- York Carers Centre may be a Data Controller or Data Processor
- Individuals who have been supported are Data Subjects.

York Carers Centre service has been designed to comply with GDPR, including the six principles of the Act which say that data must be:

- 1) processed lawfully, fairly and in a transparent manner in relation to individuals;
- 2) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
- 3) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- 4) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- 5) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals; and
- 6) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or

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organisational measures. At least one of the following conditions must be met for personal information to be considered fairly processed:

- Processing Is Necessary For The Performance Of A Contract With The Individual
- Processing Is Required Under A Legal Obligation (Other Than One Imposed By The Contract)
- Processing Is Necessary To Protect The Vital Interests Of The Individual
- Processing Is Necessary to carry out public functions, e.g. administration of justice

York Carers Centre meets these conditions:

Data subjects have eight rights under GDPR

- 1) The right to be informed
- 2) The right of access
- 3) The right to rectification
- 4) The right to erasure
- 5) The right to restrict processing
- 6) The right to data portability
- 7) The right to object
- 8) Rights in relation to automated decision making and profiling

Right To Access

Under GDPR, data subjects have the right to easily access any information we have collected concerning him or her, and to exercise that right at reasonable intervals. This is known as a subject access request. All applications will be dealt with without delay and a response will be provided within a month of the request.

In order to obtain this information you can call us, write to us at our postal address or contact us via our website.

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Data Protection Procedures

- All personal data will be regarded, in the first instance, as confidential and will be stored securely in a locked filing cabinet or suitably protected computer system.
- No information will be shared outside of York Carers Centre without first gaining informed consent from the client (Data Subject). We employ organisations (Data Processors) to help us manage our records. We use Charity Log as our database. We employ IT advisors Mansys to help us manage our digital records. We ensure that the Data Processors we use are fully compliant with General Data Protection Regulation 2018.

Managers will ensure that:

- all workers (staff and volunteers, including Trustees) receive induction on these procedures and on our Confidentiality Statement for those using the service
- all workers receive regular training on confidentiality
- these procedures are reviewed with York Carers Centre stakeholders regularly
- serious breaches of these Procedures are discussed with the Board of Trustees/ Management Committee.

Workers will:

- record only information about an individual that is necessary in order to provide them with a good quality service
- share information about individuals with colleagues only where this is necessary in order to provide them with a good quality service (e.g. discussing a case with a line manager)
- access only such information as they need in order to carry out their agreed role within the organisation
- ensure the accuracy of information before recording it and amend inaccurate records as soon as possible
- involve individuals in recording information about themselves. This should be done in an age-appropriate manner; e.g. writing comments or signing records
- shared information drives on the computer network will not hold information that can be misused by those accessing the system.

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Workers will make all individuals that they work with aware of:

- the kind of information York Carers Centre will keep about them and why
- how information will be stored and for how long
- who will usually have access to their information
- the circumstances in which information will not be kept within the organisation
- the designated worker to approach in order to access information. This worker must be competent in advising on information and confidentiality in accordance with these procedures, and shall keep up to date with current legislation and guidance.

How to complain and who can help them do this

Workers will not divulge personal data about carers and their families to other organisations unless:

- it is in that person's interests and permission has been specifically obtained from the individual concerned or
- there are concerns about a child protection issue (always follow York Carers Centre child protection policy and procedures) or
- there is reason to believe any person's safety is at risk or
- workers, after consulting with their line manager, may decide to share information on criminal activities. They should act in the best interests of the carer, assessing the risks posed and the service's liability if it does not disclose. Advice should be sought from social services/ police. Information about terrorism must be reported by law.
- Records must contain no personal information about another individual unless this is unavoidable. Initialise others' names where possible. (Family members must have individual records but it is acceptable to use the same code or folder).
- Young people have the right to access their own records but no one else's. Information should be made available to them in an age-appropriate form and should avoid causing them harm. Records found to contain personal information about other individuals (including workers) should be edited to remove confidential information before sharing with the young person.

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Parents may only access their child's records if

- the child gives their consent or
- the child cannot make a competent, informed choice and sharing the information is in the child's best interests.
- York Carers Centre will accept referrals provided the referrer has gained the permission of the young carer or their parent/ guardian
- when a case is closed, personal information will continue to be stored for at least 6 years and young carer information will be held securely for at least 10 years following their 18th birthday or for as long as it falls into one of these categories:
 - Information that could reasonably be expected to be required by the individual. When it is no longer likely that the individual could wish to access information about them, it will be destroyed.
 - Financial information concerning individuals that must be stored in order to meet legal requirements. If possible, personal details will be removed from such information.
 - Information that could inform an inquiry into a claim for damages against the organisation. This could involve keeping information on serious incidents and accidents for up to 40 years.
- Workers should make decisions to share or withhold confidential information in consultation with line managers. Failure to observe the requirements of this policy will result in disciplinary action. York Carers Centre are liable for any information disclosed unlawfully. Individuals may be liable for information disclosed negligently and not in accordance with this policy.

Sources and References

Relevant legislation:

- The General Data Protection Regulation Act (GDPR) 2018
- The Freedom of Information Act and the Freedom of Information (Scotland) Act 2000. They will sit alongside GDPR and will govern Local Authorities.
- The Prevention of Terrorism Act
- The Charities Act 1993, Section 41, requires day to day records of income, expenditure and the reasons for these to be kept for six complete years after the end of the financial year to which they relate

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- The Companies Act 1989, Section 222, requires private companies to keep such records for three years. Customs and Excise require VAT-registered organisations to keep financial information, including invoices, for up to 8 years

Sources and further reading:

Government info (England, Wales, NI): <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

Related Policies and Procedures

- Child Protection (Safeguarding)
- Recruitment and Employment
- Finance
- Disciplinary and Grievance
- Complaints
- Managing Activities