



Review Sheet		
Last Reviewed 11 Jun '21	Last Amended 11 Jun '21	Next Planned Review in 12 months, or sooner as required.
Business impact	<p><b>MEDIUM IMPACT</b></p> <p>Changes are important, but urgent implementation is not required, incorporate into your existing workflow.</p>	
Reason for this review	Improve usability	
Were changes made?	Yes	
Summary:	This policy will support staff with when subject access requests are received. It has been reviewed and updated to ensure it makes reference to UK GDPR. A new flowchart on the Subject Access Request process has also been added and references checked to ensure they remain current.	
Relevant legislation:	<ul style="list-style-type: none"> <li>• Data Protection Act 2018</li> <li>• UK GDPR</li> </ul>	
Underpinning knowledge - What have we used to ensure that the policy is current:	<ul style="list-style-type: none"> <li>• Author: Information Commissioner's Office, (2021), <i>Rights of access</i>. [Online] Available from: <a href="https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/">https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/</a> [Accessed: 11/6/2021]</li> </ul>	
Suggested action:	<ul style="list-style-type: none"> <li>• Encourage sharing the policy through the use of the QCS App</li> </ul>	
Equality Impact Assessment:	QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.	



## 1. Purpose

**1.1** To explain Subject Access Requests and to ensure that all staff at Yewtree medical centre know how to recognise and deal with the receipt of a Subject Access Request.

**1.2** To support Yewtree medical centre in meeting the following Key Lines of Enquiry:

Key Question	Key Lines of Enquiry
WELL-LED	HW4: Are there clear responsibilities, roles and systems of accountability to support good governance and management?
WELL-LED	HW5: Are there clear and effective processes for managing risks, issues and performance?

**1.3** To meet the legal requirements of the regulated activities that {Yewtree medical centre} is registered to provide:

- | Data Protection Act 2018
- | UK GDPR



## 2. Scope

**2.1** The following roles may be affected by this policy:

- | All staff

**2.2** The following Patients may be affected by this policy:

- | Patients

**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 UK GDPR compliance at Yewtree medical centre by ensuring that Subject Access Requests received from Data Subjects, including Patients, are dealt with appropriately by staff and by Sophie Whittaker, Data Protection Officer or another individual with responsibility for UK GDPR compliance at Yewtree medical centre.

**3.3** This policy will facilitate the process of making a Subject Access Request for the benefit of Data Subjects, including Patients.



## 4. Policy

**4.1** Yewtree medical centre will ensure that the policy entries below are reviewed, understood and complied with by all staff at Yewtree medical centre. Yewtree medical centre 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** Yewtree medical centre 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 Yewtree medical centre. Their name and contact details will be publicised so that staff know who to contact should any queries or Subject Access Requests be made. Yewtree medical centre 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 Data Protection Officer is Sophie Whittaker, whose contact details are 0151 2967990, Sophie.Whittaker@livgp.nhs.uk.

**4.3** The DPO at Yewtree medical centre 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** Yewtree medical centre 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\_plan\_name}s, photographs, CCTV images, right to work documentation, marriage certificates, National Insurance number, and political and religious views amongst others.

**4.6** Yewtree medical centre 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** Yewtree medical centre 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. Yewtree medical centre 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.

Yewtree medical centre understands that it may be possible to extend the timeframe for responding to a Subject Access Request if the request is complex or if Yewtree medical centre has received a number of requests from the Data Subject.

**4.8** Yewtree medical centre understands that whether a Subject Access Request is complex depends upon the specific circumstances of each case. Yewtree medical centre understands that the following list provides examples of some factors that may add to the complexity of a Subject Access Request but that Yewtree medical centre must be able to demonstrate why the Subject Access Request is complex based on the particular circumstances:

- | Technical difficulties in retrieving the information - for example if data is electronically archived
- | Applying an exemption that involves large volumes of particularly sensitive information
- | Clarifying potential issues around disclosing information about a child to a legal guardian
- | Specialist work involved in obtaining the information or communicating it in any intelligible form
- | Clarifying potential confidentiality issues around the disclosure of sensitive medical information to an authorised third party
- | Needing to obtain specialist legal advice

Yewtree medical centre understands that requests that involve a large volume of information may add to the complexity of a request but should not be the sole reason for determining that a request is complex.

**4.9** We understand that the Subject Access Request can be made to anybody in Yewtree medical centre. It is therefore possible that any member of staff may receive a Subject Access Request on behalf of Yewtree medical centre.



## 5. Procedure

### 5.1 Template Subject Access Request Letter

Yewtree medical centre will consider providing the template letter of Yewtree medical centre to Data Subjects, potentially via its website.

If Yewtree medical centre 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 Yewtree medical centre in writing by any means for access to their Personal Data. Yewtree medical centre 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 Subject Access Request Flowchart

Dr Ayesha Razvi will refer to the QCS Subject Access Request Flowchart for the correct management of Subject Access Requests. This flowchart can be located in the Forms section of this policy as well as in the QCS Resource Centre.

### 5.3 Process Map Stage 1 - Maintaining a log of Subject Access Requests

Yewtree medical centre 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 Yewtree medical centre fails to respond to the request in accordance with UK GDPR timescales, this must also be noted together with an explanation of the failure and steps taken to avoid such failure in the future.

### 5.4 Process Map Stage 2 - Acknowledge Subject Access Request

Yewtree medical centre acknowledges that it is best practice for Yewtree medical centre to acknowledge receipt of the Subject Access Request, although this is not strictly necessary.

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

- 1 Yewtree medical centre understands that it will only respond to a Subject Access Request if it is confident of the identity of the applicant
- 1 Yewtree medical centre 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 Yewtree medical centre has an ongoing relationship with that person. If, for example, an existing employee or Patient makes the request, Yewtree medical centre acknowledges that it is likely it will be able to easily confirm their identity
- 1 If, however, Yewtree medical centre 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, Yewtree medical centre 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 Yewtree medical centre has received the proof of identity. Yewtree medical centre will not delay in asking for further proof

### 5.6 Process Map Stage 4 - Asking for further information/clarification

- 1 Yewtree medical centre understands that if it processes a large amount of information relating to the individual, it may ask the individual to specify the information or processing activities their request relates to and that the time limit for responding to the request is paused until Yewtree medical centre receives clarification
- 1 Yewtree medical centre understands that it should not seek clarification in all cases, but only where clarification is genuinely needed to respond to the request and Yewtree medical centre processes a large amount of information about the individual
- 1 Yewtree medical centre understands that it may also ask the individual to provide additional information about the information they want to receive, such as the context in which it may have been processed and the likely dates of processing. Yewtree medical centre understands it cannot force an individual to narrow the scope of the request and must still comply with the request by making reasonable searches if the individual refuses to provide additional information



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- | Yewtree medical centre will not delay in asking for further information and will be clear about what details are needed. Provided Yewtree medical centre 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 Yewtree medical centre receives the information
- | Yewtree medical centre understands that it should provide general confirmation that it processes personal data together with supplementary information about the processing as soon as possible and within one month of the request, irrespective of whether it requires further time to provide the majority of the Personal Data

## **5.7 Process Map Stage 5 - Considering whether any special cases apply - social work data**

Yewtree medical centre will consider whether any of the personal data constitutes "social work data" which is personal data processed by certain bodies in connection with their social services functions or to provide social care but is not education data or health data.

Social work data is exempt from the right of access if it is:

- | Processed by a court
- | Supplied in a report or given to the court as evidence in the course of proceedings; and
- | Certain statutory rules apply to those proceedings that allow the withholding of the data from the individual

If Yewtree medical centre thinks that this exemption may apply, it should seek further legal advice.

Yewtree medical centre will consider whether disclosure of personal data would go against an individual's expectations and wishes where the Subject Access Request is received from someone:

- | With parental responsibility for an individual aged under 18; or
- | Appointed by the court to manage the affairs of an individual who is incapable of managing their own affairs

Yewtree medical centre understands that the exemption only applies to the extent that complying with the request would disclose information that:

- | The individual provided to Yewtree medical centre in the expectation that it would not be disclosed to the requester, unless the individual has since expressly indicated that they no longer have that expectation
- | Was obtained as part of an examination or investigation to which the individual consented in the expectation that the information would not be disclosed in this way, unless the individual has since expressly indicated that they no longer have that expectation; or
- | The individual has expressly indicated should not be disclosed in that way

Yewtree medical centre will consider whether disclosure of the personal data could cause serious harm to the physical or mental health of any individual.

## **5.8 Process Map Stage 6 - Considering whether any special cases apply - health data**

Yewtree medical centre will consider whether any of the personal data constitutes "data concerning health" which is personal data relating to the physical or mental health of an individual, including the provision of health care services, which reveals information about their health status.

Health data is exempt from the right of access if:

- | It is processed by a court
- | It is supplied in a report or given to the court as evidence in the course of proceedings; and
- | Certain statutory rules apply to those proceedings that allow the withholding of the data from the individual

If Yewtree medical centre thinks that this exemption may apply, it should seek further legal advice.

Yewtree medical centre will consider whether disclosure of personal data would go against an individual's expectations and wishes where the Subject Access Request is received from someone:

- | With parental responsibility for an individual aged under 18; or
- | Appointed by the court to manage the affairs of an individual who is incapable of managing their own affairs

Yewtree medical centre understands that the exemption only applies to the extent that complying with the request would disclose information that:

- | The individual provided to Yewtree medical centre in the expectation that it would not be disclosed to



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the requester, unless the individual has since expressly indicated that they no longer have that expectation

- | Was obtained as part of an examination or investigation to which the individual consented in the expectation that the information would not be disclosed in this way, unless the individual has since expressly indicated that they no longer have that expectation; or
- | The individual has expressly indicated should not be disclosed in that way

Yewtree medical centre will consider whether disclosure of the personal data could cause serious harm to the physical or mental health of any individual. Yewtree medical centre may rely on the "serious harm test" to withdraw data if:

- | It is a health professional; or
- | Within the last 6 months it has obtained an opinion from the appropriate health professional that the serious harm test for health data is met

If Yewtree medical centre is not a health professional, it must not disclose health data in response to a Subject Access Request unless:

- | Within the last 6 months it has obtained an opinion from the appropriate health professional that the serious harm test for health data is not met; or
- | It is satisfied that the individual it is about has already seen or knows about the health data. If Yewtree medical centre needs to consult with a health professional it may consider the request to be complex

### **5.9 Process Map Stage 7 - Considering whether Subject Access Requests may be manifestly unfounded or excessive**

Yewtree medical centre may be able to refuse to comply with a Subject Access Request (or charge a fee to respond to the request) if it is manifestly unfounded or manifestly excessive.

A Subject Access Request may be manifestly unfounded if:

- | The individual has no intention to exercise their right of access; or
- | The request is malicious in intent and is being used to harass an organisation with no real purpose other than to cause disruption

A Subject Access Request may be manifestly excessive if it is clearly or obviously unreasonable, bearing in mind the proportionality of the Subject Access Request compared with the burden or costs involved in dealing with the request.

### **5.10 Process Map Stage 8 - Gathering information**

- | Collating all relevant information will be the most time-consuming task. Yewtree medical centre will consider which departments may hold personal data and whether that personal data can be 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 Yewtree medical centre
- | Yewtree medical centre 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?
- | Yewtree medical centre understands that documents or files may contain a mixture of information that is Personal Data, Personal Data relating to other people and information that is not Personal Data at all. In relation to Personal Data relating to other individuals, Yewtree medical centre will need to either seek consent from the other individual to disclosing their Personal Data or determine that it is otherwise reasonable to disclose their Personal Data. In relation to non-Personal Data, Yewtree medical centre may find it easier (and it may be more helpful to the individual) to disclose a combination of Personal Data and ordinary information if that information is not sensitive or contentious

### **5.11 Process Map Stage 9 - Does an exemption apply?**

There are a number of exemptions that apply that may entitle Yewtree medical centre to withhold personal data when responding to a Subject Access Request. Yewtree medical centre understands that the following is a very brief summary of the exemptions. Yewtree medical centre should seek legal advice if it believes any of the exemptions may be relevant:

- | Crime and taxation
- | Legal professional privilege





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- | Functions designed to protect the public
- | Regulatory functions relating to legal services, the health service and children's services
- | Judicial appointments, independence and proceedings
- | Journalism, academia, art and literature
- | Research and statistics
- | Archiving in the public interest
- | Health, education and social work data
- | Child abuse data
- | Management information
- | Negotiations with the requester
- | Confidential references
- | Exam scripts and exam mark

#### **5.12 Process Map Stage 10 - Disclosure of a third party individual's personal data**

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 unless Yewtree medical centre obtains consent from the Data Subject to disclose the Personal Data or otherwise determines that it is reasonable to disclose the third party individual's Personal Data. When considering whether it is reasonable to disclose the third party individual's Personal Data, Yewtree medical centre will consider:

- | The type of information that would be disclosed
- | Any duty of confidentiality owed to the third party (for example, in an employee/employer relationship or confidentiality owed to a Patient)
- | Any steps taken by Yewtree medical centre to try to get the third party's consent
- | Whether the third party is capable of giving consent
- | Any refusal of consent by the third party

#### **5.13 Process Map Stage 11 - Incorporate additional information into response**

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, or if the Subject Access Request does not expressly state that the individual does not require confirmation of the information above, it must be provided. The information should be included in the relevant privacy policy so it may be simplest to provide a further copy of the privacy policy.

#### **5.14 Process Map Stage 12 - Send response to Data Subject**

Yewtree medical centre will send its response to the Data Subject. Yewtree medical centre 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.

#### **5.15 Training**

Yewtree medical centre will circulate this policy to all staff. Yewtree medical centre 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 Yewtree medical centre 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. References to GDPR include references to the UK GDPR

### 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\_plan\_name}s (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

### 6.7 UK GDPR

- | The UK GDPR is the retained EU law version of GDPR that forms part of English law



## Key Facts - Professionals

Professionals providing this service should be aware of the following:

- | All staff at Yewtree medical centre will follow the guidelines set out in this policy to ensure that Subject Access Requests are dealt with appropriately and in compliance with UK GDPR
- | Data Subjects can use the template request letter provided in the Forms section of 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



## Key Facts - People affected by the service

People affected by this service should be aware of the following:

- | If a Data Subject, including a Patient, wishes to make a Subject Access Request to Yewtree medical centre, 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



## 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.





## Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- 1 Yewtree medical centre provides training to all staff to ensure that they understand how to recognise and deal with a Subject Access Request
- 1 Yewtree medical centre creates a detailed log for UK GDPR compliance, including a log of all information relevant to Subject Access Requests received
- 1 The wide understanding of the policy is enabled by proactive use of the QCS App



## Forms

The following forms are included as part of this policy:

Title of form	When would the form be used?	Created by
Template Subject Access Request Letter - GDPR05	For a Data Subject to submit a Subject Access Request	QCS
Template Subject Access Response Letter - GDPR05	This form can be used by each organisation as an initial response/acknowledgement to a subject access request. Each organisation should consider seeking legal advice if they wish to extend the deadline for responding to the request	QCS
Subject Access Request Flowchart - GDPR05	To be used to guide the manager with decision making when a Subject Access Request is made.	QCS

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Sophie Whittaker, Data Protection Officer  
Yewtree medical centre  
21 Berryford Road  
Liverpool  
L14 4ED

Date:

Dear Sophie Whittaker

**Subject Access Request under UK General Data Protection Regulation 2021**

I am writing to make a Data Subject Access Request pursuant to the UK General Data Protection Regulation 2021.

**Scope of Request**

[This is a general request that relates to any personal data processed about me by or on behalf of Yewtree medical centre].

**[OR]**

I only require information in respect of the following:

[Insert any information you think would help us to find what you are seeking, or let us know if there is something in particular you require]

**[Locating the data]**

[Please only provide documents and emails that were created and/or sent between [Insert date range].]

[Please only provide emails that were sent between [Insert names].]

Yours sincerely,

[Please enter your full name]

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[Data subject name/requester name]  
[Address]  
Date:

Dear [Data subject name/requester name]

**Response to your Subject Access Request dated [insert date of request]**

We write in relation to your Subject Access Request.

[We are reviewing your request and will respond to you within one month of the date we received your request, i.e. [insert date by which response needs to be sent]. If we need any further information from you in the meantime, we will let you know.]

**[OR]**

[We have determined that your request constitutes a complex request for the purposes of UK GDPR. Our rationale for such decision takes into account: [Insert list of factors that make request complex]. This entitles us to extend the deadline for response by a further 2 months i.e. 3 months from the date we received your request. We will therefore aim to have provided all information to you by [Insert extended date for request]. To the extent we are able to provide you with elements of your personal data prior to that date, we will do so.]

**[OR]**

[On the basis that you have made a number of repeated requests to us, we are entitled to extend the deadline for response by a further 2 months i.e. 3 months from the date we received your request. We will therefore aim to have provided all information to you by [Insert extended date for request]. To the extent we are able to provide you with elements of your personal data prior to that date, we will do so.]

**[AND/OR]**

[In order to provide you with the personal data you require as efficiently as possible, we would be grateful if could please consider narrowing the scope of your request by, for example, [providing us with date ranges of the emails you wish to be searched], [providing a list of recipients/senders of emails that you wish to be searched], [providing us with key terms that you wish to be searched], [limiting your request to the search of certain systems or locations].

Yours sincerely

[Insert Sophie Whittaker/privacy officer name or similar]  
Yewtree medical centre

