



# FamilyCare

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## Data Protection Policy GDPR

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# Data Protection Policy (GDPR)

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## Data Protection Policy (GDPR)

The UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 govern how personal and sensitive personal data must be processed. The Data Protection Officer for Family Care Group is Rachel Brown.

Family Care Group (the Home) will fulfil its obligations under this Act to the fullest extent, including ensuring that the following 8 principles governing the processing of personal data are observed.

1. personal data shall be processed fairly and lawfully;
2. personal data shall be obtained only for specified and lawful purposes, and shall not be processed in any manner incompatible with those purposes;
3. personal data shall be adequate, relevant and not excessive in relation to the purposes for which it is processed;
4. personal data shall be accurate and, where necessary, kept up to date;
5. personal data shall be kept for no longer than is necessary for the purposes for which it is processed;
6. personal data shall be processed in accordance with the rights of data subjects under the Act;
7. personal data shall be subject to appropriate technical and organisational measures to protect against unauthorised or unlawful processing and accidental loss, destruction or damage;
8. personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of data protection

## Data Access by employees

Please refer to guidance set out in the staff handbook. In the event of a data breach all staff must report this to the line manager who must assess the severity of breach and if necessary make a report on the company form to the Data Protection Officer. The DPO will assess the scale and impact of the breach and if required report to the ICO within 72 hours.

## Data Access by children and young people, parents, and those with parental responsibility

There may be occasions when children and young people (and their parents) seek access to records held by the home, and in normal circumstances the home will co-operate in every instance.

## Children and young people

Children and young people with capacity have the legal right to access their own records and should generally be allowed to do so without questions or delay. (The Data Protection Act, for example has no minimum age requirement for applicants. "Children" can apply for their own records provided they are capable of understanding the nature of the request).



This important safeguard is a right to challenge unjustified statements, correct factual inaccuracies and allow the child/young person to let his/her views known before - not after - decisions are taken about them or their care.

The child/young person will be asked to ensure that they do not alter, modify or add to the record in any way, and, depending on the circumstances, the home may require the access to be supervised, either to ensure that records are not mishandled, or to provide explanation, guidance or advice on their contents.

There may be occasions, however, when disclosure may lawfully be withheld, and children and young people should not be given access to information that would cause them serious harm or to any information about another person without the other person's consent.

## Parents, and those with parental responsibility

Sharing information with the right people can help to protect children and young people from harm and ensure that they get the help they need. The "right people" includes of course parents, and those with parental responsibility. (Divorce or separation does not affect parental responsibility and the home will allow both parents reasonable access to their children's records).

Even if a child is too young to understand the implications of subject access rights, data about them is still their personal data and does not belong, for example, to a parent or guardian. So, it is the child who has a right of access to the information held about them, even though in the case of young children these rights are likely to be exercised by those with parental responsibility for them.

When parents ask for permission to review the child's/young person's file they are usually doing so out of concern for their welfare. As parents have no automatic right to review their children's files, the home will seek consent from the child/young person (with capacity), thus showing appropriate respect, and involving them in decisions about their care. It is expected that in most cases permission will be given.

If a child/young person refuses consent, however, or if it is not practical to ask for consent, the home will consider the benefits and possible harms that may arise from disclosure to their parents. The home will firstly consider any views given as to why the home should not disclose the information. The home will allow disclosure, however if this is necessary to protect the child/young person, or someone else, from risk of death or serious harm. Such cases may arise, for example, if:

- a) a child/young person is at risk of neglect or sexual, physical or emotional abuse;
- b) the information would help in the prevention, detection or prosecution of serious crime, usually crime against the person;
- c) a child/young person is involved in behaviour that might put them or others at risk of serious harm, such as serious addiction, self-harm or joy-riding.

The home may also allow disclosure without consent:

- a) when there is an overriding public interest in the disclosure; (See Note below)
- b) when the home judges that the disclosure is in the best interests of a child/young person who does not have the maturity or understanding to make a decision about disclosure (for example, to enable a parent to make an important decision, or to provide proper care);
- c) when disclosure is required by law.



## Note

A disclosure is in the public interest if the benefits which are likely to arise from the release of information outweigh both the child's/young person's interest in keeping the information confidential and society's interest in maintaining trust that confidential information is lawfully protected. The home will make this judgement case by case, by weighing up the various interests involved. If the home intends to allow disclosure when a child/young person, with capacity, has not given permission, then it will explain the reasons why. These reasons will be recorded in the child's/young person's file, providing a record of what was discussed, and the reasons why the disclosure was allowed.

## School Records

The school holds information on pupils in order to support their teaching and learning, to monitor and report on their progress, to provide appropriate pastoral care, and to assess how well the school as a whole is doing. This information includes contact details, National Curriculum assessment results (where appropriate), attendance information, characteristics such as ethnic group, special educational needs and any relevant medical information.

In order to administer the National Curriculum tests, we are required to pass on some of this data to the Standards and Testing Agency (STA) which is responsible for the National Curriculum and associated assessment arrangements.

STA uses information about pupils to administer the National Curriculum tests and assessments for Key Stages 1 to 3. The results of these are passed on the DFE in order to compile statistics on trends and patterns in levels of achievement. The STA uses the information to evaluate the effectiveness of the National Curriculum and the associated assessment arrangements and to ensure that these are continually improved.

Pupils, as data subjects, have the same rights under the Data Protection legislation, including a general right of access to personal data held on them, with parents (or those with Parental Responsibility) exercising this right on their behalf if they are too young to do so themselves. If your child wishes to access the personal data, or you wish to do so on their behalf, this can be done through a subject access request. This is a formal procedure which is started in the first instance by contacting the school. If you believe the LEA, STA or DFE hold personal data then the data protection officer for these organisations should be contacted to initiate a subject access request process. We will respond to subject access requests within one calendar month, as required by UK GDPR.

Please note that all rights under the Data Protection Act to do with information about your child rest with them as soon as they are old enough to understand these rights. This will vary from one child to another and you will wish to consider the position for your child, but, as a broad guide, it is reckoned that most children will have a sufficient understanding by the age of 12.

### References to Legislation and Quality Standards

**Children's Homes (England)  
Regulations 2015**

**Regulation 13**

**Quality Standard**

**Leadership and Management**