**SUBJECT ACCESS REQUEST POLICY AND PROCEDURES**

**Introduction:**

The General Data Protection Regulation 2018 (UK GDPR 2018) and the Data Protection Act 2018 (DPA 2018) enable an individual to ask an organisation to declare what information is held about them, and the use to which that information is put. This Policy sets out the approach of Cúnamh when managing SARs, in compliance with this legislation.

**Policy Statement:**

This policy will provide a framework for Cúnamh to ensure compliance with the Data Protection Act 2018. This policy is supported by operational procedures and activities connected with the implementation of Subject Access Requests, these are detailed in the document.

This policy matches the requirements identified by the Information Commissioner Subject Access Request (Right of access | ICO). This Policy applies to all employees of Cúnamh , including students, volunteers, contractors, temporary staff or any individual carrying out work on behalf of Cunamh as well as Third Parties and Suppliers, (hereafter collectively referred to as “Employees”). This shall apply to Third Parties and Suppliers unless specifically excluded or where contractual conditions specify otherwise.

This Policy for responding to SARs for personal information is intended to ensure Cúnamh is compliant with the DPA 2018 and UK GDPR 2018. A SAR is the process by which an individual asks to find out what personal data is held about them, why it is held and how that information is used. It is generally expected that Cúnamh respond to a SAR without charging the enquirer, except in exceptional circumstances.

**Purpose of this policy:**

The purpose of this Subject Access Policy is to outline how Cúnamh will manage subject access requests in compliance with UK GDPR and Data Protection Act within one month’s timeframe. It also outlines the reasonable expectation placed upon Cunamh with respect to subject access requests.

**Who it applies to:**

All Cunamh staff as well as Third Parties and Suppliers, involved in the receipt, handling or sharing of information held by Cunamh, including personal identifiable information. Any circumstances requiring exemptions to the policy shall be referred to the relevant Information Asset Owners (IAO).

**What it includes in detail:**

The policy gives individuals (known as data subjects) the right, subject to certain exceptions, to request access and obtain copies of personal data about themselves that is held in either computerised or manual formats and any type of personal information that is recorded. Data subjects have access rights to their personal information irrespective of when the record was created. This is known as a subject access request.

**Important points for all staff:**

The General Data Protection Regulation (UK GDPR) under Article 15 and the Data Protection Act 2018, grants data subjects the right to access any personal data an organisation holds on them. This is known as a data subject access request (DSAR).

The Act provides the following individual rights:

• the right to be informed;

• the right of access;

• the right to rectification;

• the right to erasure or restrict processing; and

• the right not to be subject to automated decision-making.

Certain rights under the UK GDPR, such as the right to object and the right to data portability, do not exist in Part 3 of the Act. Further, there are exemptions and restrictions that can, in some circumstances, be legitimately applied to prevent individuals from exercising rights.

**Principles:**

Individuals have the right to request copies of their information that Cúnamh may hold and to also request certain information relating to the processing of their information including:

• A description of the information

• The purposes the information is used for

• The disclosures that are made or might be made

• The source of the data

Cunamh is required to respond to Subject Access requests promptly within one calendar month from receipt of the request. Failure to do so is a breach of the Act and could lead to a complaint to the Information Commissioner (ICO). If it is anticipated that a request will take longer than one calendar month from the receipt of Subject access, the organisation must inform the applicant giving an explanation of the delay and agree a new deadline.

Failure to comply with a request for subject access, without valid justification is treated as a serious matter and may be referred to the ICO. Such complaints are dealt with as a matter of priority and may lead to a full-scale investigation into an organisation’s procedures and practices.

**Who can make a request:**

Subject access requests can be made by:

• The individual themselves

• Individuals requesting access on behalf of a child for whom they have parental responsibility

• A representative nominated by the individual to act their behalf, such as solicitors or a relative, where there is valid consent by the individual granting this authority

• In certain situations a person granted an attorney or agent by the Court of Protection on behalf of an adult who is incapable of consent

**Roles and Responsibilities:**

Cúnamh’s appointed Data Protection Officer (DPO) and Clinical Co-ordinator are responsible for ensuring personal information is kept protected and used appropriately, in particular with reference to client data.

The supervisory authority for SARs is the Information Commissioners Office (ICO).

Requests from Employees shall be responded to by Cúnamh’s appointed DPO and Clinical Co-ordinator . Requests received by Cúnamh are entered into a log and this will be maintained to monitor compliance to ensure all requests are answered in a timely manner.

Cúnamh is responsible for:

• Verifying the identity of the person making the request must be satisfied. No information will be released until this identification has taken place

• Providing advice to staff on the withholding of certain information requested under the Data Protection Act

• Liaising with other organisations, if relevant, to process the access request in the event of shared records/data The preferred format for submitting SARs is by the individual in written form. This helps to ensure that all the information required to effectively process the request is in one place.

However, it is recognised that a request may be in any format - verbal, email, social media, written etc.

Therefore:

• the request shall be logged and managed through a secure register;

• the request should be acknowledged by Cúnamh or relevant third party;

• the identity of the individual making the request shall be verified;

• no charge shall be applied – other than in exceptional circumstances described in the section ‘Extensions and Refusals’;

• Cúnamh systems and records shall be searched to identify the information held;

• information shall be prepared and not re-processed to create any new records;

• information shall be provided in written or electronic formats;

• if Cunamh agrees that information held is inaccurate, Cúnamh shall update their current information.

Cúnamh should provide information in a timely manner. In most circumstances, information requests should be provided within one calendar month from the date of initial receipt. If a request is complex or if multiple SARs are made by the same individual, then the response time may be

extended by a further two months. If this is the case the individual will be advised with the appropriate explanation for the extension.

Cúnamh shall provide its response in a concise, transparent, and accessible manner using clear and plain language (as per ICO instruction – the response should be capable of being understood by the average person, or where appropriate, a child).

The operational arrangements of the Subject Access Registers are the responsibility of the Information Asset Owners, supported by the DPO and Clinical Co-ordinator, with accountability resting with the Information Asset Owner.

All managers and staff will comply with any request for personal data forwarded by the DPO or Clinical Co-ordinator as quickly as possible, and will respond as soon as possible but before a deadline communicated.

**Subject Access Requests – the rights of individuals:**

The General Data Protection Regulation (UK GDPR) under Article 15 and the Data Protection Act 2018 grants data subjects the right to access any personal data an organisation holds on them. This is known as a data subject access request (DSAR).

Part 3, Chapter 3 of the Act provides the following individual rights:

• the right to be informed;

• the right of access;

• the right to rectification;

• the right to erasure or restrict processing; and

• the right not to be subject to automated decision-making.

Certain rights under the UK GDPR, such as the right to object and the right to data portability, do not exist in Part 3 of the Act. Further, there are exemptions and restrictions that can, in some circumstances, be legitimately applied to prevent individuals from exercising rights.

It is important to note that subject access rights and the rights to rectification, erasure and restriction do not apply to the processing of ‘relevant personal data’, in the course of a criminal investigation or criminal proceedings. ‘Relevant personal data’ means personal data contained in a judicial decision or in other documents relating to the investigation or proceedings which are created by or on behalf of a court or other judicial authority. Access to ‘relevant personal data’ is governed by the appropriate legislation covering the disclosure of information in criminal proceedings.

It is also your duty more generally to assist individuals to exercise their rights. Like the UK GDPR, the Act includes further provisions for individuals to exercise their rights through raising a complaint with the Information Commissioner or taking matters to court.

**Exemptions to the Release of Information:**

Cúnamh is committed to complying with SARs. There are, however, occasions when a SAR may be refused, or timelines to respond to a SAR extended. The UK GDPR guidance should be followed in such cases. If a SAR is manifestly unfounded, excessive or repetitive in nature,

Cúnamh shall support a request for a ‘reasonable fee’ to deal with the request or shall sanction a refusal. Cúnamh shall expect the justification for the decision to be recorded. Any reasonable fees should be based on the administrative costs of complying with the request. The person requesting the information shall be contacted and informed. Cúnamh would not expect work on collating the information to begin until the fee has been received.

**Subject Access Request Process:**

Step 1 Check that the Request is within the scope of the Data Protection Act and advise Information Governance

Step 2 Verify the identity of the data subject

Step 3 Clarify the request (if necessary)

Step 4 Calculate deadline for response

Step 5 Acknowledgement of receipt of Subject Access Request

Step 6 Search for information

Step 7 Review information considering possible exemptions

Step 8 Third Party consultation

Step 9 Review and Approval

Step 10 Consideration by Governance Team, if needed

Step 11 Respond to Applicant

Step 12 Update Subject Access Request monitoring log

**Receiving an access request under the Data Protection Act:**

Under ICO guidance, an individual can make a SAR verbally or in writing, including on social media. A request is valid if it is clear that the individual is asking for their own personal data. An individual does not need to use a specific form of words, refer to legislation or direct the request to a specific contact. It’s also worth noting that individuals aren’t required to use the technical term for a request (‘DSAR’ or ‘data subject access request’). However, Cúnamh’s process is that the requests are submitted in writing. This gives individuals and Cúnamh a record of the request, the date that it was made and other relevant information, such as the specific personal information that they want a copy of and the format that it should be delivered via.

Applications for access to personal data must be made via Request in writing to:

The Data Protection Officer,

Cúnamh,

171 Sunbeam Terrace,

Derry,

BT48 6UJ.

An application form will be sent to Applicant in receipt of request.

When Application forms have been received, they must be signed and dated by the applicant.

Where an application is made on behalf of an individual, an authorisation letter must accompany the written application.

The application must clearly identify the person in question, and the records required, including the following details:

* Full name – including previous names
* Address – including previous address(es)
* Date of birth
* Dates of health/personnel records required

**Provision of Information in response to a request:**

An individual is entitled to a copy of their personal data and to other supplementary information. When deciding what format to use, Cúnamh should consider both the circumstances of the particular request and whether the individual has the ability to access the data Cúnamh provide in that format. It is good practice to establish the individual’s preferred format prior to fulfilling their request.

As the controller of the information Cúnamh is responsible for taking all reasonable steps to ensure its security.

Cúnamh must take into account the provisions of the Disability Discrimination Act 1995 and the Equality Act 2010, arrangements will be agreed with the data subject and relevant steps taken to facilitate within the timescales allowed by the Act. Where an access request has previously been complied with under the Act, Cúnamh does not have to respond to a subsequent identical or similar request unless a reasonable interval has elapsed since the previous compliance (The Information Commissioner’s office has defined a reasonable interval to be 12 months). Where Cúnamh does not hold the personal information requested, it will inform the applicant as quickly as possible.

**Reponses times for disclosure:**

Responses to request for access must be made within one month of the date of receipt of the request. Failure to do so is a breach of the Act and could lead to a complaint to the Information Commissioner. Failure to comply with a request for subject access, without valid justification is treated as a serious matter and is investigated by the Information Commissioner. Such complaints are dealt with as a matter of priority and may often lead to a full-scale investigation into an organisation’s procedures and practices. In exceptional circumstances, if it is not possible to comply with this period, the applicant should be informed.

**Data identifying a Third Party:**

Where personal data relating to the applicant also identifies another individual, the applicant’s right of access must be weighed against the other data subject’s right to privacy. Cúnamh should attempt, where practicable, to seek the consent of the third party to the release of their data. Where consent is obtained then the information can be released.

**Requests from public bodies and law enforcement agencies:**

This request is made under Schedule 2 Part 1 Paragraph 2 and Part 3 (law enforcement) of the Data Protection Act 2018 and UK GDPR Article 6 (1) (d). Part 3 only applies to competent authorities processing for law enforcement purposes. So, it applies, but is not limited, to:

* the police, criminal courts, prisons, non-policing law enforcement; and
* any other body that has statutory functions to exercise public authority or public powers for any of the law enforcement purposes.
* the key thing to consider is your primary purpose for the processing. This should help you identify whether the processing falls under the UK GDPR rules,

or satisfies the criteria of the law enforcement purposes under Part 3 of the DPA 2018.

The law enforcement purposes are defined under section 31 of the DPA 2018 as:

‘The prevention, investigation detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.’

**Incidents:**

Any incident involving a potential breach of the Data Protection Act 2018 or the

Access to Health Records Act 1990 should be reported as an incident.

Your line manager should be informed of this and a decision will be taken whether it is necessary to report this as a Serious Incident under the Serious Incident Reporting and Management Policy and/or to the Information Commissioner.

**Monitoring and audit arrangements:**

This Policy shall be reviewed every year or in response to significant changes due to security incidents, variations of law and/or changes to organisational or technical infrastructure.

Related policies referenced in this document are available on the intranet or within the policy document folder and should be read in conjunction with this Policy.

An Employee found to have breached this Policy may be subject to Cúnamh’s disciplinary procedure and, in certain circumstances, legal action may be taken. Failure of a supplier or contractor to comply with this Policy may result in the immediate cancellation of a contract.

**Subject Access Request Form**

**Data Protection Act 2018**

**Form 1 Request for access to personal information about me**

|  |  |  |  |
| --- | --- | --- | --- |
| Subject Access Request Reference |  | Date |  |
| (For office use only) | | | |
| **NB:** Information collected on this form will be used by Cúnamh for the purpose of complying with your Subject Access Request. It will be shared with staff who have a designated role in this process. | | | |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Section 1** | Details of the person about whom information is being requested | | | | | | | |
| Surname: |  | | | | Date of  Birth |  | | |
| First Name(s) |  | | | |
| Also known as/ maiden name: | | |  | | | | | |
| Current / Most Recent Address: | |  | | | | | | |
|  | | | | Postcode: | |  |
| Please provide the following details if you are happy for us to contact you in this way: | | | | | | | | |
| Home Number: | |  | | Mobile Number: | | |  | |
| Email Address: | |  | | Other: | | |  | |

|  |  |  |
| --- | --- | --- |
| **Section 2** | Details of information being requested… (Please tick one option) | |
| I am a current/ex-service user (client) and want to access my care/ health information: | |  |
| I am a current/ ex-employee and want access to my personnel information: | |  |

To help us understand the information you require, the more information you can provide us with the easier it will be for us to locate the information. We understand this may have been some time ago, so just give us what you can. Please note, if requested high volume of records, this may take longer than the one-month timeframe. We will update you if that is the case.

|  |  |  |
| --- | --- | --- |
| Therapist name | Dates of therapy | Site visited – where you were seen |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

|  |
| --- |
| Please provide here any additional information that will help us with your records, for example do you want to know just about a specific treatment you had, just interactions with a specific therapist or a specific incident |
|  |
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| --- | --- | --- | --- | --- | --- |
| **Section 3** | Consultation with other people (third parties) | | | | |
| If needed is Cúnamh allowed to tell other people that you have made a request if consent is required for some of the information to be released: | | YES |  | NO |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Section 4** | Declaration | | |
| By signing below, I confirm I am asking for access to personal data about me and I have the authority to make this request. I understand that the information I have provided will be used to process my request, and this will include telling appropriate members of staff. We will involve the minimum number of staff required to complete your request | | | |
| Full Printed Name: |  | | |
| Signature: |  | Date: |  |

|  |
| --- |
| **Fees/ Charging** |
| Cúnamh will not charge you access to information held about you. We may charge a fee if your request is considered excessive. |

|  |  |
| --- | --- |
| **Contact Details** | |
| If you have any questions or difficulties with completing this form please contact us here: | |
| Tel: 02871 288868 | Email: details@cunamh.org |

|  |
| --- |
| **Please ensure you enclose two copies of your identification, more information on this is available on the following page** |
| **Please return completed forms to…** |
| The Data Protection Officer,  Cúnamh,  171 Sunbeam Terrace,  Bishop Street,  Derry,  BT48 6UJ |
| Email: details@cunamh.org |

**GUIDELINES TO COMPLETE FORM:**

Under the General Data Protection Regulation (EU) 2016/679, the Data Protection Act 2018 and Access to Health Records Act 1990 you are entitled to have a copy of your health records.

Before any disclosure is made we will need to receive proof of your identity (ID), this is to protect your confidentiality. With your completed application please attach a copy of the IDs requested in 1 and 2 below (please ensure any documents and photos are of high quality).

1. A photocopy of your current passport or driving licence. Further examples of ID listed below
2. A photocopy of a recent household utility bill or bank statement (under 3 months old) that contains your name and address. Please do not send originals. Further examples of ID listed below
3. There will be no charge for providing an initial copy however additional copies will attract a fee if deemed excessive.
4. Once Cunamh has accepted your application, it is anticipated that your records will be sent out to you within the statutory time frame of 30 days.
5. Please note, Cunamh is unable to process requests received without proof of identity. We will not start working on your request until we receive and have verified your identification documents.
6. Please note that if you request your whole medical file this can take longer to process and may take more than the statutory 30 days.

**Examples of proof of ID. You must produce one piece of ID from each column**

| **Proof of name** | **Proof of address** |
| --- | --- |
| Current signed passport | Utility bill (gas, electric, satellite television, landline phone bill) issued within the last three months |
| Original birth certificate (UK birth certificate issued within 12 months of the date of birth in full form including those issued by UK authorities overseas such as Embassies High Commissions and HM Forces) | Local authority council tax bill for the current council tax year |
| EEA member state identity card (which can also be used as evidence of address if it carries this) | Current UK driving licence (but only if not used for the name evidence) |
| Current UK or EEA photocard driving licence | Bank, Building Society or Credit Union statement or passbook dated within the last three months |
| Full old-style driving licence | Original mortgage statement from a recognised lender issued for the last full year |
| Photographic registration cards for self-employed individuals in the construction industry -CIS4 | Solicitors letter within the last three months confirming recent house purchase or land registry confirmation of address |
| Benefit book or original notification letter from Benefits Agency | Council or housing association rent card or tenancy agreement for the current year |
| Firearms or shotgun certificate | Benefit book or original notification letter from Benefits Agency (but not if used as proof of name) |
| Residence permit issued by the Home Office to EEA nationals on sight of own country passport | HMRC self-assessment letters or tax demand dated within the current financial year |
| National identity card bearing a photograph of the applicant | Electoral Register entry or NHS Medical card or letter of confirmation from GP’s practice of registration with the surgery |

**Documents we will not accept include, but are not limited to**

* Provisional driving licence
* Mobile phone bills
* Credit card statements

This policy was approved by the Cúnamh Board of Directors at the Cúnamh Annual General Meeting on 26th July 2023.