

THE DUBLIN WELL WOMAN CENTRE
Standard Operating Procedure

Subject:	Data Access Requests		
Approved By:	Alison Begas, Dr Shirley McQuade, Josephine Healion		
Ref Number:	002	Effective Date:	25/05/2018
Target Group(s):	Administration & Managers	Date of next review:	25/05/2019

Relevant Legislation:

- **Data Protection Acts 1988 to 2018.**
The focus of the Data Protection Acts 1988 to 2018 is to protect the privacy of individuals whose personal data is kept by any organisation. The main provisions of the Acts govern the obtaining, handling, storing, disclosure and processing of personal information.
- **GDPR, Article 15.**
Under Article 15 of GDPR, a data subject has a right to access a copy of their medical record.
- **Data Protection Bill 2018, section 54.**
The right to access may be restricted if the disclosure of the record to the data subject 'would be likely to cause serious harm to the physical or mental health of the data subject'. These regulations provide that data relating to an individual should not be made available to the individual, in response to an access request, if that would be likely to cause serious harm to the physical or mental health of the data subject. A person who is not a health professional should not disclose health data to an individual without first consulting the individual's own doctor, or some other suitably qualified health professional.

Notes:

This Standard Operation Procedure should be read in conjunction with the Policy #001 Data Protection Policy, which explains the DWWC's Data Protection Policy.

Data Access Requests may be made under the following sections within the Data Protection Acts:

- **Section 3:** Under Section 3 of the Data Protection Act, a data subject, has a right to find out, free of charge, if the DWWC holds information about that individual. The data subject also has a right to be given a description of the information and to be told the purpose(s) of the DWWC holding the information.

This request should be made in writing. The DWWC has 30 days to comply with this request.

- **Section 4:** Under Section 4 of the Data Protection Act, a data subject has a right to obtain a copy clearly explained, of any information relating to themselves kept on a computer or in a structured manual filing system or intended for such a system by the DWWC.

This request should also be made in writing. The DWWC has 30 days to comply with this request.

Under GDPR legislation no fee is chargeable for providing a copy of the held data, unless the cost will be excessive. However, there will be a €6-€10 charge for registered postage of this data. Collection of said data is free of charge.

Minors

- An individual can only make an Access Request for their own personal data. Legal guardians can also make an access request on behalf of a child. However, once a child is capable of understanding their rights to privacy and data protection, the child should normally decide for themselves whether to request access to data and make the request in their own name. This is not age dependent.
- Revealing of medical information of a child who is capable of making decisions themselves will in most situations constitute a breach of the Data Protection Acts if undertaken without the consent of the child capable of making their own decisions.

Data Subject Access Request:

1. All Data Subject Access Requests directed to DWWC must be in writing, and addressed to the Data Protection Officer.
2. A copy of the DWWC Access Request for Medical Records form can be downloaded from the DWWC website or from all DWWC clinic reception desks.
3. If a SAR (Subject Access Request) is received, ensure that the letter/form is date stamped on the day that it is received, as DWWC must reply to the request within 30 days of receipt of the same.
4. Ensure that the relevant department manager is informed and receives this request as soon as possible.
5. The Data Protection Officer is to check the validity of the request.
6. It is imperative that the DPO ensures that they are satisfied that sufficient material has been supplied by the Data Subject to definitively identify the individual.
7. If the DPO feels that insufficient information has been provided to confirm the identity of the data subject, the DPO can, in writing, ask the data subject for further information.
8. On receipt of the updated information the DPO can now log the date this information was received and take this date as the date from which the 30 day legal timeframe begins.
9. Once the DPO is confident of the identity of the data subject, the DPO will investigate whether any data in relation to the data subject is held by the DWWC.
10. This is done by searching the relevant securely stored filing systems and/or computer system for files.
11. If the DWWC anticipates that processing of the request may take longer than 30 days, due to complexity and/or volume, then the DWWC can request in writing to the data subject to extend the response time by up to two months. However, the DWWC must notify the Data Subject within one month of receiving the request, explaining the reason for this delay.
12. Prior to sending any information to a data subject, the DPO must confirm with the relevant department manager, authorisation of the nature of the data, its uses and authenticity.
13. In the case of medical notes, they will be reviewed by the Medical Director and references to third parties removed.

Data subject requests confirmation of information stored:

If the DWWC does keep information in relation to the data subject, the DPO is to send a confirmation, in writing, to the individual concerned confirming:

- a. The precise nature of the information which the DWWC possesses
- b. A clear explanation of why the data is retained
- c. A description of those to whom the data may be disclosed
- d. The source of the data unless this would be contrary to public interest

This response can either be collected from DWWC free of charge, or sent via registered post. There will be a €6 - €10 postage fee for sending this via registered post.

Data subject requests confirmation of information held and a **copy of the data:**

If the DWWC does keep information in relation to the data subject, the DPO is to send a confirmation, in writing, to the individual concerned confirming:

- a. The precise nature of the information which the DWWC possesses
- b. A clear explanation of why the data is retained
- c. A description of those to whom the data may be disclosed
- d. The source of the data unless this would be contrary to public interest
- e. A copy of all the data retained by the DWWC (Collated into an intelligible form – including an explanation of terms and any abbreviations if necessary)

This response can either be collected from DWWC free of charge, or sent via registered post. There will be a €6 - €10 postage fee for sending this via registered post.

Where the Data Subject requests confirmation of information held and/or a copy of the data and/or amendments of said data:

Under Article 16 of GDPR, a data subject has the right to obtain rectification of inaccurate subject data which is factually inaccurate. However, with reference to Irish Data Protection Commissioner case study 1 of 2007, this is not an unqualified right and depends on the circumstances of each case.

Rectification of data can be given verbally or in writing.

Each request for rectification will be dealt with on an individual basis.

Client personal details are updated every time a patient visits one of the Dublin Well Woman Centre's clinics, such as address and contact number; Staff contact details and details pertaining to next-of-kin are reviewed and updated every one year.

Where the Data Subject requests confirmation of information held and/or a copy of the data and/or deletion of said data held:

Article 17 of GDPR deals with the right to erasure. A data subject has the right to request that any data held be deleted upon their request. However, as a primary care unit the DWWC has a requirement under Medical Council rules to keep medical records and also has a right to defend medico-legal claims, under Article 23.1(g). The right to erasure of medical records is not an absolute right and restrictions may apply.

The DWWC will hold client data for 8 years after the clients last attendance in one of the DWWC clinics. After the 8 years has elapsed said data will be deleted and/or shredded. Further information on this can be found in the DWWC Data Retention Policy & Periods document.

Should a data subject request that their data be deleted prior to this timeframe then the following procedure will be adhered to:

1. All Data Deletion Requests directed to DWWC must be in writing, and addressed to the Data Protection Officer.
2. A copy of the DWWC Access Request for Medical Records form can be downloaded from the DWWC website or from all DWWC clinic reception desks.
3. If a Data Deletion Request is received, ensure that the letter/form is date stamped on the day that it is received, as DWWC must reply to the request within 30 days of receipt of the same.
4. Ensure that the relevant department manager is informed and receives this request as soon as possible.
5. The Data Protection Officer is to check the validity of the request.
6. It is imperative that the DPO ensures that they are satisfied that sufficient material has been supplied by the Data Subject to definitively identify the individual.
7. If the DPO feels that insufficient information has been provided to confirm the identity of the data subject, the DPO can, in writing, ask the data subject for further information.
8. On receipt of the updated information the DPO can now log the date this information was received and take this date as the date from which the 30 day legal timeframe begins.
9. Once the DPO is confident of the identity of the data subject, the DPO will investigate whether any data in relation to the data subject is held by the DWWC.
10. The DPO and relevant department manager will review deletion requests on a case by case basis by taking into account GDPR legislation along with Medical Council rules.
11. If the DWWC anticipates that processing of the request may take longer than 30 days, due to complexity and/or volume, then the DWWC can request in writing to the data subject to extend the response time by up to two months. However, the DWWC must notify the Data Subject within one month of receiving the request, explaining the reason for this delay.
12. If the DWWC does keep information in relation to the data subject, the DPO is to send a confirmation, in writing, to the individual concerned regarding the outcome of their review. If the DPO and department manager finds that they are not able to comply with the deletion request they need to respond to the data subject within 30 days of receiving the request, outlining the reason for refusing the deletion request.
13. Should the DWWC agree to deletion of the data subjects data, all hard and soft copy information pertaining to the data subject need to be fully deleted and/or shredded. Further information on this can be found in the DWWC's Data Disposal Policy.

If DWWC Does Not Comply:

If the DWWC is unable to comply with a SAR, due to restrictions to right to access highlighted in Section 54 of the Data Protection Bill 2018, the DPO and/or department managers still need to respond to the access request, within 30 days of receiving the request. Within their reply, they must highlight and Clearly explain the reason for not disclosing the clients information.