

Accessing information / data about a relative

If you are caring for a relative or helping them to manage their affairs – for example helping them to apply for benefits or access support from social services then you may need access to information about them which is held by public or private organisations, such as their GP, their social worker, the Department of Work and Pensions (DWP) or a care agency.

Under the General Data Protection Regulations a person has a right to request to see information about them which is held by an organisation. As a general rule, organisations should not pass information about one individual to another (i.e. you). There are however ways that you can obtain information about your relative which is held by organisations so that you can support your relative. This factsheet looks at options for accessing information about a relative that you are supporting.

Authorisation from your relative

The easiest way to access information about your relative is to ask them to authorise the organisation that you need the information from to share information with you. This can be done orally but a lot of organisations will want your relative to authorise this in writing. Some organisations (such as HMRC) have a specific form which your relative must sign before they will deal with you directly.

Your relative must have the mental capacity to make this decision i.e. they must understand what they are doing.

If your relative does not have the mental capacity to make the decision then they cannot authorise the organisation to give you access to their information. However, as described below, there are other ways that you can obtain the information that you need.

Becoming your relative's appointee

If your relative cannot manage their own benefits or finds it difficult to do so (for example because they find it hard to fill in forms or manage financial information) then you can apply to the DWP to become their appointee. As the person's appointee you can claim and manage your relative's benefits on their behalf. You would also be able to access information from the DWP in relation to your relative and their benefits. The link below gives more information on how to apply to become your relative's appointee:

<https://www.gov.uk/become-appointee-for-someone-claiming-benefits>

Power of attorney

If you are granted a power of attorney then you can act and access information on another person's behalf. The person granting the power of attorney has to have the mental capacity to understand the implications of what they are doing and the power will only come into effect in specific circumstances such as when the person is out of the country – for an ordinary power of attorney; or if the person loses their mental capacity to make certain types of decisions – for a lasting power of attorney.

This link has more information: www.gov.uk/power-of-attorney/overview

Deputyship

If a person does not have the mental capacity to grant a power of attorney then the Court of Protection can appoint a deputy to make decisions and receive information about a person on their behalf.

There are two types of deputies. A financial affairs and property deputy who deals with a person's finances, such as bills, benefits and pension; and a personal welfare deputy who deals with decisions concerning and person's health and personal welfare.

You have to apply to the Court of Protection to become a deputy. The Court will assess your suitability to be a deputy before appointing you.

There are fees associated with being a deputy which can be deducted from your relative's bank account, or there are certain exemptions depending on your circumstances.

www.gov.uk/become-deputy/overview

If you have been appointed by the Court of Protection to manage the affairs of a person who lacks capacity, you should be able to access that person's information on their behalf. You will need to provide the organisation with copies of the appropriate paperwork to show that you have the necessary authority.

Information needed in relation to care planning

One of the key principles of the Care Act 2014 is to take a person centred approach to care planning. The statutory guidance says that the individual the plan is intended for, the carer (if there is one) and/or any other person the adult requests to be involved should be involved in the care planning. Where the person lacks capacity to ask the authority to do that, the local authority must involve any person who appears to the authority to be interested in the welfare of the person and should involve any person who would be able to contribute useful information.

Therefore, in accordance with the statutory guidance, as a relative caring for a family member, you should be involved in the care planning process in order to achieve the best outcome for your family member.

Parents with parental responsibility for their children

Parents who have parental responsibility can access personal information on behalf of their children.

What should I do if I have the authority to receive information about my relative but the organisation will not give it to me?

You should show the organisation a copy of your authority to act. If they still do not release the information that you need you can consider making a formal complaint.

If you do not get a satisfactory response from your complaint there may be an ombudsman (such as the local authority ombudsman or the parliamentary and health ombudsman) to whom you can take your complaint further. However, this can be a very long, slow process.

If you have authority to act on behalf of your relative you could consider making a Subject Access Request to get the information that you need from a public organisation. You should write to the organisation in question giving your details, details of your relative and what information you want and in what format. You should receive a response within a month of your request. There may be a cost involved in getting the information (e.g. photocopying charges) and they should tell you what that charge will be. The link below gives you more information about making a subject access request.

<https://ico.org.uk/your-data-matters/your-right-of-access/>

If you are the parent of a child then you can make a Freedom of Information Request on their behalf. However, if the child understands what it means to make the request and how to interpret the information they receive as a result, the organisation would expect the request to be made by the child.

We hope that you have found this factsheet useful. Whilst you are here, we have a small favour to ask. More people are using our service than ever before. We can't keep up with demand. We don't want to turn people away, and we want to keep on developing more information resources like this factsheet, but we don't have enough money to expand. So you can see why we need to ask for your help. We know that our information and advice can make a real difference to the quality of life of the people we support. If people using our service could help to support us, our future would be much more secure.

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