

# **BRITISH WHEEL OF YOGA ACCESS TO INFORMATION POLICY**

## **POLICY STATEMENT**

The policy aims to ensure members have swift and accurate access to their records according to the legislative framework and according to best practice and standards. It outlines the procedure to be used in response to formal requests for access and gives guidance and clarity on general access issues. The policy governs the access by members to paper records of identifiable personal information held by the British Wheel of Yoga. Access by other professionals including outside agencies are not governed by this policy.

## **LEGISLATIVE FRAMEWORK**

Access to Personal Files Act 1987

## **DEFINITIONS**

A **record** is defined for the purposes of this policy as any accessible, identifiable personal information held by the British Wheel of Yoga. Information held by the British Wheel of Yoga on staff is not included in this definition, unless the staff member is also in contact with the British Wheel of Yoga as a member. In these circumstances the staff member has the same rights to the information as any other member.

## **PRINCIPLES**

### **Access**

The legislation for formal access requests lays down a variety of exclusion clauses and time scales within which the British Wheel of Yoga must act. The British Wheel of Yoga will endeavour to treat every formal request for access speedily and well within the maximum time scales wherever possible. It will also look sympathetically on all requests to access information and will seek to disclose as much information to the member as possible, within the confines and restrictions of the law.

### **Assistance/Advocacy**

Members may want a friend or relative to access their record with them, or delegate the responsibility to an agent. The British Wheel of Yoga will accommodate these requests, provided the member has clearly indicated their wish for the other person to be present or informed.

The British Wheel of Yoga will always offer access to records with the Lead Child Protection Officer (LCPO) to explain the nature of the records and answer any

questions. The member will also be given a copy of the information to which s/he is entitled. If the member wishes to have the copies, without attending a meeting, the copies must be sent out with an accompanying letter explaining any terms which may not be self-explanatory.

### **Disputes**

The member will be provided with an explanation as to the process involved in accessing the records and will be informed how to take further action if s/he is not satisfied with the way the LCPO has handled their request for access.

## **PROCESS**

### **Application For Access**

An application will be made in writing requesting access to the records. All such applications will be **date stamped on receipt** and forwarded to the LCPO, who will **date stamp on receipt**, in order to ensure the British Wheel of Yoga deals with the request within the legal timescales.

### **Acknowledgement**

All requests for access to records will be **acknowledged within 3 working days** of receipt by the LCPO, who is responsible for ensuring this is done. **(What if LCPO away on holiday?)** A standard template will be used for receipt, which states whether or not the British Wheel of Yoga holds personal information.

### **Responsibilities**

It is the responsibility of the LCPO to process an application for access. At any time where there is doubt about the decisions being made, the Chief Executive Officer (CEO) will be consulted. If doubt remains then suitable legal advice will be sought before disclosure or refusal to disclose part or all of the record. It is anticipated that most cases will be straightforward with no need for legal advice.

The British Wheel of Yoga is responsible, through the LCPO, for processing the application for access, ensuring timescales are adhered to and making decisions about disclosure for those parts of the record which originate in British Wheel of Yoga. Decisions about the disclosure of information supplied by a third party are always the responsibility of the third party and not of the British Wheel of Yoga.

### **Alteration of Record**

The information to which access is to be given shall be the information held at the time the formal request is received, subject to the restrictions laid out below. Nothing else must be added or removed from the record once a request is received, other than that which would have been routinely done regardless of the receipt of the request.

### **Identification**

It is the responsibility of the LCPO to satisfy her/himself that the applicant is the member. If further information is needed, either to track down if records are held or to ensure the identity of the applicant, this request for further information will be

sent out with the acknowledgement. At any access meeting arranged it may be necessary for the applicant to bring evidence of identification if they are not known to the LCPO.

### **Application through an Agent**

An individual is allowed to ask another person to view their records on their behalf. In such cases it is of paramount importance to verify that the third person is genuinely authorised by the member. This could be by way of a general authority to act on the member's behalf or a specific authority for this request. A signed statement from the member would be sufficient.

### **Records made before 1 April 1989**

The Access to Personal Files Act gives rights to an individual to access records made after 1 April 1989. However, the British Wheel of Yoga does have the discretion to allow access to records made before 1 April 1989. This is particularly helpful in some instances in order to make sense of records made after 1 April 1989. If the member requests access to records made prior to 1 April 1989, the LCPO makes the decision whether or not to grant access.

## **EXEMPTIONS TO ACCESS**

The British Wheel of Yoga is exempt from supplying access to any part of the record covered by one or more of the exemptions listed below. Any exemption only covers the portion of the record to which it refers. All other information must be disclosed. Sometimes it is sufficient to remove just a small portion of the record in order to comply with the exemptions listed below, or to amend it slightly.

Where some information has been withheld due to an exemption, the British Wheel of Yoga does not have to explain why some of the information has not been given. However, it will usually be sensible to inform the member as it will often be apparent that information has been withheld, and without an explanation the individual may suspect their request has not been properly dealt with.

### **Information supplied by a third party**

Applicants do not have right of access to information supplied by a third party, if the information identifies the third party, unless the third party has given consent. Since April 1998, third party contributors to records have been asked at the time of contribution whether or not they are happy for their information to be disclosed to the customer. Any information supplied since April 1998 held in the main body of the file can be disclosed to the customer without further contact with the third party contributor. Any information supplied since April 1998 stored in the non-disclosable section of the file must not be disclosed to the customer.

For information supplied by a third party prior to April 1998, consent must be sought from the third party before that information is disclosed to the customer. A letter will be sent to the third party **within 14 days** of receiving the request for access.

If consent is refused or if no reply is received from the third party **within 40 days**, then access to the third party section of the record must not be given, but access to all other portions of the record will be given.

**Information that would be likely to cause serious harm, and therefore would be likely to hamper the work of the British Wheel of Yoga or external statutory agency**

If there is any information in the record which would be likely to cause serious harm to the member or to another person, and thereby prejudice the work of the British Wheel of Yoga or external statutory agency, then this portion of the record will not be disclosed. This will not be used as an excuse to withhold information the member may not like, or that the British Wheel of Yoga may be uncomfortable with. The law states it must be likely to cause *serious harm* to the physical or mental health or emotional condition of the individual who is the subject of the information or of any other person.

It can be a difficult decision about whether serious harm will take place if disclosure takes place. The LCPO must consider the consequences for the member if the information is not disclosed. A record must be kept of cases where it has been necessary to withhold access on these grounds. If in any doubt, the CEO will be consulted and if doubt still remains, then legal advice will be taken.

**Information likely to identify information about another person**

If there is any information in the main part of the record, which would identify information about another person if disclosed, it must not be disclosed without permission from the person concerned. The person concerned will be written to **within 14 days** of the receipt of the application for access explaining the request and that there is identifiable information in the member record about him/her. They will be asked whether or not they consent to this information being disclosed to the member. If a reply is not received within 40 days then access must be given. This exemption is designed to protect private individuals from having their privacy invaded. This does not include information about a staff member acting in their official capacity. This does not apply to any individual who has provided for reward a service acting in their professional capacity. This provision cannot be used to conceal information about a person acting in their professional capacity.

**Information which would hinder crime prevention/detection**

If there is any information for which disclosure would be likely to hinder the detection of a crime or crime prevention, then this information will not be disclosed.

**Information that would prejudice apprehension/prosecution of offenders**

If there is any information for which disclosure would be likely to prejudice the apprehension/prosecution of offenders then this information will not be disclosed.

## **TIMESCALES**

The British Wheel of Yoga legally has **40 days** in which to provide access to the records following a request. This can be extended if further information or identification details have to be sought from the member, or if a response is awaited from a third party or individual who has been asked for consent to disclosure. In these cases, the 40 days starts from the date the requested information was received.

Where it is necessary to request further information from a third party or a customer, this will be done **within 14 days** of the receipt of the access request.

If the member does not reply and the British Wheel of Yoga does not have enough information from the member, a reminder will be sent. If there is still no reply, the British Wheel of Yoga will take no further action to release records.

## **CORRECTION AND ERASURE OF INACCURATE INFORMATION**

If a member regards some of the information in her/his record as inaccurate, s/he can request that the information be removed or corrected in the record. Provided the member is clear about what they regard as inaccurate, the British Wheel of Yoga must consider the request. Further details or proof of inaccuracy can be requested. If the LCPO is satisfied that the information is inaccurate, then the inaccurate information must be erased or amended accordingly. This will include amending or deleting any statements, opinions or other notes which appear to have been based on the inaccurate information.

If the LCPO does not agree with the member's view of the inaccuracy, the CEO will be consulted. If the British Wheel of Yoga does not feel sufficient evidence has been produced to satisfy them of the inaccuracy they do not have to alter the record. The LCPO must place within the record next to the disputed information a written note stating that the member considers this information inaccurate. When information has been corrected or erased or a written note inserted, the member must be given a copy of the amended information or written note, and preferably be offered the chance to view the amended record or written note. There must be no charge for this.

## **REVIEW OF DECISIONS**

A member who is dissatisfied with the manner in which the British Wheel of Yoga has handled the request for access, and/or amendment or correction of information, has the right to request the decisions be reviewed. The member must make the request **within 28 days** of being notified of the British Wheel of Yoga's decisions. The Executive will then review the decision/s. The member may make representation in writing to the Executive.

## **CHARGING FOR ACCESS**

The legislation allows that the fee current at the time of request can be charged for access.

## **GIVING ACCESS**

When all checks on identity and exemptions are completed, the LCPO will arrange a meeting to explain the nature of the records and answer any questions. This is particularly important where sensitive information will be accessed. Sufficient time will be set aside for this meeting, which must take place in a suitable environment. The member will be given a copy of the information to which he is entitled. If the member does not wish to attend a meeting, then the copy must be sent out with an accompanying letter explaining any terms, which may not be self-explanatory.

## **ACCESS TO DECEASED PERSON'S RECORDS**

The legislation for paper files only applies to living individuals. When the subject of the record dies, there is no longer any access allowed.

The position with regard to the disclosure of information generally is governed by the principle of Public Interest Immunity, which means that the British Wheel of Yoga has a duty not to disclose information unless authorised to do so by legislation or a Court Order. Therefore, a person wishing to access the personal file of a deceased member would need the authorisation of a Court.

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