

Data Protection Legislation – Individual rights

1. Purpose

1.1 This document sets out our policies on the rights of individuals under Data Protection Legislation. The individual rights covered in this policy are:

- The right to be informed
- The right of access (subject access requests)
- The right to rectification
- The right to erasure
- The right to restrict processing
- The right to data portability
- The right to object
- Rights in relation to automated decision making and processing.

1.2 The General Data Protection Regulation (GDPR) together with the Data Protection Act 2018 (the Data Protection Legislation) sets out the responsibilities of those dealing with personal data and the rights of individuals to access their personal data. All staff (including temporary staff), contractors and any third party working on behalf of the Authority are contractually bound to comply with the Data Protection Legislation and other relevant the Authority policies. The Authority will provide staff with appropriate training so that they are able to comply with their responsibilities under this policy.

1.3 Please send any requests in relation to individual rights or for more information to the Head of Governance.

Suzanne Dodds
Professional Standards Authority
157 – 197 Buckingham Palace Road
London
SW1W 9SP

Or by email to suzanne.dodds@professionalstandards.org.uk

2. Introduction

2.1 Data Protection Legislation gives you the right to confirmation that your data is being processed, to know what information is held about you, how that information is processed, and receive access to this data. It provides a statutory framework to ensure that personal information is handled properly.

2.2 The purpose of allowing access to personal data is so that you are aware of and can verify the lawfulness of the processing.

3. What is personal data

- 3.1 Personal data means any information relating to an identified individual or identifiable natural person (“Data Subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. This includes any expression of opinion about the individual and any indication of the intentions of the Data Controller (i.e. the Authority) or any other person in respect of the individual.
- 3.2 This applies to both information held electronically and manually.

4. Right to be informed

- 4.1 The Authority is committed to being transparent over how we use personal data.
- 4.2 We inform people how we use their personal data through our privacy statement <https://www.professionalstandards.org.uk/privacy-policy> . We may make other information available depending on the circumstances.
- 4.3 Information about how to make a request will be published on the Authority’s website. We will keep under review what other materials may reasonably be made available to inform Data Subjects about how to exercise rights under Data Protection Legislation.

5. Right of access (subject access request)

What is the Authority’s general policy on providing information?

- 5.1 We welcome the rights of access to information set out in the Data Protection Legislation. We are committed to operating openly and to responding all requests for information. We therefore welcome ‘informal’ requests and these may be a quicker and more effective way for you to access particular information. We will explain to you whether we are able to comply with any particular request.
- 5.2 If you wish to make a ‘formal’ subject access request, in accordance with the provisions of Data Protection Legislation, we will provide you with:
- Confirmation that your data is being processed
 - Access to your personal data
 - Other supplementary information, as set out in Data Protection Legislation.

How do you make a right of access (subject access request)?

- 5.3 A subject access request (“SAR”) must be made in writing, we will require you to provide your full name and a contact address (either a postal address or an email address).
- 5.4 In order to ensure that we are able to process your request without delay it may be helpful to provide the following information with your request:
- Your full name, address and contact telephone number
 - Any information used by the organisation to identify or distinguish you from others of the same name (account numbers, unique ID's etc)
 - Details of the specific information you require and any relevant dates.
- 5.5 The Authority recognises that individuals may initially seek to exercise their subject access rights in a range of different ways (including by writing, telephone and email). However, because of the statutory requirement to be satisfied as to the applicant’s identity (and so as to maintain an audit trail in connection with a request), the Authority will ordinarily ask any prospective applicant to provide written confirmation (via email or letter).

Confirmation of Identity

- 5.6 We routinely handle sensitive and confidential Personal Data, the processing and disclosure of which can be repercussive for the individuals concerned. Accordingly, we will not progress a SAR until it is satisfied as to the applicant’s identity. We will routinely ask for copy of a passport, driving licence, bank statement or other proof of identity.
- 5.7 Where the Authority is otherwise satisfied as to the identity of the person making the request (for instance if a request were made by a current employee), we may elect to waive the requirement for the applicant to provide proof of identity. The decision to waive proof of identity will be taken by the Head of Governance.

What is the timeframe for responding to subject access requests?

- 5.8 We will log the date the request was received (and the applicant’s identity confirmed).
- 5.9 We will seek to provide you with the information as soon as possible and not later than one month of receipt. If a request is particularly complex or numerous requests have been submitted we may extend the response time by up to two further months. However, if this is necessary we will contact you within a month of your original request to advise you of this and to explain the reasons why. We will seek to provide as much information as possible as early as possible within that period and may make a ‘staged’ disclosure of information.
- 5.10 We will inform you without delay, and no later than one month after receiving the request, if we do not intend to take action in response to the request, including the reasons why the Authority does not intend to take action in

connection with the request and the right to make a complaint with the ICO or seek a judicial remedy.

What do we do when we receive a subject access request?

Collation of information

- 5.11 We will undertake a reasonable and proportionate search for the personal data requested, in conjunction other relevant staff who will be responsible for assisting the team to locate and extract any relevant personal data.
- 5.12 We will check that we have enough information to find the information you have requested. If we feel we need more information in order to clarify the request, then we will promptly ask you for this.
- 5.13 Where we are processing a large amount of information about you we may ask to specify the information the request relates to.

Issuing our response

- 5.14 Once any queries that the Authority may have around the information requested have been resolved, a copy of the information will be provided to you.
- 5.15 Before sharing any information that relates to third parties, we will where possible anonymise information that identifies third parties unless it is reasonable to disclose that information or we have their consent. Whilst the right under Data Protection Legislation is to “personal data”, rather than documents, we will where appropriate and as a matter of discretion, try to provide you with contextual information or entire documents to help you understand your information.
- 5.16 We will explain any complex terms or abbreviations contained within the information when it is shared with you. Unless specified otherwise, we will also provide a copy of any information that you have seen before.
- 5.17 Where we hold data about a Data Subject, the Authority’s response shall contain the following information:
 - The purpose of the processing
 - The categories of the personal data concerned
 - The recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations
 - Where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period
 - The existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing
 - The right to lodge a complaint with a supervisory authority

- Where the personal data are not collected from the data subject, any available information as to their source
 - The existence of automated decision-making, including profiling, and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject
 - Where personal data are transferred to a third country or to an international organisation, the data subject shall have the right to be informed of the appropriate safeguards pursuant to Article 46 relating to the transfer
 - An explanation of whether and why any exemptions have been applied to the Personal Data we hold.
- 5.18 Any preferences of the data subject will be taken into account in determining the format in which the information is disclosed. Where the request has been made through electronic means (including email), in the first instance we will communicate our response in an electronic format, using PDF or other commonly accessible formats to provide personal data.
- 5.19 Appropriate security measures will be taken to protect data during the course of its disclosure, included encrypted transfer mechanisms. Where possible, the information will be disclosed in a secure, readable electronic format to minimise costs, provide an audit trail, protect the environment, and to promote the security of the information. Any personal data disclosed via hard copy will be sent special delivery or by courier or on an encrypted electronic medium.

Will there be a fee?

- 5.20 Information will ordinarily be provided free of charge.

Are there any grounds we can rely on for not complying with a subject access request?

Exemptions

- 5.21 Once all relevant information has been located, the Governance team will review the data prior to disclosure and will be responsible for deciding whether any exemptions apply under Data Protection Legislation.
- 5.22 In accordance with exemptions provided under the Data Protection Legislation, the authority may not comply with a SAR (in full or in part) in a number of circumstances. These include:
- Where the information sought is mixed data relating to the applicant and another identifiable data subject who cannot be anonymised and the authority does not have the consent of the second data subject to release the information which also relates to them; and it is not reasonable in all the circumstances to disclose the information

- Where the disclosure would prejudice the prevention or detection of crime or the apprehension or prosecution of offenders, tax-collection or similar activities or counter-fraud issues
- Where the disclosure would prejudice regulatory functions
- Where the information comprises Personal Data in respect of which a claim to legal professional privilege could be maintained in legal proceedings
- Where the information comprises Personal Data that consists of the records of the intentions of the Authority in negotiations with the data subject, to the extent that that the disclosure would be likely to prejudice those negotiations
- Where the disclosure would cause serious mental or physical harm to the applicant or another person.

5.23 In assessing whether or not to disclose mixed data without consent, the Authority's starting point shall be non-disclosure. In weighing the extent to which any mixed data should be disclosed, the Authority will have regard to all the circumstances, including but not limited to the statutory factors of:

- The type of information that would be disclosed
- Any duty of confidentiality owed to the other individual
- Any steps taken by the Authority with a view to seeking the consent of the other individual
- Whether the other individual is capable of giving consent
- Any express refusal of consent by the other individual.

5.23 Other exemptions may also apply on a case by case basis.

Manifestly unfounded or excessive requests

5.24 If a request is manifestly unfounded or excessive, particularly if it is repetitive, the Authority can either charge a reasonable fee taking into account the administrative costs of providing the information or refuse to respond to the request.

5.25 Where we refuse to respond to the request we will explain why we have done so and advise of your right to complain to the ICO and to a judicial remedy. We will do this without undue delay and within one month. For more information regarding complaints please see section 14 of this document.

5.26 In deciding whether multiple requests are excessive (or made at unreasonable intervals), and what action to take in consequence, the Authority will consider all the relevant factors, including the following:

- The nature of the data (including whether it is particularly sensitive)
- The purposes of the processing, including whether the processing is likely to cause detriment to the requester
- The frequency with which the data is altered, including whether the data is likely to have changed or been altered since the previous request

- The time that has elapsed since the previous request;
- The volume of information involved
- Any reasons given by the applicant for wanting the same information again
- Whether the information would be disclosable through other channels.

5.27 A record shall be kept of the Authority's decision making, and this explanation will be given to the applicant. The applicant may ask for a review of the decision.

6. What if you identify an error in our records (the right to rectification)?

6.1 If we agree that the information is inaccurate or incomplete, we will rectify it and where practicable, destroy the inaccurate information. Please note that a difference in opinion or interpretation is not the same as an inaccuracy, but we may record your disagreement with the data in question.

6.2 If we have disclosed the personal data in question to a third party we will inform the third party of the rectification unless this is impossible or involves disproportionate effort. On request we will inform you of any third party recipients.

6.3 We will respond to any request for rectification within one month although we reserve the right to extend this by two months where the request is particularly complicated.

6.4 If we do not agree the information is inaccurate or we cannot delete the information, we will make a note of the alleged error and keep this on file. We will also explain why this is the case and advise of your right to complain to the ICO and to a judicial remedy. We will do this without undue delay and within one month. For more information regarding complaints please see section 14 of this document.

7. What if you want the Authority to stop processing your data and delete it (the right to erasure)?

What is the right to erasure

7.1 The right to erasure is also known as the 'right to be forgotten'. This is effectively the right to request the deletion or removal of your personal data where there is no compelling reason for the Authority to process (or continue to process it).

When does it apply

7.2 The right to erasure is not an automatic 'right to be forgotten' and your right to erasure only applies in certain circumstances. The circumstances to which it may apply are as follows;

- It is no longer being necessary for the purposes it was originally collected
- Where the Authority is relying on consent for processing and you withdraw this consent

- Where you object to the processing of your personal data and there is no overriding legitimate interest to continue with the processing
- The personal data was not processed in line with Data Protection Legislation and is therefore unlawful
- Erasure is necessary to comply with another legal obligation
- The personal data is processed in relation to the offer of information society services to a child (e.g. feedback collated via our twitter account).

Situations where the Authority may refuse to consider a request

7.3 There are certain circumstances where the Authority may refuse to comply with a request. These may include the following:

- To exercise the right of freedom of expression and information
- Where the information is needed to comply with a legal obligation or public interest task
- Where the information is for public health tasks in the public interest
- Where the information is for archiving for public interest or research purposes
- Where the information is held for defending legal claims.

How to apply

7.4 Should you wish to make such a request you should send us the request in writing. When we receive the request, we will send you written notice that either we have complied with your request, intend to comply with it or state the extent to which we will comply with it and why as soon as possible.

7.5 While the right to erasure is not limited to circumstances where processing causes unwarranted or substantial harm, it would help our considerations if you could provide details of any harm you believe it is or may cause when making your request.

7.6 Special care and consideration will always be given in relation to children's personal data and we may take legal advice when receiving such a request.

7.7 If we have disclosed the personal data in question to a third party we will inform the third party of the erasure unless this is impossible or involves disproportionate effort. On request we will inform you of any third party recipients.

8. What if you want the Authority to restrict the processing your data (the right to restrict processing)?

When does it apply

8.1 You also have a right to ask us to block or restrict processing of your personal data in some circumstances:

- Where you contest the accuracy of the personal data, we will restrict processing of this data until we can verify the accuracy

- Where you object to the processing and we require time to consider whether the legitimate grounds for processing overrule this objection
- Where the processing is unlawful but you oppose erasure and request restriction instead
- Where we no longer require the personal data but you require it for another purpose such as to defend a legal claim.

What we will do

- 8.2 Where we restrict the processing your data we will continue to store it but will not process it further.
- 8.3 We will hold a log with the minimum amount of information necessary to ensure that we continue to be able to restrict the processing in future for example where we are required to back up the system we may need to check our records to ensure no information is inadvertently added back onto mailing lists etc.
- 8.4 If we have disclosed the personal data in question to a third party we will inform the third party of the restriction unless this is impossible or involves disproportionate effort. On request we will inform you of any third party recipients.
- 8.5 If we decide to lift the restriction for any reason we will inform you in writing.

9. The right to data portability

What is the right to data portability?

- 9.1 The right of data portability is the right to request your information to reuse for your own purposes in a different environment. It effectively allows you to transfer your personal data from the Authority's IT environment to that of another organisation, securely and without hindering its usability.
- 9.2 In relation to the Authority's work it will be very rare for the right of data portability to apply.

When does it apply

- 9.3 The right to data portability applies where;
- You have provided the information to us
 - The processing is based on your consent (or for the performance of a contract)
 - When the process is carried out by automated means.

What we will do

- 9.4 Where you meet the requirements, we will provide your data free of charge, in a commonly used and machine-readable form.
- 9.5 We will provide the information within one month of your request except where your request is particularly complex or numerous requests have been submitted. In this case we may extend this by up to two further months.

However, if this is necessary we will contact you within a month of your original request to advise you of this and to explain the reasons why.

- 9.6 Where we are not taking any action in relation to your request we will write to you within a month to explain why and inform to of your right to complain (more information about how to complain can be found in section 14 of this document).
- 9.7 Where the data includes personal data relating to another party we will consider whether providing this data breaches their rights.

10. How to object to the Authority's processing of your personal data (the right to object)?

What is the right to object?

- 10.1 You have the right to object to any processing based on legitimate interests, the performance of a task in the public interest or exercise of official authority or processing done for the purposes of research, or direct marketing
- 10.2 See our privacy notices or contact us for more information on the basis for processing.

Objecting on the grounds of legal tasks or the Authority's legitimate interests

- 10.3 Your objection must be on 'the grounds of your particular situation', please specify what this is when you make the request in order to help us to respond to your request.
- 10.4 We will stop processing the personal data unless:
- We have legitimate grounds for the processing, which override the interests, rights and freedoms set out in your request
 - The processing is for the establishment, exercise or defence of legal claims.

Objecting on the grounds of legal tasks or research purposes

- 10.5 Your objection must be on 'the grounds of your particular situation', please specify what this is when you make the request in order to help us to respond to your request.
- 10.6 Where the data processing is necessary for the performance of a public interest task we will consider whether it is necessary to continue processing it despite the objection.

Objecting on the grounds of direct marketing (newsletters etc)

- 10.7 We will stop processing your personal data on the grounds of direct marketing as soon as you request this.

What we will do

- 10.8 We will respond to your request within one month except where your request is particularly complex or numerous requests have been submitted. In this case we may extend this by up to two further months. However, if this is necessary

we will contact you within a month of your original request to advise you of this and to explain the reasons why.

- 10.9 Where we are not taking any action in relation to your request we will write to you within a month to explain why and inform to of your right to complain (more information about how to complain can be found in section 14 of this document).
- 10.10 Where the data includes personal data relating to another party we will consider whether stopping processing providing this data breaches their rights.

11. Rights related to automated decision making.

- 11.1 The Authority does not engage in “automated decision making”, which means decisions made about you solely by automatic means without any human involvement at all.

12. Checking of identity when we receive an individual rights request?

- 5.17 We will first check that we have enough information to be sure of your identity.. Where the Authority is otherwise satisfied as to the identity of the person making the request (for instance if a request were made by a current employee), we may elect to waive the requirement for the applicant to provide proof of identity. However, if the Authority is not satisfied as to the identity of the requester it will take reasonable steps to identify the requester.
- 12.1 If an information request is received from a third party, the Authority will take whatever steps it considers reasonable to satisfy itself that the third party has the appropriate authority to make the request.
- 12.2 If you are the parent/guardian of a child, we will need to consider whether the child can provide their consent to you acting on their behalf.

13. Audit and record meeting

- 13.1 The authority will maintain records of:
- The requests it receives;
 - the ‘raw’ products of any searches undertaken;
 - a master audit/redacted copy of the information proposed for disclosure;
 - any correspondence with/the final response given to the applicant; and
 - any advice or other records received or prepared in the course of handling the request.

14. Our complaints procedure

- 14.1 If you are not satisfied with the way we have dealt with your individual rights request or any other action in relation to this policy you can seek recourse

through our internal complaints procedure, the Information Commissioner or the courts.

- 14.2 The Chief Executive will deal with any written complaint about the way a request has been handled and about what information has been disclosed. The Chief Executive can be contacted at:

The Professional Standards Authority
157 – 197 Buckingham Palace Road
London
SW1W 9SP
Telephone: 0207 389 8030
Fax: 0207 389 8040

- 14.3 If you remain dissatisfied, you have the right to refer the matter to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545 745
Fax: 01625 524 510
Email: [enquiries @ico.gsi.gov.uk](mailto:enquiries@ico.gsi.gov.uk)

Version Control

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|---------|----------|--|----------------|
| 1.0 | Draft | Data Protection Act – Individual Rights Policy | 24/04/2018 |
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