

Subject Access Requests

The Data Protection Act 1998 gives rights to individuals in respect of the personal data that organisations hold about them. One of those rights is the right to get a copy of the information that is held about you. This is known as a ‘subject access request’.

The right of subject access basically means that you can make an information request under the Data Protection Act 1998 (DPA 1998) to any organisation that controls how and why your personal data is processed. Under the DPA 1998, these organisations are called **data controllers**. You can find out whether an organisation is a data controller by checking their privacy policy (which you might find on their website, for example), or otherwise by simply asking them.

What is personal data?

Personal data means information that relates to an identified, or to an identifiable, living individual. This catches quite a broad category of information, and includes information such as your name, address, medical history and identification number.

Political opinions, sexual life, medical history and conviction history fall into a different category. This category is “sensitive personal data”. There are stricter rules in relation to sensitive personal data due to their nature.

Information relating to the following are considered sensitive personal data under section 2 DPA 1998:

- race or ethnic origin;
- political opinions;
- religious beliefs or other beliefs of a similar nature;
- trade union membership;
- physical or mental health or condition;
- sex life;
- commission or alleged commission of any offence; and,

- proceedings for any committed or alleged offence, the disposal of such proceedings, or the sentence of any court in such proceedings.

What information would I be entitled to?

You are entitled to be:

- told whether personal data is being processed;
- given a description of the personal data, the reasons it is being processed and whether it will be given to any other organisations or people;
- given a copy of the personal data; and
- given details of the source of the data (where this is available).

You can also request information about the reasoning behind any automated decisions taken about you, such as a computer-generated decision to deny credit.

Can I access personal data on someone else's behalf?

It is possible to make a request on someone else's behalf, e.g. where a solicitor is acting on behalf of a client. However in this case the organisation will need to satisfy itself that you the individual's permission to act on their behalf. This evidence could, for example, take the form of a power of attorney, and it is your responsibility to provide this evidence.

Can I access personal data about my child?

Information about children may be released to a parent or another person with parental responsibility. However, the best interests of the child should always be considered. Even if a child is very young, data about them is still *their* personal data and does not belong to anyone else. So it is the child who has a right of access to the information held about them, even though in the case of young children these rights are likely to be exercised by those with parental responsibility for them.

Therefore as only the child has a right to access personal data about himself/herself, before responding to a request for information held about a child, organisations will need to consider whether the child is mature enough to understand their rights. If the organisation is confident that the child can understand their rights, then it will respond to the child rather than to the parent or person who has parental responsibility.

Do I have to pay to access my personal data?

Organisations may charge a fee of **up to £10** (£2 if it is a request to a credit reference agency for information about your financial standing only).

There are special rules that apply to fees for paper-based health records (the maximum fee is currently £50) and education records (a sliding scale from £1 to £50 depending on the number of pages provided).

Can an organisation refuse to provide me with information?

Yes, not all personal information is covered by the right of subject access. The DPA 1998 contains some circumstances where the organisation can refuse to provide you with the information that you have requested, or where it can limit the information that it provides to you – e.g. where the information you have asked for contains information that relates to another person.

The DPA 1998 states that an organisation does not have to comply with a request if to do so would mean disclosing information about another individual who can be identified from that information, except where:

- the other individual has consented to the disclosure; or
- it is reasonable in all the circumstances to comply with the request without that individual's consent.

Your subject access rights apply in respect of personal information that is:

- i. held, or going to be held, on a computer;
- ii. is in, or going to be in, a highly structured manual filing system that allows for easy retrieval of data;
- iii. is in most health, educational, social services or housing records; or
- iv. is other information which is held by a public authority.

How do I make a Subject Access Request?

1) Plan Ahead

- Try to find the right department or the right person to send the request to as this will save time later. Calling an organisation's helpline or checking their privacy notice or policy on their website may help.
- Check any applicable costs or fees in advance.
- You should make sure that you know all the information you need when making a request – organisations are allowed to charge for every request made to it so it's better to avoid multiple requests if you can!

2) Write to the organisation

- A Subject Access Request must be made in writing. This can be done by sending a letter, email, fax or even on social media (such as Twitter or Facebook) . Sometimes a data controller may ask you to submit your request via a specific type of form, but they cannot insist that you use this, because under the DPA your request will be valid as long as it is in writing.
- When requesting your personal data from an organisation, you should include the following information:
 - Your full name, address and contact telephone number.
 - Any information used by the organisation to identify you from others of the same name – e.g. account number, unique ID, etc.
 - Details of the specific information that you are requesting, and any relevant dates – your medical records, copies of bank statements held in account number xxx, emails between certain dates, copies of CCTV footage from a particular camera, etc.
 - If you have a disability that means you require the information in a specific format that is accessible to you (such as Braille, large print or audio format), make this clear in your request.
 - If you are making a subject access request on someone else's behalf, evidence to show that you are authorised to make that request – you will have to decide what

would be the most appropriate evidence, on a case-by-case basis. Some examples of documents that could be relevant are: a power of attorney or, if you are requesting information about a child, the child's birth certificate, your marriage certificate, or a court order relating to parental responsibility.

- In the UK, the data protection regulator is called the **Information Commissioner's Office** (or **ICO** in short). The ICO has provided some examples of letters or emails that you could use to make a subject access request. These examples are available here: <https://ico.org.uk/for-the-public/personal-information/>

3) Keep copies and proof of receipt

- It is always best to send your request by recorded delivery or by email. You should keep a copy of the request and all other correspondence. This will be important evidence if you later need to complain to the Information Commissioner's Office, for example, if the organisation does not respond to your request promptly or fully.

How soon can I get hold of my personal data?

The organisation needs to respond to your subject access request within 40 days. The 40 day period starts either on the date that the organisation receives the request or, if later, the day on which it receives:

- a) the fee (if one is required);
- b) any requested information about your address; and
- c) any information requested to confirm your identity.

The organisation should give you the information in writing. However, it does not have to do this where it is not possible to provide you with the information in writing, if it takes 'disproportionate effort' to do so, or if you agree to receiving the information in some other form (such as seeing it on screen). The ICO has said that the following should be taken into account when considering whether it would take disproportionate effort to give you the information in writing.

- the cost of giving you the information;

- the length of time it will take;
- how difficult it will be;
- the size of the organisation; and
- the effect on you of not having the information in permanent form.

What can I do if the organisation doesn't respond?

If the organisation has not responded to your request within 40 days, you should write to them to remind them of your request and their legal obligations.

If you think that the organisation has withheld some of your personal information that you are entitled to, you should contact them with your concern. Make sure you state the information you think is being withheld. You can find an example letter from the ICO's website.

If you have contacted the organisation and still have not received an appropriate response from it, you can report the matter to the ICO by:

- Reporting your concern through its website: <https://ico.org.uk/concerns/>
- Contacting the ICO via its [live chat service](#) or
- Calling its helpline on 0303 123 1113

Note: The information in this leaflet reflects the position under the Data Protection Act 1998. From 25 May 2018, the new EU General Data Protection Regulation will come into force. The information in this leaflet may therefore need to be updated to reflect these changes to the law.