



## **GDPR Data Access Request Guidance**

### **Introduction**

The General Data Protection Regulations 2018 (GDPR) provides eight rights for individuals; one of these is the Right of Access:

- Individuals have the right to access their personal data and supplementary information
- The right of access allows individuals to be aware of and verify the lawfulness of the processing.

### **What information is an individual entitled to under GDPR?**

Under the GDPR, individuals will have the right to obtain the following information:

- Confirmation that their data is being processed
- Access to their personal data
- Other supplementary information – mostly the information that is provided in a privacy notice.

In cases where large amounts of data are being processed about an individual, the GDPR permits an organisation to ask the individual to specify the information the request relates to.

## Subject Access Data Request Methods

An individual should be able to exercise their right to access data easily and at reasonable intervals.

Any written request for information can be a subject data access request. A request can be received electronically as well as in permanent form. If an individual has made the request electronically, the information requested can be sent via the same electronic method.

A template form is attached to this brief for labour providers to give to individuals to use who want to make a subject access request. Labour providers that want to use this form should ensure that it is included in their privacy notice.

It is important to note that organisations cannot insist that an individual use a standard form. However, individuals can be encouraged to use a standard form so that their request can be handled quickly and efficiently.

## Can a fee be charged for dealing with a subject access request?

Copies of the information requested must be provided **free of charge**.

A reasonable charge can be made in following circumstances:

- A request is manifestly unfounded or excessive, particularly if it is repetitive
- Requests for further copies of the **same** information (administrative costs of providing the information only)

## How much time is allowed to provide the information?

Information must be provided without delay and at least within 30 days of receipt of the request.

This can be extended by a further two months where requests are complex or numerous. In these cases, the individual must be informed within one month of receipt of the request and explain why the extension is necessary.

## Requests that are manifestly unfounded or excessive

In addition to making a reasonable charge, you can refuse to respond. However, an explanation of why must be given to the individual and they must be informed of their

right to complain to the supervisory authority and to a judicial remedy without undue delay and at least within one month.

## **How should the information be provided?**

In the first instance, verify the identity of the person making the request using “reasonable means”.

Information can then be provided as follows:

- If the request was made electronically, then the information may be provided in a commonly used electronic format
- GDPR includes a best practice recommendation for organisations to provide remote access to a secure self-service system, which would provide the individual with direct access to his or her information. This will not be possible for all organisations.

The right to obtain a copy of information or to access personal data through a remotely accessed secure system should not adversely affect the rights and freedoms of others e.g. relating to trade secrets, intellectual property and copyright protecting software. However, this should not lead to the refusal to provide all information to an individual.

# Ten steps to manage a Subject Access Request

## Step 1: Is it a subject access request?

Any written (electronic or permanent form) request by an individual asking for their personal information is a subject access request and must be responded to within 30 days of receipt.

## Step 2: Do you have enough information to be sure of the requester's identity?

Ask the requester for any evidence you reasonably need to confirm their identity.

## Step 3: Do you need more information from the requester to find what they want?

Ask **promptly** for other information you reasonably need to find the information they want. If you process a large amount of data on the individual, ask them to specify the information the request relates to.

## Step 4: Is the request manifestly unfounded or excessive?

Review the request and identify if there are any reasons why the request may be unfounded or excessive. Is this a repetitive request? If you decide it is unfounded or excessive, you don't need to respond to the request but you must inform the individual of why you are not responding and their right to complain.

## Step 5: Do you have the information the requester wants?

If you don't have the information, tell the requester you don't have it.

## Step 6: Will the information be changed between receiving the request and sending the response?

You can still make routine amendments and deletions to personal information after receiving a request. You must not make changes as a result of receiving the request, even if the information is inaccurate or embarrassing.

## Step 7: Does it include information about other people?

You will not have to supply the information unless the other people mentioned have given consent for the disclosure, or it is reasonable to supply the information without consent. If you decide not to disclose other people's information, you should still disclose as much information as possible by redacting the references to them.

## Step 8: Are you obliged to supply the information?

You must supply all the information covered by the GDPR. If access is via a remote secure system, this should not adversely affect the rights or freedoms of others. You should not refuse to provide all information to the individual.

## Step 9: Does the information include any complex terms or codes?

You must make sure that you explain the terms and codes so that the information can be understood.

## Step 10: Prepare the response

You must provide a copy of the information in a format that can be accessed by the individual. This can be electronic or through remote access to your system. If this is not available, then it can be provided in permanent form.

