

SUBJECT ACCESS REQUEST

Guidance for Academies

Issued: April 2018
Next Review Due: July 2019

Introduction

The General Data Protection Regulations (the legislation), provides individuals the right of subject access to information about themselves. It does not give a right of access to information about anyone else - unless it is a parent acting on behalf of a child, for example.

It is important that the Data Controller ensures that third party information is removed from the record prior to release to the applicant (data subject) unless the third party has given their consent to the release of the information.

What is a subject access request?

The legislation ensures transparency of processing personal data by obliging data controllers to explain to individuals how their data will be processed and the right of data subjects to access that information.

A data subject may make a formal request to any organisation to have a copy of all data in which that person may be identified. There is a need for transparency of processing to ensure that individuals can identify those organisations which have access to and process their data. This enables them to understand how their personal information is to be used and to exercise their rights over the processing of that information.

The importance of the right of subject access in Data Protection law cannot be overestimated; it is often only by exercising the right to see their information that individuals can determine whether other breaches of legislation have occurred. Data subjects are often interested in documentation which may be about them, but they have not seen.

Because of the importance of the subject access rights, complaints about an organisation's failure to comply with a request for subject access are taken very seriously by the Information Commissioner. Such complaints are dealt with as a matter of priority and may often lead to a full-scale investigation into an organisation's procedures and practices.

What is a valid subject access request?

It must be in writing though reasonable adjustments should be made if a disabled person finds it impossible or unreasonably difficult to make a subject access request in writing. A request sent by e-mail or fax is as valid as one sent in hard copy.

It must request access to their personal information (held either manually or electronically) and not to information relating to other people.

If a request does not mention the GDPR specifically or even say that it is a subject access request, it is still valid and should be treated as such if it is clear that the individual is asking for their own personal data.

It may be restricted to only limited information (but need not be).

It must be made by the data subject (or by a person authorised by the data subject). The Trust and all of its academies will take reasonable steps to verify that the person making the subject access request is the data subject (e.g. ID verification check).

A copy of the information held on a data subject must be provided free of charge, however the Trust withholds the right to charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if repetitive.

The Trust may also charge reasonable additional fees for further copies of the same information. This does not mean however that the Trust can charge for subsequent access requests.

It must be complied with within one month from the date of receipt of the request. The Trust holds the right to extend the period of compliance by a further two months, where requests are complex or numerous. If this is the case, you must inform the individual within one month of the receipt of the request and explain why the extension is necessary.

Finding and Checking the Requested Information

If an employee receives a subject access request for information it is important that they do not respond to the query direct, but instead liaise immediately, with the Data Protection Coordinator who will manage the agreed process within the one month window:

- Check the validity of the request and if necessary will send the request form for completion and/or validation information request and/or request for fee
- Log details and acknowledge receipt of the request and fee
- Pass details to Data Protection Coordinator so they can contact the relevant Manager to provide all data each department is holding on the individual and confirms response date.
- Each department checks records. These include manual records, system information, audiotapes and archive data (if required) and CCTV data (if required)
- Once each department responded by forwarding the relevant data to the Data Protection Officer, the data will be checked in line with this policy. All the requested information should be printed out or photocopied and will be sent to individual with a covering letter by special delivery/photocopied and will be sent

Denial of Access

The Trust may refuse a subject access request when a request is manifestly unfounded or excessive, particularly if repetitive.

If you refuse to respond to a request, you must explain why to the individual, informing them of their right to complain to the supervisory authority (Information Commissioners Office) and to a judicial remedy without undue delay and at the latest within one month of receipt of the request.

Exemptions

The Trust has to protect the legal rights of other individuals when responding to a subject access request including trade secrets or intellectual property. The consideration of the decision should not be a refusal to provide all information to a data subject. Where the data controller processes a large amount of data regarding the subject, it is reasonable to request that the subject specify the information and processing activities to which the request relates.