



A Guide to Subject Access Requests

(including request form)

A Guide to Subject Access Requests

What is a Subject Access Request ?

A Subject Access Request, or SAR, is a request made under the provisions of the Data Protection Act 2018 to a company or organisation asking for personal data that they hold and process. For the personal data to fall within the scope of an SAR it must be processed and stored within (or intended to form part of) a filing or structured system. Please note, that personal data is not available under the Freedom of Information Act 2000¹.

What is Personal Data?

For information to be personal data, it must *relate* to a living individual and allow that individual to be *identified* or *identifiable* from it (either on its own or in conjunction with other information). So, for the purposes of an SAR in accordance with the Data Protection Act 2018 (DPA) (and the General Data Protection Regulations (GDPR)), PA 2018, personal data is classified as:

- a) **Information...**
- b) ...which **relates** to...
- c) ...an **identified** or **identifiable**...
- d) ...**living person**...
- e) ...Processed within a **filing system** (or by automated means).

Rights of access

The right of access gives individuals (known as the data subject) the right to obtain *their* own personal data from an organisation. It helps the individual to understand how and why an organisation is processing their data, and that they are doing so lawfully.

What information is an individual entitled to?

An individual is entitled to be:

- Told whether any 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).

Is any information exempt from subject access?

Yes. Subject access does not give an automatic right to unfettered access. Some types of personal data are *exempt* from the right of access and so cannot be obtained by making an SAR. Information may be exempt because

¹ See also, A guide to Information Requests.

of its nature or because of the effect its disclosure is likely to have. For example (but not limited to):

- National security;
- The prevention, investigation, detection or prosecution of criminal offences;
- The protection of judicial independence and judicial proceedings;
- Legal Professional Privilege (Advice and Litigation)²

There are also some *restrictions* on disclosing information in response to an SAR, for example where it is necessary to protect the rights of others. You are not entitled to the personal data of another individual and the DPA 2018 states that an organisation does not have to comply with a request if in doing so it would be disclosing information about another individual. This helps an organisation protect your personal data!

It should also be noted that subject access provides a right for the requester to see their *own* personal data, rather than a right to see copies of documents that contain their personal data. Blanket requests for entire files are, for the above reasons, unlikely to be successful under an SAR. Often, the easiest way to provide the relevant information is to supply copies of original documents, but an organisation is not obliged to do this.

Article 12(5) GDPR states that requests can also be refused if considered vexatious, manifestly unfounded or excessive, or repetitive in nature. This will need to be demonstrated by the organisation and a refusal notice sent.

Further details of exemptions can be found at Part 4 - Chapter 6, and Schedule 4 & 11 of the DPA 2018 and Article 12 and 23 of GDPR.

How to make a Subject Access Request to the CCRC

Please note that if you are requesting the return of material that you have submitted to the CCRC in support of your application you do not need to submit a Subject Access Request. You do this by writing to your Caseworker.

Consideration should be given to what personal data you are interested in before submitting a subject access request. Multiple requests received in close succession can lead to confusion, delay and possible consideration under Article 12(5) GDPR.

Although requests can be made verbally, the CCRC prefers that your request be made in writing, stating that you are requesting your personal data in accordance with DPA 2018. This will help to ensure that your request is quickly identified as such, and that we have a clear record and understanding

² Privileged communications between lawyers and their clients (and possible third parties for the purposes of litigation) would not generally be disclosable to the Court, and are therefore not disclosable in response to an SAR.

of what you are requesting. This should be addressed to the Information Team. You can also e-mail DPO@ccrc.x.gsi.gov.uk

You should make sure that you provide all the necessary information for us to be able to identify you, and locate the relevant information that you are seeking.

Wherever possible, make your request specific. If you are looking for something in particular, tell us. This will help us to respond in a timely manner, reduce the need for any clarification or duplication, and ensure that the information provided is what you are looking for.

You could use the attached form found at the end of this document. It is *not* necessary to submit your request on this form, however, doing so has the following benefits:

- It makes your request clearly identifiable as an SAR, ensuring it is quickly passed to the correct department for processing;
- It will help ensure that you provide all the necessary information for us to be able to effectively deal with your request;
- It will help frame your request so that is more likely to result in the information that you are looking for;
- It will help to keep SAR correspondence separate from you casework correspondence to avoid confusion, and ensure that both are effectively and appropriately dealt with;

Making a request on behalf of someone else

Under the DPA an individual can make a subject access request via a third party. Often, this will be a solicitor acting on behalf of a client, but it could simply be that an individual wants someone else to act for them. In these cases, an organisation *must* be satisfied that the third party making the request is entitled to act on behalf of the individual, and it is the third party's responsibility to provide evidence of this entitlement. Written authority (or power of attorney) will be sought, and you should provide this with your request.

Responding

Responses should be provided without undue delay, and in any event within 1 month from the date of receipt. An organisation can extend the response time up to a further 2 months in cases where the SAR is complex, numerous or undefined. This should, however, be communicated and justified to the requester as soon as possible and within the initial 1 month deadline.

Providing personal data is free of charge. In cases where the request is manifestly excessive, or a repeat request for the same information, a reasonable charge can be made (or refused as previously discussed). In these circumstances the requester will be informed of any charges, and the reason for them, in advance of the full response being made.

If deciding not to comply with a request, the organisation must provide reasons for the non-compliance. They should also inform the requester of their right to seek an internal review of that decision, and subsequently the ability to make a complaint to the Information Commissioner's Office (ICO).

Redacting and Pseudonymisation

Material or information provided in response to an SAR may be redacted, or pseudonymised. This may be done for several reasons. It will often involve the removal of personal data in relation to other individuals, or information that would make them identifiable. It is to ensure that the rights of others are protected, whilst allowing an organisation to respond as fully in response to an SAR as possible. It may also be that parts of the information are exempt from disclosure under an SAR, and by redacting it the rest of a document or information can still be disclosed.

If dissatisfied with your response

If you have any questions, if you disagree with our decision or are otherwise unhappy with how we have dealt with your request, in the first instance you may approach the Commission's Data Protection Officer (DPO) for an internal review. Your request for an internal review should be made in writing within 40 working days of the date of the response in question and addressed to;

Data Protection Officer
Criminal Cases Review Commission
5 St Philip's Place
Birmingham
B3 2PW

or e-mailed to DPO@ccrc.x.gsi.gov.uk.

Any requests received after this time will only be considered at the discretion of the DPO.

A review of how we have dealt with your request will be carried out by another member of the information team who has had no dealings with your original request.

Should you remain dissatisfied with the outcome, you can contact the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, SK9 5AF, enquiries@ico.gsi.gov.uk

Subject Access Request Form

DPA 2018 / GDPR

This form should be passed to the Information Team

1. Applicant Details (Data Subject):

Title (please tick one)	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other <input type="checkbox"/> If other please state:
Name (Full name)	
CCRC reference number (if applicable)	(for example 01234/2018)
Date of Birth	
Current address	
Preferred contact method (please tick one)	Post <input type="checkbox"/> Address if different from above:
	Post will be sent recorded delivery and will require a signature.
	E-mail <input type="checkbox"/> Address:
	The CCRC will send attachments password protected. The password will be sent separately on confirmation of receipt. Please note that information sent via e-mail may still not be secure if sent to an unsecured e-mail address.
	Please tick to indicate that you understand and accept this <input type="checkbox"/>
	Telephone <input type="checkbox"/> Number:
	Please note that information will <u>not</u> be provided or discussed via telephone.

2. Details of information required:

Please provide details of the information you are looking for, it will assist if you can be specific. Attach an additional sheet if necessary. Please note that if you are requesting the return of material *that you have submitted* to the CCRC in support of your application you do not need to submit a Subject Access Request. You can do this by writing directly to your Caseworker.

