

GUIDANCE ON SUBJECT ACCESS REQUESTS

1. Under the GDPR an individual (**Data Subject**) has the right to obtain from the Data Controller confirmation as to whether or not personal data concerning him or her is being processed. Where that is the case, the Data Subject is entitled to access to that personal data and certain information as follows;
 - the purposes of the processing
 - categories of personal data concerned
 - the recipients or categories of recipients to whom the personal data have been or will be disclosed (particularly recipients in other countries or international organisations)
 - where possible the period for which the personal data may be stored or, if that is not possible, the criteria used to decide that period
 - the existence of the right to request, from the Data Controller, rectification of the data or erasure of the data or restriction on processing of the data or to object to the processing
 - the right to lodge a complaint with the ICO
 - where the personal data has not been collected from the Data Subject, any available information as to the source of that data
 - the existence of any automated decision making and information about that decision making
2. If personal data is transferred to a third country or to an international organisation the Data Subject is entitled to be informed about the appropriate safeguards which have been made relating to the transfer.
3. The Data Controller has to provide a copy of the personal data which it is processing (i.e. a copy of all of the personal data about the Data Subject which it holds).
4. The Data Controller is not allowed to charge a fee for the provision of information in response to a Subject Access Request. If the Data Subject requires further copies of the personal data then the Data Controller can charge a reasonable fee based on the administrative costs of providing the further copies.
5. Where the Data Subject makes the Subject Access Request by electronic means (and unless the Data Subject requests otherwise) the information is to be provided in a commonly used electronic form.

6. The Data Controller must respond to a Subject Access Request within one month¹ of receipt of the request. It may be possible to extend the period but the Data Controller should not rely on that.
7. Where requests from a Data Subject are manifestly unfounded or excessive (especially if they are repetitive) then the Data Controller can either charge a reasonable fee for the administrative costs and providing the information or refuse to act on the request. However it is the Data Controller who has to prove that the request was manifestly unfounded or excessive.
8. If the Data Controller has reasonable doubts about the identity of the person making the Subject Access Request then they are entitled to request additional information to confirm the identity of the individual.
9. An individual is only entitled to personal data about himself or herself. Therefore, if the personal data include information about someone else, the Data Controller will need to redact that information before supplying the personal data to the individual making the subject access request or may be able to decline to provide that data.
10. If responding to a Subject Access Request may involve providing information which relates to the individual making the request and someone else i.e. a third party then the Data Controller does not have to comply with the request if to do so would mean disclosing information about the other individual who can be identified from the information. Material qualifies as third party information either if the other person can be identified as the source of the information, or if they are just included in it e.g. as a witness; and if you have any reason to believe that the Data Subject could identify the other person. However, third party material is not automatically excluded. You do have to provide the information about the other person if:
 - that person has given their consent; or
 - it is reasonable to go ahead without their consent.

In deciding whether it is reasonable to go ahead without consent, you have to take account of:

- any duty of confidentiality you owe to the other person;
- anything you have done to try and get their consent; □ whether they are able to give consent; □ whether they have refused consent.

¹ This can be extended by a further two months where the request is complex or where there are numerous requests. If this is the case, the Data Subject must be contacted within one month of the receipt of the request and explain why the extension is necessary. However, there may not be many cases where the extended period can be used by clubs and associations and the ICO is unlikely to be sympathetic to Controllers using the extension except in exceptional circumstances.

Material that is subject to legal professional privilege may be held back – this protects communications between lawyers and their clients for the purposes of giving or obtaining legal advice and communications between lawyers, clients and third parties made for the purposes of litigation, either actual or contemplated.

However the personal data can be disclosed where the other individual consents to the disclosure or it is reasonable in all the circumstances to comply with the request without the other individual's consent. This can be a difficult decision to make.

11. If an individual requests to see CCTV footage it is important that you review the footage before allowing access to that data because it may reveal other individuals as well as the person making the request.
12. Personal data includes opinions about an individual therefore opinions about the individual making a Subject Access Request must be included in the personal data which is provided to them.
13. Before responding to a Subject Access Request it is important to establish whether the information requested falls within the definition of personal data. It is not always obvious whether it does. The ICO has produced separate guidance on this topic; https://ico.org.uk/media/for-organisations/documents/1549/determining_what_is_personal_data_quick_reference_guide.pdf
14. A Data Controller is not permitted to amend or delete data if it would not otherwise have done so, just because it has received a Subject Access Request.
15. If a Data Controller receives a Subject Access Request from a parent for information held about a child, they should consider whether the child is mature enough to understand their rights. The personal data of the child belongs to the child, not to their parent or guardian. What matters is that the child is able to understand, in broad terms, whether it needs to make a Subject Access Request and how to interpret the information they receive as a result of doing so. There are a number of factors which need to be taken into account in making that decision. The ICO guidance on Subject Access Requests provides more information on this.
16. Dealing with the Subject Access Requests can be time consuming and onerous. That might be because of the nature of the request, but it may be because of the way in which the Data Controller holds the personal data and the amount it holds. This reinforces the requirement to make sure that personal data is kept in a way which makes it easy to locate when a Subject Access Request is made. It also underlines the importance of deleting data once it is out of date and is no longer needed.

17. The ICO has published a short guide on responding to Subject Access Requests; <https://ico.org.uk/for-organisations/guide-to-data-protection/principle-6rights/subject-access-request/>
this also contains a Subject Access Code of Practice - <https://ico.org.uk/media/fororganisations/documents/1065/subject-access-code-of-practice.pdf>

Table Tennis England Responsibility Statement:

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