

FOR: ALL STAFF

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Key points:

- A request for access to personal data can be made verbally or in writing to any member of SCRA staff.
- We recommend that individuals submit their requests in writing to Inforequest@scra.gsi.gov.uk so as to minimise the risk of misinterpretation of the scope of the request.
- If you receive a request in writing, please forward it to Inforequest@scra.gsi.gov.uk as soon as you receive it.
- If you receive a verbal request, please write down the details of the request, as well as the individual's contact details and send this to Inforequest@scra.gsi.gov.uk with a copy of the individual's proof of identity (if available at the time).
- Requests must be responded to within one month (unless they are considered to be particularly complex or numerous).

What information can be requested under data protection law?

Under data protection law, individuals have the right to ask for and obtain from SCRA a copy of their personal data, together with an explanation of the types of data being processed, the purposes of the processing, details of the third parties to whom the data may be disclosed, how long we will process the data and information about the individual's other rights in respect of their personal data. These requests are known as subject access requests (SARs).

Can SCRA charge for access to this information?

This information should be provided free of charge, however, if the request is considered to be manifestly unfounded or excessive (for example, repetitive requests), SCRA can charge a reasonable fee or can refuse to respond. SCRA can also charge a reasonable fee to comply with

requests for further copies of the same information and the fee must be based on the administrative cost of providing the information.

Can individuals request access to another individuals' personal data (e.g. their child's personal data)?

Adults and children aged 12 years and over can make requests for their own personal data. In some cases, an individual's representative (MSP, MP, solicitor) can make a subject access request on their behalf.

Relevant persons can request information on their children, if they are acting on behalf of their child. However, if a child is 12 years or over we must consider if their consent should be sought before information is released to their Relevant Person. SCRA will only provide a child's personal data to another individual who requests it if that person can demonstrate that they are acting on behalf of the child. This includes relevant persons and representatives of relevant persons.

What to do when you receive a request for access to personal data?

Subject access requests can be made in writing or verbally; however we recommend that all requests are submitted in writing (letter/email/handwritten note) to minimise the risk of misinterpretation. The request does not need to mention data protection.

If you receive a request in writing, please forward to the Information & Research Team at Inforequest@scra.gsi.gov.uk as soon as you receive it.

If you receive a verbal request, please advise the individual to email details of the request to Inforequest@scra.gsi.gov.uk and to send one form of identification. Please also ask the individual to specify what information they would like access to (this can be access to specific information held by SCRA or it may be that the individual wants a copy of all information held by SCRA).

If an individual does not wish to submit the request in writing, please take a note of what information they are requesting, as well as their contact details and pass this to the I&R Team at Inforequest@scra.gsi.gov.uk

What are the timescales for responding?

Requests must be responded to within one month of receipt of the request/proof of identity. Where requests are complex or numerous, this timescale may be extended by a further two months but SCRA will inform the individual within one month of receipt and will explain the reasons for the delay.

The time limit will start from the next day following receipt of the request/proof of identity (e.g. a request is received on the 1st of the month, the time limit will start on 2nd). The response must be issued by the 2nd of the following month. If this is not possible because the following month is shorter (and there is no corresponding calendar date), the date for response is the last day of the following month. If the corresponding date falls on a weekend or a public holiday, we will have until the next working day to respond. This means that the exact number of days we have to comply with a request varies, depending on the month in which the request was made.



How will the request be processed?

On receipt of a Subject Access Request, if not already provided with the request, the I&R Team will request proof of identity from the individual. It is very important to verify the identity of the person making the request in order to prevent unauthorised access to personal information. Identification will be destroyed after 6 months.

If the request has been submitted verbally, the I&R Team will write to the individual with details of the request and ask the individual to contact us if we have misinterpreted their request.

The I&R Team will extract all relevant information relating to the request from our systems (including our case management system, our secure shared and personal drives, our email systems and paper filing systems). In order to ensure that all of the data relevant has been extracted, the I&R Team may ask for help from SCRA staff in locating the data. This may involve searching your own personal drives and email systems in order to find any relevant information.

When all of the data has been located, a member of the I&R Team will begin to carefully assess it to determine what falls within the scope of the request and what may need to be redacted prior to disclosure.

If data is considered to fall out with the scope of the request, this data will be held separately from the data to be checked for release but will be retained within the secure SAR case folder in case a complaint is raised with the ICO regarding SCRA's interpretation of the scope of the request.

Data that falls within the scope of the request will be thoroughly checked before disclosure as it can often contain information about a third party which the individual making the request is not entitled to see. This information will be redacted unless it is considered reasonable in all circumstances to release. All data will be converted to PDF in order to enable redaction.

When the data has been redacted, another member of the I&R Team will check the data to be released. Once this check is complete, the data will be combined into a PDF to be sent to the individual's email address (if the request was received electronically) unless it involves case information. In order to protect your personal data and the data of others, we will not send any case information in response to a Subject Access Request, electronically. Instead, this information will be provided in hard copy and sent by special delivery. If the individual has requested copies of the information in hard copy or the request was received in writing, the data to be released will be printed and sent by special delivery.

Copies of any relevant guidance will be provided along with the request as well as information about how the individual can complain to the ICO if they are unhappy with our response to a request or how to seek a judicial remedy.

If data has been redacted, the individual will be provided with details of the exemptions that have been applied.

All records subject to a subject access request, will be retained for 12 months after the request has been closed.

What exemptions may apply?

The right of subject access, is a right of access to an individuals' own personal data. If this data is held alongside a third party's personal data, their personal data will be redacted from the copies



provided unless we consider it reasonable in all circumstances to release the third party's personal data to the individual requesting access.

SCRA usually consider it reasonable to release the names of professionals working within the Children's Hearings System so this information will not be redacted from the data.

If a request is considered to be manifestly unfounded or excessive, SCRA can refuse to respond, but we must explain why and inform the individual of their right to complain to the ICO and to a judicial remedy without undue delay but at the latest within one month.

There are other proposed exemptions from the right of access that are contained in the draft Data Protection Bill. This guidance will be updated once the Data Protection Act 2018 has been approved.

What to do when you receive a request from social work to approve the release of information to an individual as part of a subject access request made to the social work department?

If a social work department contacts you to request that you approve the release of information to an individual as part of a subject access request, please forward this to the I&R Team at Inforequest@scra.gsi.gov.uk

Social work departments are advised to seek the prior opinion of the Principal Reporter when the data originated from or was supplied by the Principal Reporter acting in pursuance of the Principal Reporter's statutory duties, and is not data which the data subject is entitled to receive from the Principal Reporter.

The relevant social work department must inform the Principal Reporter of the fact that the question has arisen before the end of the period of 14 days beginning with the day on which the question arises. The social work department must not disclose the data to the data subject unless the Principal Reporter has informed them that, in the opinion of the Principal Reporter, the serious harm test¹ is not met with respect to the data.

¹ the "serious harm test" is met with respect to the data if access to the data would be likely to cause serious harm to the physical or mental health of the data subject or another individual.

