

For: DATA SUBJECTS

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### Introduction

One of the key objectives of data protection law is to protect and strengthen your rights as data subjects in respect of the processing of your personal data. SCRA processes the personal data of children, young people and families involved in the Children's Hearing System, as well as the personal data of witnesses, associates, victims of youth offending, panel members and other professionals working within the Children's Hearings System. As an employer, SCRA also processes the personal data of its staff and Board members, including secondments, contractors and temporary employees.

Details of the types of personal data processed by SCRA, as well as the lawful basis for processing, can be found in SCRA's Record of Processing Activities<sup>1</sup>.

Data protection law provides the following rights for individuals:

1. The right to be informed
2. The right of access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing
6. The right to data portability
7. The right to object
8. The right to not be evaluated on the basis of automated processing

Further information in relation to each right, including how to exercise these rights and where exemptions may apply can be found in the relevant sections below.

### 1. The right to be informed

#### *Description of right*

One of the most important rights is the right to be informed about the collection and use of your personal data. In order to ensure that your personal data is processed fairly, SCRA must provide certain minimum privacy information to you, regarding the collection and processing of your personal data. SCRA must do this in a concise, transparent, intelligible and easily accessible format, using clear and plain language.

<sup>1</sup> Please contact SCRA at [Inforequest@scra.gsi.gov.uk](mailto:Inforequest@scra.gsi.gov.uk) if you would like to see our Record of Processing Activities.

Please see the table below for details on what information must be provided (unless an exemption applies):

Information to be provided	Personal data collected from you	Personal data obtained from other sources
The name and contact details for SCRA	Yes	Yes
The contact details of SCRA's data protection officer	Yes	Yes
The purposes of processing	Yes	Yes
The lawful basis for the processing	Yes	Yes
The legitimate interests for the processing (if applicable)	Yes	Yes
The categories of personal data obtained from another source	No	Yes
The recipients or categories of recipients of the personal data	Yes	Yes
The details of transfers of the personal data to any third countries or international organisations (if applicable)	Yes	Yes
The retention periods for the personal data	Yes	Yes
The rights available to individuals in respect of the processing	Yes	Yes
The right to withdraw consent (if applicable)	Yes	Yes
The right to lodge a complaint with the ICO	Yes	Yes
The source of the personal data	No	Yes
The details of whether individuals are under a statutory or contractual obligation to provide the personal data (if applicable)	Yes	No
The details of the existence of automated decision-making, including profiling (if applicable)	Yes	Yes

### ***How to exercise this right***

A combination of different methods for communicating privacy information has been adopted by SCRA, including:

- privacy notices on our [main website](#)
- privacy information in [notification letters](#) to children, young people and families involved in the Children's Hearings System
- privacy information in notification letters to victims as part of the Victim Information Service
- child-friendly privacy [leaflets/posters](#)
- privacy notices on internal HR systems

SCRA will carry out user testing of privacy information in order to obtain feedback on how effective the delivery of privacy information is. We will regularly review and update privacy information and alert you to any new uses of your personal data prior to beginning the processing.

**If you consider that SCRA has not provided you with relevant privacy information, or you would like to provide feedback on the privacy information we have provided to you, please contact the data protection officer at [ava.wieclawska@scra.gsi.gov.uk](mailto:ava.wieclawska@scra.gsi.gov.uk)**

### ***What are the timescales***

When obtaining personal data directly from you, this information will be actively provided at the point of collection. If your personal data is obtained from another source you will be informed (unless an exemption applies):

- within a reasonable period but no later than one month from obtaining the data; or
- if we plan to communicate with you, at the latest, when the first communication takes place; or
- if we plan to disclose the data to someone else, at the latest, when the data is disclosed.

### ***Exemptions that may apply***

SCRA does not need to provide privacy information in the following circumstances:

- when you already have the information;
- when it would be impossible (e.g. we do not have your contact details);
- when it would involve a disproportionate effort to provide it to you;
- when providing the information would render impossible or seriously impair the achievement of the objectives of the processing;
- when we are required by law to obtain or disclose your personal data;
- when we are subject to an obligation of professional secrecy regulated by law that covers the personal data.

There are other proposed exemptions from the right to be informed that are contained in the draft Data Protection Bill. This guidance will be updated once the Data Protection Act 2018 is implemented.

## **2. The right of access**

### ***Description of right***

You have the right to ask for and obtain from SCRA a copy of your 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 your other rights in respect of your personal data; unless an exemption applies. This information should be provided free of charge, however, if your 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.

### ***How to exercise this right***

**You can request access to your personal data by contacting SCRA at [Inforequest@scra.gsi.gov.uk](mailto:Inforequest@scra.gsi.gov.uk) or on 0131 244 8575. You can also speak to any member of SCRA staff.**

**You can also ask a third party to request information on your behalf.**

We will ask you to provide proof of identity before the request can be processed and we may ask you to specify the information the request relates to if we process a large amount of your personal data. If you submit your request electronically, SCRA will provide the response in a commonly used electronic format (usually PDF) 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 you have asked someone else to request access to your information on your behalf, we will ask them to confirm that you are happy for them to receive information about you – for example, a letter from you.

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

SCRA's [Subject Access Request Guidelines](#) provides further information about how requests will be handled.

### ***What are the timescales***

Requests must be responded to within one month of receipt of proof of identity. Where requests are complex or numerous, this timescale may be extended by a further two months but SCRA must inform you within one month of receipt and must 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 1<sup>st</sup> of the month, the time limit will start on 2<sup>nd</sup>). The response must be issued by the 2<sup>nd</sup> 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.

### ***Exemptions that may apply***

The right of subject access, is a right of access to your own personal data. If your personal data is held alongside another individual's personal data, their personal data will be redacted (removed) from the copies provided unless we consider it reasonable in all circumstance to release their personal data to you. Other exemptions in relation to information that has been provided to a children's hearing, legal professional privilege, confidential references, negotiations may also apply. Further information can be found in the [Subject Access Request Guidelines](#).

## **3. The right to rectification**

### ***Description of right***

Data subjects have the right to request that SCRA corrects errors in personal data processed by (or on behalf of) SCRA. You may also ask to have incomplete personal data completed – although this will depend on the purposes for the processing. Any rectifications or provisions of supplementary statements in order to complete information will be without charge unless we consider it to be manifestly unfounded or excessive (for example, repetitive requests), where we may charge a reasonable fee or refuse to respond. Where possible, SCRA will restrict the processing of the data while verifying its accuracy.



If we consider the personal data to be accurate we will advise you that we are not going to amend the data. We will explain our decision, and inform you of your right to make a complaint to the ICO and to a judicial remedy. We will also place a note on our systems to indicate that the accuracy of the data has been challenged and the reasons for doing so.

If we amend the personal data following a request and have disclosed the personal data to others we will contact each recipient and inform them of the rectification or completion of the personal data - unless this proves impossible or involves disproportionate effort.

### ***How to exercise this right***

**You can submit a request for your personal data to be corrected by contacting SCRA at [inforequest@scra.gsi.gov.uk](mailto:inforequest@scra.gsi.gov.uk) or on 0131 244 8575. You can also speak to any member of SCRA staff.**

You can submit a request verbally or in writing, however, we would advise you to put the request in writing where possible so that we can ensure it has been interpreted correctly.

We may ask for proof of identity before processing your request.

### ***What are the timescales***

Requests must be responded to within one month of receipt. Where requests are complex and require further consideration of the accuracy of disputed data, this timescale may be extended<sup>2</sup> by a further two months but SCRA must inform you within one month of receipt of the request and must explain the reasons for the delay.

The time limit will start from the next day following receipt of the request (e.g. a request is received on the 1<sup>st</sup> of the month, the time limit will start on 2<sup>nd</sup>). The response must be issued by the 2<sup>nd</sup> 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.

### ***Exemptions that may apply***

If a request is considered to be manifestly unfounded or excessive, SCRA can refuse to respond, but we must explain why and inform you of your 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 to rectification that are contained in the draft Data Protection Bill. This guidance will be updated once the Data Protection Act 2018 has been implemented.

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<sup>2</sup> However, it is the ICO's view that it is unlikely to be reasonable to extend the time limit if it is manifestly unfounded or excessive; an exemption applies; or SCRA are requesting proof of identity before considering the request.

## 4. The right to erasure<sup>3</sup>

### *Description of right*

You have the right to ask SCRA to erase your personal data if:

- the personal data is no longer necessary for the purpose which SCRA originally collected or processed it for;
- SCRA are relying on your consent as the lawful basis for holding the data, and you decide to withdraw that consent;
- SCRA are relying on legitimate interests as the basis for processing, you object to the processing, and there is no overriding legitimate interest to continue this processing;
- SCRA are processing the personal data for direct marketing purposes and you object to that processing;
- SCRA have processed the personal data unlawfully;
- SCRA is required to erase the data in order to comply with a legal obligation; or
- SCRA have processed the personal data to offer information society services to a child.

If we process data collected from a child and the processing of that data is based on the child's consent, we will give particular weight to any request for erasure of that data.

If we decide not to uphold a request for erasure, we will inform you of the reasons we are not taking action; your right to make a complaint to the ICO; and your ability to seek to enforce this right through a judicial remedy.

If data is to be erased this will be without charge unless we consider it to be manifestly unfounded or excessive (for example, repetitive requests), where we may charge a reasonable fee or refuse to respond.

If we erase data following a request and have previously disclosed the personal data to others or made it public in an online environment, we will contact each recipient and inform them of the erasure, unless this proves impossible or involves disproportionate effort. Where personal data has been made public in an online environment reasonable steps will be taken to inform other controllers who are processing the personal data to erase links to, copies or replication of that data. When deciding what steps are reasonable we will take into account available technology and the cost of implementation.

### *How to exercise this right*

**You can submit a request for your personal data to be erased by contacting SCRA at [Inforequest@scra.gsi.gov.uk](mailto:Inforequest@scra.gsi.gov.uk) or on 0131 244 8575. You can also speak to any member of SCRA staff.**

You can submit a request verbally or in writing, however, we would advise you to put the request in writing where possible so that we can ensure it has been interpreted correctly.

We may ask for proof of identity before processing your request.

<sup>3</sup> Also known as the 'right to be forgotten'.

## ***What are the timescales***

Requests must be responded to within one month of receipt. Where requests are complex or we have received numerous requests from you, this timescale may be extended<sup>4</sup> by a further two months but SCRA must inform you within one month of receipt of the request and must explain the reasons for the delay.

The time limit will start from the next day following receipt of the request (e.g. a request is received on the 1<sup>st</sup> of the month, the time limit will start on 2<sup>nd</sup>). The response must be issued by the 2<sup>nd</sup> 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

## ***Exemptions that may apply***

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

The right to erasure does not apply if processing is necessary for one of the following reasons:

- to exercise the right of freedom of expression and information;
- to comply with a legal obligation;
- for the performance of a task carried out in the public interest or in the exercise of official authority;
- for archiving purposes in the public interest, scientific research historical research or statistical purposes where erasure is likely to render impossible or seriously impair the achievement of that processing; or
- for the establishment, exercise or defence of legal claims.

The right to erasure will not apply to special category data in the following circumstances:

- if the processing is necessary for public health purposes in the public interest (e.g. protecting against serious cross-border threats to health, or ensuring high standards of quality and safety of health care and of medicinal products or medical devices); or
- if the processing is necessary for the purposes of preventative or occupational medicine (e.g. where the processing is necessary for the working capacity of an employee; for medical diagnosis; for the provision of health or social care; or for the management of health or social care systems or services). This only applies where the data is being processed by or under the responsibility of a professional subject to a legal obligation of professional secrecy (e.g. a health professional).

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

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<sup>4</sup> However, it is the ICO's view that it is unlikely to be reasonable to extend the time limit if it is manifestly unfounded or excessive; an exemption applies; or SCRA are requesting proof of identity before considering the request.



## 5. The right to restrict processing

### *Description of right*

In circumstances where personal data either cannot be deleted (e.g. because it is required for the purposes of exercising or defending legal claims) or where you do not wish to have the data deleted, you can ask SCRA to limit the way in which we use your personal data. If we restrict the personal data following a request, we may continue to store the data, but the purposes for which the data can be processed will be strictly limited (e.g. the exercise or defence of legal claims; protecting the rights of another person or entity; purposes that serve a substantial public interest; or such other purposes as you may consent to).

You have the right to request that SCRA restrict the processing of your personal data in the following circumstances:

- when you contest the accuracy of your personal data and SCRA are in the process of verifying the accuracy of the data;
- the data has been unlawfully processed and you do not want us to erase your data so request restriction instead;
- SCRA no longer needs the personal data but you need SCRA to keep it in order to establish, exercise or defend a legal claim; or
- you have objected to SCRA processing your data and SCRA are in the process of considering if SCRA's legitimate grounds override your rights and freedoms.

In order to restrict the processing, we may temporarily move the data to another processing system; we may make the data unavailable to users; or (if appropriate) we may temporarily remove published data from a website.

We will ensure the data cannot be changed while restriction is in place and we will note on our systems that the processing of data has been restricted.

If data has been restricted, we cannot do anything with the data other than store it unless:

- we have your consent;
- it is for the establishment, exercise or defence of legal claims;
- it is for the protection of the rights of another person (natural or legal); or
- it is for reasons of important public interest.

If we have disclosed the personal data to others, we will contact each recipient and inform them of the restriction of the personal data - unless this proves impossible or involves disproportionate effort.

If data has been restricted on a temporary basis while SCRA verifies the accuracy of your data or considers an objection to processing and our findings result in us wishing to lift the restriction, we will tell you first and provide you with our reasons for doing so. We will also inform you of your right to make a complaint to the ICO or seek a judicial remedy.

If data is to be restricted this will be without charge unless we consider it to be manifestly unfounded or excessive (for example, repetitive requests), where we may charge a reasonable fee or refuse to respond.





## ***How to exercise this right***

**You can submit a request for your personal data to be restricted by contacting SCRA at [Inforequest@scra.gsi.gov.uk](mailto:Inforequest@scra.gsi.gov.uk) or on 0131 244 8575. You can also speak to any member of SCRA staff.**

You can submit a request verbally or in writing, however, we would advise you to put the request in writing where possible so that we can ensure it has been interpreted correctly.

We may ask for proof of identity before processing your request.

### ***What are the timescales***

Requests must be responded to within one month of receipt. Where requests are complex or we have received numerous requests from you, this timescale may be extended<sup>5</sup> by a further two months but SCRA must inform you within one month of receipt of the request and must explain the reasons for the delay.

The time limit will start from the next day following receipt of the request (e.g. a request is received on the 1<sup>st</sup> of the month, the time limit will start on 2<sup>nd</sup>). The response must be issued by the 2<sup>nd</sup> 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

### ***Exemptions that may apply***

If a request is considered to be manifestly unfounded or excessive, SCRA can refuse to respond, but we must explain why and inform you of your 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 to restriction that are contained in the draft Data Protection Bill. This guidance will be updated once the Data Protection [Bill-Act](#) has been approved.

## **6. The right to data portability**

### ***Description of right***

This right permits you to receive from SCRA, a copy of your personal data in a commonly used machine-readable format, and to transfer your personal data from SCRA to another or have the data transmitted directly between data controllers.

This right only applies:

- to personal data you have provided to SCRA;
- where the processing is based on your consent or for the performance of a contract; and

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<sup>5</sup> However, it is the ICO's view that it is unlikely to be reasonable to extend the time limit if it is manifestly unfounded or excessive; an exemption applies; or SCRA are requesting proof of identity before considering the request.

- when the processing is carried out by automated means.

If we uphold a request for data portability, we will provide the personal data in a structured, commonly used and machine readable format, e.g. CSV files, free of charge.

If you request it, SCRA can also transmit the data directly to another organisation if it is considered technically feasible.

If SCRA choose not to take action in response to a request, we will explain why and inform you of your right to complain to the ICO and to a judicial remedy without undue delay and at the latest within one month.

### ***How to exercise this right -***

**You can submit a data portability request by contacting SCRA at [Inforequest@scra.gsi.gov.uk](mailto:Inforequest@scra.gsi.gov.uk) or on 0131 244 8575. You can also speak to any member of SCRA staff.**

You can submit a request verbally or in writing, however, we would advise you to put the request in writing where possible so that we can ensure it has been interpreted correctly.

We may ask for proof of identity before processing your request.

### ***What are the timescales***

Requests must be responded to within one month of receipt. Where requests are complex or we have received numerous requests from you, this timescale may be extended<sup>6</sup> by a further two months but SCRA must inform you within one month of receipt of the request and must explain the reasons for the delay.

The time limit will start from the next day following receipt of the request (e.g. a request is received on the 1<sup>st</sup> of the month, the time limit will start on 2<sup>nd</sup>). The response must be issued by the 2<sup>nd</sup> 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

### ***Exemptions that may apply***

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

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<sup>6</sup> However, it is the ICO's view that it is unlikely to be reasonable to extend the time limit if it is manifestly unfounded or excessive; an exemption applies; or SCRA are requesting proof of identity before considering the request.

## 7. The right to object

### ***Description of right***

You have a right to object to the processing of your personal data in the following circumstances:

- processing based on legitimate interests or the performance of a task in the public interest/exercise of official authority (including profiling) - where the processing relates to your particular situation;
- direct marketing (including profiling); and
- processing for purposes of scientific/historical research and statistics – where the processing relates to your particular situation.

On receipt of an objection to processing based on legitimate interests or the performance of a task in the public interest/exercise of official authority or processing for the purposes of research and statistics, SCRA must demonstrate that it either has compelling grounds for continuing the processing, or that the processing is necessary in connection with its legal rights. If we cannot demonstrate that the relevant processing activity falls within one of these two grounds, we must cease that processing activity.

If we receive an objection to processing personal data for direct marketing purposes, we must cease processing as soon as we receive an objection. There are no exemptions or grounds to refuse.

### ***How to exercise this right***

**You can submit an objection to processing by contacting SCRA at [Inforequest@scra.gsi.gov.uk](mailto:Inforequest@scra.gsi.gov.uk) or on 0131 244 8575. You can also speak to any member of SCRA staff.**

**If we are processing your data for online marketing purposes and you wish to object, we will provide you with a mechanism for objecting to the processing with immediate effect, online.**

You can submit an objection to processing verbally or in writing, however, we would advise you to put the request in writing where possible so that we can ensure it has been interpreted correctly.

### ***Exemptions that may apply***

If we receive an objection to processing personal data for research purposes and we are conducting research where the processing of personal data is necessary for the performance of a public interest task, we are not required to comply with an objection to the processing.



## 8. The right to not be evaluated on the basis of automated processing<sup>7</sup>

### *Description of right*

You have the right not to be subject to decisions based solely on automated processing which if it will significantly affect you or have a serious negative impact on you.

SCRA can only carry out solely automated decision-making with legal or similarly significant effects if the decision is:

- necessary for entering into or performance of a contract between you and SCRA;
- authorised by law (for example, for the purposes of fraud or tax evasion); or
- based on your explicit consent.

If SCRA use special category personal data in automated decision-making processes, we can only carry out the processing if:

- we have your explicit consent; or
- the processing is necessary for reasons of substantial public interest.

If we conduct any form of automated decision-making, we must:

- carry out a Data Protection Impact Assessment (DPIA) to show that we have identified and assessed what the risks are and how we will address them;
- provide you with specific information about the processing;
- take steps to prevent errors, bias and discrimination;
- provide you with a mechanism to challenge and request a review of the decision;
- provide meaningful information about the logic involved in the decision-making process, as well as the significance and the envisaged consequences for you;
- use appropriate mathematical or statistical procedures;
- ensure that you can obtain human intervention, express your point of view; and obtain an explanation of the decision and challenge it;
- put appropriate technical and organisational measures in place, so that we can correct inaccuracies and minimise the risk of errors;
- secure personal data in a way that is proportionate to the risk to your interests and rights, and that prevents discriminatory effects.

### *How to exercise this right*

**You can challenge a decision made by automated-means or find out further information about such processing by contacting SCRA at [Inforequest@scra.gsi.gov.uk](mailto:Inforequest@scra.gsi.gov.uk) or on 0131 244 8575. You can also speak to any member of SCRA staff.**

### *Exemptions that may apply*

If SCRA's profiling or automated decision-making processes do not result in legal or similarly significant effects, we can continue to carry out profiling and automated decision-making without challenge.

<sup>7</sup> Automated individual decision-making is a decision made by automated means without any human involvement. For example an online decision to award a loan; and a recruitment aptitude test which uses pre-programmed algorithms and criteria.