

Making a Subject Access Request

How to find out what information is held about you

What is my right?

Individuals have a right to obtain, from an *organisation*, a copy of the *information* relating to them which is either held on computer, in a relevant manual filing system or which forms part of an accessible record.

Which law permits this?

The Isle of Man Data Protection Act 2002 gives individuals the right to obtain a copy of their *information*.

Section 5 of the Act defines

- the *information* which can be released,
- the *information* which may be withheld,
- the time scales for complying with a request,
- the fees permitted for the provision of this data, and
- the penalties which can be imposed for failure to comply with a request.

How can I access my *information*?

There is a process by which you can request copies of the *information* an *organisation* holds about you.

The common term used for this process is a '**Subject Access Request**' (SAR).

Does it cost anything?

The *organisation* may charge up to £10 to provide the *information* you have requested. If you request access to health records a fee of up to £50 may be charged.

What jargon will I come across?

When making a SAR it is important that the terms used within the law are understood. Please see the table in Appendix 1 at the end of this guidance for definitions of regularly used terms to help you understand the process and the parties involved.

We have where possible used commonly-used words to replace legal jargon. These appear in **red** in Appendix 1 on page 2 and in *italics* in the text of this guide.

APPENDIX 1 - DEFINITIONS

Data	information which — (a) is being processed by means of equipment operating automatically in response to instructions given for that purpose. This includes, among others, computers, email, laptops, palmtops, CCTV, phone systems, entry logging systems. (b) is recorded with the intention that it should be processed by means of such equipment, (c) is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system, or (d) does not fall within (a), (b) or (c) but forms part of an accessible record (see below for definition).
Data Subject	YOU - the living individual who is the subject of the personal data.
Personal Data <i>INFORMATION</i>	Information that relates to a living individual which, on its own, or when combined with other information in the possession of, or likely to come into the possession of, the data controller, identifies that individual. This also includes any expression of opinion or intentions of the data controller toward the data subject.
Data Controller <i>ORGANISATION</i>	The person or legal entity (e.g. company, government department, club or society etc.) responsible for deciding what information is collected, how it is used (purposes) and to whom it is released (recipients).
Processing	This includes the collection, input, storing, retrieval, amendment, disclosure, blocking, combination and erasure or destruction of data. This also includes data capture which involves the transfer of details from a manually completed form to a database or other computerised system.
Relevant Filing System	A set of information relating to individuals that is not processed automatically (i.e. manual records) but which is structured to enable the ready accessibility of the data. This means that, for example, a Human Resource filing system which has individually named files with sub-divisions for sickness, assessments, c.v. information etc.
Accessible Record	Health or educational record, any housing record kept by the Department of Local Government and Environment, local authority or joint board, and certain other DHSS records.

How do I make a Subject Access Request?

It is easy to make a SAR. All you need to do is write to the *organisation* and request it. It is strongly recommended that you keep a copy of the letter and send the request by recorded delivery.

A sample letter can be found on page 6.

If you wish to obtain the *information* held about you by an *organisation* you must:

1. send a request in writing to the *organisation*, and
2. enclose the appropriate fee.

In order for the request to be dealt with as quickly as possible you should provide the *organisation* with as much *information* as possible regarding the type of data you wish to see. For example, if you have an account number or customer reference this should be provided or if you only require specific *information* between two dates this should also be made clear.

Can the organisation ask for more details?

Yes.

This can be

- to enable the *organisation* to *reasonably* satisfy itself as to the identity of the person making the request, or
- to request further details to assist it to locate the *information* you require.

If requests for further identifying details or other *information* are made, you must provide these before the SAR can progress.

How long should it take?

Once the *organisation* has received the fee and all other details requested, it must respond promptly and in any event within a maximum of 40 calendar days.

What will I get back?

The *organisation* **must** reply to your request.

If they do not process any of your *information* they must advise you of the fact.

If they do process your *information* you are entitled to ask for, and receive, a copy of the *information* of which you are the data subject i.e. which is about you.

You can also request a description of

- the purposes for which this *information* is being processed

- the recipients, or classes of recipients, to which the *information* may be disclosed

Will I understand what I receive?

All details must be communicated to you in an intelligible form, with any coding or technical terms explained.

It must also be in a permanent form unless otherwise agreed, especially in the case where it would involve disproportionate effort on the part of the *organisation* to produce in a permanent form. If you and the *organisation* agree, the *information* may be supplied verbally.

You are also entitled to be informed of the logic involved in taking a decision if that decision has been made by automatic means, such as credit scoring or for job applications, unless it constitutes a trade secret.

Are there any exceptions to the right of access?

Yes, the exemptions from disclosure are specified within the Act, its' schedules and in additional regulations.

These exemptions include, but are not limited to:

- the detection and prevention of crime and the apprehension and prosecution of offenders
- the discharge of a regulatory activity
- in the interests of national security
- *information* relating to adoption, physical or mental health references within an education or health records, where revealing this *information* could cause serious damage or harm to the mental or physical health of the data subject or any other person.
- *information* relating to health records can only be disclosed if the *organisation* is a health professional or the *organisation* has consulted with the health professional as to whether this data can be released, or the *organisation* is aware that the data subject (you) is already aware of the details.

Can I make more than one SAR to an organisation?

Yes, you can make as many SARs as you wish. However, if you have previously made a similar or identical SAR, the *organisation* has the right to refuse to comply with the new request unless a reasonable interval has elapsed. This will depend upon the type of data, the purpose for which it is held and the frequency with which it changes or is amended.

Why have some of the details I received been blacked out?

There are often occasions when supplying you with your *information* will also involve releasing information which identifies a third party. The *organisation* must be extremely careful when this occurs.

If they do release *information* containing third party details, these details may be blacked out in some way to prevent identifying the third party.

I haven't received a response. What happens now?

If you have not received a response by the end of the 40 day period, then the *organisation* will have committed a breach of the Sixth Data Protection Principle, which provides for the rights of the data subject.

At this point you have two options:

1. A common sense approach here, usually by referring the matter to the Office of the Data Protection Supervisor, will normally encourage a rapid response from the *organisation* without the necessity of legal action. You can request us to undertake an **assessment** on your behalf if you believe your rights have been breached under Principle 6, and we can then make the necessary enquiries. You must be aware however that even though we take a view of the processing, it can still be subject to legal challenge, if the case is referred to the court.

Or

2. You can refer the matter directly to the High Court, which can order the *organisation* to comply with the request and the court can, if satisfied that the failure to comply was unjustified, impose a penalty of up to £5000. They are also liable to pay compensation if an individual has suffered distress due to the failure to comply with the request. You may employ a qualified Manx advocate to represent you, or you may choose to represent yourself.

The Office of the Data Protection Supervisor cannot refer the matter to the High Court on your behalf.

Where can I get help?

Further advice may be obtained by contacting
The Office of the Data Protection Supervisor
By post: PO Box 69 Douglas IM99 1EQ
By visiting: Willow House, Main Road Onchan
By telephone: 01624 693260
By email: enquiries@odps.gov.im
Website: www.gov.im/odps

**This guidance note has been prepared to assist you in making and understanding a Subject Access Request.
As such, the advice given is general, and should not be interpreted as a definitive guide to your right.**

APPENDIX 2 – SAMPLE LETTER

Dear *'Organisation's name'*

I wish to make a subject access request under Section 5 of the Isle of Man Data Protection Act 2002 for a copy of any personal data you keep about me on computer, in an accessible record or within a relevant filing system.

I enclose the fee and details to enable you to identify the information I require.

'Your Full Name'

'Your Address'

'Identifying Number (e.g. Account number or NI number)'

'Dates (if you require information relating to a specified period)'

'Further information which may help the data controller'

(If you require to be advised of the logic behind automated decisions, you must make this clear in the letter by adding the following paragraph.)

I wish to be advised of the logic involved in automated decisions taken about me pursuant to Section 5(1) (d) of the Data Protection Act 2002. (OR section 7(1) (d) of the Data Protection Act 1998 if you are requesting information from a UK organisation)