



**No: 019**

**Original publication date: 06 February 2013**

**Revised version published: 04 November 2013**

## **One Minute Guide: Data Protection Act 1998: Access to Personal Information**

### **What is it?**

The Data Protection Act 1998 regulates the use of personal information held by both the public and private sector in the UK on computer and, in some cases, manual (paper) records.

The Act gives people the right of access to personal data which is held about them, along with various other rights.

The DPA (Data Protection Act) is enforced by the Information Commissioner.

### **Access to personal information**

The person or organisation that holds the data is known as the "Data Controller" and must abide by the 8 main principles of the DPA.

The 8 principles are:

1. Personal data shall be processed fairly and lawfully.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate

level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Section 7 of the Act gives individuals the right of access to personal data which is held on them. This is known as "subject access". They also have the right to know the purpose for which the data is being held and whether any information is likely to be disclosed to third parties. They also have a right to a copy of this information.

### **How can Subject Access requests be made?**

Subject Access requests must be made in writing (not necessarily mentioning Data Protection Act 1998), with sufficient information given to enable the data controller to locate the data the applicant seeks. A valid request must be complied with within forty calendar days and there is no fee for this service.

The 1998 Act has various exceptions to the right of subject access, which includes, amongst others:

- Where subject access would disclose information about an identifiable third party, section 7 sets out special rules which determine whether access should be given in such cases.
- Where disclosing the information would be likely to cause harm to the applicant or to another person's physical health or mental health.

Careful consideration needs to be given to requests for access to a child or young person's record, to ensure that there is a legal basis (such as parental responsibility/legal guardianship) for providing access and that any conflicting wishes of the child are considered.

### **What should happen when a request is received?**

Subject access requests should be forwarded to the Complaints Team (Complaint's Officer /Subject Access Request Lead) to process, log and acknowledge.

If the request is for information across services, a copy will be sent to all relevant Heads of Service to ensure a complete response.

The Service Area concerned is responsible for the following:

- Locating files
- Identifying any data about third parties and deciding whether their consent is required
- Seeking such consent if required
- Identifying any exemptions that may apply

## **Can we supply information about third parties?**

Individuals do not have an automatic right of access to information about third parties.

Where information is held on an individual, we have a duty of confidentiality to the third party who supplied the information. Should the third party refuse to give consent to release the information, in certain circumstances this can be overridden, such as in cases of danger to life and limb.

## **Can a request for amendments to records be made?**

Yes, if the individual feels that any part of a case record is incorrect. Data will never be deleted but additional entries can be made which amend the case record. See the Case Recording Policy, Section 10

[http://redbridgechildcare.proceduresonline.com/chapters/p\\_case\\_record.html](http://redbridgechildcare.proceduresonline.com/chapters/p_case_record.html)

## **How do the Data Protection Act and Freedom of Information Act work together?**

The Freedom of Information Act 2000 came into effect in 2005. It amended the DPA to improve right of access to personal data held by public authorities. This brings information held in unstructured manual files into the scope of the data protection regime.

## **Where is information available?**

Comprehensive guidance for staff is available in the Children's Services Cascade Local Brief: December 2012

Subject Access Requests also located In the Policies and Procedures on Tri.x - link supplied below. Updated 2013 version will be available soon.

<http://redbridgechildcare.proceduresonline.com/chapters/contents.html>

Information on subject access and other rights under the Act, and data protection in general is available on the Information Commissioner's website:

[www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

If you have any questions about data protection or information governance, please email

[governance.resources@redbridge.gov.uk](mailto:governance.resources@redbridge.gov.uk)

The public can make complaints about failure to comply with the Data Protection Act to the Information Commissioner at:

*Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF*

*Tel: 01625 545745*