

## ACCESS TO INFORMATION

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### **Requests for information**

The Information Requests Policy Framework sets out how prisons must deal with requests for data. It covers requests for personal data under The Data Protection Act 2018 and General Data Protection Regulation, and also covers requests for non personal information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

### ***What are the rules about personal data?***

The Data Protection Act 2018 (DPA) and the UK General Data Protection Regulation (UKGDPR) give prisoners the right to access personal data held about them. You can request copies of information kept about you by any 'Data Controller' or 'Data Processor' including the Prison Service, Probation and prison healthcare departments.

The UKGDPR covers all data held about a living person who could be identified. Data that has been totally anonymised so the person cannot be identified even by reference to other information is not subject to the UKGDPR.

Article 5(1) of the UKGDPR requires that personal data is:

- a) Processed lawfully, fairly and in a transparent manner;
- b) Collected for specified, explicit and legitimate purposes;
- c) Adequate, relevant and limited to what is necessary for the purposes for which it is processed;
- d) Accurate and up-to-date;
- e) Kept for no longer than is necessary
- f) Processed securely.

### ***Routine disclosure***

Section 4.51 of the Information Requests Policy Framework states that where there are existing arrangements on disclosing information to individual prisoners, these must continue to be followed. This means you can make a general application for everyday things like your adjudication papers, categorisation forms, prisoner account statements etc. The prison cannot charge you for routine disclosure and should provide the information without delay.

If the personal information you need is not covered by "routine disclosure", you should make a Subject Access Request (SAR).

### ***How do I make a Subject Access Request?***

A SAR can be made verbally or in writing. The prison may have a special SAR form.

For prison or probation files you can also send the request directly to:

*Branston Registry  
Building 16, S & T Store  
Burton Road, Branston  
Burton-on-Trent, Staffordshire,  
DE14 3EG*

The organisation which holds your data must respond to your request within one month.

**NOTE: Healthcare records should be requested via healthcare.**

### ***Do I have to pay a fee?***

Following the introduction of the UKGDPR, there is now no charge for accessing information/data unless the request is manifestly excessive and it is reasonable to charge a fee, in which case they have to confirm with you that you want to go ahead. They cannot charge you just for making a SAR.

### ***Can information be withheld from me?***

Data Controllers may refuse to disclose information on your file where:

- to do so may reveal the identity of, or information relating to a third party; or
- the data has been gathered for the prevention and detection of crime.

You have no right to be told if information has been withheld from you. If you suspect you have been improperly refused access to information you can ask the Information Commissioner to investigate.

### ***Do I have the right to see security intelligence information?***

You can ask for a copy of your security file, although due to the exemptions set out above, they are usually so heavily edited (redacted) before disclosure that they will not contain full information. More guidance on redaction is provided by the Information Commissioner's Office (details below).

If you have a query about a redacted prison Security Intelligence Report (SIR), you can ask for the gist of the information, and how it has been rated which may help you to question the validity and reliability of the information.

***What if information held about me is incorrect or out of date?***

Data Controllers must keep all personal data accurate and up to date, no matter how seemingly insignificant. If you believe information held about you is incorrect, you should write to the relevant authority and ask for it to be corrected or updated. Data Controllers also have a duty to taken 'reasonable steps' to check the accuracy of disputed information. The more important the consequences for the individual concerned, the greater the effort the Data Controller should make to check the accuracy of the information.

***What if I disagree with the contents of my file?***

There will be a mixture of fact and opinion in your files. If there is a fact within your file that you can prove to be incorrect, then the Data Controller is obliged to amend or delete the contents of the record. If there is a fact, or opinion in your file you disagree with, but cannot clearly prove or disprove, the Data Controller is obliged to note on the record that the information in question is in dispute.

***What if they refuse to change inaccurate information, note my objections or respond to the request?***

Firstly, you should complain about the contents of a particular file in writing on a COMP1 form or by letter to the relevant Data Controller. If you do not receive an adequate response to your complaint, you can refer the matter to the Information Commissioner's Office (ICO), and at same time the Prisons and Probation Ombudsman (for prison or probation complaints), for investigation.

Complaints to the ICO must be made within a year of you becoming aware of the data problem. The ICO will not offer you compensation. However, they can order the Data Controller to change their practices or correct the problem in some way.

Their address is:

*Information Commissioner's Office  
Casework and Advice Section  
Wycliffe House, Water Lane  
Wilmslow, Cheshire  
SK9 5AF  
Tel: 0303 123 1113 (Helpline)*

Alternatively, you can bring a claim in the County Court. The court can order a Data Controller to (i) rectify, block, erase, or destroy inaccurate information, or (ii) amend the record to include a note of the true facts, or the fact that

a statement of opinion is based on inaccurate or disputed information.

More detailed information on your rights and how to make a complaint is available from the ICO.

***Can I claim compensation for DPA breaches?***

The UKGDPR gives you a right to claim compensation from an organisation if you have suffered damage as a result of it breaking data protection law. This includes both "material damage" (e.g. you have lost money) or "non-material damage" (e.g. you have suffered distress). The current period for making a data breach claim is 6 years, and 1 year if it involves a breach of Human Rights. We strongly recommend you take independent legal advice before making a claim for compensation.

**Requests for non-personal information**

You can also make a request for non-personal recorded information (e.g. facts, figures, policy documents,) to any public authority under the **Freedom of Information Act 2000** ('Freedom of Information Request' or FOIR). If you would like to get a copy of non-personal recorded information held by the Ministry of Justice write to the following address:

*Disclosure team*

*Postal Point 10.38, Floor 10*

*102 Petty France, London, SW1H 9AJ*

*Email: [Data.access@justice.gov.uk](mailto:Data.access@justice.gov.uk)*

If you are unhappy with the handling of a request for information under FOI you can make a complaint to:

*The Data Protection Officer*

*Ministry of Justice*

*102 Petty France, London, SW1H 9AJ*

*Email: [data.compliance@justice.gov.uk](mailto:data.compliance@justice.gov.uk)*

<p>PRISONERS' ADVICE SERVICE PO BOX 46199 LONDON EC1M 4XA Advice Line: TEL: 020 7253 3323 Mon, Wed, Fri 10am-12.30pm &amp; 2pm-4.30pm</p>
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