

Subject Access

A Guide for Data Subjects

This leaflet is part of a series of nine leaflets which explain your rights under Data Protection Law and how to enforce those rights.

The Law gives individuals who are the subject of personal data (“data subjects”) a general right of access to the personal data which relates to them. These rights, known as “subject access rights”, are contained in a/s 7, 8 and 9 of the Law.

This guidance relates to both the Data Protection (Jersey) Law 2005 and the Data Protection (Bailiwick of Guernsey) Law, 2001.

Where the Laws differ and to show differences between the two jurisdictions the page will be split as shown below.

Jersey

Commissioner = Information
Commissioner

a = article within the Law

Guernsey

Commissioner = Data Protection
Commissioner

s = section of the Law

Where numbering of passages from the Laws are the same it will be shown as a/s.

Table of Contents

How can I find out if information is held about me?.....	3
How can I obtain a copy of my credit file?.....	5
Responding to your request	5
How much does it cost to obtain the information?	6
If I require an explanation as to how any automated decisions have been made about me, what must I do?	6
Is the Data Controller entitled to withhold any information?	8
What can I do if the Data Controller does not comply with my subject access request?	8
What orders can the Court make?.....	9
Other publications in this series... ..	10
Useful contact information:	11
Contact the Commissioner	12

How can I find out if information is held about me?

If you want to know whether information is held about you and if so what, you will need to write to the person or organisation you believe holds the information. This is known as a "subject access request". You should ask for a copy of all the information held about you to which the Law applies. This information may take the form of computerised or, in some cases, paper records.

If you are not sure who to write to within an organisation, address it to the Managing Director or equivalent. Overleaf is an example of a letter which you can use, but you can use your own words if you choose.

It is a good idea to include your full name and address in the heading, together with any other information to assist in identifying you, for example the length of time you may have worked for the data controller or a reference number quoted in correspondence with the data controller. If you require medical information it would be a good idea to include your Social Security Health Number.

It will help the data controller if you can be as specific as possible about the information you require. Some decisions are made by an automatic process (for example, one made by a computer system). If you want to be told of the logic involved in certain types of automated decisions which the data controller may take (for example, your performance at work or credit worthiness), you should mention this specifically.

Example Subject Access Request Letter

Your full Address

The date

Dear Sir or Madam

[Your full name and address together with any other details to assist in identifying you and the information you require]

Jersey

Please send me the information which I am entitled to under Article 7 of the Data Protection (Jersey) Law 2005 [in relation to [give details if it is specific information you require]].

[Please would you also advise me of the logic involved in any automated decisions taken by you about me pursuant to Article 7(3) of the Data Protection (Jersey) Law 2005.]

Guernsey

Please send me the information which I am entitled to under Section 7 of the Data Protection (Bailiwick of Guernsey) Law, 2001 [in relation to [give details if it is specific information you require]].

[Please would you also advise me of the logic involved in any automated decisions taken by you about me pursuant to Section 7(3) of the Data Protection (Bailiwick of Guernsey) Law, 2001.]

If you need further information from me, or a fee, please let me know as soon as possible.

If you do not normally handle these requests for your organisation, please pass this letter to your Data Protection Officer or another appropriate officer.

Yours faithfully

Signature

NOTE:

It is best to send your request by recorded delivery and it is important to keep a copy of the letter and any further correspondence.

How can I obtain a copy of my credit file?

Different rules apply to the obtaining of your credit file. These are explained in the "Non Credit? Credit Explained" leaflet, which may be obtained from our website www.dataci.org or by contacting the Office (details found on the last page of this document).

Responding to your request

Jersey

The data controller is obliged to reply promptly and, in any event, within **40 days**, provided that you have paid any necessary fee where deemed applicable.

Guernsey

The data controller is obliged to reply promptly and, in any event, within **60 days**, provided that you have paid any necessary fee where deemed applicable.

If a data controller reasonably requires additional information to deal with the subject access request, provided the data controller tells the data subject what he requires the data controller does not have to deal with the request until this additional information has been received.

The time limit (given above) is calculated from the day on which the data controller has both the required fee and the necessary information to confirm the identity of the data subject and to locate the data.

The expression "disproportionate effort" is not defined in the Law. However in deciding whether a data controller may rely upon this provision and not supply the information to you in permanent form, the

Commissioner will take into account the cost of provision of the information, the length of time it may take to provide the information, how difficult or otherwise it may be for the data controller to provide the information and also the size of the data controller's organisation. These matters will also be balanced against the effect of failing to supply the information to you in permanent form.

How much does it cost to obtain the information?

Data controllers may charge a fee of up to £10 except in the following circumstances.

Jersey

There are special rules that apply to fees for access to records held on the Police National Computer, but accessed by a request to the Home Affairs Committee (as the relevant data controller) attracts a maximum fee of £20, and for educational records a maximum fee of £30 may be charged.

Guernsey

There are special rules that apply to fees for access to health records as follows :-

If the information is provided other than in writing on paper (e.g. electronically on a CD) - £50;

If the information is provided in writing on paper:

- £10 for up to 10 pages;
- £50 for up to 100 pages;
- Thereafter, 50p per page.

If I require an explanation as to how any automated decisions have been made about me, what must I do?

Unless you specifically ask to be given an explanation as to how any automated decisions about you have been made, the data controller is not obliged to provide such information.

If you do specifically include a request for such information in your request then the data controller must provide it within the single £10 fee.

If you do not, then the data controller is entitled to charge a separate fee of no more than £10 for the separate provision of such information.

What will be sent to me?

You are entitled to be told IF any personal data are held about you AND, if so:

- to be given a description of the data;
- to be told for what purposes the data are processed; and
- to be told the recipients or the classes of recipients to whom the data may have been disclosed.

This information should include what sort of data are held, the purposes for which the data are processed and the type of organisation or people to whom the data may be disclosed.

You are also entitled:

- to be given a copy of the information with any unintelligible terms explained;
- to be given any information available to the data controller about the source of the data;
- to be given an explanation as to how any automated decisions taken about you have been made; and
- if you have specifically requested it, the logic involved in any automated decisions.

The data controller has an obligation to provide the information in permanent form. This means that the information may be sent as a computer print out, in a letter or on a form unless the supply of such a copy is not possible, would involve disproportionate effort, or you agree otherwise.

It will be a question of fact in each case as to whether the supply of information in permanent form amounts to "disproportionate effort".

Is the Data Controller entitled to withhold any information?

There are circumstances where a data controller may find that, in complying with a subject access request, information will be disclosed relating to an individual other than a data subject.

Unless that individual consents to the disclosure of the information or it is reasonable in all the circumstances to comply with the request without the consent of the other individual, the data controller is entitled to withhold the information from the data subject.

There are other circumstances in which a data controller may withhold information from a data subject which are set out in the Law, details of which may be obtained from our website www.dataci.org or by contacting the Office (details found on the last page of this document).

What can I do if the Data Controller does not comply with my subject access request?

If the data controller fails to respond to your request within the time limit, or fails to respond to your satisfaction, and you have sent all the information required to the data controller to enable him to deal with your request, including the fee, you should send the data controller a reminder by recorded delivery, keeping a copy of your letter.

If you still do not receive a reply fairly quickly or if you think that the information you receive is wrong or incomplete you may:

- ask the Commissioner to carry out an assessment as to whether it is likely or unlikely that the data controller is processing your personal data in compliance with the terms of the Law;
- pursue the matter yourself through the court. For information as to how to do this please refer to the leaflet called "Taking a case to court";
- Make a complaint to the Commissioner, who may consider taking enforcement action against the data controller.

An assessment will inform you as to whether the matters that concern you are likely to involve a breach of the Law and may help you in making a decision as to whether to take legal action against a data controller under the Law. However, an assessment from the Commissioner is not necessary to take a case to court.

What orders can the Court make?

If a court is satisfied that a data controller has failed to comply with a subject access request contrary to the provisions of the Law, the court may order him to comply with such a request. The court also has the power to award compensation. Please refer to the leaflet called "Claiming compensation".

Other publications in this series...

Each leaflet sets out what your rights are and, where possible, includes examples of letters and notices to send to the data controller. You will also find information to help you if you decide to take legal proceedings against a data controller.

Your Rights and How to Enforce Them

Help! How can I stop them processing my personal information?

Incorrect information - What can I do?

No credit? Credit explained

Stopping unwanted marketing materials

Preventing decisions based on automatic processing of my personal information

Claiming compensation

Taking a case to court

All the leaflets and other publications produced by the Commissioner referred to in this publication may be obtained from our website www.dataci.org or by contacting the Office (details found on the last page of this document).

Useful contact information:

Jersey

Citizens Advice Bureau

The Annexe
St. Paul's Community Centre
New Street
St. Helier
Jersey
JE2 3WP

T: 0800 7350249 (Freephone)
W: www.cab.org.je
Email: advice@cab.org.je

Jersey Law Society

PO Box 493
St Helier
Jersey
JE4 5SZ

T: +44 (0)1534 613920
F: +44 (0)1534 613928
W: www.jerseylawsociety.je
Email: admin@jerseylawsociety.je

Jersey Advisory & Conciliation Service (JACS)

Trinity House
West Centre
Bath Street
St Helier
Jersey
JE2 4ST

T: +44 (0) 01534 730503
F: +44 (0) 01534 733942
W: www.jacs.org.je
Email: jacs@jacs.org.je

Guernsey

Citizens Advice Bureau

Bridge Avenue
The Bridge
St Sampson's
Guernsey
GY2 4QS

T: +44 (0)1481 242266
W: www.cabguernsey.org

The Guernsey Bar

c/o Mathew Newman
Bar Secretary
Ogier House
St Julian's Avenue
St Peter Port
Guernsey
GY1 1WA

W: www.guernseybar.com
Email: barsecretary@ogier.com

Contact the Commissioner

Enquiries and Publication Requests

Jersey

Office of the Information Commissioner

Brunel House
Old Street
St Helier
Jersey
JE2 3RG

T: +44 (0)1534 716530

W: www.dataci.org

Email: enquiries@dataci.org

Guernsey

Office of the Data Protection Commissioner

Guernsey Information Centre
North Esplanade
St Peter Port
Guernsey
GY1 2LQ

T: +44 (0)1481 742074

W: www.dataci.org

Email: enquiries@dataci.org