

Subject Access Requests: Guidance Notes for External Applicants

General

These notes explain how you can find out what information, if any, is held about you by the National Crime Agency. Subject access requests are managed by the NCA's Statutory Disclosure Team (SDT).

Your rights under DPA 2018 and GDPR

You have a right to request access to your personal data for the purpose of verifying that the data held is accurate and is being processed lawfully. The NCA will only provide information if satisfied of your identity. The NCA is not required to give you any information identifying someone else, and will only do so where that person agrees or it is reasonable in the circumstance to do so.

This right of access is subject to restrictions. You may be entitled to obtain from the Data Controller:

- confirmation that personal data is being processed;
- the purposes of the processing;
- the legal basis for the processing;
- the categories of personal data concerned;
- if available, information regarding the source/origin of the data;
- the recipients or categories of recipients to whom the personal data has been disclosed;
- the period for which it is envisaged that the personal data will be stored or, where that is not possible, the criteria used to determine that period;
- the existence of automated decision-making, including profiling, and meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject (the individual to whom personal data relates);
- information surrounding the appropriate safeguards in place where personal data are or have been transferred to a third country or to an international organisation.

You should also note that you have further rights to:

- request rectification of personal data;
- request erasure of personal data or the restriction of its processing;
- lodge a complaint with the Information Commissioner's Office (ICO) and receive their contact details.

The information to which you are entitled will be provided in writing (this may be electronically), without undue delay, and before the end of **one month** of receipt of the request. This period may be extended by a further **two months** where requests are complex or numerous. You will be informed within one

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month of receipt of the request if an extension is required and why the extension is necessary.

Fees

The NCA will provide a copy of the information free of charge; however, a reasonable charge may be issued where a request is deemed manifestly unfounded or excessive. A fee may also be charged for further copies of the same information.

When will an access request be inappropriate?

There are some circumstances in which a subject access request (SAR) is not an appropriate gateway to access information; examples of this are where you want access to:

- data related to an unsuccessful job application (Human Resources will provide this directly);
- information that does not constitute personal data (data protection law does not apply to this data);
- information that is specifically regarding another person.

Manifestly Unfounded or Excessive Requests

Where requests are deemed manifestly unfounded or excessive the NCA may charge a reasonable fee, taking into account the administrative costs of providing the information, or refuse the request. This can include requests that:

- are repetitious;
- are malicious in intent;
- represent an abuse of the rights to access, for example by providing false or misleading information;
- are for information to which the data subject has already been given access through an alternative disclosure mechanism; or
- are repeated over a relatively short period of time or extending over several years.

Refused Requests

If your request is refused you will be notified of the reason in writing without undue delay and at the latest within **one month** of receipt of your request. You will also be given details of how to complain to the supervisory authority.

What am I entitled to?

Information requested will only be disclosed if it constitutes your personal data and if no exemptions apply. Examples of information likely to constitute your personal data include data relating to your arrest, and correspondence related to a complaint made by you. You are unlikely to receive policy documents or details related to NCA priorities, functions, or activities, even where this is already in the public domain; this information is not usually personal data and

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therefore cannot be obtained through the subject access regime. In some circumstances information that is not your personal data may appear as 'XXXX' or '██████'.

Release of personal information under this legislation is limited to information 'relating to the applicant', it does not give a person access to information relating to other individuals; information not relating to the requestor, and information relating to others, may be redacted or removed.

Restrictions

In some circumstances it will be appropriate for the NCA to restrict your right of access subject to specific exemptions within the GDPR and Data Protection Act 2018. You will be informed about the restrictions applied unless to do so would be prejudicial to the purpose of the restriction.

Am I under investigation by the NCA?

If you are unaware of whether or not you are under investigation by the NCA then it is extremely unlikely that you will receive confirmation through the subject access process. The NCA investigates individuals without their knowledge to ensure investigations can progress uninhibited; if your request relates to whether or not you are under investigation you will be likely to receive a 'neither confirm nor deny' response. This response will be issued where no data is held; or where data is held, a restriction has been applied and it is inappropriate to reveal the restriction. SDT will provide no further clarification regarding this response in either circumstance.

Europol

You can make a request to the NCA for access to Europol data; however, it should be noted that the NCA's role will be to ensure that appropriate proof of identity has been provided and act as an intermediary. ID for Europol requests must be an official document bearing the applicants name e.g. passport or national identity card. The document must be original or a copy signed by a Notary Public. Europol cannot accept a driving licence or other forms of ID as proof of identity. Once SDT are satisfied with the ID, this should be scanned in and sent back to the applicant via registered post.

SDT will then forward a copy of the ID and request to Europol within one month and ask for confirmation of receipt. Europol will process this request in accordance with Article 30 of the Europol Council Decision and respond directly to the applicant within three months.

Interpol

Requests for information related to Interpol data will be limited to what has been passed through the NCA in its function as the National Bureau i.e. locally held by NCB Manchester; should you wish to make a request for material held



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by Interpol in general or further to NCB Manchester Local records you should contact the Commission for the Control of INTERPOL's Files (CCF). Further information on how to do this can be found at:

<https://www.interpol.int/about-INTERPOL/Commission-for-the-control-of-files-CCF/Contact-the-Commission>

Parents/Guardians

Even if a child is too young to understand the implications of subject access rights parents/legal guardians are not automatically entitled to the personal data of their children; however, there are situations where it may be appropriate for a parent/legal guardian to submit a request on behalf of a child. If you wish to submit a request on behalf of your child please get in contact to provide the context of this request to satisfy SDT it is appropriate, necessary, and reasonable in the circumstances.



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Completing the Application Form

You are not required to complete any section of the form to exercise your right of access; however, you must supply enough information to process your request. Failure to provide sufficient information may limit our ability to locate data relevant to your submission. To prevent delays you are advised to provide as much information related to your request as possible. You may be contacted for further details or to clarify the scope of your request.

Section 1

This section should be filled in with the details of the individual about whom data is being requested. Please provide as much detail as possible to ensure you can be uniquely identified in event of multiple data subjects with similar details. You will also need to provide us with an address or e-mail address to which the response can be sent.

If you have nominated a representative in section 2 and would like any disclosures to be sent to them please make this clear in section 1.10 i.e. "I would like my nominated representative #### to receive my personal data at the following email/postal address: ####".

Section 2

Please complete this section where you have chosen to be represented by another individual or organisation; ensure you have included clear evidence of the permission you have given, allowing them to act on your behalf.

Section 3

Requests for data such as "everything the NCA holds" in relation to you may lead to unnecessary delays in locating data or ultimately lead to your request being refused as excessive. Please provide as much detail as possible in this section and include relevant dates/times of events alongside the location of data (if known).

If your request is vague or broad, you will be contacted to clarify or narrow the scope of your request. A failure to address the excessive nature of your request may lead to your request being refused.

If insufficient information is provided to enable the NCA to locate the data sought, you will be contacted for further information. SDT will determine what constitutes a reasonable search for data based on the context of the request; therefore, failure to cooperate and provide information may lead to relevant datasets being overlooked.

Where the NCA has requested further details and does not hear back from you within 3 months, your case will be closed without notice.



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Section 4

The NCA must be satisfied of your identity to process a subject access request. Where the NCA has reasonable doubts about the identity of an individual making a request the provision of additional information to confirm the identity may be requested; the NCA will delay dealing with access requests until identity is confirmed.

To help to establish your identity, your application should be accompanied by copies of **two documents** between them bearing your name, date of birth, signature and current address (for example a passport, birth certificate, driving licence, medical card, or household bill). If you are **requesting visual data**, a recent official photograph will be required.

If you are **servicing a prison sentence** and are therefore unable to provide the relevant documents then we require a letter from the Prison Governor confirming your identity, which should accompany your application.

If you are making an application on behalf of another, a **signed letter of authority or letter of proxy** specifically authorising a subject access request must accompany the application.

If for any reason you are unable to meet the ID requirements above please contact SDT to allow us to assist you.

Section 5

You (the applicant) or your nominated representative must sign this section to confirm that the information you have provided in the application form is correct and you are who you say you are. **A person who impersonates or attempts to impersonate another may be guilty of an offence.**