

CHECKLIST – DEALING WITH DATA ACCESS REQUESTS

Procedure	Yes/N/A
1. If the request is made by phone ask the person to put it in writing. Never give out personal information over the phone. You need to verify the person's identity. An email or letter is sufficient for a request.	
2. Does the organisation have a Data Protection Officer to which the request should be forwarded to?	
3. Does the organisation have a specific policy or procedure for dealing with data access requests? This may be dealt with under the organisation's data protection policy.	
4. If you receive a request and you are not satisfied as to the person's identity, you can request evidence of identity from the requestor.	
5. Does your organisation charge an administration fee for the data access request? This cannot be more than €6.35 and an organisation is entitled to request it. The 40 days does not run until this is paid but you must request it immediately so as not to delay the 40 days.	
6. You must respond within 40 days. This is calendar days not working days. Have you diary managed a reminder as to when the 40 day time limit expires in which to comply with the request?	
7. If the request is extremely broad do you need to seek clarification from the individual on the exact scope of data they require? Seeking this clarification may reduce the administrative time spent searching for data.	
8. Once you are clear on the scope of the request you should decide what systems and files should be searched for the relevant personal data – you should keep a note of the efforts made by the organisation in searching for data in case there is a complaint made by the individual to the Data Protection Commissioner	
<p>9. Once you have gathered all the data that you think is relevant the next step is to decide if all of the data needs to be disclosed or whether an exemption applies.</p> <p>The exemptions are extremely narrow and only apply in very limited circumstances. The following exemptions may be available:</p> <ol style="list-style-type: none"> a. An opinion given in confidence (this would not apply to manager comments on a staff member) b. Third party data within the data (this data should just be redacted and the rest supplied) c. Multiple requests from the same person (the organisation can wait a reasonable interval before having to respond to the exact same data access request) d. Data relating to the investigation of a criminal offence (where it would prejudice the investigation) e. Where legal professional privilege applies to the data (e.g. communications between the organisation and its legal advisors for the purposes of obtaining legal advice) f. Certain health data (where its disclosure is likely to cause serious mental or physical harm to the person) g. A disproportionate effort would be involved (this is an extremely high threshold to reach) 	
<p>10. The data should then be separated into 2 bundles:</p> <ol style="list-style-type: none"> a. the data you have to disclose; and 	

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b. the data to which an exemption applies	
11. A copy of the data should be forwarded to the requestor – you should send this by registered post or email with a delivery receipt so you can prove it was sent.	
12. A cover letter should be sent with the data setting out the following: <ul style="list-style-type: none"> a. The categories of their personal data being processed by the organisation (e.g. salary) b. The purposes for which the processing happens (e.g. payroll) c. To whom the data may be disclosed (e.g. payroll provider, Revenue Commissioner) d. Details of the source of the data (e.g. pay slips, contract of employment) 	
13. If the organisation is refusing to comply with the data access request then you must send the person a letter or email setting out why and advising them they may complain to the Data Protection Commissioner.	
14. Keep a record of all efforts made, the data provided and any correspondence in case the Data Protection Commissioner does need to investigate.	

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