

Handling a Subject Access Request

Introduction

There is a need for transparency of data processing to ensure that individuals can identify those organisations, which process their data. The Data Protection Act 1998 (the Act) gives everyone the right to see and obtain a copy of any information that is held about them by Natural England. This right applies to anyone about whom we hold information – staff, ex-staff, customers, suppliers, contractors – if we hold data about them we are required to provide it no matter who they are.

To exercise this right, individuals make a Subject Access Request. We are legally obliged to respond to requests within 40 calendar days; however Natural England's service standards reduce this to 20 working days. If we do not, we breach the Act and the individual could complain to the Information Commissioner. Such complaints are dealt with as a matter of priority and may lead to a full-scale investigation into an organisation's procedures and practices.

This procedure is aimed at the Access to Information Specialist to respond to a Subject Access Request. The Information Management Officer in each team can use this procedure to see where they fit in, specifically Steps 2 and 5.

Step 1 - Receiving a valid request

For a request to be valid it must be in writing, this includes email. Using the application form is not a requirement; as long as the data subject's request is in writing and contains the information we require to comply, we must use it.

- **Requests made in person or by telephone.** Advise the individual that requests must be made in writing and **write to them** and send a copy of the **application form**.
- **Requests made by letter, fax or email.** Review the contents to see whether it is necessary to send the application form. We may have enough information to proceed with the request.

It is Natural England's policy **not** to charge for Subject Access Requests.

Step 2 - Inform the Access to Information Specialist

All Data Protection enquires should be coordinated by the Access to Information Specialist who can be contacted through the Enquiry Service on 0845 600 3078.

Step 3 - Recording the request

It is important that a record is kept of the handling of the request. A separate manual registered file should be set up, keeping copies of all correspondence, notes made, summary of phone conversation, dates received and actions taken.

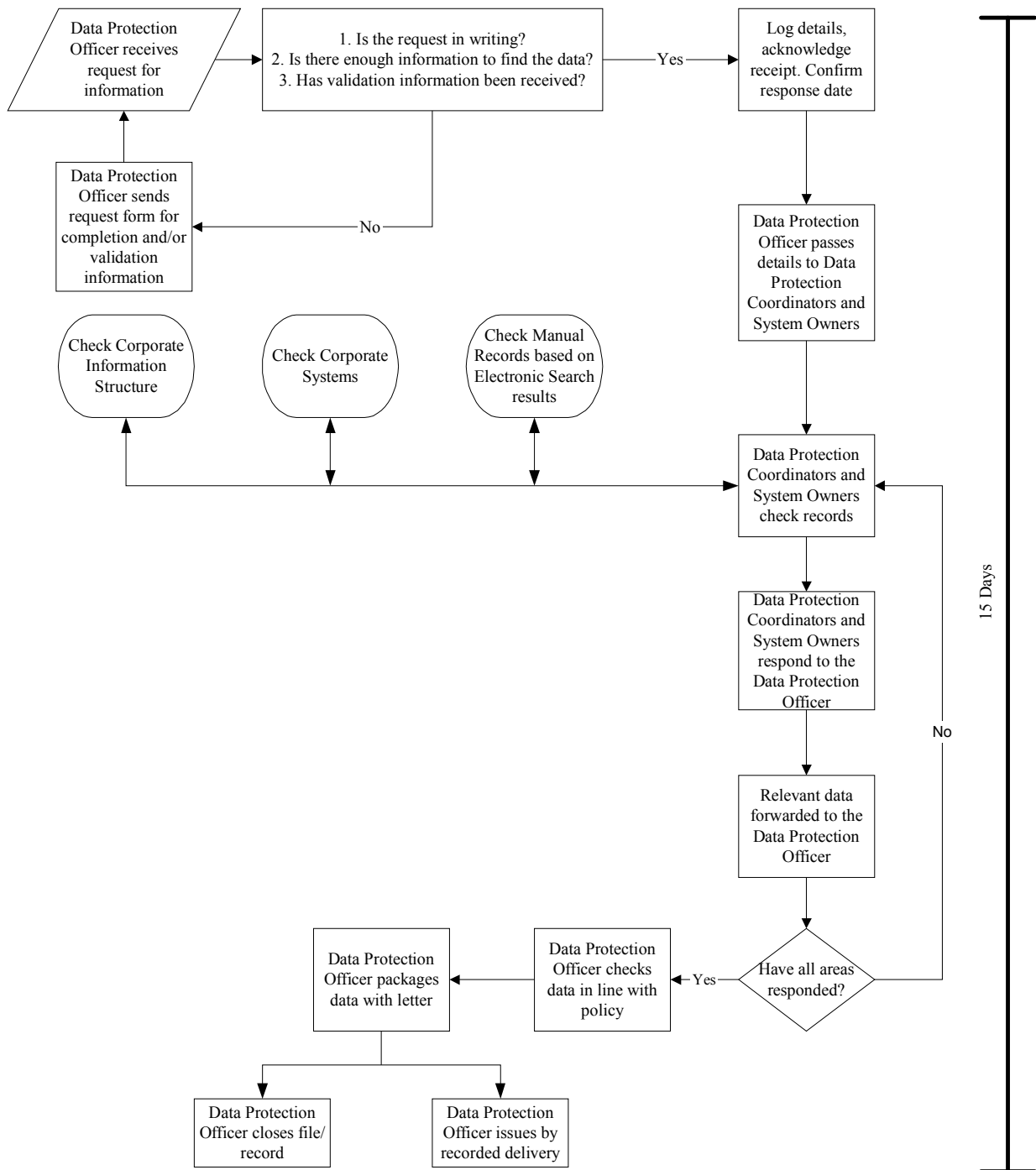


Figure 1 – Handling a Subject Access Request.

We are legally obliged to respond to requests within 40 calendar days; however Natural England’s service standards reduce this to 20 working days. The 20 day deadline starts from either:

- the date of receipt of the written request if we have everything we need to proceed; or
- the date on which we receive the completed application form we needed to clarify the request or to verify the individual’s identity.

Step 4 - Acknowledging, clarifying and verifying the request

Send the individual a **standard letter** of acknowledgement within seven days of receipt of the written request or completed application form stating the 20 day deadline date. It is important that we explain to the individual the data upon which the request must be completed.

It is often helpful to make contact with the data subject as soon as the request is received to:

- Clarify the information they are seeking, but remember, we are not permitted to ask the data subject why they are seeking the information.
- Verify the identity of the data subject.
- Verify whether someone is making the application on behalf of the data subject.

The right of Subject Access applies whatever the motive of the data subject for seeking information. We are not permitted to ask the data subject why they are seeking the information.

We are entitled to ask for any information that we reasonably require to satisfy ourselves of the identity of the individual. Retain copies of documents used to verify the identity.

Record the date the acknowledgement letter was sent and the date and outcome of any phone contact made. Record the verification steps taken, making note, for example of any relevant documents seen

Step 5 - Finding the requested information

The Access to Information Specialist will:

- Contact via email the Information Management Officer in each Team, to search their Team's Corporate Information Structure (CIS).
- Contact via email all Corporate Business Owners to run a search on their systems.

If possible they should print out and email the search results to the Access to Information Specialist.

Following on from the electronic search results all paper based filing systems should be searched. The results should be photocopied twice and sent to the Access to Information Specialist.

What we must provide

The following types of electronic records come under the Act and must be provided. It is important to narrow down the search as much as possible, due to the size, location and various types of records we hold.

- Computerised records on database
- Images or documents
- Emails and Backup Data – At present this involves disproportionate effort. Therefore it will not be searched unless a specific request has been received.

Under the Act manual records must form 'part of a structured filing system'. Broadly speaking, this means that they must be structured in such a way as to facilitate the processing of specific information about an individual. We will treat all information as data

and will not use the subjectiveness of what defines a 'structured filing system' as a reason to not disclose information. The following types of manual records come under the Act:

- Letters
- Card file entries
- Address book entries
- Paper files

Step 6 - Checking the requested information

The Access to Information Specialist will:

- Check the material for any references to third parties and delete, block, retype or get consent in writing.
- Check that any explanation (eg of codes or acronyms) are included.
- Check whether there are grounds for withholding any information under the exemptions.

Record what material has been withheld and the exemptions used.

What we do NOT have to provide (Exemptions)

- Information that is likely to prejudice any to the following:
 - Prevention or detection of crime.
 - The apprehension or prosecution of offenders.
 - The assessment or collection of any tax or duty.
- Confidential references given by a staff member to a prospective external employer.
- Certain records relating to health, education and social work
- Any records of the intentions of Natural England in negotiations with the data subject.
- Information that is subject to legal professional privilege.
- Information that would lead to self-incrimination.

Information containing data on a third party

Where the requested information includes personal data on another individual, we need to consider whether to release that information to the data subject. There are three options:-

1. Edit the information by deleting, blocking or retyping so the third party's identity is not revealed.
2. Obtain the third party's consent to the disclosure, if it is reasonable to do so.
3. Decide that it is reasonable to disclose, without the third party's consent. But the following must be considered first:
 - Whether we owe the third party a duty of confidence.
 - What steps we have taken to get their permission.
 - Whether the person is capable of giving consent.
 - Whether they have expressly refused consent.
 - Whether the information is of particular importance to the data subject.

Step 7 - Preparing to release the information

Prepare a **letter** to accompany the information to be released. In this letter the following should be described:

- The personal data.
- Natural England's purpose for processing the data.
- Information about the people or organisations to whom we might disclose the personal data.
- Provide the sources of the personal data.
- Add contact details, so that the data subject can advise us whether they think that any information is inaccurate or incomplete.

We must provide the individual with an intelligible copy of the data in permanent form. We can decline to provide a copy of personal data in permanent form if it would require "disproportionate effort". We must still offer to supply the data in another form.

To make the information intelligible we must explain any special codes or abbreviations we have used.

Step 8 - Responding where no information has been found

If no information has been found, send a **letter** to the data subject indicating this or, if none of the data can be released, state that there is no information you are required to give. There is no requirement to explain the reason for withholding. For example if disclosure of the information would be likely to cause harm to the physical or mental health or condition of the individual.

We must retain the final response to the data subject, identifying any information that was sent, should the data subject challenge what we provided.

Step 9 - Finalising the request

Once the final correspondence is sent to the individual, record the date the request was finalised. Retain all documentation on the registered file for a maximum of two years in case any further action is required.

Step 10 - Follow on response

Individuals have rights to have any inaccurate information corrected. They can also request that we discontinue processing where it causes them damage or distress. If we receive such a complaint we are required by law to:

- Respond within 21 days.
- Advise them whether it is appropriate for us to change any data or cease any processing.
- Give them the reasons for our decisions.

If the individual indicates that information about them is inaccurate or claims that the processing causes them damage or distress, liaise with the relevant Business Owner or Team Manager and investigate why.