SUBJECT ACCESS – A GUIDE FOR DATA SUBJECTS
DATA PROTECTION (JERSEY) LAW 2005:
SUBJECT ACCESS –
A GUIDE FOR DATA SUBJECTS

Introduction to subject access rights 4
How can I find out what is held about me? 5
How can I obtain a copy of my credit file? 7

Responding to your 'request' -
(Where the data controller is not a credit
Reference Agency) 9

How much will it cost to obtain the information? 10
If I require an explanation as to how many automated
decisions have been made, what must I do? 10
What will be sent to me? 11

Is the data controller entitled to withhold any
information? 12

What can I do if the data controller does not
comply with my subject access request? 13
What orders can the court make? 14

Other publications in the series 15
Useful contact information 16
Introduction to Subject Access Rights

The Data Protection (Jersey) Law 2005 (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 sections 7, 8 and 9 of the Law.

Requests for access to records and for other information about those records are known as “subject access requests” and are made to the person or organisation (the “data controller”) who you think is processing (holding, disclosing or using) the information to which you want access. Personal data may take the form of computerised or, in some cases, paper records.

This leaflet is part of a series of eight leaflets which explain your rights under the Data Protection Law. Details of our other leaflets can be found at the back. If you would like any of these please contact the Data Protection Commissioner’s Office. You will find our contact details on the back cover.
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.

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.
Dear Sir or Madam

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

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.]

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?

Credit reference agencies provide lenders with a range of information about potential borrowers, which lenders use to make lending decisions. The information shared may include information about the individual’s previous credit history.

If you are asking for information from a credit reference agency the agency will only send you details about your financial situation, unless you specifically say that you want any other information such as that referred to in the example letter.

In order to obtain a copy of the information which relates to your financial standing (i.e. your credit file), you should write to the three main credit reference agencies in the UK. These are:

Equifax Plc
Credit File Advice Centre
P.O.Box 1140
Bradford
BD1 5US

Call Credit Plc
Consumer Services Team
One Park Lane
Leeds
LS3 1EP

Experian Ltd
Consumer Help Service
P.O.Box 8000
Nottingham
NG1 5GX
There are also four credit reference agencies based in Jersey. These are:

Cashback Limited
Kedros
Rue de la Devise
St.Ouen
Jersey JE3 2AG

Chancellor’s Debt Recovery Ltd
2nd Floor
Derek Warwick House
Longueville Road
St.Saviour
Jersey JE2 7WF

Collect Services Limited
PO Box 737
Pirouet House
Union Street
St.Helier
Jersey JE4 8ZQ

Trades Advisory Bureau Service (T.A.B.S)
PO Box 813
RM House
Rue Des Pres Trading Estate
St.Saviour
Jersey JE4 0YA

For all subject access requests to credit reference agencies, you should send:–

A fee of £2, if you require information relating to your financial standing and £10 for all other information, your full name & address including postcode, any other address you have lived at for the last 6 years and details of any other names you have used or been known by in that time.

Unless the agencies require any further information to locate your file, they have 7 working days from the receipt of your letter in which to provide you with a copy of your file.
Responding to your ‘request’ – Where Data Controllers are not credit reference agencies

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.

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 40 day time limit 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 in permanent form to you.
How much does it cost to obtain the information?

Data controllers may charge a fee of up to £10 (£2 if it is a request for limited information relating to financial standing from a credit reference agency).

There are special rules that apply to fees for access to manual health records (where the maximum fee is currently £50) and 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.

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 found on the Commissioner’s website www.dataprotection.gov.je or in the Legal Guidance which is also available on the website. These publications are also available from the Commissioner’s Office.
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 40 days, 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...

1. Your rights and how to enforce them

3. Incorrect information - What can I do?

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

5. Stopping unwanted marketing materials

6. Preventing decisions based on automatic processing of my personal information

7. Claiming compensation

8. Taking a case to court

All the Information Packs and other publications produced by the Data Protection Commissioner referred to in this publication may be obtained from our website www.dataprotection.gov.je or by telephoning 01534 441064.
Useful Contact Information:

Citizens Advice Bureau
The Annexe
St.Paul's Community Centre
New Street
St.Helian
Jersey JE2 3WP

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

Jersey Law Society
40 Don Street
St Helier
Jersey JE1 4XD

T: +44 (0)1534 601700
F: +44 (0)1534 601701
W: www.jerseylawsociety.je
Email: secretary@jerseylawsociety.je

Channel Island Association of Accredited Mediators (CAAM)
Email: info@caam.je
W: www.caam.je

Jersey Advisory & Conciliation Services (JACS)
Trinity House
West Centre
Bath Street
St Helier
Jersey JE2 4ST

T: +44 (0)1534 730503
F: +44 (0)1534 733942
W: www.jacs.org.je
Email: jacs@jacs.org.je