

# Data Subject Rights Policy

## Operational Guide for Personnel

### The Adoption Authority of Ireland



ÚDARÁS UCHTÁLA na hÉIREANN  
THE ADOPTION AUTHORITY of IRELAND

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## 1 Introduction

The purpose of this operational protocol (“The Protocol”) is to set out the approach taken by The Adoption Authority of Ireland (the “**Adoption Authority**”) when dealing with Data Subject Access Requests (SARs).

The protocol forms part of the Adoption Authority’s Data Subject Access Rights suite of personnel facing policies and it is not service user facing. The protocol is intended to be used as a guide and an aide by The Adoption Authority’s personnel. Any queries in relation to a matter that is not addressed in this Protocol can be addressed to the Data Protection Officer by email at [dataprotection@aai.gov.ie](mailto:dataprotection@aai.gov.ie) or telephone at **01-2309348/085 8797069**

A number of terms used in this policy are outlined in greater detail in the ***Glossary of Data Protection Terms***.

### Policy Scope

In this policy, individual privacy rights are explained. A step by step guide is provided for personnel dealing with SARs. The protocol applies regardless of whether the SAR is raised by personnel within the Adoption Authority or whether the SAR is raised by a service user.

The scope of the policy reflects individual’s right to privacy as set out in the General Data Protection Regulation [GDPR] 2018 and in the Data Protection Acts [DPA] 1988-2018. People who raise a SAR are known as data subjects and data subjects can be employees or people from outside the Adoption Authority. The right to make a SAR extends also to the Adoption Authority’s service users. A representative such as a solicitor, a trade union or an authorised family member can make a SAR on behalf of another individual as long as the appropriate signed authority from the data subject is made available and proof of identification is received from both the representative and the data subject. In cases involving vulnerable data subjects, the Adoption Authority reserves its right to dispense with the need to have identification documentation verified. The decision as to whether the need for verification of identification will be dispensed with rests with the Data Protection Officer, or the Chief Executive Officer.

The time period for responding to a request does not start until the Adoption Authority is satisfied of the verified identity of the data subject and/ or their representative. The Data Protection Commission (DPC) has issued guidance that proof of identity should only be asked for from a data subject where it is reasonable and proportionate to do so. So, in practice, this means that proof of identity will be required from external applicants but not from personnel/ employees known to the Adoption Authority.

The right to make a SAR only extends to living individuals and does not extend to the deceased. For example, if data is requested on behalf of a birth mother who is deceased, the request for information may be valid, but it will not be valid in a SAR request. Each case needs to be considered carefully on its own facts.

Requests may be received from members of staff or any other individual we have dealings with and hold data about that individual. This will include information held both electronically and manually and will therefore include personal information recorded within electronic systems, spreadsheets, databases or word documents and may also be in the form of photographs or emails.

Individual privacy rights are provided for in the GDPR and the DPA 2018 in the following way:

- General Subject Access Rights (Article 15)
- Data Rectification Rights (Article 16)
- Restriction of Processing Rights (Article 18 & 19)
- Data Portability Rights (Article 20)
- Data Erasure Rights (“Right to be Forgotten”) (Article 17 & 19)

## 2 Subject Access Rights under the GDPR (Art15)

### Personal Data

The right of access is a right to personal data only. It is not a right of access to a particular document, but rather a right to access the personal data contained in that document. Personal data is defined broadly under the GDPR and includes any information from which the data subject can be identified, either directly or indirectly.

All decisions to release information by way of response to a SAR must be signed off in accordance with our internal protocol and signed off in writing by the Data Protection Officer and in her absence by the Head of Compliance.

The most likely forms of personal data relating to external service users on the Adoption Authority’s systems will include but will not be limited to:

- Birth certificate
- Details of birth mother and depending on the circumstances, the birth father
- The place of birth
- Baptismal certificate

The most likely forms of personal data relating to employees includes but is not limited to:

- Name
- Address
- Date of birth

- Role (if their role is an identifier)
- Commentary relating to the data subject (eg: performance reviews)
- Email address (personal or work)
- PPS/ social security number
- Employee number
- Passport/ driving licence (identification numbers or copies)
- Images of the data subject
- Phone number (home, mobile or work)

### **How to recognise and action a Data Subject Access Request**

Applicants may take an informal or a formal approach to their requests for information. An informal approach is where an applicant makes contact with a member of HR/Personnel/Social work team in the Adoption Authority and asks for certain information. It is perfectly acceptable to deal with an information request informally, as long as the information released is released in line with the Adoption Authority's procedures and is information that is within the Adoption Authority's powers to release. Any information released will be communicated securely to the Applicant and at no stage is it permissible to share information through social media with an Applicant, even though a request for access to information may be received through social media.

If an applicant makes a formal request, this is typically a SAR although from time to time, because of the Adoption Authority's status, a Freedom of Information Request may also be made.

Informal or formal SAR requests for access to personal data may be made by letter, by email, by phone, by social media or by form available on the Adoption Authority's Website.

Where the applicant (data subject) is not able to make the request in writing, it can be received verbally and a record of the request made on the applicant's file (if there is one).

The Adoption Authority requires proof of identity of the applicant and/or the applicant representative, and proof of right of access to another person's personal information. Applicants can verify their identification documentation at a local Garda station for free or at a solicitor's office for a nominal fee.

In cases involving vulnerable data subjects, the Adoption Authority reserves its right to dispense with the need to have identification documentation verified. The decision as to whether the need for verification of identification will be dispensed with rests with the Data Protection Officer, the Head of Compliance or the Chief Executive Officer.

There is usually no cost involved for applicants when making a SAR. A cost may apply if a request is "manifestly unfounded" or "excessive". If you believe a SAR is manifestly unfounded or excessive, please seek advice from the Data Protection Officer.

All requests are required under the GDPR and the DPA to be responded to within 30 days of receipt, unless the request is complex, in which case the timeframe can be extended for an additional two months to a total of 3 months. In order to avail of this extension:

- It should be required in light of the complexity of the number of requests received: and
- The data subject must be informed of the extension before the expiry of the initial period of the response together with the reasons why the extension is necessary.

All SAR requests received will be forwarded to the Data Protection Officer, relevant head of section (if applicable), e.g. staff requesting access to personnel records will be directed to Head of Human Resources, without delay in order for it to be processed.

### **Log and record all Subject Access Requests**

It is essential that an excel sheet/log of all requests received is maintained in the Subject Access Request Register detailing:

- Date received
- Date response due (within 30 days unless complex, 3 months if complex)
- Applicant's details
- Information requested
- Exemptions applied in respect of information not to be disclosed
- Details of decisions to disclose information without the data subject's consent
- Details of information to be disclosed and the format in which they were supplied
- When and how supplied, e.g. Paper copy and postal method used to send them

### **Exceptions to Subject Access Requests**

Once documents relevant to a SAR have been identified, they should be reviewed in order to (i) apply statutory exemptions and (ii) to ensure that their release does not prejudice the rights of other data subjects.

Privacy and the right of access to personal data is not an absolute right. There are some limited exemptions to an applicant's right of access to personal data.

The potentially applicable statutory exemptions should be considered in respect of each document and, if statutory exemptions apply, with (i) the related information should be redacted or (ii) if that is not possible, the document should be removed from the information to be disclosed entirely.

### **Available Exemptions**

Under the current data protection legislation, the exemptions are extremely narrow and only apply in very limited circumstances. The following exemptions may be available:

- An opinion given in confidence (this would not apply to a Manager's comments on a staff member)
- Third party data within the data (this data should just be redacted, and the rest supplied)
- Multiple requests from the same person (we can wait a reasonable interval before having to respond to the exact same data access request)
- Data relating to the investigation of a criminal offence (where it would prejudice the investigation)
- 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)
- Certain health data (where its disclosure is likely to cause serious mental or physical harm to the person)
- A disproportionate effort would be involved (this is an extremely high threshold to reach)

### **Rights of access by the data subject**

The data subject will have the right to obtain from the Adoption Authority confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the following information:

- the purposes of the processing;
- the categories of personal data concerned;
- the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;
- where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;
- the existence of the right to request from the Adoption Authority a Subject Access Request or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;
- the right to lodge a complaint with the Data Protection Commission;
- where the personal data are not collected from the data subject, any available information as to their source;
- Where personal data are transferred to a third country or to an international organisation, the data subject shall have the right to be informed of the appropriate safeguards pursuant to Article 25 relating to the transfer.

We will provide a complete or a redacted copy of the personal data undergoing processing. For any further copies requested by the data subject, the Adoption Authority may charge a reasonable fee based on administrative costs. Where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, the information shall be provided in a commonly used electronic form.

The right to obtain a copy referred to in paragraph 3 shall not adversely affect the rights and freedoms of others.

## **Requests made about or on behalf of other individuals**

### **General Third Party**

A third party, e.g. solicitor, may make a valid SAR on behalf of an individual. However, where a request is made by a third party on behalf of another living individual, appropriate and adequate proof of that individual's consent or evidence of a legal right to act on behalf of that individual e.g. power of attorney must be provided by the third party.

If the Adoption Authority thinks an individual may not understand what information would be disclosed to a third party who has made a SAR on their behalf, we may send the response directly to the individual rather than to the third party. The individual may then choose to share the information with the third party after having had a chance to review it.

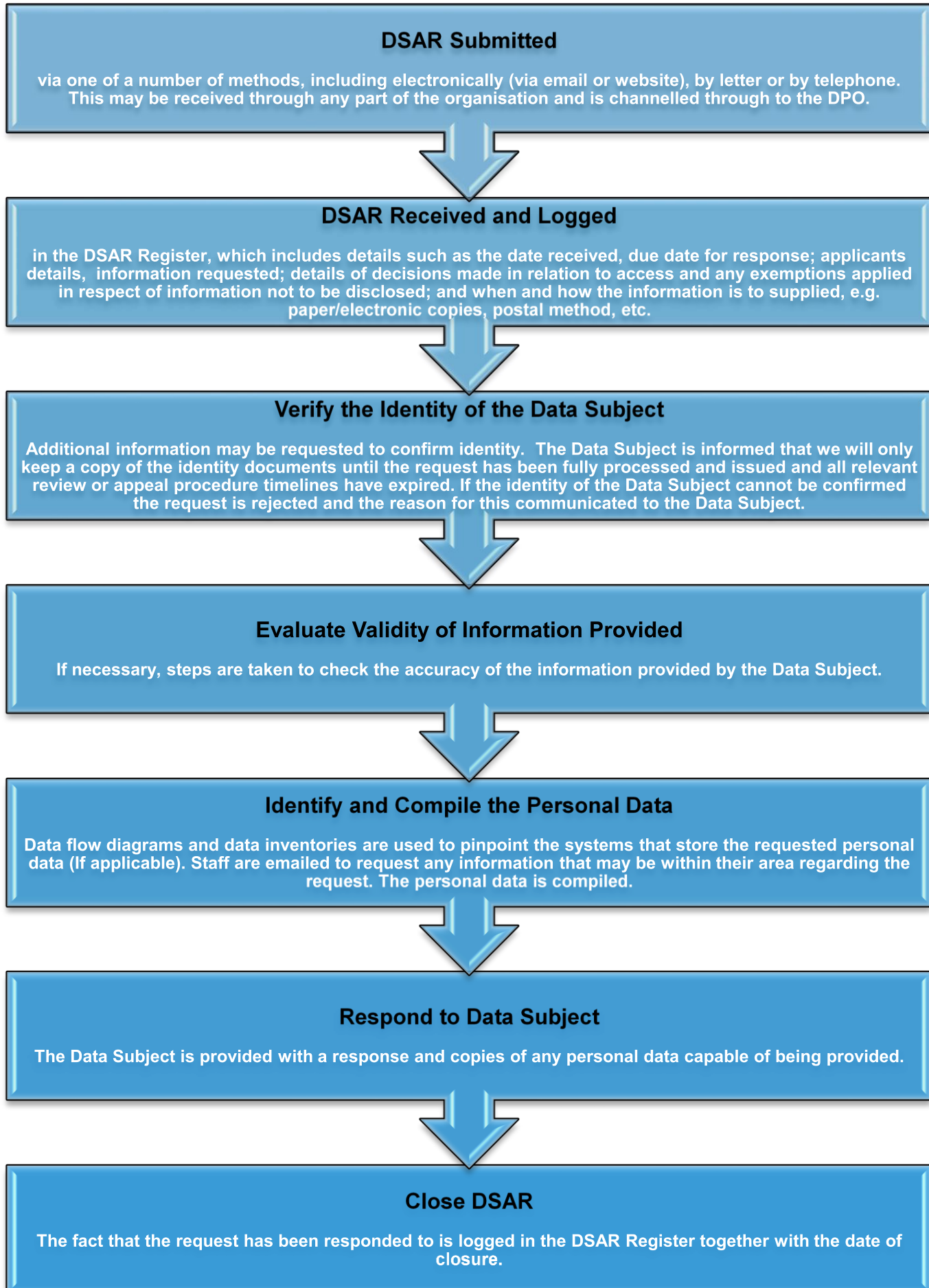


### 3 Data Subject Access Request Procedure

#### **Important Compliance Notes**

The Adoption Authority must act on a request for Subject Access Request from a data subject unless they are unable to establish their identity.

The procedure for responding to Data Subject Access Requests is set out in Figure 1 and expanded on in Table 1. The specifics of each step will vary depending on the request and the systems where the data **is** held.



## 1. TABLE 1 – SUBJECT ACCESS REQUEST PROCEDURE

Step	Description
<b>Data Subject Access Request received</b>	The Data Subject submits a request for Subject Access Request via one of a number of methods, including electronically (via email or website), by letter or by telephone. This may be received through any part of the organisation and should be channelled through to the Data Protection Officer.
<b>Log Data Subject Access Request.</b>	The fact the request was received should be logged in the Data Subject Access Request Register and the date of the request recorded.
<b>Verify Identity of the data subject</b>	The identity of the data subject is confirmed via an approved method. Additional information may be requested to confirm identity. If the identity of the data subject cannot be confirmed the request is rejected and the reason for this communicated to the data subject.
<b>Evaluate Validity of request</b>	Take steps if necessary to check the accuracy of the information provided by the Data Subject.
<b>Locate the personal data</b>	Use data flow diagrams and data inventories to pinpoint the systems that store the requested personal data (If applicable). Email staff to request any information that may be within their area regarding the request.
<b>Compile requested Personal Data</b>	Compile the personal data as requested
<b>Respond to Data Subject</b>	Respond to the data subject with Data as requested.
<b>Close Data Subject Access request</b>	The fact that the request has been responded to is logged in the Data Subject Request Register together with the date of closure.