

# Subject Access Request Procedure (Data Protection)

**Doc No IMPR04**

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## 1.0 Scope

The [Data Protection Act 1998](#) (DPA) provides individuals with rights in connection with personal data held about them. It provides those individuals with a right of access to that data subject to the rights of third parties and the satisfaction of a number of criteria as outlined in the Data Protection Policy (see IMP03). This procedure defines the process to be followed when a request for access to personal data is received. A subsequent failure to comply with the provisions of the DPA in responding to this request may render the NDA, or in certain circumstances the individuals involved, liable to prosecution as well as giving rise to civil liabilities.

## 2.0 Responsibilities and Definitions

**Records and Information Manager** is the NDA Data Protection Officer and is responsible for ensuring that statutory and regulatory obligations with respect to the DPA are adhered to.

**Information Access Manager** is responsible for handling subject access requests.

**Information Commissioner's Office** is the UK's independent authority set up to promote access to official information and to protect personal information.

**Data Controller** is the person or organisation who determines the purposes for which and the manner in which any personal data are, or are to be, processed. In our case the NDA is the registered Data Controller.

**Data Processors** are any individual or company who records and/or processes personal data in any form on behalf of the NDA and therefore subject to the requirements of this policy. Compliance with this policy is normally managed by contract.

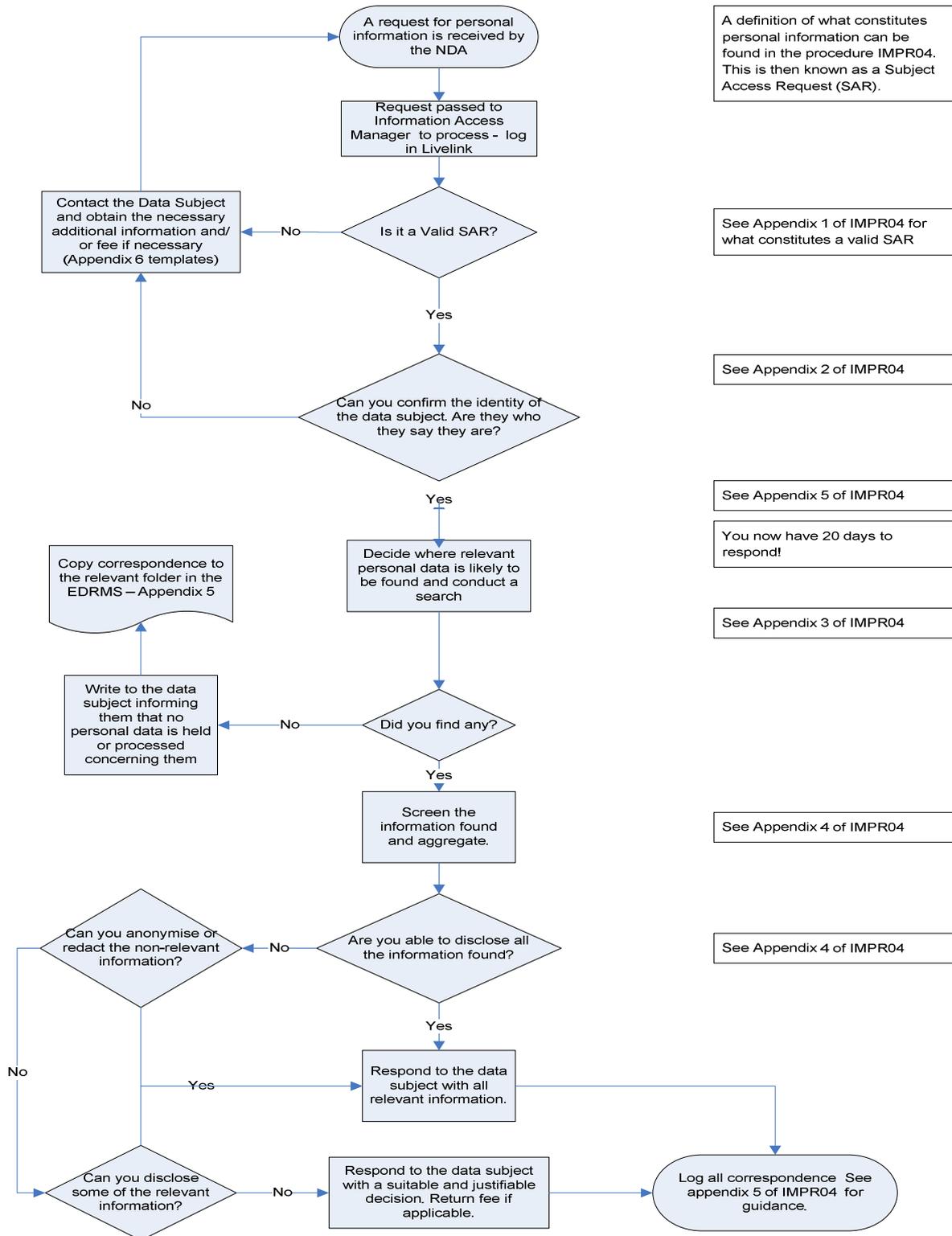
**NDA permanent and temporary employees, contractors and consultants** are responsible for incorporating this procedure and its associated policy into their own working practices.

The definitions of the terms used in this procedure are as defined in the Data Protection Policy (IMP03) which should be read in conjunction with this procedure.

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## 3.0 Procedure



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### 4.0 Documentation

- Records of communications relating to a subject access request (Retained for 5 years)
- Records of communications resulting in an action to cease processing personal data (Retained for 5 years)

### 5.0 Appendices

#### Appendix 1 What does a valid SAR look like?

A valid subject access request is one which the Information Access Manager decides;

- provides all the information they require to locate the information the person wants;
- includes a £10 fee;
- provides sufficient information to verify the data subject's identity.

It is unlikely that the first contact from the data subject will provide all the relevant information and a £10 fee, in which case the Information Access Manager must write to the data subject requesting this.

Once the Information Access Manager has received all the information they need and sufficient information to verify the data subject's identity, they have **20 working days** to provide the information requested.

(**N.B.** This is an NDA imposed target; the statutory requirement is **40 calendar days**, which must not be exceeded)

#### Appendix 2 How to correctly identify a Data Subject.

Before disclosing any personal information the Information Access Manager must verify the identity of the data subject.

Whilst it is important that NDA does not send copies of personal information to people who are not the data subject, they must not appear obstructive. The DPA requires NDA to take "reasonable measures" to verify the identity of a data subject. The Information Access Manager should keep a record of what measures they take.

If the evidence is insufficient and requires further verification of the data subject's identity, there are 2 options;

1. Telephone the individual and based on the information held about them ask two questions so as to confirm their identity.
2. Write to the individual and ask them to send the Information Access Manager a photocopy of their passport or driving licence (this option will take longer and it is also possible that the individual does not have a passport or drivers licence).

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### Appendix 3 Where to look for personal information.

Based on their knowledge of the business area, the Information Access Manager should decide where 'personal data' about the individual concerned might be held, and locate that information. They may need to search central filing systems electronic and manual, personnel records, shared drives, the Intranet and/or private filing systems of particular individuals. If necessary, they must also ask colleagues to search their personal drives and e-mail accounts.

If staff are aware of other business areas that might also hold information about the person concerned, please tell the Information Access Manager as soon as possible so that they can arrange for these areas to be searched.

Staff do not have to look through unstructured personal data unless a specific piece of information has been requested and its location identified. However they do have to look through any semi-structured data and for information held in a relevant filing system (see the definitions above).

If the cost of supplying the data is likely to be excessive advise the Records and Information Manager as NDA may charge a fee in line with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

### Appendix 4 How to screen information & what can and cannot be disclosed as a result of a SAR

Once the Information Access Manager has collected together the information we hold about a data subject they must examine it in detail to establish if it should be disclosed. This must be done on a case-by-case basis for each individual piece of information. In some cases they might have to disclose only parts of particular documents.

1. Check that the record is actually about the person concerned and not about someone else with the same name. Just because a record contains somebody's names does not always mean that it is about them. For example, an e-mail might carry the subject line "Meeting about John Smith" but if the e-mail only contains details about whether people can attend the meeting the e-mail is not about John Smith. The Information Access Manager should only print out records/documents/e-mails which are about the person making the subject access request.
2. Screen out any duplicate records. For example if there has been an e-mail exchange with some colleagues, the Information Access Manager only needs to print out the last e-mail in the exchange if copies of all the other e-mails are part of the last e-mail.
3. If a record was created by a member of staff acting in a private rather than an official capacity, only exceptional circumstances would justify its disclosure without their consent. If they are not prepared to disclose the record, do not disclose it. Please note however that the NDA's IT policies do not permit personal use of the computing facilities.
4. The Information Access Manager should only disclose information which is about the person making the subject access request. Where a document contains personal data about a number of individuals, including the data subject, they should not disclose the information about the third parties to the data subject. If the record is primarily about the data subject, with incidental

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information about others, they should redact the third party information. If the record is primarily about third parties withhold it if redacting is not possible. Alternatively, contact the third party to obtain consent to disclose the document if possible. Ensure that any and all correspondence in these matters is logged in the relevant folder in Livelink (see appendix 5).

5. The records may contain correspondence and comments about the data subject from a number of parties, including private individuals, external individuals acting in an official capacity, and NDA staff. In these cases we are required to balance the interests of the third party against the interests of the data subject and often omit or redact third party information.
6. Do not disclose information which would prejudice the prevention or detection of a crime. For example, if the Police informed us that a member of staff is under investigation, but the member of staff did not know this, then we should not provide that information to the member of staff whilst the investigation is in progress. However, if the investigation is closed or if the member of staff has been informed that there is an investigation underway, then the information should be disclosed in response to a subject access request.
7. We should not disclose any records which contain advice from our lawyers, where we are asking for legal advice or which were written as part of obtaining legal advice.
8. Do not disclose information which is being used, or may be used in future, in negotiations with the data subject if the information gives away our negotiating position and disclosing the information would weaken that negotiating position.

The exemptions identified above are those most likely to apply to information held by the NDA. There are others and it is good working practice to research all DPA exemptions before responding to a SAR.

As the Information Access Manager puts the information together they may discover material which does not reflect favourably on us. For example, they may find documents which show that standard procedures have not been followed, or documents which may cause offence to the data subject. These documents must be disclosed. However, the Information Access Manager should bring their contents to the attention of the relevant manager and ensure that appropriate action is taken to address any issues they raise.

Staff must not destroy or refuse to disclose records because they would be embarrassing to disclose. This is a criminal offence if it is done after you know a subject access request has been made.

Once the Information Access Manager has identified all of the information that can be sent in response to a SAR, one final review of this information as a collection must be made. This is to offset the risks often discovered by aggregating information. For example, the Information Access Manager may have identified that all the information they intend to release is unrestricted in its nature. However, once aggregated there is an inherent risk that additional information could be disclosed or at least interpreted. This has to be taken into consideration before the final response is made.

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## Appendix 5 How to log the requests and responses.

The Information Access Manager should go to Livelink folder 3.7.1.16.13 Subject Access Requests. In it is a spreadsheet “subject access request log” which is to be used to record and track progress for each request. Complete the information requested into the spreadsheet and allocate the next available unique reference number to the SAR from the spreadsheet. This number should be used in all correspondence.

Create a folder for each SAR – the filename should be made up from the reference number and surname of the applicant e.g. SAR2011010 – Smith. For each SAR file the following;

- Copies of the correspondence between the Information Access Manager and the data subject and between the Information Access Manager and any other parties.
- A record of any telephone conversation used to verify the identity of the data subject.
- A record of the Information Access Manager’s decisions and how they came to those decisions.
- Copies of the information sent to the data subject, for example if the information was anonymised keep a copy of the anonymised or redacted version that was sent.

The folder should be kept for 5 years and then securely destroyed within the NDA’s records management programme.

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## Appendix 6            **DATA PROTECTION ACT 1998: Subject Access Request Template**

I understand that you wish to exercise your rights under the Data Protection Act 1998 ("the DPA") to;

- be given a description of any personal data which we may hold on you;
- be advised of the purposes for which this data may be used;
- be notified of the identity of any person or organisation to whom the data may be disclosed; and
- be advised as to the source of the data.

*[Delete one of the following two paragraphs as appropriate]*

The NDA are obliged under the DPA to satisfy ourselves as to the identity of the person making the request and accordingly we require you to complete the attached Subject Access Request Form, countersigned by your HR Adviser or line manager to confirm your identity. In the case of contractors, the nominated NDA representative for your project should confirm your identity. We regret that we will be unable to respond to your request without this information.

The NDA are obliged under the DPA to satisfy ourselves as to the identity of the person making the request. Accordingly, we require you to complete the attached Subject Access Request Form and provide suitable proof of your identity such as your original passport or a copy certified by a solicitor of your original passport, plus original utility bills from at least two service providers to your home address.

Also, in order to assist the NDA to locate the information which you are seeking in a timely and efficient manner, you should provide as much information as possible as to the type of data which you are seeking, the period during which the data has been held, the persons or departments who are likely to be holding this data and the sites and/or specific locations where such persons or departments are based.

The fee payable to the NDA for this purpose is £10 and a cheque for this sum, made payable to "The Nuclear Decommissioning Authority" should be attached to the Subject Access Request form.

Please send the completed form and any necessary evidence (as appropriate) to The Information Access Manager, NDA, Herdus House, West Lakes Science and Technology Park, Moor Row, Cumbria CA24 3HU.

We will endeavour to respond to your request as soon as reasonably practicable.

Regards

Information Access Manager

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## Employee Subject Access Request form

I am/was an employee of the Nuclear Decommissioning Authority and wish to exercise my rights under the Data Protection Act 1998 to:

- be given a description of the personal data which you may hold on me;
- be advised of the purposes for which this data may be used;
- be notified of the identity of any person or organisation to whom the data may be disclosed; and
- be advised as to the source of the data.

To assist you to locate the data, the information which I require can be categorised as follows:-

Type or Class of Information	Period Data Held	NDA Department(s) Holding the Information	Location of Department(s)

*Please continue on another sheet if necessary*

A cheque for £10, made payable to the Nuclear Decommissioning Authority is attached.

I can be contacted on .....and my home address is .....

Regards

I certify that \_\_\_\_\_ [Name] \_\_\_\_\_ [Employee No] is an employee/Ex-employee  
[delete as appropriate] of the Nuclear Decommissioning Authority.

\_\_\_\_\_ [HR Adviser/Line Manager]

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## Third Party Subject Access Request form

I [insert name] [explain briefly the nature of your relationship with the NDA] wish to exercise my rights under the Data Protection Act 1998 to:

- be given a description of the personal data which you may hold on me;
- be advised of the purposes for which this data may be used;
- be notified of the identity of any person or organisation to whom the data may be disclosed; and
- be advised as to the source of the data.

To assist you to locate the data, the information which I require can be categorised as follows:-

Type or Class of Information	Period Data Held	NDA Department(s) Holding the Information	Location of Department(s)

*Please continue on another sheet if necessary*

A cheque for £10, made payable to the Nuclear Decommissioning Authority is attached.

I can be contacted on .....and my home address is .....

I understand that you are entitled, under the Data Protection Act 1998, to withhold the information I have requested unless you are completely satisfied of my identity. I therefore enclose my;

- original passport; or
- a copy certified by a solicitor of my original passport

plus original utility bills from at least two service providers to my home address as evidence of my identity.

Delete as appropriate -

I require my passport and/or other documents to be returned by registered post.

I shall collect my passport and/or other documents in person when you have notified me that it is available for collection.

I look forward to hearing from you

Regards

[Your name and signature]