

# KNOW YOUR DIGITAL RIGHTS

A Guide to Subject Access Requests:  
Steps and Regulations



# DIGITAL RIGHTS TOOLKIT

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# DIGITAL RIGHTS TOOLKIT

## INTRODUCTION

Open Rights Group aims to provide the migrants' rights sector with practical information and advice on how their data and digital technology are being used for immigration control.

The toolkit will also provide information and guidance on human rights, the law and policy thinking on these issues, as well as how to challenge threats to data rights.

This toolkit section aims to explore GDPR and the rights of migrants under this law and to clarify the different definitions of information technology. It will also explain the nature of data the public sector and organisations may collect about individuals and how to request this information.

### OPEN RIGHTS GROUP

Open Rights Group (ORG) is the UK's largest grassroots digital rights campaigning organisation. Founded in 2005, we fight to bring about systemic change to protect and advance freedom of speech and privacy online. We campaign, lobby, go to court – whatever it takes to build and support a movement of individuals and organisations committed to freedom in the digital age.

We have thousands of supporters, active local groups and strong partnerships with digital rights and social justice organisations, run by, and for, marginalised communities throughout the UK and Europe.

### POSITIVE ACTION IN HOUSING

This project is designed in collaboration with Positive Action In Housing (PAIH), an independent, anti-racist homelessness and human rights charity dedicated to supporting women, children, and men from refugee and migrant backgrounds to rebuild their lives.

# FOREWORD

## POSITIVE ACTION IN HOUSING

Whilst hostility towards people who have migrated to the UK has a long history, the last decade of the 'hostile environment' has seen a barrage of policies designed to deter people from coming here. Many of these policies have directly breached the human rights of migrants.

At Positive Action in Housing, we work with people from all over the world to support them in rebuilding their lives in the UK. We see first-hand the impact of the hostile environment that is attacking the human rights of people seeking safety and forcing those who have crossed borders into cycles of poverty.

Technology is now everywhere. For those crossing borders to effectively access housing and immigration advice, apply for jobs and access their entitlements, they must use technology.

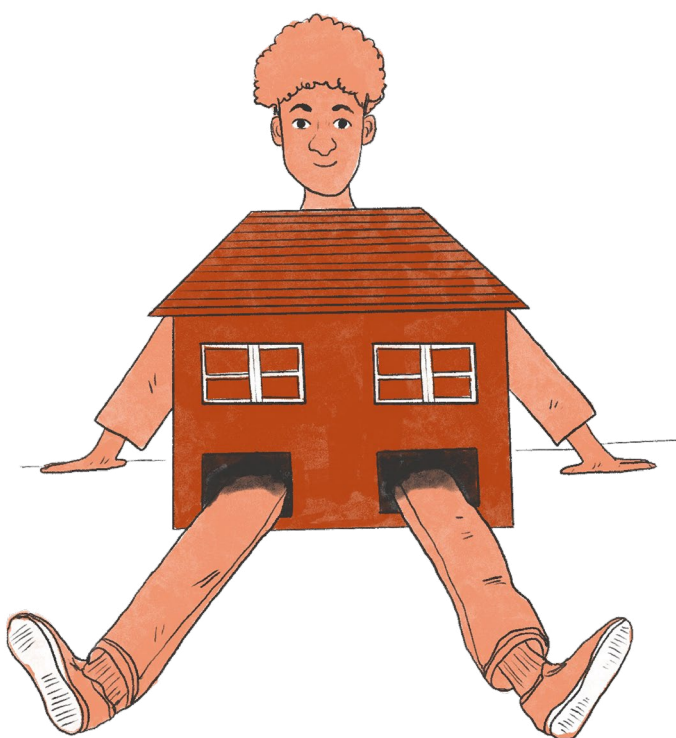
Unfortunately, many are left without the necessary access due to a severe digital divide and financial hardship. 97% of our service users are in poverty, and a high proportion additionally experience multiple deprivations, low levels of literacy, and English as a second language.

We recently ran a Digital Inclusion project that worked to mitigate this, providing a space for those migrating to the UK to gather skills and resources for digital access.

The Digital Inclusion Project aimed to connect digitally excluded beneficiaries to the internet and assist them with developing the skills necessary to benefit from Internet connectivity.

**"I believe digital inclusion is paramount for asylum seekers and refugees, as it opens doors to information, services, and opportunities crucial for well-being. Having access to appropriate devices and an Internet connection has transformed asylum seekers' lives, enabling them to communicate, access vital resources, pursue education, and connect with support networks. It's not just about technology; it's about empowerment and rebuilding a sense of belonging and purpose in a new home."**

*Former Digital Inclusion Officer,  
Positive Action in Housing*





# FOREWORD

## POSITIVE ACTION IN HOUSING

**"I am worried as I do not have control over who has access to my data and how they will use it and what decisions can be made on my profile without my knowledge and input."**

*Participant, Digital Inclusion Project*

In August 2023, as part of our Digital Inclusion project, we launched a survey to better understand how communities that we work with understand their digital rights and how confident they feel in asserting them.

We found that 85% of those we spoke to need to learn how to keep their data safe. 83% stated that they do not feel their data is entirely safe as people seeking asylum, refugees or migrants.

Some of the participants also left their comments so that we could better understand their experiences.

Speaking specifically of the experiences of people seeking asylum, one person explained how people could be "exposed to danger because of their political orientation" if they have fled war or are former politicians. Another noted that they have deep fears around data protection, feeling like their 'location may be compromised'. Another told us that this has impacts on their mental health, stating that they don't want their 'personal stress in the social media because it reminds me about the past'.

Together with the Open Rights Group, we devised a plan to create this Digital Rights Guide designed to support people who have migrated to the UK to better understand their rights.



# YOUR DATA RIGHTS

## WHAT DOES GDPR MEAN FOR YOU?

The UK GDPR and the Data Protection Act 2018 are the UK's implementation of the General Data Protection Regulation (GDPR), used in the EU.

### GETTING YOUR DATA

You can ask companies and government bodies for a copy of the personal data they hold about you (subject access request). They have to send you any personal data they hold about you which they are able to provide based on a reasonable and proportionate search, and unless there is a specific exemption or if your request is 'unfounded' or 'excessive'.

### SENDING DATA ABROAD

Your data can't be transferred to another country, unless the country of destination was authorised by the Secretary of State, or unless the organisation sending the data abroad has, acting reasonably and proportionately, implemented additional safeguards to protect your data.

### MAKING A COMPLAINT

You can complain to the ICO about how an organisation has treated you, and they must investigate. You can also complain to the organisation directly. The organisation has to facilitate you making a complaint, such as by providing a form or another clear avenue to raise a complaint with them.

### HOW YOUR DATA IS USED

Companies and organisations have to meet one of six standards for lawfully obtaining and sharing your data.

### RESPONSE TIME

Companies and organisations have to respond to your requests within a month, or within three months if they have informed you of specific circumstances that make it difficult to answer your request. An organisation can also ask you to provide further information to confirm your identity, in which case any statutory time limit will be paused until you provide such information.

### FEES

Organisations can't charge for subject access requests except in strict circumstances.

### IMPACT ASSESSMENTS

Organisations have to carry out data protection impact assessments (DPIAs) to make sure that they have considered any risks to the privacy and security of the data that they collect.

### AUTOMATED DECISIONS

Companies and the government can't use special category data (i.e. data related to your health, religious, political or philosophical beliefs, trade union membership, sexual preferences, ethnicity, and biometrics for the purpose of identification) to make solely automated decisions that could have legal or other significant effects on your life

# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS

## WHAT IS THE RIGHT OF ACCESS?

It's the right to ask an organisation whether or not they are using or storing your personal information. You can also ask them for copies of your personal information, verbally or in writing.

This is called the right of access. It is also known as making a subject access request, or SAR.

- Individuals can make SARs verbally or in writing, including via social media.
- A third party can also make a SAR on behalf of another person.
- SARs help individuals understand how and why organisations use their data and check that it is being used lawfully.
- A request made on social media is valid if it is clear that you are asking for your own personal data. You do not need to use a specific form of words, refer to legislation or direct the request to a specific contact.



# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS

## WHY MAKE A SUBJECT ACCESS REQUEST (SAR)?

You can make a SAR to find out:

- What personal information an organisation holds about you.
- How they are using it.
- Who they are sharing it with.
- Where they got your data from.

## WHAT DOES PERSONAL INFORMATION MEAN?

- Personal data is information that relates to an identified or identifiable individual.
- What identifies an individual could be as simple as a name or a number.
- It could include other identifiers, such as an IP address, a cookie identifier, or other factors.

## IS THERE ANY FEE?

- In most cases, you don't pay a fee.
- You can be charged a 'reasonable fee' for the administrative costs of complying with a request or if you request further copies of your data.

## EXAMPLE

You recently moved to the UK, and your right to remain was granted.

The Home Office contacted you to deliver your Biometric residence Permit (BRP).

You waited over three months for the card to arrive but didn't receive it.

When you contacted the Home Office, they confirmed they delivered to your registered address.

You insist you didn't receive it, and the Home Office denied any wrongdoing.

You submitted SAR to clarify the situation and see what happens with your BRP.

As a result, you received all the information about you and your BRP to find out that the Home Office delivered your biometric card to the wrong address, and they found out that later but didn't inform you.



# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS

## WHAT ARE THE TIME LIMITS FOR RESPONDING TO YOUR SUBJECT ACCESS REQUEST?

The organisation you're dealing with must respond as quickly as possible. This must be no more than one calendar month, starting from the day they receive the request.

If the organisation needs something from you to deal with your request (e.g. ID documents), the time limit will begin once they have received this information.

If your request is complex, or you make more than one request, the response time may be a maximum of three calendar months, starting from the day of receipt.

### For example:

An organisation receives a request on 3 September. The time limit starts from the same day. This gives the organisation until 3 October to comply with the request.

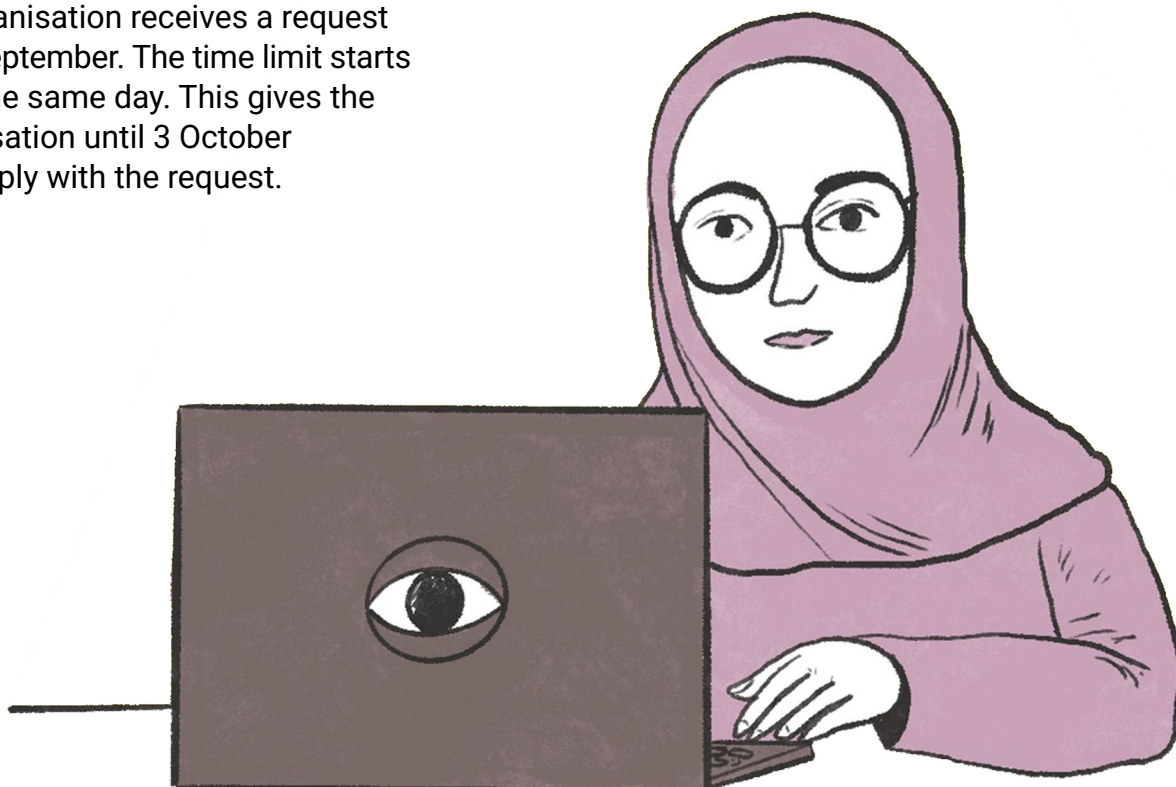
However, if the end date falls on a Saturday, Sunday or Bank Holiday, the calendar month ends on the next working day.

If the corresponding calendar date does not exist because the following month has fewer days, it is the last day of the month.

### For example:

An organisation receives a request on 31 March. The time limit starts from the same day. As there is no equivalent date in April, the organisation has until 30 April to comply with the request.

However, if the 30 April falls on a weekend or is a public holiday, the calendar month ends the next working day.



# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS

## PREPARING AND SUBMITTING YOUR SUBJECT ACCESS REQUEST

The Information Commissioner's Office provides a tool to submit a subject access request [here](#).

### STEP ONE

- Identify where to send your request, i.e. the name of the organisation you are making your request to.
- Find the email address of the organisation. **Tip:** you can usually find a suitable email address in the organisation's Privacy notice.
- Think about what personal data you want to access.

### STEP TWO

- Make your request directly to the organisation.
- State clearly what you want. The organisation may respond quicker if you identify the specific data you want.

### STEP THREE

- Keep a copy of your request and any proof of postage or delivery.



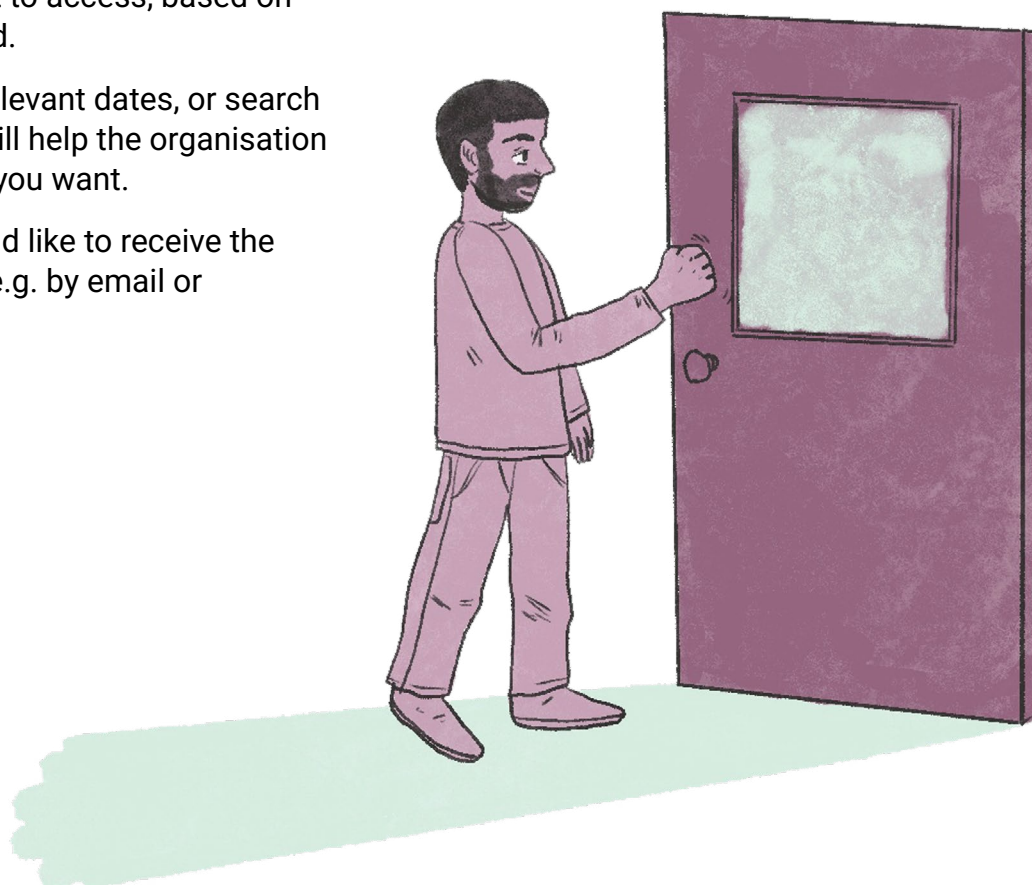
# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS

## WHAT TO INCLUDE

- A clear label for your request (e.g. use 'subject access request' as your email subject line or a heading for your letter).
- The date of your request.
- Your name (including any aliases, if relevant).
- Any other information used by the organisation to identify or distinguish you from other individuals (e.g. customer account number or employee number).
- Your up-to-date contact details;
- A comprehensive list of what personal data you want to access, based on what you need.
- Any details, relevant dates, or search criteria that will help the organisation identify what you want.
- How you would like to receive the information (e.g. by email or printed out).

## DO NOT INCLUDE

- Other information with your request, such as details about a wider customer service complaint.
- A request for all the information the organisation holds on you unless that is what you want (if an organisation holds a lot of information about you, it could take them longer to respond, or make it more difficult for you to locate the specific information you need in their response).
- Threatening or offensive language.



# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS

## TEMPLATE – SUBJECT ACCESS REQUEST

To: \_\_\_\_\_

Subject line: Subject Access Request

Date: [if you're writing a letter on paper, remember to include today's date]

Dear [put their name if you know it, or the name of the service],

I would like a copy of the following personal data that you hold about me, and which I have a right to view under the Data Protection Act 2018:

[Include a list of all the information you want. This might be very specific e.g. all emails from person A to person B, or it could be more general e.g. all information you held about me from July 2018 to July 2019.]

If you need any further information from me, please let me know as soon as possible. I would like you to contact me by \_\_\_\_\_ [e.g. phone, email or post].

I would prefer that you send me a copy of my data in a printed/electronic format [you can specify whether you want to receive your information printed or in electronic format].

I would like to remind you that data protection law requires you to respond to my request within one month.

Please can you confirm that you have received and read this request?

Thank you,

[Write your name here]



# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS

## GET ACCESS TO YOUR PERSONAL DATA HELD BY THE CRIMINAL JUSTICE SYSTEM

The right of access allows you to obtain personal information held about you by organisations, including police forces and the wider criminal justice system.

For example, you may want to ask for:

- Your interview statements.
- Footage of you captured through CCTV/other recordable devices.
- Custody records.
- Correspondence between the police and other organisations, such as those providing support to you.

### WHEN DOES THE RIGHT OF ACCESS NOT APPLY?

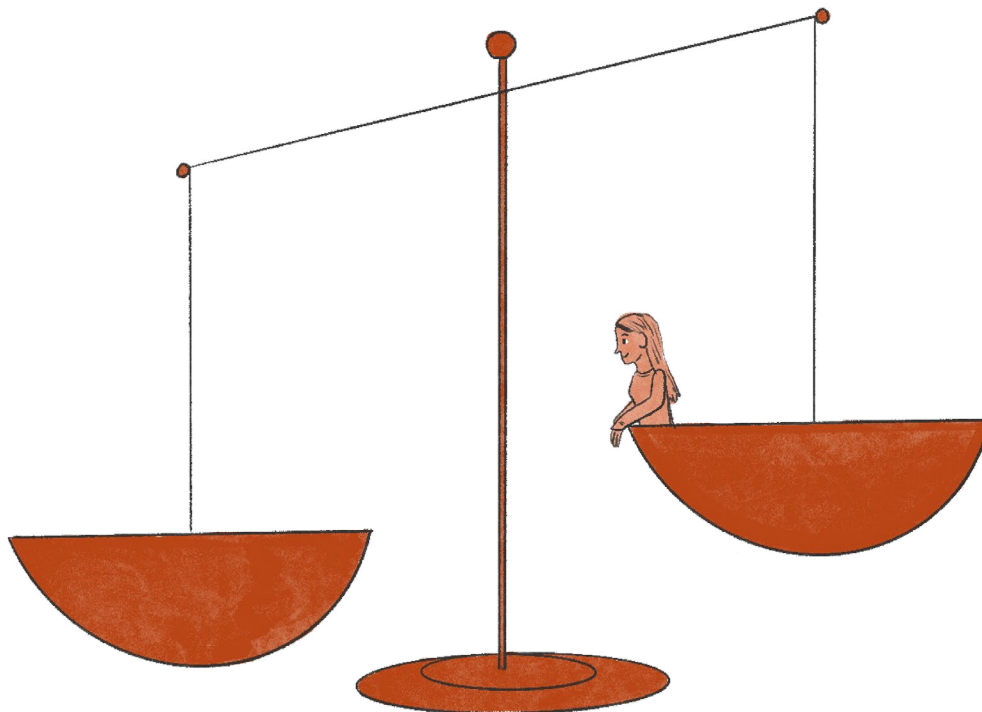
A judge's handwritten notes prepared for legal proceedings are exempt from disclosure under the right of access.

You cannot request personal data that forms part of a judicial decision or in documents relating to an investigation or proceedings which have been created by or on behalf of a court or other judicial authority. This is because there are other access routes through which you can obtain this information – the Criminal Procedure Rules – which govern the disclosure of material for cases going through the court process.

The law also allows the police to withhold information in some circumstances. For instance, they can restrict your right to access if this is necessary for the "prevention, detection, investigation or prosecution of criminal offences" or the "execution of criminal penalties".

In addition, the police may also have to edit the information they send you to remove information about other people.

# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS



## HOW TO REQUEST YOUR PERSONAL DATA HELD BY THE CRIMINAL JUSTICE SYSTEM

In most cases, you should make your request to your local police force, which would hold records on local systems.

However, if you would like access to information held on national police systems, such as the Police National Computer (PNC), you would need to contact ACRO. If you no longer live in the UK, contact the police force for the area where you last lived.

If you have been in contact with the police because you were a witness or victim or because of a traffic accident, this information may not be available to other police forces. In these cases, you should contact the police force you were dealing with at the time.

Although you don't have to use them, police application forms will help you understand what details you need to provide so they can find the requested information. It will also outline what proof of ID they will need to see.

For example, they may ask you when you have been in contact with the police and why and whether you have lived in another part of the UK.

You can make a request verbally or in writing. If you make your request verbally, we recommend you follow it up in writing to provide a clear trail of correspondence. It will also provide clear evidence of your actions.

# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS

## TEMPLATE – CRIMINAL JUSTICE DATA

[Your full address]

[Phone number]

[The date]

[Name and address of the organisation]

Dear Sir or Madam

Subject Access Request

[Your full name and address and any other details to help identify you and the data you want.]

Please supply the data about me that I am entitled to under data protection law relating to:  
[give specific details of the data you want, for example:

- Emails between 'officer A' and 'officer B' (from 1 June 2017 to 1 Sept 2017) about me
- CCTV camera situated at ('location E') on 23 May 2017 between 11 am and 5 pm
- Copies of statements provided to the police on 9 April 2017
- Custody record of 9–10 October 2017]

If you need any more data from me or a fee, please let me know as soon as possible.

It may be helpful for you to know that data protection law requires you to respond to a request for data within one calendar month.

If you do not normally deal with these requests, please pass this letter to your Data Protection Officer or relevant staff member. If you need advice on dealing with this request, the Information Commissioner's Office can assist you. Its website is [ico.org.uk](http://ico.org.uk), or it can be contacted on 0303 123 1113.

Yours faithfully

[Signature]

# A GUIDE TO MAKING SUBJECT ACCESS REQUESTS

## WHEN TO RE-SUBMIT A SUBJECT ACCESS REQUEST

You can ask an organisation for access more than once. However, it may be able to refuse access if your request is, as the law says, 'manifestly unfounded or excessive'.

If you are thinking of resubmitting a request, you should think about whether:

- It is likely that your data has changed since your last request.
- Enough time has passed for it to be reasonable to request an update on how your data is being used.
- The organisation has changed its activities or processes recently.





# A GUIDE TO CORRECTING YOUR DATA

## YOUR RIGHT TO GET DATA CORRECTED

You can challenge the accuracy of personal data held about you by an organisation and ask for it to be corrected or deleted. This is known as the ‘right to rectification’. If your data is incomplete, you can ask the organisation to complete it by adding more details.

### CAN THE ORGANISATION SAY NO TO YOUR REQUEST?

The organisation can refuse to comply with a request for rectification if it believes that the request is what the law calls “manifestly unfounded or excessive”. In reaching this decision, it can consider whether the request is repetitive.

In such circumstances, the organisation can:

- Request a reasonable fee to deal with the request.
- Refuse to deal with the request.

In either case, it must tell you and justify its decision.

### WHAT ABOUT MISTAKES IN YOUR DATA RECORDS?

Deciding whether data is inaccurate can be complex if it refers to a mistake that has been put right. An organisation could argue that the fact the mistake was made is an accurate thing to record, so it should record the mistake alongside the correct data.

#### For example:

A doctor finds that a patient has a particular illness and notes it in their medical records. Sometime later, this diagnosis was found to be wrong.

It is likely that the medical records should include both the initial diagnosis and the final findings because this gives an accurate record of the patient’s medical treatment.

As long as the medical record contains up-to-date findings, which are made clear in the record, it would be difficult to argue that the record is inaccurate and should be corrected.

# A GUIDE TO CORRECTING YOUR DATA

## HOW TO GET YOUR DATA CORRECTED

To exercise your right, you should inform the organisation that you are challenging the accuracy of your data and want it corrected.

You should:

- State clearly what you believe is inaccurate or incomplete.
- Explain how the organisation should correct it.
- Where available, provide evidence of the inaccuracies.

A request can be verbal or in writing. If you are sending a written SAR by post, we recommend sending it by 'recorded' if possible, so that you have evidence of the date the SAR was submitted.

**We recommend you follow up on any verbal request in writing because this will allow you to explain your complaint, give evidence and state your desired solution. It will also provide clear proof of your actions, like when you asked for correction/data shared.**

This can prove that the designated timeframe has not been adhered to, if you decided to challenge the organisation's initial response.



# A GUIDE TO CORRECTING YOUR DATA

## WHAT SHOULD ORGANISATIONS DO?

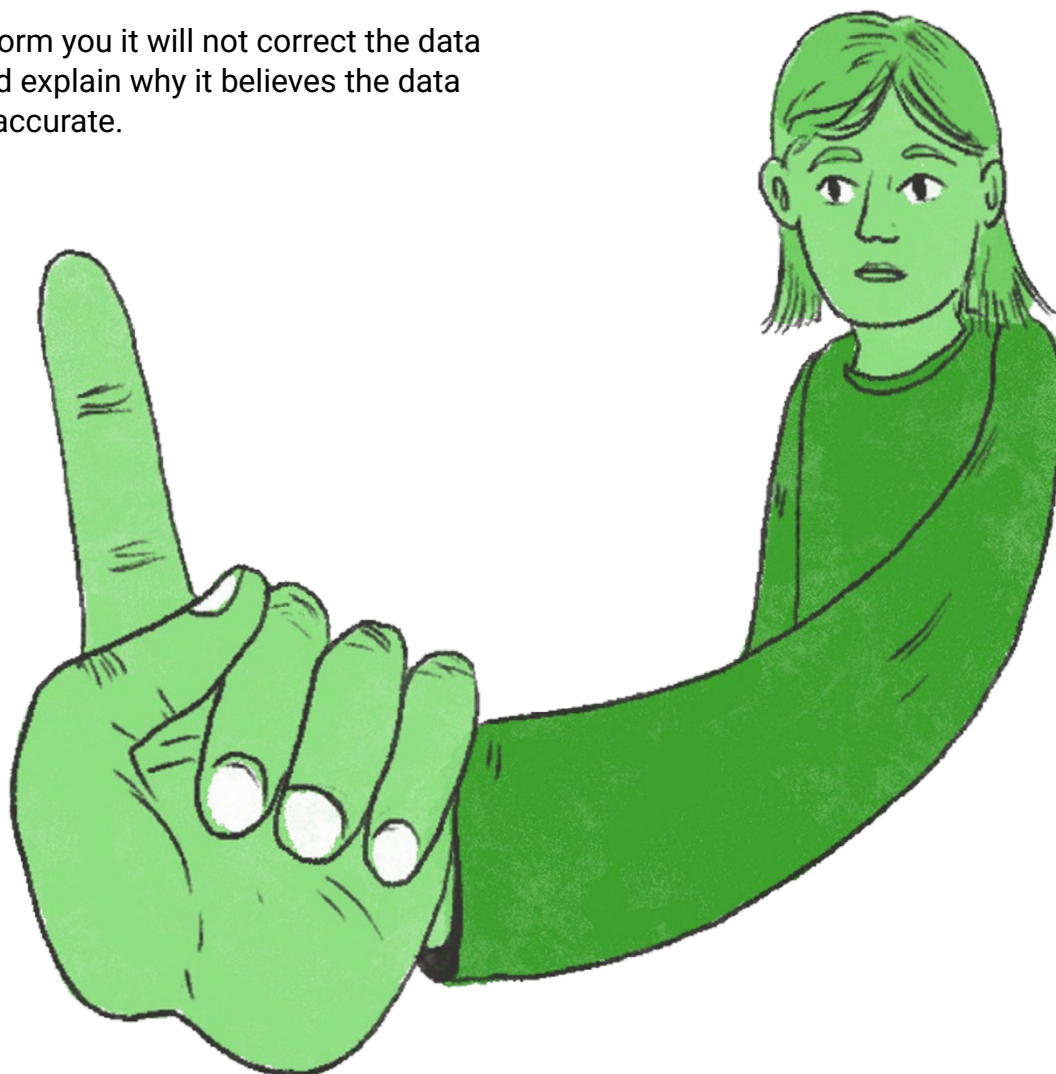
When an organisation is asked to correct data, it should take reasonable steps to investigate whether the data is accurate and should be able to demonstrate it has done so. To do this, the organisation should consider your arguments and any evidence you provide.

The organisation should then contact you and either:

- Confirm it has corrected, deleted or added to the data.
- Inform you it will not correct the data and explain why it believes the data is accurate.

If the organisation refuses to correct the data, as a matter of good practice, it should record that you have challenged the data's accuracy and why.

If the organisation has disclosed the data to others, it must contact them and tell them the data has been corrected or completed – unless this is impossible or involves a disproportionate effort. When asked, the organisation must inform you which recipients have received the data.



# A GUIDE TO MAKING A COMPLAINT

## HOW TO MAKE A DATA PROTECTION COMPLAINT TO AN ORGANISATION

You have the right to complain to an organisation if you think it has not handled personal information responsibly and in line with good practice.

If you are unhappy with how the organisation has handled your request, you should first complain to that organisation. Having done so, if you remain dissatisfied, you can make a complaint to the ICO.

You can also seek to enforce your rights through the courts. If you decide to do this, we strongly advise that you seek independent legal advice first.

## WHEN CAN I COMPLAIN TO AN ORGANISATION?

You can complain to an organisation about how it is handling your or other people's information if it:

- Has not properly responded to your request for your personal information.
- Is not keeping information secure.
- Holds inaccurate information about you.
- Has disclosed information about you.
- Is keeping information about you for longer than is necessary.
- Has collected information for one reason and is using it for something else.
- Has not upheld any of your data protection rights.



# A GUIDE TO MAKING A COMPLAINT

## COMPLAIN DIRECTLY TO THE ORGANISATION INVOLVED

You should give the organisation you're unhappy with a chance to sort things out before bringing your complaint to ICO.

Many data protection complaints can be resolved quickly and easily with the organisation.

You can use the template on the next page to email or write to the organisation.

Include full details of your concern at the beginning. If the organisation responds, but it appears they have misunderstood you or not given a full response, you should let them know.

Include all relevant details in your letter or email, such as account or patient number, to help the organisation identify you.

Send copies of all the key documents you have to evidence your complaint. Don't send the originals, as you might need them later. Don't include additional documentation 'just in case'.

Check the organisation's website or call them to ensure you have the right address.



# A GUIDE TO MAKING A COMPLAINT

## TEMPLATE – MAKING A COMPLAINT

[Your full address]

[Your phone number]

[The date]

[Name and address of the organisation]

[Reference number (if provided within the initial response)]

Dear [Sir or Madam/name of the person you have been in contact with]

### **Data Protection Complaint**

[Your full name and address and any other details such as account number to help identify you]

I am concerned that you have not handled personal information properly.

[Give details of your complaint, explaining clearly and simply what has happened and, where appropriate, its effect on you.]

I understand that before reporting my complaint to the Information Commissioner's Office (ICO), I should give you the chance to deal with it.

If, when I receive your response, I still want to report my complaint to the ICO, I will give them a copy of it to consider.

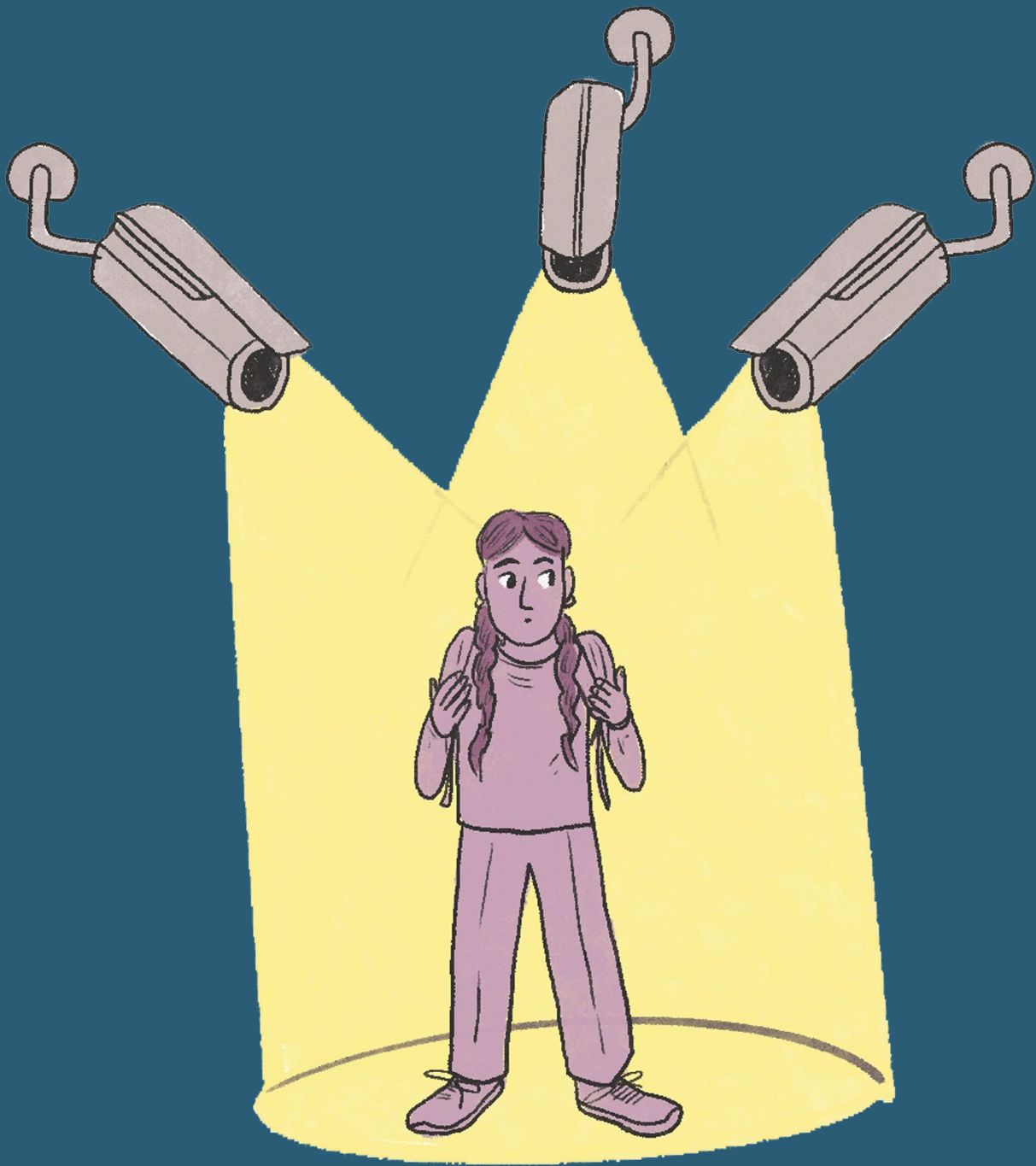
You can find guidance on your obligations under information rights legislation on the ICO's website ([www.ico.org.uk](http://www.ico.org.uk)) and information on their regulatory powers and the actions they can take.

Please send a full response within 30 days. If you cannot respond within that time frame, please tell me when you can respond.

If there is anything you would like to discuss, please contact me at the following number [telephone number].

Yours faithfully

[Signature]



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