

Subject Access Request (SAR)

Client Access to Personal Information

National Policy
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1. Overview

Relationships Scotland's Member Services offer a confidential service to clients. The details of this confidentiality will be outlined during intake or initial meetings.

This Client Access to Personal Information Policy / Subject Access Request (SAR) Policy provides information on how:

- a client can request information about themselves
- the organisation should respond to such requests

Information on how client information is handled and destroyed is laid out in the National Policy on Confidentiality and disclosure. That policy also sets out when client information is legally obliged to be shared with external agencies and that all clients will be given right of access to information about themselves which is held by a Relationships Scotland Member Service.

2. Definitions

In this policy document **Client Access to Personal Information** is called a **Subject Access Request (SAR)**. Both terms will be interchangeably used in this policy document.

Proof of Identity:

Proof of identity will be requested where necessary to confirm the requester's identity, particularly where the Service does not already have a high level of confidence as to who the requester is.

The Information Commissioner's Office expects minimum evidence

- Date of Birth is not always necessary to confirm identity
- Two documents plus date of birth is requested, however, this is considered excessive where:
 - The requester is a known or current client
 - The request comes via an established contact channel
- In these instances, only one piece of evidence would be necessary.

3. Obtaining Personal Information

When personal information is gathered by an organisation, individuals may request this information under a SAR. SARs can be made verbally, by email, informally, as part of a complaint, or in writing. Solely requiring written requests creates an unlawful barrier. All requests must include the individual's:

- name
- address
- which part of the Service was used (e.g. child contact centre, counselling, mediation)
- approximate dates they used the Member Service

Clients do not need to say why the information is being requested.

4. Refusing a Subject Access Request

A Subject Access Request can only be refused if the request is:

- malicious
- used to disrupt the organisation

- excessive (i.e. very broad scope - at that point you must ask them to narrow it rather than dismissing it)

If a SAR is refused, the Member Service must be able to clearly explain and evidence the reason for refusal to the Information Commissioner's Office (ICO) in writing.

5. Information a Client is Entitled to Recieve

Under the UK- General Data Protection Regulations (GDPR) 2020 individuals have the right to request access to all information held about them by an organisation. The Act covers personal data that is either processed electronically (for example emails and material held in electronic files) or data held in manual records, including handwritten and typed notes.

For information to be considered as personal data it must both relate to an individual and allow an individual to be identified from it.

Underlying the UK-GDPR is the principle of openness and unless there is good reason, the organisation is obliged to respond when a client requests access to their personal information.

Agency Requests

An agent may request data on behalf of an individual. The Member Service is obliged to comply if it is satisfied that the client has authorised the agent to act on their behalf. The Member Service should always check with the individual concerned to ensure that the agent does have such authority. A written record of this correspondence should be kept.

Repeated Requests for Information

The Member Service is not obliged to comply with manifestly unfounded or excessive requests where the information has already been provided to the client

6. Personal Data Relating to Another Individual

Clients are not entitled to see any information about other people, i.e. data that names or otherwise identifies another person.

Access to Records from Joint Sessions

Complete records from joint sessions can only be accessed by one client where both parties have agreed. There may be cases where the 3rd party has willingly agreed to this, but there may be other cases where a 3rd party could be coerced by the applicant to consent. Unless the Member Service is completely satisfied that the 3rd party has agreed of their own volition, the Member Service should not provide any information to an applicant apart from data relating to them.

GDPR requires partial disclosure of information, where possible, and redaction must be considered before refusal in SARs.

A Member Service is obliged to share as much of the information requested as is possible. Redacting, editing or deleting may be required in order to meet a request if all the information cannot be disclosed. In this case any data identifying the 3rd party should be removed or deleted where it is necessary to protect the rights of the 3rd party.

There is no legal obligation on the Member Service to obtain consent from a 3rd party, however, the organisation has a duty of confidentiality to that person. Therefore, clear

records and copies of information must be retained. This includes original data and redacted information shared.

Requests by or on Behalf of a Child

Records that relate to a child, as a client, will only be disclosed to the parent with the child's consent and if the Member Service considers it to be in the child's best interests to do so. Before responding to a person with parental responsibility, the Member Service must be satisfied that the disclosure sought would be for the benefit of the child and not the person making the request.

Even if the child is too young to understand the implications of a request for personal information, any data held about that child belongs to them and not to a parent or guardian. It is the child that has right of access to the information. In the case of very young children these rights are likely to be exercised by someone with parental responsibility for them.

Before responding to a request for personal information held about a child, the Chief Officer has the discretion to determine whether a child has the capacity to make their own information request; the age of capacity is normally around twelve years old.

If the client is a child and has the capacity to make their own request for personal information and understands (in broad terms) what it means to make a personal information request and how to interpret the information they receive as a result of doing so, the child is entitled to the same rights of access as an adult. Where the child does not have capacity to make their own request, a person with parental responsibility can make the request on the child's behalf and is entitled to receive a response to their request although not necessarily the personal information.

The following should also be taken into consideration:

- The nature of the data
- Any court orders relating to parental contact or responsibility
- Any duty of confidence owed to the child
- Any consequences of allowing those with parental responsibility access to the child's information. This is particularly important if there have been allegations of abuse or ill treatment
- Any detriment to the child if individuals with parental responsibility cannot access this information
- Any views the child has on whether their parents should have access to information about them

Where parents are separated and one of them applies for access to the child's personal data, the Member Service is under no obligation to inform the other parent, although they may consider doing so if they believe it to be in the child's best interests.

7. Recognising a Subject Access Request under the UK-GDPR

All employees are responsible for recognising that a request for data must follow the procedures in this policy whether it is a formal or informal request for information. Such a request may sometimes be part of a complaint. If a request for information is made this must be passed on to the Chief Officer.

8. Procedure for a Member Service Responding to a Subject Access Request

A SAR file should be created for each request. Actions to be followed are in Appendix 1: SAR Checklist

Acknowledging the Request

- Any request for personal information whether considered valid or not must be acknowledged within 10 working days
- The Chief Officer must identify whether the request is from a client who is entitled to receive the information.
- Proof of identity will be requested to confirm the requester's identity, particularly where the Member Service does not already have a high level of confidence as to who the requester is.
- If the request is from a child, an assessment must be made as to whether the child has the capacity to make their own request. If they do not and the Member Service consider the request to be in the best interests of the child, then a letter should be sent by the Chief Officer suggesting that someone with parental responsibility make the request. If it is not considered to be in the child's best interest the Chief Officer can decline the request.
- If the request is made on behalf of a child, an assessment must be made as to whether the child has the capacity to make their own request and if so, send a letter suggesting that the child will need to make the request themselves.
- A fee cannot be charged for a first request, but you can charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive.
- A reasonable fee may be charged to comply with requests for further copies of the same information. This does not mean that you can charge for all subsequent access requests. The fee must be based on the administrative cost of providing the information.
- Relationships Scotland members keep client records for between three and seven years before destroying them. If the request is for information more than three years old, the client should be advised of the Member Service's policy on keeping client records.

Collating the Relevant Data

Any relevant manual files and data that are held electronically should be found.

If the relevant data also contains information about a third party, consideration should be made by the Chief Officer as to whether it is reasonable to disclose the data of the other person without their consent. If it is not reasonable to disclose third party data without that person's consent, then the name and other data identifying a third party must be removed to protect the rights of the third party.

Only withhold all parts a document where no part of that document can be disclosed without infringing the rights of the third party. The Member Service is under no obligation to seek their consent.

Responding to the Request

Information must be provided without delay and at the latest within one month of receipt. An extension to the period of compliance by a further two months may be made when requests are complex or numerous. If this is the case, the individual must be informed within one month of receipt of the original request, explaining why the extension is necessary.

When a request is refused, the client must be given a clear explanation. They must also be given information about their right to complain to the supervisory authority and to a judicial remedy without undue delay and at the latest within one month.

One of the following responses should be made to the client:

- fulfilling the request and providing the information deemed suitable

- declining the request for an adult's own information
- declining the legitimate request on behalf of a child and informing the parent with primary care responsibility that the request has been declined

A copy of the information that is disclosed to the client must be kept in a SAR file. Responses must be sent securely to the client, marked private & confidential.

9. Procedure for an Appeal

Any individual who is not satisfied with the response to a personal information request can appeal in writing to the Chair of Trustees to have their response reconsidered.

In the event of an appeal, the Chair / Chief Officer must acknowledge the appeal within five working days. All materials in the client's data request file should be reviewed and a view formed as to whether the original response was appropriate or should be revised.

A written response must be sent to the client by the Chair within 21 working days of receiving the appeal stating that after carefully considering the issues raised in the appeal, it is deemed that:

- further data can be disclosed and is included with the response or,
- the original response was appropriate and no further data will be disclosed

If the individual is not satisfied with the outcome of the appeal, under the UK-GDPR, they can appeal to the Information Commissioner's Office against the decision.

10. Exemptions

If personal data is exempt from client access e.g. because it would compromise the confidentiality of a 3rd party, or it relates to a child where the best interests of the child take precedence, in limited circumstances, where informing the individual would itself undermine the exemption, the Member Service may neither confirm nor deny its existence. It is important that the SAR file contains the reason for withholding any information that is kept in file as the client can apply to the Information Commissioner or the Court for a review of the response.

If the client files contain information sent to the Member Service by a health or social work professional, then that person should be contacted before a decision is made on whether or not the data should be released to the client.

10.1.1. Health Data

Personal information relating to the physical or mental health or condition of the client whether or not contained in a medical report is exempt if it is thought disclosure would cause serious harm to the physical or mental health or condition of the client or any other person. The decision as to whether the disclosure would cause serious harm must be made by the appropriate health professional.

10.1.2. Social Work Data

Any Social Work information may not be disclosed if the disclosure would prejudice carrying out Social Work by reason of the fact that it may cause serious harm to the client.

Appendix 1: Subject Access Request Checklist

This checklist must be kept with the SAR File. It provides guidance to Chief Officers and others involved in responding to SARs

	Item	Initial	Date
1	Establish a Subject Access Request (SAR) file.		
2	Acknowledge the SAR in writing (either accepting or declining) and, as required, request further information, proof of identity and/or payment (within 10 working days)		
3	Acknowledge receipt of further information, proof of identity and/or payment as required.		
4	Record the start date of the SAR (this will either be the date of receipt in point 2 or 3 above).		
5	Locate all the relevant files / information.		
6	Identify any files that contain third party data. If such data is present, decide whether or not the third-party data can be redacted. If so, remove all identifying personal data not relating to the data subject. If this is not possible the data cannot be released.		
7	Identify data that originates from another agency (e.g. Social Work, Health, Police, etc.). If such data is present, seek the consent of the agency and record this in the SAR file.		
8	Identify and query any data that raises concerns (such as risk of harm) if the information is disclosed.		
9	Keep a copy of all data to be disclosed.		
Final check			
10	Ensure all identifying personal information identifying third parties is removed from the response. Record this on the SAR file (the data that has been exempted and the reasons for exemption must be included in the file). The Chief Officer must make a final check on the response before sending the data to the applicant.		
Response (within one calendar month of acknowledgement see 3)			
11	Send a letter to the applicant informing them the request has been fulfilled and attach the data or make arrangements for the collection of data. If data is to be collected, this must be signed for and a record retained in the SAR file. If posted, proof of postage must be retained in the SAR file.		
12	Record the completion date of the SAR.		

Appendix 2: Data Access Request Form



Data Access Request Form

The Data Protection Act 2018 provides you with a right to receive a copy of the data/information we hold about you. Please complete this form if you wish to see your data. You will also need to provide proof of your identity.

Your request will be processed within one calendar month upon receipt of a fully completed form and proof of identity.

Member Service staff will complete this form for you, if you wish to make a verbal or email Subject Access Request.

Full Name:

Address:

Telephone number:

Proof of Identity1: ▼ Proof of Identity2: ▼

Please include a copy each proof of identification with this form

Services used: ▼

If other please specify:

Approximate dates you used our Service:

Personal Information Requested:

How you require the information: ▼

Form completed by: Date:

Please send form plus proof of identity to:

Or email to:

Appendix 3: Template Letter: Acknowledgement of a Request for Personal Information and Request for Further Items

(must be sent within 10 working days of receiving the initial request)



OFFICE ADDRESS
CONTACT NUMBER

Name of Applicant
Address of Applicant
Line 2
Post Code

Date

Dear (Insert Name)

Acknowledgement of your Request for Personal Information [and Request for Further Items]

Thank you for your letter of (insert date) received in this office on (insert date) detailing your request for personal information under the UK-GDPR.

(delete if not required) To process this request I would be grateful if you could provide us with proof of your identity. A photocopy of your passport or driving license and/or a utility bill less than three months old would be acceptable. Please send a copy of, or bring these to the office for my attention. We are unable to proceed with this request until we have proof of your identity.

It would assist us in locating your personal information if you can give approximate dates for the period when you were using our Service. Please note that SARs apply to data actually held, regardless of age. If you were using the Service more than three years ago please contact the office for confirmation of our policy on keeping personal information.

Yours sincerely

Chief Officer

Appendix 4: Template Letter: Acknowledgement of a Request for Personal Information and Receipt of Further Items Requested.

(must be sent within 10 working days of receiving the initial request)



OFFICE ADDRESS
CONTACT NUMBER

Name of Applicant
Address of Applicant
Line 2
Post Code

Date

Dear (Insert Name)

Acknowledgement of your Request for Personal Information [and Receipt for Further Items Requested]

I am writing to acknowledge receipt of your letter *(insert date)* received *(insert date)* enclosing *(insert those that apply)*: your proof of identity, and further details to assist us in locating your information.

(Insert Service Name) is processing this request and we will be in touch when we have completed this which will be within one calendar month.

If you have any questions please do not hesitate to contact me.

Yours sincerely

Chief Officer

Appendix 5: Template Letter: Acknowledgement of a Request for Personal Information on Behalf of you Child and Request for Further Items



OFFICE ADDRESS
CONTACT NUMBER

Name of Parent making application on behalf of their child

Address of Parent

Line 2

Post Code

Date

Dear (Insert Name of Parent)

Acknowledgement of your Request for Personal Information on Behalf of your Child [and Request for Further Items]

Thank you for your letter of *(insert date)* received in this office on *(insert date)* detailing your request for personal information on behalf of your son/daughter under the UK-GDPR.

(delete if not required) To process this request I would be grateful if you could provide us with proof of your identity. A photocopy of your passport or driving licence and a utility bill less than 3 months old would be acceptable. Please send or bring these to the office for my attention. We are unable to proceed with this request until we have proof of your identity.

It would assist us in locating *(insert name of child)*'s personal information if you can give approximate dates for the period when they were using our Service. Please note that SARs apply to data actually held, regardless of age. If *(child's name)* was using the Service more than three years ago please contact the office for confirmation of our policy on keeping personal information.

Yours sincerely

Chief Officer

Appendix 6: Template Letter: Acknowledgement of a Request for Personal Information on Behalf of your Child and Receipt of Further Items Requested



OFFICE ADDRESS
CONTACT NUMBER

Name of Parent making application on behalf of their child

Address of Parent

Line 2

Post Code

Date

Dear (Insert Name of Parent)

Acknowledgement of your Request for Personal Information on Behalf of your Child [and Receipt of Further Items Requested]

I am writing to acknowledge receipt of your letter (insert date) received (insert date) enclosing (insert those that apply): your proof of identity, and further details to assist us in locating your child's information.

(Insert Service Name) is processing this request and we will be in touch when we have completed this, which will be within one calendar month.

If you have any questions please do not hesitate to contact me.

Yours sincerely

Chief Officer

Appendix 7: Template Letter: Declining a Request for Personal Information
(must be sent within 10 working days of receiving the initial request)



OFFICE ADDRESS
CONTACT NUMBER

Name of Applicant
Address of Applicant
Line 2
Post Code

Date

Dear (Insert Name)

Declining your Request for Personal Information

I am writing to inform you that *(insert Member Service name)* is declining your personal information request of *(insert date)*.

(insert Member Service name) is declining your request on the basis that *(insert either)* it has been decided that you do not have sufficient capacity to make such a request. *(or insert)* you are requesting the personal information of another person who has the capacity to make the request for themselves.

Please be aware that under the terms of the UK-GDPR you may appeal to the Information Commissioner's Office against this decision.

Yours sincerely

Chief Officer

Appendix 8: Template Letter: Declining a Request for Personal Information on Behalf of a Child

(must be sent within 10 working days of receiving the initial request)



OFFICE ADDRESS
CONTACT NUMBER

Name of Parent

Address of Parent

Line 2

Post Code

Date

Dear (Insert Name)

Declining your Request for Personal Information on Behalf of your Child

I am writing to inform you that *(insert Member Service name)* is declining your personal information request of *(insert date)*.

(insert Member Service name) is declining your request because *(insert either)* we consider that your son / daughter has the capacity to make their own request for personal information *(or insert)* Service name has assessed that your request for personal information on behalf of *(insert child's name)* is not in their best interest.

Please be aware that under the terms of the UK-GDPR you may appeal against this decision.

Yours sincerely

Chief Officer

Appendix 9: Template letter: Response to a Request for Personal Information Enclosed

(must be sent within 1 calendar month of receiving the relevant information)



OFFICE ADDRESS
CONTACT NUMBER

Name of Applicant
Address of Applicant
Line 2
Post Code

Date

Dear (Insert Name)

Response to your Request for Personal Information Enclosed

I am writing to inform you that *[insert Member Service name]* has processed your request for personal information of *[insert date payment and other information received]* *[delete if not required]* on behalf of your child *[insert name]*.

We are providing you with a copy of all data to which we believe you are entitled to under the UK-GDPR. Data is held by *[Member Service name]* for the purpose of managing your case as a client.

Please find a copy of the data attached to this letter, including an itemised list of the data being disclosed

The data have not been disclosed by *[Member Service name]* to any other individual or organisation.

Yours sincerely

Chief Officer

UK-GDPR

Request for Personal Information: (name of applicant)

The following is an itemised list of data being disclosed to [insert name of applicant]. (*delete if not required*) on behalf of your child [insert name] in response to a subject access request under the UK-GDPR on [insert date].

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Appendix 10: Template Letter: Acknowledgement of your Appeal of your Request for Personal Information

(must be sent within 10 working days of appeal being made in writing)



OFFICE ADDRESS
CONTACT NUMBER

Name of Applicant

Address of Applicant

Line 2

Post Code

Date

Dear (Insert Name)

Acknowledgement of your Appeal – For your Request for Personal Information

I am writing to acknowledge receipt of your letter [insert date] received on [insert date].

I will review all the paperwork on your file and will respond more fully once this review has taken place. This will be within 20 working days.

Yours sincerely

Chief Officer

Appendix 11: Template Letter: Response to your Appeal of your Request for Personal Information

(must be sent within 20 working days of appeal being made in writing)



OFFICE ADDRESS
CONTACT NUMBER

Name of Applicant
Address of Applicant
Line 2
Post Code

Date

Dear (Insert Name)

Response to your Appeal of your Request for Personal Information

Thank you for your letter of *[insert date]* to *[insert Member Service name]*, received in this office on *[insert date]*.

Having reviewed the paperwork in your file *[insert either]* I have identified further data to which you are entitled. A copy of these data is attached to this letter, including an itemised list of the additional data being disclosed.

[or insert] I believe that *[insert Member Service name]* has properly complied with your request.

Under the terms of the UK-GDPR you may appeal to the Information Commissioner against this decision.

Yours sincerely

Chief Officer

UK-GDPR Request for Personal Information: [insert name of applicant]

The following is an itemised list of data being disclosed to [insert name of applicant] in response to a subject access request under the UK-GDPR on [insert date]

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