Subject Access Request Policy



**Our values are honesty, respect, integrity, openness, inclusion, ambition**

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| --- | --- |
| Lead Manager | Data Protection Officer |
| Responsible Director | Chief Operation Officer |
| Approved by | Information Governance Steering Group |
| Date approved | 29/11/2019 |
| Date for Review | 01/03/2024 |
| Version | 2.0 Final |
| Previous Version | 1.0  |

**Consultation and Distribution Record**

|  |  |
| --- | --- |
| Contributing Authors | Data Protection Officer |
| Consultation Process/Stakeholders | Data Protection OfficerLegal DepartmentInformation Governance Steering GroupHead of Sports Medicine  |
| Distribution | All StaffPublic |

**Change Record**

|  |  |  |  |
| --- | --- | --- | --- |
| **Date** | **Author** | **Change** | **Version No.** |
| 23/10/2019 | Data Protection Officer | Initial Draft Created | 0.1 Draft |
| 04/11/2019 | Data Protection Officer | Comments from Legal Dept added | 0.2 Draft |
| 29/11/2019 | Data Protection Officer | Section 6 updated after comments from Head of Sports Medicine | 0.2 Draft |
| 29/11/2019 | Data Protection Officer | Version changed to final after all comments reviewed/added | 1.0 Final |
| 03/03/2021  | Data Protection Officer | Updated post Brexit | 2.0  |

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## Introduction

The General Data Protection Regulation (GDPR) and The Data Protection Act 2018 gives data subjects, or their authorised representative, the right to apply for access to personal data processed by **sport**scotland.

**sport**scotland will provide a copy of the personal information and/or allow suitable access. This process is referred to as a Subject Access Request (SAR).

## Purpose

The purpose of this policy is to: -

* Outline **sport**scotland’s statutory requirement for the disclosure of personal information under Data Protection legislation;
* Provide assurance that personal information is being managed in accordance with Data Protection legislation and the Information Commissioners Office’s (ICO) best practice;
* Set out our responsibilities for responding to and managing access requests; and
* Improve transparency of organisational activities in line with public policy requirements.

## Roles and Responsibilities

## All sportscotland employee’s

All **sport**scotland staff are responsible for recognising any/all subject access requests and ensuring they are escalated to the Data Protection Officer without undue delay in order for the request to be actioned within the mandatory 1-month time scale.

## Heads of Service

Heads of Service are responsible for ensuring staff within their remit are aware of Data Protection legislation and that personal data requested under the auspices of Data Protection legislation is provided to the Data Protection Officer without undue delay when requested.

## Data Protection Officer

The Data Protection Officer (DPO) is responsible for ensuring that **sport**scotland and its staff are informed and given advice about how it can meet its obligations under Data Protection legislation. The DPO is responsible for monitoring compliance of the regulation in how it relates to the personal information **sport**scotland processes, including managing internal data protection activities, providing advice on data protection impact assessments; training staff and conducting internal audits. The DPO is the first point of contact for the Information Commissioners Office and for data subjects whose personal information is processed (employees, athletes etc.). The appointment of a DPO is a mandatory requirement for **sport**scotland under Data Protection legislation.

The **sport**scotland DPO will process all SAR’s received into the organisation.

## Information Governance Steering Group

The Information Governance Steering Group are responsible, on behalf of **sport**scotland, to review the internal arrangements and processes that ensure the use of personal information relating to service users or staff is lawful, ethical and effective.

## Access to Personal Data

Article 15 of the GDPR permits a Data Subject (the person to whom the personal data relates) or someone who has been appointed by the data subject; for example, a Solicitor or Power of Attorney, a right of access to personal data held and to have communicated to him/her in an intelligible form: -

* What kind of information we keep;
* The reason we keep it and how it is used;
* How long we will keep the information, or the criteria used to determine that period;
* Who gave us the information;
* Who we might share the information with, and who might see your information;
* If we send the information out with the UK, and if we do, what security measures we take to protect it;
* The right to lodge a complaint with the ICO; and
* What rights exist in regard to rectification, erasure, objection or restriction of their personal data.

Data subjects have a right to have an explanation of any terms they may not understand.

* 1. The type of information which may be requested, includes, but is not limited to: -
* Human Resource Files, including training records;
* Complaints Files;
* Emails;
* Incident Reports;
* Athlete Records; and
* Photographs or Video Footage including CCTV images.
	1. Any living person who is the subject of personal data held and processed by **sport**scotland has a right of access to that personal data, regardless of where they reside.
	2. A data subject does not have the right to access someone else’s personal information unless they are an authorised representative or have parental responsibility or are legally entitled to receive this.
	3. **sport**scotland is not required to respond to subject access requests unless sufficient details have been received to enable the location of personal data, and to satisfy itself as to the identity of the data subject making the request.
	4. A Subject Access Request can be made by: -
* Email;
* Fax;
* Post;
* Verbally;
* Social Media; or
* Via the corporate website.

SARs made online must be treated like any other SAR when they are received however **sport**scotland **will not** provide personal information via social media channels.

Responses to requests must be provided in writing, including, where appropriate, by electronic means.

Where applicants make the request electronically, then unless otherwise requested by the applicant, the response should be sent in a commonly used electronic format.

The information may be requested orally, provided that the identity of the applicant is proven. A written response should be sent to the applicant confirming understanding of the verbal request along with the request for ID and/or more information.

* 1. An athlete may make a request to see their record or ask for a copy of a specific document from their record (e.g., blood results) during a consultation with the relevant Health Professional. The decision whether to provide this to the athlete or not sits with the Health Professional; however, if this request is deemed by the Health Professional to be ulterior to the current clinical issue, then this verbal request constitutes a formal request under Article 15 of the GDPR, and should be responded to accordingly, including informing the Data Protection Officer for reporting and statistical purposes.
	2. When a request for personal information is received citing wrong legislation, such as the Freedom of Information Act, or does not refer to any legislation, the staff member receiving the request should arrange to have the request sent internally to the Data Protection Officer without undue delay. Applicants should not be asked to resend the request themselves.

## Requests from a Data Subjects Representative

* 1. A data subject may authorise a representative to make a subject access request on their behalf. This must be done in writing, confirming the representative’s identity and providing evidence to support the data subjects authorisation.
	2. Representatives able to provide evidence that they are acting under Power of Attorney will be granted access to the records of the data subject. This should be restricted to the information necessary for the appointee to carry out his/her function.
	3. Where a Power of Attorney or Guardianship is held, this will be reviewed to ensure it covers the release of the information.
	4. Requests from Solicitors must be accompanied by a current signed mandate from the data subject.
	5. Where a data subject is unable to provide consent for a representative to make a subject access request on their behalf for reasons of incapacity, the advice of the athletes Health Professional should be sought to determine whether the access should be provided if the SAR is for health-related information.

## Requests from children

**sport**scotland hold very limited personal information relating to children, however, where we do process information relating to children the following will apply: -

In Scotland, a person aged 12 years or over is presumed to be of sufficient age and maturity to be able to exercise their right of access, **unless the contrary is shown**.  Before responding to a subject access request for information held about a child, **sport**scotland will consider whether the child is mature enough to understand their rights.

For health-related information, the relevant Health Professional will consider if the child is able to understand what it means to make a subject access request and if the child is able to interpret the information they would receive as a result of doing so. The Health Professional will consider: -

* the child’s level of maturity and their ability to make decisions like this;
* the nature of the personal data;
* any duty of confidence owed to the child or young person;
* any detriment to the child or young person if individuals with parental responsibility cannot access this information; and
* any views the child or young person has on whether their parents should have access to information about them.

## Parental Responsibility and Children’s Records

* + 1. Parents, or those with parental responsibility, will generally have the right to apply for access to their child’s personal data for children aged under 12.
		2. The mother of the child and who is named on the birth certificate will normally automatically have parental responsibility.
		3. The other parent will have parental responsibility if they are named on the child’s birth certificate (applies to births registered from 4 May 2006 onwards). If the child was born before this date, then the other parent will have parental responsibility if they are married to the birth mother or they have an order from the court.
		4. Where a child is considered capable of making decisions about his/her information processed, the consent of the child must be sought before a person with parental responsibility can be given access to the child’s records. In Scotland this relates to children aged 12 years of age and over.
		5. Parental responsibility may be legally revoked in the following circumstances: -
	+ Adoption Order;
	+ Care Order (Local Authority). Although the parents do not lose parental responsibility, the Local Authority can put in place a Care Order which can limit the extent to which a person can exercise their parental responsibility;
	+ Court Residence Order; or
	+ Emergency Protection Order (Local Authority)

## Police and Procurator Fiscal (PF)

Requests for information from the Police or PF must be made in writing either by:

* + Court Order;
	+ Letter from the Procurator Fiscal; or
	+ Submission of a Police Scotland Data Protection Form.

(Data Protection Act 2018 – Schedule 2, Part 1 (2) form)

## Insurance Companies

Requests for information from an insurance company must be accompanied by a signed mandate, recently dated, from the data subject.

## Department of Work and Pensions

Article 23 of the General Data Protection Regulation allows (but does not require) personal data to be disclosed to assist in the assessment or collection of any tax or duty. Any request forms the Dept. of Work and Pension for access to any information held about a Data Subject must be accompanied by the relevant form.

## Third Party Definition and Disclosure

Third party information, in relation to personal data, means any person other than (1) the data subject, (2) the data controller (**sport**scotland) or (3) any data processor or other person authorised to process data for the data controller or processor.

Where records contain information, which relates to an identifiable third party, that information may not be released unless: -

* The third party is a health professional who has compiled or contributed to the record;
* The third party, who is not a health professional, gives their consent to the disclosure of that information, for example an athlete’s coach; or
* It is reasonable to dispense with the third party’s consent, taking into account: -
	+ The duty of confidentiality owed to the other data subjects;
	+ Any steps taken to seek his/her consent;
	+ Whether the third party is capable of giving consent; or
	+ Where the third party has refused to give consent.

## Joint Records

Where joint records are held, for example in services delivered by **sport**scotland and a Governing Body or University, the relevant organisations must be informed of the access request and agree who will lead the disclosure process.

Where possible, the data subjects may not have to make a subject access request for joint records to both organisations. Either organisation can provide access to the record, provided the applicant is informed that the information is jointly held.

## Timescales

The information requested must be provided within one month of receipt of the request. This period may be extended by a further two months, to cover instances where requests made are either onerous or complex. If the compliance time period is to be extended, the data subject making the request will be informed, and reasons explaining the extension must be given.

* 1. **sport**scotland will aim to acknowledge all requests for personal information within seven days of receipt of request.
	2. **sport**scotland will aim to respond to requests for personal information within **one calendar month** as outlined in Article 14 of the GDPR and, wherever possible, within 28 calendar days.
	3. The **one calendar month** period will be calculated from the day the request was first received, irrespective of which person / department have first received the request within the organisation.
	4. The **one calendar month** period will not commence until **sport**scotland has sufficient information to process the request.
	5. **sport**scotland will inform the data subject if we cannot provide the information within the timescales explaining the reasons for this.
	6. Where the SAR application does not include sufficient information to identify the person making the request or to locate the information, the one calendar month clock will stop and restart once the information has been received.
	7. Requests will be considered complete/closed after 3 months if the further information requested by **sport**scotland from the SAR application has not been received.

## Redaction

Where the redaction of third party and/or non-personal information from a document renders the document meaningless, consideration will be given to whether this will be released or withheld.

## Amendments to Records

* 1. If a data subject believes personal information in their records to be inaccurate, they will be asked to put their concerns in writing, stating clearly what part of the record they disagree with. This should be signed and dated. The DPO will arrange for a copy of this letter to be retained in the data subject’s record.
	2. If a data subject makes a request to erase their record, they will be asked to put their request in writing, stating clearly what part of the record they are referring to. This should be signed and dated. The DPO will arrange for a copy of this letter to be retained within the data subjects record and a copy sent to the relevant department /professional for information and consideration where appropriate.
	3. Under the General Data Protection Regulation data subjects have a number of Individual Rights, including the Right to Rectification and Erasure, however, there are a number of exemptions which apply to a public body such as **sport**scotland which means we do not need to comply with requests relating to some records, and/or where we are processing data under a particular lawful basis. It is important however to respond to such requests as set out.

## Exemptions

* 1. Before responding to any SAR, the DPO shall check whether there are any exemptions that apply to the personal data that are the subject of the request.

Requests may be refused where it is necessary and proportionate not to comply with the SAR to safeguard: -

* national security;
* defence;
* public security;
* the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
* other important public interests, in particular economic or financial interests, including budgetary and taxation matters, public health and social security;
* the protection of judicial independence and proceedings;
* the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
* a monitoring, inspection or regulatory functions connected to the exercise of official authority regarding security, defence, other important public interests or crime/ethics prevention;
* the protection of the data subject, or the rights and freedoms of others; or
* the enforcement of civil law matters.

Also: -

* Where the information requested is out with the scope of information held by sportscotland; and
* Where requests are manifestly unfounded or excessive.
	1. Health Professionals have the right to withhold personal information if they believe the release of this would likely cause serious harm to the physical or mental health or condition of the data subject or any other person.
* The data subject, or data subject representative, will normally be provided with a written explanation as to the reasons for withholding part of the record as soon as possible after the decision has been made. However, we are not obliged to do so and there may be occasions where we would not volunteer that we have withheld information, e.g., if we believe this could cause undue distress
* Where the applicant remains dissatisfied with the withholding of information, advice should be sought from the Data Protection Officer.

## Third Party Disclosure

Where a request is made by a third party for information about a data subject and that person has the right to make the request on behalf of the data subject, such as a parent or someone holding Power of Attorney, this request may be refused if the data subject has made clear they do not want it disclosed to that third party.

## Identity

Before releasing personal information to a data subject under Article 15 of the General Data Protection Regulation, we are required to ensure we are releasing to the correct person.

* 1. Applicants will be asked to provide two forms of ID documentation, one being proof of identity and one to confirm address, before any information is released.
	2. Acceptable documentation is listed in the tables below: -

**Please note, ONE document from each of the tables below should be provided.**

|  |
| --- |
| **Proof of Identity: Acceptable Identity Documents** |
| Current Passport |
| Current Driving Licence |
| National ID Card or other valid documentation relating to immigration status |

|  |
| --- |
| **Confirmation of Address** |
| Recent Utility Bill |
| Local Authority Council Tax Letter |
| Driving License (If not already provided as proof of identity) |
| Bank, Building Society or Credit Union Statement |
| Recent Mortgage Statement |

This list is not exhaustive and other forms of identification may be accepted.  At least one form of identification should contain the same signature that is on your subject access request application form or letter and one with a photograph. Please note that **sport**scotland will not be able to comply with any requests received unless satisfactory proof of identification has been provided.

* 1. Subject access requests made via a solicitor should be accompanied by a signed mandate from the data subject.
	2. Photocopies of original documents will only be accepted where they are ‘certified’ true copies. A professional person or someone well respected within the data subject’s community, such as a solicitor, social worker, doctor, teacher or police officer may certify a photocopy as a ‘certified’ true copy document.
	3. If an individual wishes to make a third-party request on the Data Subject’s behalf, the individual should provide details of his/her identity, the Data Subject’s identity, the name and contact information and evidence of the individual’s legal authority to act on the Data Subject’s behalf, for example, written consent signed by the Data Subject, a certified copy of a Power of Attorney or evidence of parental responsibility if the data subject is a child.
	4. Data Subjects can come into any of the **sport**scotland reception areas, predominantly our offices in Glasgow, Stirling, or Edinburgh between 9am and 5pm, Monday to Friday, with their original documents and we will be happy to take copies while you wait.
* Head Office, Doges, Templeton on the Green, 62 Templeton Street, Glasgow, G40 1DA
* **sport**scotland Institute of Sport, Airthrey Road, Stirling, FK 9 5HP
* Caledonia House, 1 Redheughs Rigg, South Gyle, Edinburgh, EH12 9DQ

If you would prefer to send us copies of your documentation, please provide us with ‘certified’ copies. A professional person or someone well respected within your community, such as a solicitor, social worker, doctor, teacher or police officer (they must not be related to you), can certify documents by doing all of the following on each copy of the documents to be certified:

* writing ‘certified to be a true copy of the original seen by me’ on the document;
* signing and dating with their name printed underneath the signature; adding in their occupation, address and telephone number.

## Fees

* 1. **sport**scotland must provide the information requested free of charge. However, a fee may be charged when the request made is ‘manifestly unfounded or excessive, and especially, if the request is repetitive’. The fee charged must be based on the administrative costs incurred for processing the SAR.
	2. Where requests are manifestly unfounded or excessive however, in particular because of their repetitive character, **sport**scotland may either charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or refuse to act on the request.
	3. It is for **sport**scotland to demonstrate the claims of manifestly unfounded or excessive.
	4. If a charge were to be made, the applicant will be advised of the cost of providing the information so they can decide whether to proceed with their SAR application.

## Policy Review

This policy will be reviewed every three years, unless the introduction of any new or amended relevant legislation warrants an earlier review.

## Communication and Implementation

This Policy will be communicated via the following methods: -

* **Sport**scotland website;
* **Sport**scotland internal Share Point site; and
* Data Protection Training for **sport**scotland staff.

## Further Advice

For further advice on this policy please contact the **sport**scotland Data Protection Officer: -

Tel: 0141 534 1176 or Email: DPO@sportscotland.org.uk

## Making a Request

There are many ways a Data Subject can make a request however the best approach is using the Subject Access Request application form, as contained in appendix A. The form should be completed in full by the Data Subject.

If we are not going to respond to the SAR, we shall inform the data subject of the reason(s) for not taking action. If the information is not held by **sport**scotland, the DPO will advise the Data Subject in writing that **sport**scotland do not hold the information and refer the Data Subject to another organisation, if appropriate.

## Complaint

If you have any queries or are unhappy with how your request has been dealt with, please contact the **sport**scotland Data Protection Officer in the first instance: -

Information Governance and Data Protection Officer

**sport**scotland, Doges

Templeton on the Green

62 Templeton Street

Glasgow

G401DA
e: DPO@sportscotland.org.uk

t:01415341176 |m:07919595419

Please note you have the right to contact the Information Commissioner’s Office if you are unhappy with how your request/query has been dealt with. Their contact details are noted below: -

The Information Commissioner’s Office – Scotland

Queen Elizabeth House

Sibbad Walk

Edinburgh
EH8 8FT

Telephone: 0303 123 1115

Email: Scotland@ico.org.uk

## Useful links, Terms and Definitions

|  |
| --- |
| Definitions |
| SAR | Subject Access Request |
| DPO | Data Protection Officer |
| GDPR | General Data Protection Regulation |
| DPA | Data Protection Act 2018 |
| Personal Information | Personal data means data which relates to a data subject who can be identified: -(a) from those data, or(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller (**sport**scotland),and includes any expression of opinion about the data subject and any indication of the intentions of the data controller or any other person in respect of the data subjectIt is important to note that, where the ability to identify a data subject depends partly on the data held and partly on other information (not necessarily data), the data held will still be “personal data”.Note: Any unique reference numbers are also considered ‘Personal Data’ |
| Special Categories of Personal Data | Special Categories of Personal data that contains any of the following:* racial or ethnic origin;
* political opinions;
* religious or philosophical beliefs;
* trade union membership;
* data concerning health (e.g. physical or mental health);
* sex life or sexual orientation.
* genetic data;
* biometric data
 |
| Genetic Data | Personal data relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from the natural person in question, in particular chromosomal, deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) analysis, or from the analysis of another element enabling equivalent information to be obtained. |
| Biometric Data | Personal data resulting from specific technical processing relating to the physical, physiological or behavioral characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data (fingerprints) |
| Useful Links |
| [Information Commissioner’s Office Guide to Subject Access Requests](https://ico.org.uk/your-data-matters/your-right-to-get-copies-of-your-data/) |
| [Guide to the UK General Data Protection Regulation (UK GDPR)](https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/) |
| [Data Protection Act 2018](http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted) |
| [EU General Data Protection legislation](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1528874672298&uri=CELEX%3A32016R0679) |
| [The Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019](https://www.legislation.gov.uk/uksi/2019/419/made) |

## Appendix A: Subject Access Request Application Form

Subject Access Request

Application Form



|  |
| --- |
| Under Data Protection Legislation; data subjects have a right of access to personal data relevant to them that is processed by **sport**scotland. This is called a Subject Access Request (SAR)If you wish to make a SAR using this application form, please complete the form in full and return to:The DPO, **sport**scotland Head Office, Doges, Templeton on the Green, 62 Templeton Street, Glasgow, G40 1DA or email it to DPO@sportscotland.org.ukPlease ensure you refer to the **sport**scotland Subject Access Request Policy for guidance. |
| Full Name: |
| Home Address: |
| Date of birth: |
| Contact Telephone Number: |
| E-mail address: |
| Position within **sport**scotland (if applicable): |
| Information requested |
| Please state the personal information required in detail, including relevant dates and department details e.g. “training records from HR for date [ ] to [ ].”Please also provide details of any reference numbers, if relevant, that will assist us to locate the information you require.*\*Giving as much detail as possible regarding the personal information you require will assist the Data Protection Officer in retrieving your information accordingly.* |  |
| State proof of identity enclosed: (i.e. driving license, passport, birth certificate) |   |
| State proof of address enclosed: (i.e. utility bill, council tax letter, bank statement) |  |
| Declaration:I request access to the personal data indicated above and have enclosed the required 2 proofs of identification.I confirm that I am the Data Subject and am not acting on behalf of someone else. |
| Signed | Date |
| The following section should be completed by persons other than the Data Subjectwhen acting on behalf of the Data Subject |
| If you are not the data subject (person the information relates to) please tick the appropriate box below:* I have been asked to act on behalf of the person named above and enclose proof of this
* I am the parent or guardian of the person named above and that person is under 12 years old and enclose proof of this
* I am the parent or guardian of the person named above and that person is under 16 years old and is not able to understand the request and enclose proof of this
* I have been appointed by the court to manage the affairs of the person named above and enclose proof of this

\**Please note: We will presume children can understand the nature of the application if they are aged between 12 and 16, however, we will consider all cases individually.* |
| Declaration:I confirm that I am acting on behalf of the data subject and have submitted proof of my identity and authority to receive this data including, where applicable, producing a current signed and dated mandate from the Data Subject giving permission for me to make the subject access request on their behalf: |
| Name: |
| Address: |
| Signed: | Date: |