

1 Introduction

- 1.1 A data subject right of access request (ROAR) is a request made by or on behalf of an individual (“data subject”) for the information held about them by the Staffordshire Commissioner’s Office (SCO) for Police, Fire and Rescue, and Crime.
- 1.2 If the request is for non-personal information, the individual should be notified of that and a recommendation to submit a Freedom of Information (FOI) request should be made instead.
- 1.3 The GDPR, under Article 15, provides individuals with the right to request access to their personal data as held by an organisation. This can be information that includes application forms, employment records, or any other records which hold information relating to them. This is subject to certain exemptions to request access and obtain copies of personal data.
- 1.4 Data may be held in various formats, in electronic or manual formats and recorded and stored in various storage formats including photographs, audio messages and CCTV images.

2 Aims and Scope of this Policy & Procedure

- 2.1 The purpose for this policy and procedure is to ensure that an individual can exercise their rights under Article 15 of the GDPR that each right of access request is treated within the law. It will be a criminal offence under s.169 Data Protection Bill [2 April 2018] to alter personal data to prevent disclosure.
- 2.2 An individual has the right to request:
- access to their data, subject to certain safeguards;
 - copies of their records;
 - have these records explained if they are illegible or unintelligible;
 - to be informed of the purpose(s) their information is used for; and
 - the source(s) of that data.
 - Obtain confirmation from the data controller that it is processing their personal data
 - Obtain certain information about the data controller’s processing including
 - Purpose of processing
 - Categories of personal data processed

- Recipients or categories of recipients who receive personal data from the data controller i.e. payroll provider, pension provider etc. and in particular if the recipient is outside the EEA
- Retention rules of the organisation over their personal data
- Where the personal data has come from if not collected directly (Third Party)
- Whether or not there are any automated decision-making procedures and if so the consequences of this for the data subject
- The rights to correction, erasure, restriction and objection and making complaints to the ICO

3 Responding to Requests

3.1 The Staffordshire Commissioner's Office (SCO) is committed to good practice and high standards and will record all Right of Access requests. If a request is received by a member of staff, they should forward that request to the Office Manager, via the pfcc@staffordshire-pfcc.pnn.gov.uk email address, who will acknowledge the request and respond to the request without undue delay. A log of all requests received is maintained and will record:

- Date the ROAR was received and date the response is due (normally within 30 calendar days of receipt)
- Applicants details, and information requested
- Exemptions applied in respect of information not to be disclosed
- Details of decisions to disclose information without the data subjects consent
- Details of information to be disclosed and the format in which they were supplied
- When and how supplied, e.g. paper copy and postal method used to send them, or electronic and the means and whether encrypted or not

3.2 The flowchart is outlined in Appendix C but the first step will be to determine whether the individual's request is to be treated as a ROAR, FOI or routine enquiry.

3.3 The Business Support team within the SCO have the responsibility to log and respond to each ROAR. Each ROAR request will be acknowledged with an email or letter informing the requester when a respond shall be provided.

3.4 Ensure adequate proof of identity of the applicant if they are asking for their own data, or where this is a third party asking on behalf of another then establish by

what authority the Third Party has, then obtain proof of identity of both the applicant and the data subject before releasing information requested.

- 3.5 A list of acceptable identification is listed in Appendix A. If proof of identity has not been provided the process and timing for a ROAR only starts following the establishment of identity.
- 3.6 Ensure adequate information has been received from the applicant to facilitate locating the information requested. Preferably the application form will be completed by the applicant, however, internally, we can complete this for our convenience.
- 3.7 Locate the required data from all sources and collate it ready for review by an appropriate member of staff. Advice can be sought from the Data Protection Officer.
- 3.8 This review is to ensure that the information is appropriate for disclosure, i.e. to ascertain whether any exemptions apply e.g. it does not contain information about other individuals, it is likely to cause harm or distress if disclosed, or is information to be withheld due to on-going formal investigations.
- 3.9 Exemptions are detailed at Section 7, if further advice is needed the DPO can determine to what extent data can be disclosed or whether the request is to be refused.
- 3.10 Where the requested information is not held, inform the applicant in writing, as soon as possible, but in any case, by the due date.
- 3.11 A copy of the information should be supplied in a permanent form, preferably in an electronic format. Any electronic data that is sent to the applicant must be encrypted.

4 Who can make the requests

- 4.1 **Living Persons** - A subject access request is most often made by the “data subjects who want to see a copy of their information that an organisation holds about them. However, subject access goes further than this and an individual is entitled to be:
- told whether any personal data is being processed;
 - given a description of the personal data, the reasons it is being processed, and
 - whether it will be given to any other organisations or people;
 - given a copy of the personal data; and

- given details of the source of the data (where this is available).

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

4.3 Requests on behalf of Children - Even if a child is too young to understand the implications of subject access rights, information about them is still their personal information and does not belong to anyone else, such as a parent or guardian. So it is the child who has a right of access to the information held about them, even though in the case of young children these rights are likely to be exercised by those with parental responsibility for them. Before responding to a ROAR for information held about a child, you should consider whether the child is mature enough to understand their rights. The Data Protection Act has indicated that in most cases it would be reasonable to assume that any child that is aged 13 years or more would have the capacity to make a subject access request.

5 Time Limits

5.1 The requested information must be provided without delay and at the latest within one month of receipt. This can be extended by a further two months where the request is complex or where there are numerous requests. The Commissioner's Office will contact the requester at the earliest opportunity (not later than the first month) to advise further time is required due to the complexity of the request.

5.2 All refusals must be in writing setting out the reasons and the right of the Data Subject. The applicant must be notified within one month of the receipt of the request and explain why the extension is necessary. The applicant must also be made aware that they can contact the DPO if they believe that the process has not been lawful or compliant to legislation, or the Information Commissioner's Office.

6 Processing a Subject Access Request

6.1 GDPR allows most requests to be made free of charge. However, a "reasonable fee" can be charged for further copies of the same information and when a request is "manifestly unfounded or excessive", particularly if it is repetitive. The fee must be based on the administrative cost of providing the information

7 Format of Responses and Exemptions

- 7.1 Where the applicant makes a ROAR by electronic means, and unless otherwise requested by the applicant, the identity needed could be provided in a commonly used electronic format, for example a scanned ID. Before providing the information, the Data Controller, or appointed member of staff, must verify the identity of the person making the request using “reasonable means”. If identity is not proven then an exemption may be made.
- 7.2 Under the GDPR, organisations can withhold personal data if disclosing it would ‘adversely affect the rights and freedoms of others.’
- 7.3 Exemptions are currently available in the Act, set out in Part 4 and Schedule 7, some of which allow a Data Controller to refuse a ROAR, also Article 23 of GDPR allows national governments to introduce exemptions to various provisions in GDPR.
- 7.4 The GDPR does not introduce an exemption for requests that relate to large amounts of data, but a Data Controller may be able to consider whether the request is manifestly unfounded or excessive. Recital 63 permits asking the individual to specify the information the request relates to.
- 7.5 Where necessary, redactions are made electronically using appropriate software and an explanation of the rationale used to exempt that information will be made on a case-by-case basis and recorded on the ROAR register. All redactions and exemptions will be reviewed by the DPO or the Chief Executive.

8 Data Protection Officer (DPO)

- 8.1 The DPO is responsible for ensuring compliance and can investigate breaches or failures of legal compliance. The DPO does not determine how data is managed or the purpose for which it is used. If you wish to contact the DPO you can do so, by contacting The Data Protection Officer, Staffordshire Commissioner’s Office, Block 9, Weston Road, Stafford, Staffordshire, ST18 0YY:
The DPO can also be emailed at dpo@staffordshire-pfcc.pnn.gov.uk.
- 8.2 The Office Manager will provide the DPO weekly updates as to the ROAR activity including any requests that are likely to breach the rights of the data subject and require escalating.
- 8.3 Where a request is refused the DPO will receive notification and the decision behind it. The data subject will be informed of the right of appeal / complaint to the Information Commissioner’s Office.

Appendix A Documentary Evidence of Identity

Please supply one from the following categories (copies only).

- current passport
- residence permit issued by Home Office to EU Nationals on sight of own country passport
- current UK photocard driving licence
- current benefit book or card or original notification letter from the Department for Work & Pensions confirming the right to benefit
- building industry sub-contractor's certificate issued by the Inland Revenue
- recent Inland Revenue tax notification
- current firearms certificate
- birth certificate
- adoption certificate
- marriage certificate
- divorce or annulment papers
- Application Registration Card (ARC) issued to people seeking asylum in the UK (or previously issued standard acknowledgement letters, SAL1 or SAL2 forms);
- Home Office letter
- police registration document
- HM Forces Identity Card

Appendix B Data Subject Right of Access Request Application Form



Data Subject Right of Access Request (ROAR) Application Form

Section A: Your Details

Title:		First Name(s):		Last Name:	
Address:					
				Postcode	
Date of Birth:			Telephone number		
Email address:					

Section B: Tick the statement that applies below then complete that section

<input type="checkbox"/>	I'm <u>only</u> requesting information about me (please go to section F)
<input type="checkbox"/>	I'm requesting information about someone who is under 13 or who lacks mental capacity (please go to section C)
<input type="checkbox"/>	I'm requesting information for someone who is 13 or over (please go to section D)
<input type="checkbox"/>	I'm representing someone else and <u>only</u> requesting information on them (please go to section E)

Section C - Someone who is under 13 or who lacks mental capacity:

Title:		First Name(s):		Last Name:	
Address:					
				Postcode	
Date of Birth:				Telephone number	
Your relationship to person in section C (e.g.: parent, guardian, solicitor):					

Section D - Someone who is over 13:

Title:		First Name(s):		Last Name:	
Address:					
				Postcode	
Date of Birth:				Telephone number	
Your relationship to person in section C (e.g.: parent, guardian, solicitor, holder of a power of attorney):					

Section E – Third Party I'm representing someone else detailed below:

Title:		First Name(s):		Last Name:	
Address:					
				Postcode	
Date of Birth:				Telephone number	
Your relationship to person in section C (e.g.: solicitor, holder of a power of attorney, deputy, executor):					

Section F – Further details of the subject access request:

Please provide any further information in this section that could help identify information held on any of the individuals listed on this form.

Previous names:	
Previous addresses:	
Any other information that would help us find the information you are requesting	

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Section G – Evidence of Identity being sent. Tick all applicable boxes:

Please note: The period of 30 days in which we must respond to your request cannot commence until we are satisfied that proper documentation has been received. If insufficient identification is provided, your application may be delayed.

	Copy of your ID – see below for acceptable forms of ID
	Copy of ID for the person you are requesting information about (if applicable)
	Copy of proof of your right to someone else’s records (proof of parental responsibility, relevant power of attorney, deputy order, letters of authorisation)

Section H – Signatures:

Declaration: I certify that the information given on this application form to the Commissioner’s Office for Police, Fire and Rescue, and Crime is true and that I may be committing a criminal offence if I fail to do so. I understand that it is necessary for this Office to confirm my identity.

Person named in section A

Signature:		Date:	
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If applicable:

Person named in section D

Signature:		Date:	
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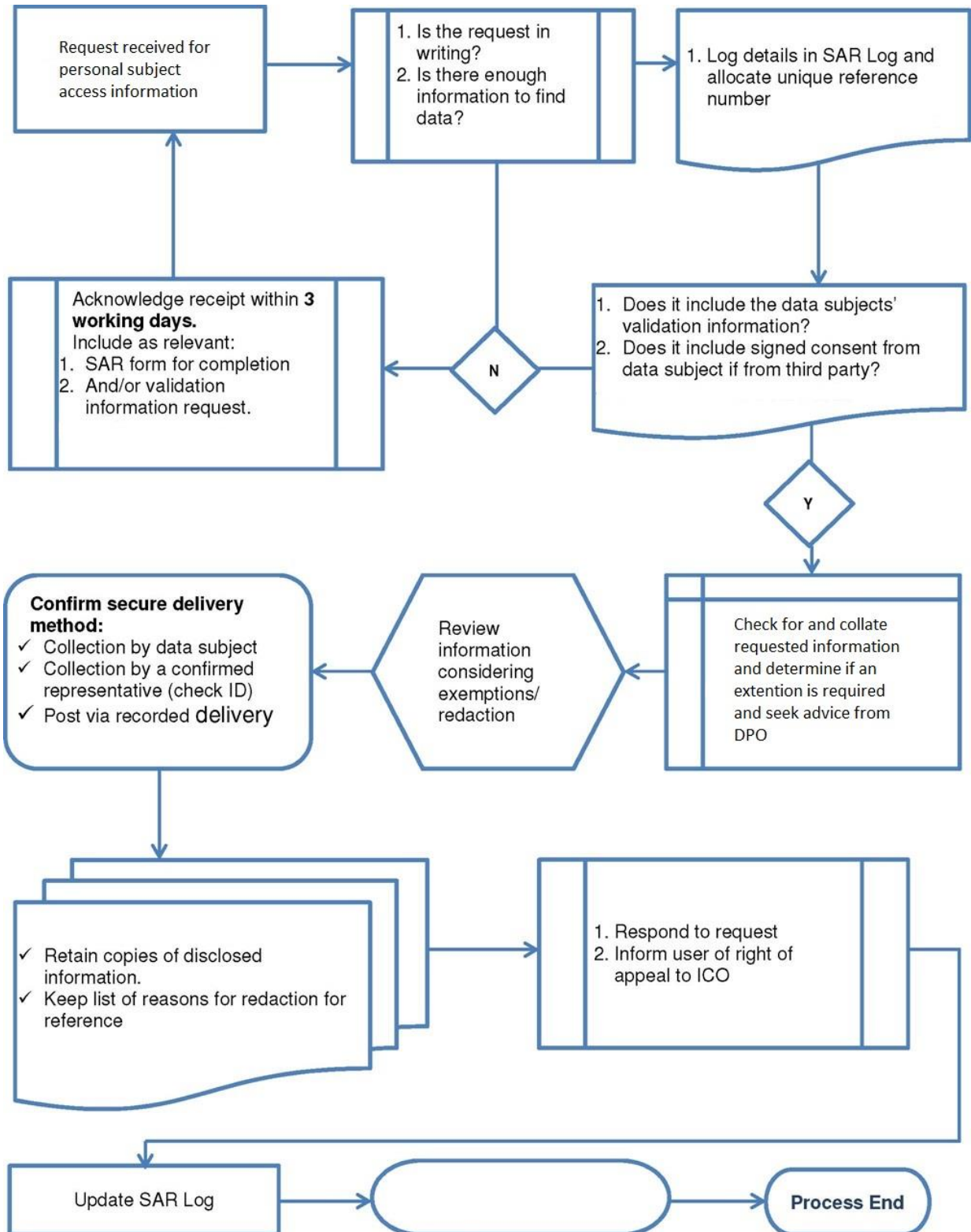
Please return this form and all relevant documents to @

Right of Access Requests,
Staffordshire Commissioner's Office for Police, Fire and Rescue, and Crime,
Block 9,
Staffordshire Police Headquarters,
Weston Road,
Stafford,
Staffordshire, ST18 0YY

Or via email to

PFCC@staffordshire-pfcc.pnn.gov.uk

Appendix C Flowchart for Subject Access Requests



Date Approved: **10 April 2018**

Review Date: **Two years from approval date**

Policy Lead: **David Morris**

Document Owner

Staffordshire Commissioner's Office for Police, Fire and Rescue, and Crime

Document Author David Morris – Policy & Research Lead

Date of Approval

Date of Review

Version	Date	Name	Revision	Description
1.2	24/10/2019	Laura Price	Update	Process and Procedure Change
1.1	5/9/2018	David Morris	Update	Updating Office details from OPCC to Staffordshire Commissioner's Office for PFRC
1.0 Policy	10/4/2018	David Morris	Policy	D(ROAR) Procedure
0.1 Draft	3/4/2018	David Morris	Draft	D(ROAR) Procedure

Attachments:

Subject Access Request Application Form