

**GUIDANCE: Right to data
portability (guide for data
subjects)**



Guidance: Right to data portability (guide for data subjects)

Introduction and Summary

You, and all other living human beings, are at the heart of data protection legislation.

You are referred to in the Law as a **'data subject'** (i.e. you are the subject of any given piece of personal data or information). The Data Protection (Bailiwick of Guernsey) Law, 2017 ('The Law') contains legal rights and responsibilities and specifically aims to strengthen individuals' rights.

This guidance is about the "Right to Data Portability." In simple terms, a data portability request gives you the ability to access and reuse your personal data across various services. This includes the freedom to move your data securely between different organisations.

This could include requests like: moving medical records from one GP practice to another; moving insurance policy information; or retrieving a contact list from a webmail application.

In specific circumstances, all local organisations should have the ability to copy all data relating to you from their system and provide it in a structured, 'machine readable' format that can be plugged into another organisation's system.

Q: What is the difference between asking an organisation for your personal data under the right of 'data portability' and a 'subject access request'?

A: There are three important differences between these two rights related to the: **scope, format, and circumstances** of the personal data. These three differences are summarised in the table below:

	Data Portability	Subject Access (see Individuals Rights for details)
Scope of personal data that must be included in the organisation's response to the data subject who is making the request	Only data provided by you (the data subject) that is processed electronically .	All personal data. Including all data created by the organisation itself which relates to the data subject and data from other organisations for which the organisation itself becomes a controller.
Format of personal data provided in response to data subject	Machine-readable only.	Any format understandable by a person .
Circumstances when this right can be exercised	Only when you (the data subject) have provided your personal data by consenting to processing, or in relation to a contract with the organisation.	Applies in all circumstances regardless of the circumstances that led to the processing of the data.

Under [your legal right of access](#) you can request a copy of **all** the personal data an organisation has about you, **including** all information **created by the organisation itself** which relates to you, **collected in any circumstances**. For example, an assessment of credit worthiness or special rates

being offered. When an organisation responds to your subject access request they must provide the information to you in a format that **a person** can read and make sense of.

However, when you exercise your right of data portability, you are asking the organisation to copy only the personal data **you** have provided them from its system or generated on it. This could include when you have used a device or raw data collected from smart meters or wearable tech. It is **not** obliged to provide any information which **it has created** about you. It is also **only** obliged to give you personal data that it has been processing under the circumstances where you have **consented** to the processing, or you have a **contract** with it.

Q: How do I go about asking an organisation to transfer my personal data?

A: You need to make your request **directly to the organisation**. You can make your request verbally or in writing. You need to state what you want and once you do it is advisable to follow up any verbal request in writing to ensure that the organisation has received it. It also provides clear proof of your actions if you decide to challenge the organisation's initial response.

Q: How long is given for an organisation to respond to a data portability request?

A: The Law says that your request should be acted on "without undue delay" but **within at least one month of receipt**. However, for complex cases, this can be extended to three months, in total, as long as you are told by the organisation there is a delay and why within the original one month.

The organisation can ask you for additional information (such as ID) to authenticate whether you are who you say you are, and that the personal data requested relates to you. This is to avoid personal data about one individual being sent to another, accidentally or as a result of deception. The key point is that they **must be reasonable** about what ID they ask you for. They should not request an inordinate amount of information if your identity is obvious to them. This is particularly the case, for example, when you have an ongoing relationship with the organisation (i.e., you are a former employee or client).

Q: Will I be charged for making a data portability request?

A: An organisation is **not** allowed to charge a fee unless it can **demonstrate** that your request is frivolous, vexatious, unnecessarily repetitive or otherwise excessive.

Q: Can my request be denied?

A: If the organisation can **demonstrate** that a request is, as the Law states, "manifestly unfounded, frivolous, vexatious, unnecessarily repetitive or otherwise excessive", it can refuse to deal with the request. Where your data includes the data of one or more other people, the organisation will be required to determine if it is reasonable to provide it or withhold it. As a result, you may find not all data is provided to the other organisation.

In addition, the Law provides a number of exemptions that, if they apply, may result in only some of your data being provided. If any of the above are used, the organisation needs to justify why it's withheld your data and tell you those reasons. [More information on how organisations must apply these exemptions can be found here.](#)

Q: If an organisation responds to a data portability request will they then delete the data in question?

A: No. The point of data portability is to give people a **machine-readable copy** of the personal data held by an organisation. The organisation is under **no legal obligation** to delete their own record of the personal data in question. In fact, the request should not affect the original retention period of the data. If you want your data to be erased you may need to exercise your '[right to erasure](#)'.

Need further help?

If you need further clarity on this area, [please contact us](#).