

GUIDANCE: Right to Information (guide for data subjects)



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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.

One such right is the 'Right to Information' – sections 12 & 13 of the Law.

In plain English, a Right to Information request is when you ask what information an organisation holds about you, where they got it from (i.e. from you or from another source), what they are doing with it and who they are sharing it with.

This is known by various names, most commonly as a 'data processing notice' or 'privacy statement' and an organisation should provide you with this **at the time they collect your personal data** (section 12). If your data is obtained from another source (section 13), they should give you that information within one month. However, you can request this information at any time.

In this guidance you will find: more information about how to request such information, what you should receive back, and what to do if you're not happy with what you receive.

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1. How can I find out how an organisation uses personal information?

Many organisations publish their data processing notice/privacy statement on their website so it is worth checking there before making a formal request.

If you cannot locate it on their website, or would like it in a different format, such as hard copy, you should contact the organisation and ask them to provide it. Whilst you can do this verbally, it is suggested you follow your verbal request with an email or letter to ensure the organisation has a record of exactly what information you are seeking.

2. How much does it cost to obtain the information?

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

Whatever the outcome it needs to tell you and explain why.

3. Responding to your request

The Law says that the 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 initial one month. It is unlikely an organisation can justify such an extension however, as it should have this information to hand.

4. If I require an explanation as to how any automated decisions have been made about me, what must I do?

Organisations are required to outline whether any decisions about you are made based on automated processing of your personal data. Where this occurs, they must provide you with meaningful information about how the decision-making process works and the logic involved, as well as the significance and the potential consequences of this processing. Even though organisations are legally required to provide information to you about automated processing, we recommend you **specifically request** information about automated processing as part of your request.

5. What will be sent to me?

In summary, Schedule 3 requires information to be provided to you about:

- whether any of your personal data is ‘special category data.’
- the source of your personal data (e.g., from you or another source).
- the legal basis of processing your personal data.
- who has received your personal data.
- if your personal data has been shared or is intended to be shared outside of an authorised jurisdiction.
- how long your personal data will be retained for.
- if any of your personal data is subject to automated processing.

The information must be given to you with any jargon or complex terms explained.

Often you will be pointed to an organisation's website where its data processing notice/ privacy statement is located. However it may be sent by email or in hard copy and you can state how you wish to receive it.

6. Is an organisation allowed to withhold any information?

If an organisation collects its personal data from someone other than you there are other limited circumstances in which they may lawfully withhold information from you, such as:

- You already have the information.
- Providing the information would be impossible or disproportionate.
- You are not entitled to obtain the data.
- Providing the information would likely prejudice the objectives of that processing.
- The information being requested must be kept secret or confidential in order to perform or comply with a duty imposed by law.

In most cases you should be told why the information has been withheld. You should also be told you have the right to complain to the ODPa and the right to bring a civil action if you feel the actions of the organisation are unjustified.

7. What can I do if the Controller does not comply with my request?

If the organisation fails to respond to your satisfaction you should send the organisation a reminder, keeping a copy of your letter.

If they still do not respond, the ODPa may be able to assist in obtaining a response, highlighting their legal responsibilities. [Please read our 'Make a Complaint' page for further details.](#)

If you are not satisfied with the response and you are able to:

- Provide us with **evidence of your concerns**, and
- Provide us with **evidence that you have sought to resolve this with the entity directly**

you can lodge a formal complaint with the ODPa.

The act of lodging a complaint enables the ODPa to consider conducting an investigation under Section 68 of the Law, using its legal powers where needed.

Need further help?

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

Appendix 1 - Schedule 3 of the Law

INFORMATION TO BE GIVEN TO DATA SUBJECTS

1. The identity and contact details of the controller and, where applicable, any controller's representative.
2. The contact details of the data protection officer, where applicable.
3. Whether any of the personal data is special category data.
4. If any of the personal data has not been collected from the data subject by either of the controller or a processor acting on the controller's behalf – (a) the source of the personal data, and (b) if applicable, whether the personal data was obtained from a publicly available source.
5. The purposes and the legal basis of the processing.
6. Where the lawfulness of processing is based on the processing being necessary for the legitimate interests of the controller or a third party, the legitimate interests concerned.
7. The recipients or categories of recipients of the personal data, if any.
8. If the controller intends to transfer the personal data to a recipient in an authorised jurisdiction, other than [the Bailiwick or] a Member State of the European Union, a statement of which of the following applies to that authorised jurisdiction – (a) an adequacy decision is in force in respect of the authorised jurisdiction, or (b) the authorised jurisdiction is a designated jurisdiction.
9. If the controller intends to transfer the personal data to a recipient in an unauthorised jurisdiction, reference to the appropriate or suitable safeguards applying to the transfer and the means to obtain a copy of them or where they have been published or otherwise made available.
10. The period for which the personal data is expected to be stored, or if that is not possible, the criteria used to determine that period.
11. The data subject rights under sections 14 to 24.
12. Where the lawfulness of processing is based on the consent (explicit or otherwise) of the data subject, the existence of the right to withdraw consent at any time (without affecting the lawfulness of processing based on consent before its withdrawal).
13. The right to complain to the Authority under section 67 of the Law.
14. Whether any decision would be made based on automated processing of the personal data, and in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.