



## **NMBI Subject Access Request Policy and Procedures**

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## Context and Overview

### Key Details

- Prepared by Dr Aoibhín de Búrca, Data Protection Officer: 15/05/2018
- Approved by Board: 23/05/2018
- Policy operational from: 24/05/2018
- Next review date: 25/05/2019

### Introduction

This policy and procedures document describes how individuals can access the personal data held about them by NMBI (i.e. make a subject access request).

It sets out, on a step-by-step basis, how NMBI responds to subject access requests, and what exemptions may apply.

### Why this policy exists

This subject access request policy ensures NMBI:

- Complies with national data protection law and the General Data Protection Regulation (GDPR);
- Follows good practice for handling subject access requests;
- Protects the rights of data subjects;
- Is transparent about how it stores and processes individuals' data; and
- Provides clarity about rights and obligations regarding subject access requests.

### Data Protection law

National data protection law and the GDPR describe what rights individuals have regarding the personal data being held about them by organisations, such as NMBI.

Individuals can ask if personal data is being held, what personal data is being held and request a copy of the personal data. The right, commonly known as subject access, can be exercised by making a written subject access request.

The right of access as set out in legislation means NMBI must:

- Inform the individual whether personal data is being held and processed;
- Give a description of the personal data, the reasons it is being processed, and if it has been given to other organisations or people;
- Where possible indicate the retention schedule for the personal data;
- Provide a copy of the data; and
- Inform them if their personal data has been transferred to a third country or an international organisation, and if appropriate safeguards were in place.

## **Policy scope**

‘Personal data’ means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

The policy applies to all personal data that NMBI holds and processes.

The policy applies to:

- NMBI staff;
- NMBI Board and committee members; and
- All contractors, suppliers and other people working on behalf of NMBI.

When an individual makes a subject access request to NMBI for personal data being held by NMBI, the personal data sought must be stored electronically or as part of a structured manual filing system which allows the relevant records to be easily identified.

Personal data is retained in line with NMBI’s Retention Policy and Schedule, and if the material is no longer held by NMBI the individual will be notified and supplied with the Retention Policy and Schedule.

## **Positive approach to subject access**

Subject access is a fundamental right for individuals. It is also an opportunity for NMBI to improve customer service and service delivery by responding to subject access requests efficiently and transparently and to maximise the quality of the personal information NMBI holds.

Adopting good practice helps NMBI:

- Increase levels of trust and confidence by being open about the personal information NMBI holds;
- Comply with legal obligations and show how it has done so;
- Streamline processes for dealing with subject access requests, saving time and effort;
- Improve confidence in information-handling practices;
- Improve transparency in line with public policy requirements; and
- Improve service delivery.

## Procedures

### Submitting a subject access request

Subject access requests must be made in writing. They can be sent:

- By postal address to Data Protection Officer, 18-20 Carysfort Avenue, Blackrock, Co Dublin, A94 R299; or
- By email to [dataprotection@nmbi.ie](mailto:dataprotection@nmbi.ie).

If an individual contacts a member of staff in NMBI (other than the Data Protection Officer) in writing looking for the personal data NMBI holds regarding them, this is a subject access request and should be sent immediately to the Data Protection Officer.

NMBI does not charge a fee for subject access requests (unless where the request is manifestly unfounded or excessive, then it may in certain circumstances choose to do so).

### Initial response from NMBI: confirmation and clarification

The Data Protection Officer will confirm receipt of the request, log it and confirm the intention to process the material as soon as possible and within one month.

The individual making the request may be asked to provide proof of identification.

If the request is being made on behalf of a client or others, written authority will be requested.

NMBI may request additional information, in order to scope the initial search for the personal data involved or to identify more precisely the personal data required.

A requester is not required to tell NMBI the reason for making the request or what they intend to do with the information, but this may assist in finding the relevant information requested.

If there is any doubt the DPO will ask for clarification on whether the material is being sought under the Freedom Of Information Act 2014 or data protection legislation, and will advise on how best to proceed to get access to information.

### Scoping and search

NMBI will identify if material is being held and collate it.

Depending on what is being requested a project plan and scoping exercise may be required to ascertain the volume of material and to identify where the personal data being sought is held.

## **Administration**

NMBI will assess if the material:

- Is personal data;
- Can be released;
- Is subject to exemptions;
- Requires processing to redact third party information; and
- Will require an extension (up to an additional two months) due to the volume involved once quantified.

## **Supplying the material**

If an extension is required, the individual will be notified within one month of the original request, together with the reason for the delay.

The material will be provided to the requester in a permanent, intelligible form.

Where possible the material will be sent by registered post to the requester.

Where the individual makes the request by electronic means, and unless otherwise requested by the individual, the information shall be provided in a commonly used electronic form.

If the material is provided electronically by NMBI it may be necessary to sanitise the documents to remove links to third party information.

Once the right to access has been granted, the requester will also be sent:

- A copy of their personal data;
- A description of what personal data has been processed, why it was collected (purpose and legal basis) and when it was collected;
- Details about whether their data was shared with anyone else;
- What the retention period is, if known;
- Information detailing the right of the data subject to lodge a complaint with the Commission and the contact details of the Commission; and
- The right to request rectification or erasure, or restriction of the personal data concerned.

If the requester is unhappy with the manner of the processing or the content of the personal data on file they can request rectification or erasure, or restriction on the processing of the personal data concerned. Upon receipt of the request NMBI will endeavour to process it as soon as possible, or no longer than one month.

## Exemptions and restrictions

Exemptions and restrictions do apply to subject access requests under national legislation and the GDPR, and NMBI may refuse an access request in the following circumstances:

- Where the data being held is being used for the prevention, detection, investigation or prosecution of a crime or to prevent fraud.
- If the data is subject to legal professional privilege, meaning the data was created following legal advice from a solicitor, and/or the data was created specifically for an upcoming court case.
- Where the requester is involved in a claim against NMBI, seeking compensation, and the information reveals details of NMBI's decision process in relation to their claim.
- If the information is held for statistical purposes, is not shared with any other person or organisation and cannot be identified as belonging to any particular individual.
- If releasing the data would mean that personal data about another individual would be unfairly disclosed. (Personal data may be released in redacted form so as to protect the other individual's data.)
- Where the data being sought involves personal opinions that have been expressed by another individual. Specifically, if the opinion was given in confidence, and it can be proven that the person providing the opinion at the time did so in the expectation of confidence, it does not have to be released. (If the opinion was given as part of regular business communications, does not involve personal opinions, and was given without the expectation of confidentiality, it should be released.)
- In the case of a request for access to personal medical information or social work records, access may be denied if there is reason to believe that releasing the information may cause serious risk to the physical or mental health of the individual. The decision not to release such data must be made after consulting the medical professional(s) most recently responsible for the care/ treatment of the data subject.
- If the personal data requested is impossible to supply, or supplying it would be extremely difficult, and would require disproportionate effort. (The concept of proportionality in EU law applies to subject access requests and NMBI will evaluate the particular circumstances of each request, balancing any difficulties involved in complying with the request, against the benefits the information might bring to the data subject. NMBI is committed to making extensive efforts to find and retrieve personal data when requested.) If the copy of the personal data would result in so much work or expense as to outweigh the requester's right of access, NMBI may choose not process the subject access request. This will be communicated to the requester and NMBI will endeavour to engage with the requester to find an alternative way of satisfying their request.

- If the personal data has already been supplied in accordance with an access request, but identical requests continue to be made (unless new data has been created since the previous records were released, in which case the updated data must be provided). Requests from individuals who already have access to the material are also exempt.
- If requests from the data subject are manifestly unfounded or excessive, NMBI may refuse to act on the request.
- If the data that is requested is not the personal data of the requester, it cannot be released under an access request.

### **Making a complaint to the Data Protection Commission**

Individuals have the right to lodge a complaint with the Data Protection Commission if they consider that the processing of personal data relating to him or her, by NMBI, infringes the national Data Protection Acts or the GDPR.

The complaint must be made in writing, and can be made:

- By email to [info@dataprotection.ie](mailto:info@dataprotection.ie)
- By post to Office of the Data Protection Commission, Canal House, Station Road, Portarlinton, Co. Laois, R32 AP23, Ireland.

For more information please see [the Data Protection Commission website](#).