



PRIMA
GROUP

**Subject Access
Request Policy**

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Subject Access Request Policy

Also known as the Right of Access

1 Aim of the Policy

The aim of this policy is to outline the Prima Group approach and provide more information on the right of access, commonly referred to as subject access, which gives individuals the right to obtain a copy of their personal data, as well as other supplementary information. It helps individuals to understand how and why their data is being used, and check this is being done lawfully.

An individual is entitled only to their **own** personal data, and not to information relating to anyone else (**unless** they are acting in an official capacity on behalf of that person). Before responding to a Subject Access Request (SAR), Prima Group needs to be able to:

- Decide whether information held is personal data and, if so, whose personal data it is.
- Be satisfied as to the identity of the person making the request to ensure that they are entitled to it.

Data protection law does not prevent another person making a SAR on behalf of someone else. This may be a solicitor acting on behalf of a client, but it could simply be that an individual wants someone else to act for them. In these cases, Prima Group would need to be satisfied that the third party making the request is entitled to act on behalf of the individual, but it's the third party's responsibility to provide evidence of this entitlement. This might be a written authority to make the request or it might be a more general power of attorney.

2 Who does this Policy apply to?

This policy will apply to all Prima Group employees, Board Members, Involved Residents and any other person handling data on behalf of the Group, including consultants and contractors. It outlines the responsibilities of Prima Group and its employees in respect of the collection, use and disclosure of data and the rights of the customers, employees and other parties to have access to personal data concerning them.

3 Policy Statement

The UK GDPR does not specify how an individual makes a valid request to access their personal data. Therefore, an individual can make a subject access request verbally or in writing. It can also be made via any Prima Group channel (including by social media) and does not have to be sent to a specific person or contact point, but it can also be made directly to risk@primagroup.org

A request does not have to include the phrase 'subject access request' or Article 15 of the UK GDPR, as long as it is clear that the individual is asking for **their own personal data**.

The subject access request must be acted upon immediately, without delay, and at the latest a response needs to be completed within one month of receipt. The time limit for providing a response is calculated from the day the request is received (whether the day after is a working day or not) until the corresponding calendar date in the next month. Due to possible confusion in how this works across different months, for practical purposes, Prima have adopted a **28-day period** to ensure compliance is always within a calendar month.

Prima Group will send the information electronically within 28-days securely via **Egress Intelligent Email Security Software | Egress Software Technologies** to the email address provided as part of the Subject Access Request.

The UK GDPR requires that the information provided to an individual is in a concise, transparent, intelligible and easily accessible form, using clear and plain language. **However, there is no requirement to ensure that that the information is provided in a form that can be understood by the particular individual making the request.**

If there are doubts about the identity of the person making the request, more information may be requested but the individual will be advised as soon as possible that more information is needed from them to confirm their identity before responding to their request. The period for responding to the request begins when the additional information is received.

Prima Group may extend the time to respond by a further two months, but only if the request is complex or a number of requests have been received from the individual but the individual will be advised within one month of receiving the request if more time is needed to provide the data and provide an explanation of why the extension is necessary.

4 Exemptions

There are exemptions from the right of access contained in the DPA and these can be found on the ICO website:- <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-UK-GDPR/exemptions/>

The most likely exemptions applicable would be:

- **Legal Professional Privilege** - Any emails or other correspondence passing between Prima Group and any legal advisers in contemplation of litigation (for example in disrepair or possession cases) are protected by legal privilege and so there is no requirement under UK GDPR to disclose them. Any such reference would therefore be redacted from any personal data provided.

- **Protection of the rights of others** - where the information requested also includes the personal data of another individual, this will be redacted but if it cannot effectively be redacted Prima Group would not be required to disclose this, except where:
 - the other individual has consented to the disclosure;
 - or it is reasonable to comply with the request without that individual's consent.

So, although sometimes Prima Group may be able to disclose information relating to a third party, it will only be once the decision has been made as to whether it is appropriate to do so in each case. This decision involves balancing the data subject's right of access against the other individual's rights relating to their own personal data. If the other person consents to disclosing the information about them, it is unreasonable not to do so. However, if there is no such consent, then a decision will be made whether to disclose the information anyway.

If an exemption does apply, sometimes Prima Group will be obliged to rely on it (for instance, if complying with UK GDPR would break another law), but sometimes may be able to choose whether or not to rely on it.

If Prima Group cannot identify an exemption then it must comply with the request as normal.

5 Refusal to comply with a request or charge a fee

Compliance with a subject access request can be refused if it is manifestly unfounded or excessive, taking into account whether the request is repetitive in nature. In such a case, the first step Prima Group will go back to the data subject and seek to refine the request and identify more precisely the data required.

If, however, the request remains very broad, it may be considered that the effort involved is excessive or unreasonable.

If Prima Group considers that a request is manifestly unfounded or excessive, it may:

- Request a "reasonable fee" (the cost, for example, paper or storage media/usb) to deal with the request; or
- Refuse to deal with the request

If it is decided to charge a fee Prima will contact the individual promptly and inform them and will not comply with the request until receipt of the fee.

If Prima Group refuses to comply with a request, or request a reasonable fee, or additional information, without undue delay and within one month of receipt of the request it will inform the individual: -

- the reasons it is not taking action to provide the data
- their right to make a complaint to the ICO or another supervisory authority
- their ability to seek to enforce this right through a judicial remedy

6 Data that records a disputed opinion

Once an individual has reviewed the data sent to them, they are able to request that certain records are updated if they are incorrect. Some areas of fact where the records are incorrect will be updated as soon as the individual provides the correct details.

Some of the data held may be a record of an opinion, rather than a clear fact. Opinions are, by their very nature, subjective, and it can be difficult to conclude that the record of an opinion is inaccurate. As long as the record shows clearly that the information is an **opinion** and, where appropriate, whose opinion it is, it may be difficult to say that it is inaccurate and needs to be rectified. Prima Group will advise the individual where records need to be updated and will ensure this happens and confirm any necessary changes have been made to the individual once they have been updated.

7 Making sure we do what we say

This policy will be reviewed as and when needed but as a minimum of every 2 years and, together with accompanying procedures will be uploaded to Sharepoint. This will be communicated to employees, Board members and involved residents. The Policy will also be published on the Prima Group website.

The Risk and Assurance Officer is responsible for complying with the request in accordance with the Subject Access Procedure and attends regular refresher events on data protection generally. Annual GDPR training is also mandatory for all employees.

There are currently no KPIs in place, but a central log is kept of all requests and timescales, which is also reported quarterly to Audit and Assurance Committee and Board.

8 Other things to consider

8.1 Prima policies and procedures

This policy must be read together with:

- Subject Access Request Procedure
- Amendment to Tenant Records Procedure
- Privacy Statement
- Data Protection Policy

8.2 Legislation and Guidance

The General Data Protection Regulation (GDPR) has been retained in UK law as the UK GDPR, and will continue to be read alongside the Data Protection Act 2018 (DPA 2018), with technical amendments to ensure it can function in UK law.

9 Consultation

This policy has been consulted on with the Customer Strategy and Insight Manager the HR and Group Services Manager between the period August 2022 to October 2022

10 Equality Impact Assessment

Prima welcomes feedback on this policy and the way it operates. We are interested to know of any possible or actual adverse impact that this policy may have on any groups in respect of gender or marital status, race, disability, sexual orientation, religion or belief, age or other characteristics.

The policy has been screened to determine equality relevance for the following equality groups: gender or marital status, race, disability, maternity or pregnancy, sex, sexual orientation, religion or belief, age or other characteristics.

11 Data Protection

In taking applications under the policy we are aware that we will be handling personal information. All handling of the personal data will be conducted under the Group's Data Protection Policy ensuring compliance with the Data Protection Act 2018.

Personal data that is inappropriately accessed or disclosed may constitute a data breach. The UK GDPR (United Kingdom General Data Protection Regulation) requires organisations to keep a record of all data breaches and, where the breach is likely to result in a risk to the rights and freedoms of individuals, the organisation must notify the Information Commissioner within 72 hours of becoming aware of the breach. If the data breach results in a high risk to the rights and freedoms of individuals, those individuals must be notified without undue delay.

12 Document Control Data

Version:	V12022
Author:	Julie Hunter, Risk and Assurance Officer
Owner of the policy:	Director of Insight and Group Services
Consultation Panel:	HR and Group Services Manager
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