DATA SUBJECT ACCESS REQUEST PROCEDURE

DATA PROTECTION ACT 1998

This procedure seeks to ensure that the Transport Executive receives and processes Data Subject Access Requests in accordance with the Data Protection Act 1998.

The procedure outlines the steps to be followed, the records to be kept and the rules which must be applied. The attached appendices include draft letters to be used by the following Co-ordinators:-

1. External Relations Manager - requests from the public
2. Head of Human Resources & Communications - requests from employees (including contract staff)
3. Chief Financial & Systems Officer - requests from suppliers/contractors (including operators)

An application form for use across the Transport Executive is also included in the attached appendices.

Although the Data Protection Act 1998 provides for Data Subject Access Requests, it is not necessary to follow this procedure for every request for information. If a general enquiry is made regarding information held or used in a process, then it should be dealt with as part of normal working practices. The Data Protection Act 1998 only applies to personal information, i.e. information about identifiable living individuals. In the majority of circumstances the issue will be resolved without reference to the Data Protection Act 1998 and the need to make a payment. If the Data Subject specifically makes the request under the Data Protection Act 1998, then the procedure must be followed.
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1. **Key terms**

**Automated data**  
Data which is processed by means of equipment operating automatically (e.g. by computer) or which is recorded with the intention that it should be so processed.

**Consent**  
Ensures the processing of personal data is “fair and lawful” (first data protection principle). Best practice is to obtain consent from each Data Subject to his/her personal data being processed.

**Data**  
Information which is processed automatically or recorded manually.

**Data Controller**  
The legal entity who determines the purpose for which the personal data is to be processed.

**Data Processor**  
A third party who processes personal data on behalf of, and on the instructions of, a data controller.

**Data Subject Access Request**  
A request by a Data Subject to be provided with details of the personal data held about him.

**Data Subject**  
An individual who is the subject of personal data.

**Explicit consent**  
Ensures the processing of “sensitive personal data” is fair and lawful (first data protection principle). Best practice is to obtain explicit consent from any Data Subject whose sensitive personal data is being processed. The definition of explicit consent is not clear, but probably means express, specific, obtained on a case by case basis (and preferably in writing).

**Personal data**  
Data which relates to a living individual who can be identified from that data (or from the data and other information held by or likely to be held by the Data Controller).

**Process/processing**  
Just about every and any action taken in relation to personal data: including obtaining, recording and holding it, carrying out...
operations in relation to it, and even destroying it!

Sensitive personal data Information on “delicate” matters, including race, political opinions, religion, trade union membership, physical or mental health or condition, sexual life, and criminal proceedings or convictions.

2. Rights of the Data Subject

The Data Subject has the right to:

(a) Have a copy of any data processed by reference to them.
(b) Have a description of the data being processed.
(c) Have a description of the purposes for which it is being processed.
(d) Have a description of any potential recipients of their data.
(e) Have any information as to the source of their data (where available and subject to certain exceptions).
(f) Know the logic involved in any decision making where their data is processed automatically and is likely to form the sole basis for any decision significantly affecting the Data Subject.
(g) Not have significant decisions based solely on the results of automatic processing e.g. psychometric testing for employment purposes.
(h) Prevent processing likely to cause damage and distress.
(i) Prevent processing for the purposes of direct marketing. The Data Subject is able to ‘opt out’ of having their data used for this purpose and explicit consent (‘opting in’) may be required where more sensitive data is concerned.
(j) Claim compensation for damage caused by any breach of the Act and also for distress in certain circumstances.

3. Obligations

3.1 The Data Subject should:-

(a) Submit a written request for subject access.
(b) Provide satisfactory proof of identity and address e.g. driving licence, council tax or utility bill.

(c) Provide sufficient information to enable the data to be located e.g. name, address, relevant reference numbers.

(d) Pay the correct fee (currently £10).

3.2 The Data User should:-

(a) Be satisfied as to the identity of the Data Subject.

(b) Obtain sufficient information to enable the data to be located.

(c) Inform the Data Subject whether data are held about them.

(d) Ensure the consent of any third party individual who can be identified from the personal data has been obtained before disclosing that part of the data or take steps to prevent the disclosure of that data to the Data Subject. Care should be taken to ensure that the identity of the third party source of the data is not revealed.

(e) Provide the Data Subject with a copy of the personal data which relates to the Data Subject together with an interpretation of any terms or codes used by the Transport Executive relating to the data.

(f) Respond within 40 calendar days of completion of 3.1(a)-(d) and 3.2 (a)-(b) above.

(g) Retain a copy of the information supplied (for use in case of the information being challenged).

(h) Implement a method to log subject access requests, to enable the progress of such requests to be monitored and to produce statistics.

4. Types of Request

There are three types of request likely to be received by the Transport Executive.

(a) Routine requests for information which can be satisfied without recourse to the Data Protection Act.

   e.g. Can I have a copy of the letter I sent you last week?
(b) Requests for information which the Data Subject has the right to see under laws and policies other than the Data Protection Act.

(c) Formal requests for access to information under the Data Protection Act.

   e.g. Can I have the details you hold about me on my concessionary fares pass?

Requests received in the format of (a) and (b) above must be processed in accordance with each department’s existing procedures on handling requests although in some cases it may be prudent to treat these requests as subject access requests under the Data Protection Act.

It is intended that the Data Subject should complete a standard application form (Appendix A) when requesting subject access. The standard form can be sent to the Data Subject using the letter drafted in Appendix B. An applicant’s own written request is acceptable if it provides the information required to enable the data to be located. When the necessary information has been received from the Data Subject, the request must be processed as outlined in the following procedure.

The current data protection legislation allows for a maximum charge of £10 for each request for information. The Executive has adopted the statutory maximum as the charge to be levied.

5. Procedure for Data Subject Access Requests

5.1 Receive Request

The request is received from the Data Subject at any office in either letter format or on a standard Data Subject request form (Appendix A). It must not be accepted as a verbal request. A fee must also be collected at the time of application, currently this is £10. Cheques to be made payable to SYPTE.

The member of staff receiving the request must ensure that the request is forwarded to the relevant Co-ordinator and the correct amount has been paid or must arrange for payment to be made.

The request should be forwarded to the relevant Co-ordinator immediately.

5.2 Verify Request

The request should be checked to verify that it has been completed correctly and that all information relevant for the request has been given i.e. payroll number, pass type and number.
If the application form/letter does not contain all the information necessary to carry out the request, a standard letter (Appendix C), requesting additional information, along with the original application must be sent to the applicant. Details of the request should still be recorded in the subject access log.

An applicant cannot request information on behalf of another individual unless written authorisation has been obtained from the Data Subject. This authorisation must be verified and, where necessary, identification of the applicant must be obtained. In all cases, however, the information must be sent to the Data Subject.

Where an individual has power of attorney, proof must be obtained, and in this case, the data must be sent to that individual.

5.3 Log Request

If the request has been received before (i.e. returned to the applicant for more information) the subject access log should be updated to reflect this. Otherwise the details of the request should be recorded in the subject access log. When a valid request has been received, a letter of acknowledgement (see Appendix D) must be sent to the applicant and the Data Protection Coordinator informed.

5.4 Process Request

The details of the Data Subject will be retrieved into a format suitable for presenting to the applicant. This should include definitions of any codes/references where the explanation is not apparent.

Any information sent to the Data Subject should not include any data about, or such that it would allow the Data Subject to identify, any third party unless permission has been sought and received from that individual. Care must be taken to ensure that the identity of a third party is not disclosed by either blanking out their names_addresses/identification or providing the information in another format i.e. typed. The only exception to this rule is where other legislation forces you to release that information.

Information held for the prevention and detection of a crime e.g. fraud or information being used for a case currently under investigation does not need to be disclosed. However, once the investigation has been completed, then the information must be released if a Data Subject requests access to their data.

A copy of all the data retrieved must be taken for reference should the data be challenged by the Data Subject and shall become part of the subject access log.

5.5 Provide Data
An appointment should be arranged with the Data Subject where it would be preferable or necessary to explain the information or when the Data Subject has requested a meeting to discuss the details of his/her request.

If an appointment is not necessary, the information along with a standard letter (Appendix E) and any other guidance should be sent to the Data Subject.

The information may be sent to the Data Subject as a computer print-out, in a letter or on a form. However, the data must be in a format that will be understood by the Data Subject with an explanation of any codes that have been used.

The information must be provided to the applicant within 40 days of receiving a valid request (i.e. all the information necessary to process it).

If data could not be found to satisfy the application, a letter (Appendix F) must still be sent to the Data Subject stating this.

5.6  Close Request

When all details have been passed to the applicant the subject access log must be updated accordingly.

5.7  Appeal Procedure

If the Data Subject is not satisfied with the information provided and has notified the Executive to this effect, the Co-ordinator must contact the Information Technology Manager who will consider the request and deal with it accordingly.

6.  Details to be recorded

The following details should be recorded in the subject access log. This will enable the progress of requests to be monitored and will allow statistics to be produced.

Reference number  (given by Co-ordinator dealing with request)

Name and address of Data Subject

Name and address of applicant (if not the same as the Data Subject)

Date the request was received

Date the valid request was received (may be the same as above)

Date the request was returned to applicant for further details

Date the request must be completed by  (i.e. 40 days after valid request)
received)

Department dealing with request

Name of officer dealing with request

Date the letter of acknowledgement was sent

Date request completed and information passed to applicant

Comments

Details of proof of identity

Type of information requested i.e. payroll, personnel details, etc.

Copy of the information provided to applicant

For and on behalf of UNISON

---------------------------------------------------------- Date ---------------------------------------
Chair, Branch Committee

For and on behalf of South Yorkshire Passenger Transport Executive

---------------------------------------------------------- Date ---------------------------------------
Passenger Services Director
Appendix A
THE SOUTH YORKSHIRE PASSENGER TRANSPORT EXECUTIVE
DATA PROTECTION ACT 1998
APPLICATION FOR SUBJECT ACCESS

Data Subject’s Name: ___________________________________________
Address: _____________________________________________________
______________________________________  Postcode: _____________

Previous Address if you have moved since your details were given to the Transport Executive
____________________________________________________________
______________________________________  Postcode: _____________

Your name if you are not the Data Subject: _________________________
Your Address: _________________________________________________
______________________________________  Postcode: _____________

N.B. You will need written authorisation from the Data Subject before this application can be processed.

Please state what information you require and the reasons why the Transport Executive would have personal information about the Data Subject in its files. Details of any reference number e.g. payroll, pass type and number and any specific information which will assist us to process your application.

______________________________________________________________
______________________________________________________________
______________________________________________________________
______________________________________________________________
______________________________________________________________
______________________________________________________________
______________________________________________________________
______________________________________________________________

Signature: __________________________  Date: _____________________
Signature: __________________________  Date: _____________________

Please return this form (together with the fee of £10.00) to:-

Data Protection Co-ordinator
PO Box 801
Exchange Street
Sheffield
S2 5YT
(Back of Form)

**Guidance for Applicant**

To enable your request for access to be processed promptly, please complete the form overleaf, providing as much information as you can.

You will be asked to provide satisfactory proof of identity and address e.g. driving licence, passport, recent correspondence addressed to you. The Transport Executive can charge a fee. The fee is £10 and cheques should be made payable to SYPTE.

If you are requesting access on behalf of another individual you will be required to provide written authorisation from the Data Subject. Any data found will be sent to the Data Subject.

For office use only.

**To be completed by the person receiving this application**

Date form received on: _________ at ________________ (location)
by __________________________ Dept. __________________________
Identification submitted by applicant: ____________________ (type of identification)
Reference number of identification: _______________________
Fee receipt no: ________ (if collected)
Form referred to ___________________ Dept: ______________________
Date: __________
Data Protection Co-ordinator Informed Date: __________

Request type: 1. Public – send to External Relations Manager
2. Employees/Ex-Employees – send to Head of Human Resources and Communications
3. Suppliers/contractors/operators – send to Chief Financial & Systems Officer

Agreement Reference: P5 (Jul 2002)
Dear Sir/Madam

Data Protection Act 1998
Subject Access Provisions. Reference Number: [number]

I refer to your recent request for personal information under the Data Protection Act 1998. In order to process your application please complete the attached form and return to the above address quoting the reference provided with a cheque for the sum of £10.00 made payable to SYPTE. The current data protection legislation allows for a maximum charge of £10.00 for each request for information. The Transport Executive has adopted the statutory maximum as the charge to be levied.

If you have any queries regarding this matter, please contact [name of Co-ordinator] who is the designated person dealing with this enquiry on [Tel No]. Please quote the reference number provided above in all your correspondence.

Yours faithfully
Appendix C

Dear Sir/Madam

Data Protection Act 1998
Subject Access Provisions. Reference Number: [number]

I acknowledge receipt of your application to access your data under the Data Protection Act 1998 together with payment of £10.00 in respect of our fee. Unfortunately I am unable to process your request as I do not have enough information to enable your data to be located.

I should be obliged if you would provide me with further information [e.g. reference numbers given to you by the Transport Executive payroll, pass type and number etc.] in order that your data can be located.

I enclose a copy of your original request for information and should be obliged if you would provide further details.

If you have any queries regarding this matter, please contact [name of Coordinator] who is the designated person dealing with this enquiry on [Tel no]. Please quote the reference number provided above in all your correspondence.

Yours faithfully
Dear Sir/Madam

Data Protection Act 1998
Subject Access Provisions, Reference Number: [number].

I acknowledge receipt of your application to access data in respect of the following:-
[details of request, e.g. Pass type and number, employee information]

This matter is being dealt with by [name of Co-ordinator] [Tel no] who is the designated person dealing with this enquiry. Please quote the reference number provided above in all your correspondence.

The Transport Executive has a statutory duty to provide the information requested by [date].

I also acknowledge receipt of £10.00 in respect of our fee.

Yours faithfully
Dear Sir/Madam

Data Protection Act 1998
Subject Access Provisions, Reference Number: [number].

In reply to your application to access data in respect of the following:-

[details of request, e.g. pass type and number, employee information]

I attach a copy of all the data which satisfies your request.

If you have any queries regarding this matter please contact [Co-ordinator’s name] who is the designated person dealing with this enquiry. Please quote the reference number provided above in all your correspondence. [Tel no]

Yours faithfully
Appendix F

Dear Sir/Madam

Data Protection Act 1998
Subject Access Provisions, Reference Number: [number].

In reply to your application for access to your data in respect of the following:-
[details of request, e.g. pass type and number, employee information]

I am required to inform you that I have been unable to locate any data relating to yourself in respect of the above.

If you wish to discuss this matter further, please contact [name of Co-ordinator] who is the designated person dealing with this enquiry [Tel no].

Yours faithfully