



The **Constitution** Unit

# **Survey of Data Protection Officers**

**by Meredith Cook**

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## **Survey of Data Protection Officers**

This report presents the results of a survey of central government data protection officers carried out by the Constitution Unit in April 2002.

We approached 32 departments and executive agencies. (referred to in this report collectively as departments) A list of the 20 departments who agreed to participate is attached to this report. We are extremely grateful to them for their help. The participating departments range from the Inland Revenue which deals with over 20,000 subject access requests every year and has over 1000 data protection officers, to smaller departments like the Government Actuary's Department which handles less than 20 requests per year.

The aim of the survey was to collect information on the impact of the Data Protection Act 1998 on the administration of central government departments and executive agencies. The objectives of the survey questions were to:

- understand departments' approach to dealing with subject access requests
- assess the quality of information and advice to data protection officers
- establish what sources of information and advice are most useful
- assess the need for further training
- compile statistics on the nature and number of requests.

The information was collected on the basis that the answers of individual authorities and officers would be kept confidential.

The sample size was very small and so the results are no more than indicative. However, we hope to repeat the survey in subsequent years. We would welcome suggestions for its improvement. The results each year will be circulated to data protection officers.

## **Resourcing data protection**

### **Allocation of staff resources**

Question 3 asked whether data protection officers have been allocated responsibility for Freedom of Information. The Public Record Office model action plan for central government recommended that responsibility for Freedom of Information (FOI) be assessed and allocated in May 2001.

The draft Code of Practice on Records Management under section 46 of the FOI Act states that it is desirable that the person, or persons, responsible for the records management function should also have either direct responsibility or an organisational connection with the person or persons responsible for freedom of information, data protection and other information management issues.

Only two of the departments surveyed have not allocated responsibility for freedom of information. Fourteen officers are responsible for both D P and FOI. Six are responsible for DP only.

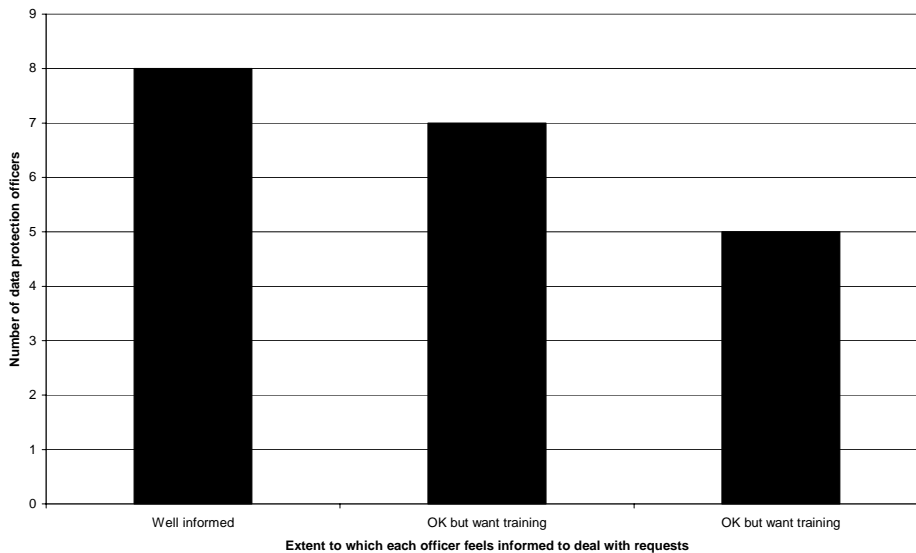
### **Financial implications**

Departments must absorb the costs of responding to subject access requests and managing the department's compliance with the DP Act. The Act provides for limited cost recovery from applicants and fixes the maximum fee at £10 per request. 65% of departments never charge a fee. (Question 10) Given the costs of administering a charging regime often exceed £10 per request, this is not surprising.

## Training and awareness

Only 40% of data protection officers surveyed considered they were well informed to deal with subject access requests. Slightly fewer than 40% felt “ok” about their abilities but would like more training. (Question 22)

**Figure 1 (Question 22) Extent to which officer feels informed to deal with requests**



## Support

About 50% of data protection officers rely on either formal or informal networks within their own department for support and advice. (Question 23)

The clear winner in the category of best supporting role is departmental legal teams. 75% of data protection officers find their legal team “very useful”. (Question 21)

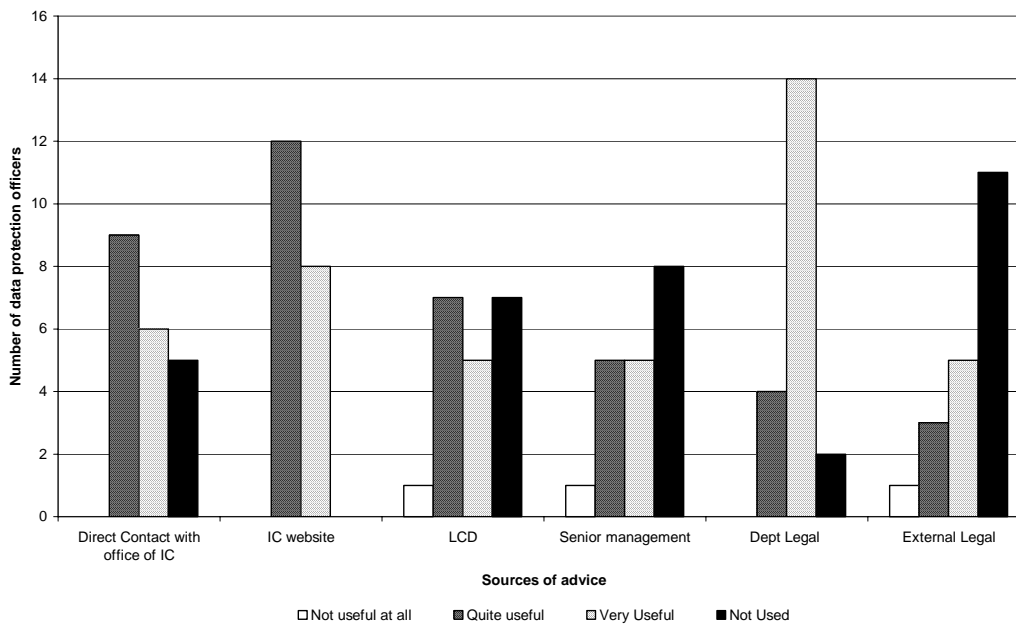
Very few rely on external legal advice, but those that did find it “quite useful” or “very useful”. (Question 21)

Only two authorities always seek legal advice on subject access requests. The rest are divided equally between those that frequently seek legal advice and those that rarely seek legal advice. (Question 11)

The Information Commissioner’s office scored well. Data protection officers find both direct contact with the office and the website (<http://www.informationcommissioner.gov.uk>) and published advice useful. (Question 21)

Fewer data protection officers use the Lord Chancellor’s Department as a source of advice on data protection issues. Most that did use LCD found it “quite useful.”(Question 21)

**Figure 2 (Question 21) What Sources of Advice are Useful?**



## Training

*The Data Protection Act is a complex piece of legislation. Training and a ready supply of expert legal advice is vital for its successful implementation.*

DP Officer

All except one officer had received some form of training. Most (80%) had received training from an external provider. About half had received on the job training. The results show that very few departments offer internal training courses. (Question 24)



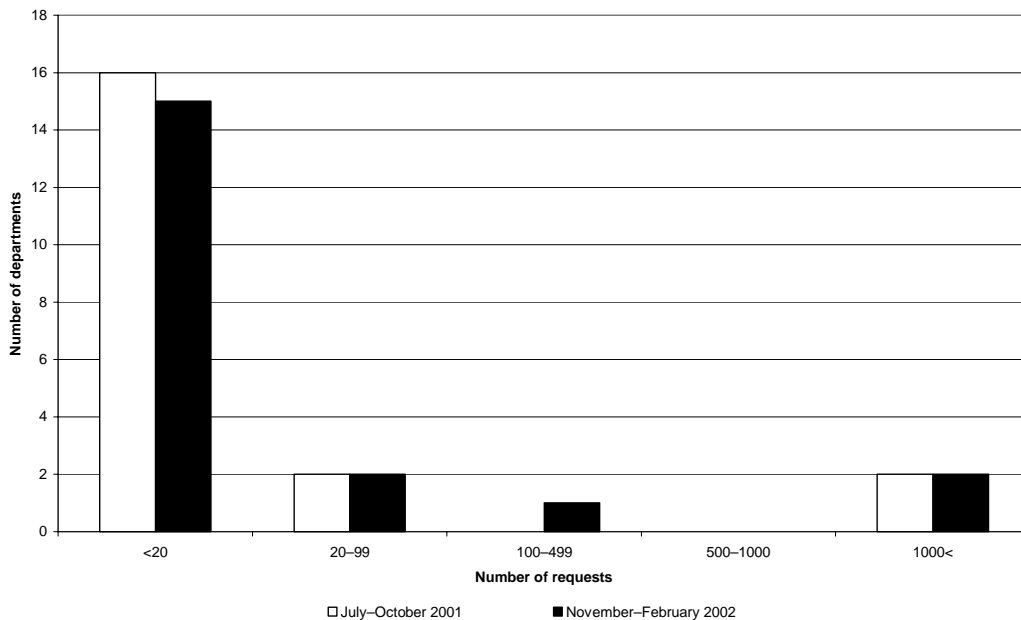
## Administrative procedures

### Number of subject access requests

80% of the authorities surveyed received less than 20 requests between July and October 2001. A few of the larger departments predictably received over 1000 requests. Numbers of requests did not rise significantly after the October 2001 amendment to the DP Act which allowed requesters to ask for manual as well as electronic records. (Question 12)

The majority of public authorities do not therefore have experience handling large volumes of requests and will need to review procedures to prepare for the increase in overall number of requests when access rights under the Freedom of Information Act come into force in 2005.

**Figure 3 (Question 12) Number of Subject Access Requests**



### Procedures for dealing with requests

60% of the authorities surveyed have a formal procedure in place for recording number, type and exemptions applied in each subject access request. (Question 4) 84% have a central system that records this information for the whole department or agency. (Question 5)

### Time taken to process requests

Most departments take between 20 and 39 days to process a request. (Question 7) No one owned up to taking more than 40 days. This is encouraging, as it appears that all departments meet the statutory 40 day deadline.

Roughly half of departments are routinely using a form that requires the person making the subject access request to be more specific about the information requested. (Question 8) Examples from participating departments are attached.

We compared the answers to question 7 with the answers to the question 8. The results show that all authorities that are taking between 20 and 39 days to process requests are not using a standard form. This suggests that the use of a form simplifies and speeds up the process. When the FOI Act comes into force in 2005, a much wider range of information will be accessible. It will be essential to define the scope of a request at a very early stage in the process.

The majority of authorities surveyed “sometimes” give an interim response to a subject access request before responding in full. (Question 9) This is not surprising. Whether a partial response is given will depend on the nature of the information requested.

### **Use of exemptions**

30% of authorities surveyed do not hold statistics on the number of times information is withheld from a requester, yet 60% say that they have formal procedures in place to record number, type and exemptions applied (see questions 4 and 16).

Of the remaining authorities that do record this information, just under half (6/14) have never withheld information from a requester. 8/14 have withheld information in one or more (and in one case, all) requests.

It is difficult to draw conclusions about the exemptions that are applied. Most surveyed did not identify frequently used exemptions. Section 29 (Crime and Taxation) appears to be commonly cited as a reason for withholding information. Three authorities quote legal professional privilege as a common exemption. (Question 17)

It is not surprising then, that when given the opportunity to identify exemptions that are difficult to interpret or apply, with the exception of one organisation, no one identified any particular exemption.

When FOI comes into force public authorities will have to deal with a wider range of exemptions and make more difficult decisions about the release of information.

### **Advising the data subject**

It is a legal requirement to advise the data subject about the purposes for which data are processed and the recipients to whom the data is disclosed. (section 7 DP Act) However, 60% of departments only do this if asked by the data subject. (Question 15)

**Third party data**

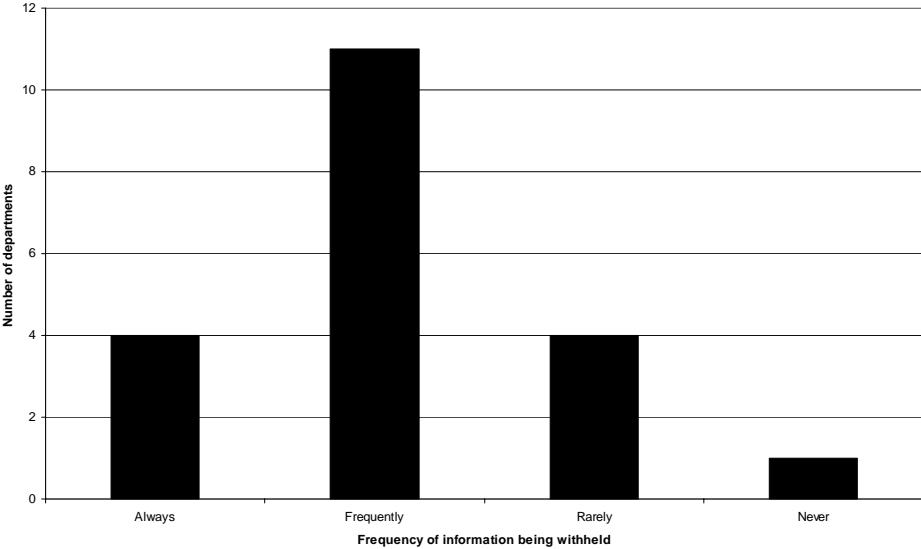
The tension between the protection of privacy and the availability of information often arises when a requester asks for information about a third party.

The FOI Act will give a right of access to third party data. Authorities will not be able to withhold the data purely on the basis that it relates to a third party.

At present nearly 60% of departments surveyed appear to “frequently” withhold information about third parties. (Question 18) Departments will need clear guidance on the handling of third party data under the FOI and DP Acts. The draft section 45 Code of Practice deals with access to third party information. It advises that unless an exemption applies, public authorities will be obliged to disclose third party information in response to a request. In some circumstances it will be appropriate to consult the third party concerned.

When the third party information cannot be separated from information about the applicant section 7 of the Data Protection Act applies. When the request is purely for third party information with no information about the applicant involved, section 40 of the FOI Act and the data protection principles come into play.

**Figure 4 (Question 18) Third party information**





## **Appendix I Participating Departments and Executive Agencies**

- 1. Armed Forces Personnel Administration Agency**
- 2. Inland Revenue**
- 3. Charity Commission**
- 4. Crown Prosecution Service**
- 5. Department of Culture Media and Sport**
- 6. Department for Education and Skills**
- 7. Department for International Development**
- 8. Department of Work and Pensions**
- 9. Foreign and Commonwealth Office**
- 10. Government Actuary's Department**
- 11. HM Customs and Excise**
- 12. HM Land Registry**
- 13. HM Treasury**
- 14. Home Office**
- 15. Office for National Statistics**
- 16. Office for Standards in Education**
- 17. Office of Gas and Electricity Markets**
- 18. Office of the Rail Regulator**
- 19. Ordnance Survey**
- 20. Serious Fraud Office**



## Appendix II Questionnaire







## The Constitution Unit

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tel.: 020 7679 4902 fax: 020 7679 4978  
email: [constitution@ucl.ac.uk](mailto:constitution@ucl.ac.uk) [www.ucl.ac.uk/constitution-unit](http://www.ucl.ac.uk/constitution-unit)

*Director: Professor Robert Hazell*

# Survey of Data Protection Officers in Central Government Departments and Executive Agencies

The aim of this survey is to collect information on the impact of the Data Protection Act 1998 (the Act) on the administration of central government departments and executive agencies. It is not intended to be an audit of your department's compliance with the Act. The objectives of the survey questions are:

- To understand departments' and executive agencies' approach to dealing with subject access requests;
- To assess the quality of information and advice to data protection officers;
- To establish what sources of information and advice are most useful;
- To assess the need for further training;
- To compile statistics on the nature and number of requests.

The responses you provide will not be passed on to the Lord Chancellor's Department or the Information Commissioner, although both have been informed that we are carrying out this research. The Unit will use the results to publish research using anonymous data. The report will include the names of participating departments but will not attribute comments to departments or individuals.

We are very grateful to you for taking the time to complete this paper. We would be happy to inform you of the results, and/or the work that the Constitution Unit does on access to information issues and the impact of the Data Protection Act 1998 and the Freedom of Information Act 2000 on the public sector. If you would like to receive further information please contact:

**Meredith Cook**  
Research Fellow, Freedom of Information and Data Protection  
[Meredith Cook@ucl.ac.uk](mailto:Meredith.Cook@ucl.ac.uk)  
Tel: 020 7679 4974 / Fax: 020 7679 4978

## Section A: How is your department organised to handle data protection issues?

---

1. Your name

---

2. Your government department or executive agency:

---

3. What are your responsibilities?

- Data Protection Act
- Data Protection Act and Freedom of Information Act
- No decision taken as yet on responsibility for FoI
- Other – please specify

4. Does your department/executive agency have a formal procedure for recording number, type and exemptions applied in each subject access request?

- Yes                       No

5. If the answer to question 4 is yes, is the procedure:

- Centralised – all requests in the department are co-ordinated centrally
- Localised – each division has its own procedure

6. If the answer to question 3 is yes, is the procedure:

- an electronic system
  - Specifically designed database
  - Other software
- a paper filing system
- an electronic and paper filing system

7. How long on average does it take to process each request?

- 40 working days (8 weeks)
- 20-39 days (4-8 weeks)
- 1-19 days (1-4 weeks)
- Other

8. Do you routinely use a form, which requires the person making the subject access request to be more specific about the information requested?

- Yes  
If Yes, please include a copy with your response if possible
- No

9. Do you give a partial response first?

- Almost always
- Sometimes
- Never

10. Do you charge a fee?

- Almost always
- Sometimes
- Never

11. How often do you seek legal advice on data protection issues?

- Always
- Frequently
- Rarely
- Never

## Section B: Types of request

---

12. How many subject access requests did you receive:

*In the 4 months from July to end October 2001?*

- Less than 20
- 20-99
- 100 –499

- 500 -1000
- More than 1000
- Our department does not track the no. of requests

*In the four months from November 2001 to end February 2002?*

- Less than 20
- 20-99
- 100 -499
- 500 -1000
- More than 1000
- Our department does not track the no. of requests

**13. Of the requests above, how many involved access to:**

- manual data
  - computerised data
  - both manual and computerised data
  - archived records
- |  |
|--|
|  |
|  |
|  |
|  |

**14. Approximately what percentage of requests are made by staff or former staff?**

- Less than 50%
- About 50%
- More than 50%
- All requests have been made by staff

**15. When a request is made, do you advise the data subject the purposes for which data are processed and the recipients/classes of recipients to whom they may be disclosed?**

- Routinely
- Only when asked by the data subject
- Never

**Section C: Use of Exemptions**

---

**16. In how many requests (or estimated proportion of requests) was some or all of the personal data requested withheld from the data subject?**

\_\_\_\_\_

**17. What exemptions are most commonly cited?**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**18. How often do you withhold information on the basis that it relates to a third party?**

- Always
- Frequently
- Rarely
- Never

**19. How often do you withhold information on the basis that to release it would involve disproportionate effort? (section 8(2))**

- Always
- Frequently
- Rarely
- Never

**20. Are there any exemptions, which you consider particularly difficult to understand and apply to the information you are considering? Please give brief reasons.**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Section D: Information and support**

---

**21. What sources of advice do you use? How helpful have they been?**

	<i>Not useful at all</i>	<i>Quite useful</i>	<i>Very useful</i>	<i>Not used</i>
Direct contact with the Information Commissioner's office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information Commissioner's website or published advice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lord Chancellor's Department	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senior management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Departmental legal team	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
External legal advice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other sources – please specify				
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**22. How informed do you feel you are to deal adequately with subject access requests?**

- Well informed
- OK- but would like more training
- OK
- Not very well informed
- Not informed at all

**23. Do you receive support from colleagues:**

In the same department?

- Formal networks
- Informal networks

In other departments?

- Formal networks
- Informal networks

Other? Please specify:

---

**24. What kind of training have you received on data protection issues?**

- External provider
  - Internal course
  - On the job training
  - No training
  - Other? Please specify:
- 

**25. What are the issues on which you would most like training and support?**

---

### Section E: Comments

---

**26. Do you have any other comments on the Data Protection Act? Are there any issues to which you would like to draw our attention?**


**27. Are you happy for a researcher to contact you to clarify any ambiguous answers?**

Yes, I would be happy to discuss this research further. My name, email address and telephone number is below:

No



## **Appendix III IRD Subject Access Form**







**Data Protection Subject Access Unit  
Business Services  
Room BP4302  
Chillingham House  
Benton Park View  
Longbenton  
NEWCASTLE UPON TYNE  
NE98 1ZZ**

**Telephone: 0191 2257575  
Fax: 0191 2253098**

**Date:**

.....  
.....  
.....  
.....  
.....

Dear

Thank you for your recent request for information under the Data Protection Act 1998.

Would you please:-

- Complete the enclosed form at Part A and tick the relevant boxes at Part B;
- sign the declaration at Part C;
- if you are completing this form as an agent for another person, please ensure that they sign a declaration of consent authorising you to act on their behalf. This should be enclosed when returning the completion form.

Please note that all correspondence will be forwarded to your home address unless otherwise specified.

Please return the form within 28 days.

Yours sincerely

**DATA PROTECTION SUBJECT ACCESS UNIT**

**Data Protection Subject Access Request Form  
Personnel Records**

Please complete part A in capital letters, tick the relevant boxes in part B and sign the declaration at part C.

**Part A**

**Title:**

**Surname:**

**Forenames:**

**Previous Surname(s):  
(if applicable)**

**Date of Birth:**

**National Insurance  
Number:**

**PI Number:**

**Grade:**

**Business Area:**

**Home Address:**

**Office Address:**

**Please indicate where you would  
prefer your information to be sent:**

**Home**

**Office**

## Part B

Please note that we will not necessarily hold a record for you under each of the headings below. Please indicate the records you wish to access.

- Locally held personnel files
- Confidential or personnel files held at Regional Office level or equivalent
- Leave records (sick/annual/special/career)
- BMI or other health records/reports
- Performance management records (in year reviews/performance assessments, agreements /MAP)
- Probation reports
- Business continuity (next of kin)
- Superannuation records
- Pay records
- Travelling and removals
- Travelling and subsistence
- PPMIS
- JASS records:

Job title of post applied for:
Reference number:
Region/Department/Section running trawl:
Date of interview (if applicable):
(Please continue on a separate sheet if necessary)

- Disciplinary records
- Recruitment records
- Records of management action held other than on any of the above:  
(eg: complaint cases where these exist separately)

Name of HR Manager dealing with complaint:
Office of HR Manager:

If you wish to access your National Insurance or Tax records please contact the Data Protection SAR Unit on 0191 2257575 for a copy of the relevant application forms.

## Part C

### Declaration

I declare that I am the person named in **Part A** and that I am entitled to request personal information under the Data Protection Act 1998.

**Signed:**

**Date:**

## Data Protection Subject Access Request



**Data Protection Subject Access Unit  
Business Services  
Room BP4302  
Chillingham House  
Benton Park View  
Longbenton  
NEWCASTLE UPON TYNE  
NE98 1ZZ**

**Telephone: 0191 2257575  
Fax: 0191 2253098**

**Your Reference:  
Our Reference: SAR**

**Date: 17 September 2002**

Dear

Thank you for your recent request for information under the Data Protection Act 1998.

Would you please: -

- **Fill in parts A, B and the Declaration at Part E.**
- **If you are applying for Assessment and Collection of Tax records please also complete parts C and D**
- If you are completing this form as an agent for another person, please ensure that they sign a declaration of consent authorising you to act on their behalf. **This must be enclosed when returning the completed form.**

Please return the form within 28 days. If you have any questions about this form please contact the Unit using the details above.

Yours sincerely

**Michael Armstrong  
DATA PROTECTION SUBJECT ACCESS UNIT**

Data Protection Subject Access Request

**Part A**

<b>Title:</b>		<b>Surname:</b>	
---------------	--	-----------------	--

<b>Forename(s):</b>	
---------------------	--

<b>Previous Surname (s) (if applicable):</b>	
----------------------------------------------	--

<b>Current Address:</b>	<b>Previous Address (if applicable):</b>
-------------------------	------------------------------------------

<b>Date of Birth:</b>		<b>National Insurance Number:</b>	
-----------------------	--	-----------------------------------	--

**Please indicate (✓) the type of records you wish to have access to:**

<b>Computer held information:</b>		<b>Manual (paper files):</b>	
-----------------------------------	--	------------------------------	--

**Part B**

**Please indicate (✓) the information you wish to have access to:**

<b>National Insurance Recording System (NIRS)</b>	<input type="checkbox"/>
---------------------------------------------------	--------------------------

<b>Assessment and Collection of Taxes (please also complete Part C)</b>	<input type="checkbox"/>
-------------------------------------------------------------------------	--------------------------

<b>Tax Credits</b>	<input type="checkbox"/>
--------------------	--------------------------

<b>Other Inland Revenue Information (please give <i>specific</i> details below)</b>	<input type="checkbox"/>
-------------------------------------------------------------------------------------	--------------------------

<b>OTHER INLAND REVENUE INFORMATION. Please include any relevant Inland Revenue reference numbers and any relevant Inland Revenue office addresses</b>
--------------------------------------------------------------------------------------------------------------------------------------------------------

## Data Protection Subject Access Request

You may continue on another sheet if necessary

### Part C – Assessment & Collection of Taxes

<b>Unique Tax Reference Number:</b>	<b>PAYE Reference:</b>

<b>Name(s) and Address(es) of Inland Revenue Office(s) where your records are held:</b>

### Part D

Please tick the appropriate box(es):

Are You...

**An employee (other than a director)**

**Receiving a pension from former employment**

**Unemployed**

**An Employer**

**Self Employed**

**A member of a partnership**

**A Director**

**A settlor or beneficiary of a trust**

Please give the name and address of your present employer or last employer from whom you receive a pension:

The date your last employment ended:

Please state your type of business and trading name:

The address:

Please tell us how long you have been self-employed:

Please give the name and registered address of the company:  
(continue on a separate sheet if there are more than one)

Details of trust:

**Part E – Declaration**

I declare that I am the person named in **Part A** and that I am entitled to request personal information under the Data Protection Act 1998.

<b>Signed:</b>	
----------------	--

<b>Date:</b>	
--------------	--





## **Appendix IV Treasury Subject Access Form**



## SUBJECT ACCESS REQUEST.

This is a request for a copy of my personal data that is held by the Treasury.

Please answer the following questions as completely as possible so that we can ensure the information you request is answered correctly and promptly.

**Name:**

**Room Number:**

**Telephone Number:**

**Staff Number:**

**What is the reason for the request?**

*E.g. I wish to apply for a trawled post at the Home Office.*

**What personal data do you require?**

*E.g. Please provide me with a copy of my last three annual appraisal reports as registered under PURPOSE 62 (Personnel/Employee Administration).*

**What format would you like your copy?**

Please tick only one for your choice:

1. A paper copy
2. An electronic copy

*(N.B. If it is not possible to send an electronic copy, a paper copy will be sent)*

**Signed:**

**Date:**

Once you have completed this form, please print, sign and date the form, then forward to Sat Deol, Room 34/4, GOGGS, with "Subject Access Request" written on the envelope, title page or subject field when sent by letter, fax or email respectively. If you have any questions about filling in this form, please contact Sat Deol on ext 4512 or Mike Richmond on ext 4450.

*Your subject access request will be held on file and recorded for statistical purposes.*



## **Appendix V Ordinance Survey Subject Access Form**



# Internal request for disclosure of personal data

Use of this QSR is documented in QSI 65502

To: Data Protection Liaison Officer, Records Management

Please provide access to any personal data that is held about me.

I wish to have access to the following information (tick box):

- Personnel file (P-file)
- Expenses file
- Sick file
- Welfare files
- ISIS
- Selection Board papers

Others (please specify)
-------------------------

My details are as follows:

Name (in full)	<input type="text"/>
Work address (room number or field address)	<input type="text"/>
Phone number	<input type="text"/>
Address where reply is to be sent (if different from above)	<input type="text"/>
Staff number	<input type="text"/>

Signature .....

Date

*NOTES: Proof of identity will be required before processing the request.*

*Welfare files may only be viewed in the presence of a Welfare Officer.*

*The information entered on this form will be used solely for the processing of the request.*

