

**REQUESTS TO ACCESS DATA UNDER DATA PROTECTION  
A LAW SOCIETY OF IRELAND CHECKLIST FOR SOLICITORS**



This checklist is designed for use in conjunction with the Law Society’s Guidance Note for solicitors on requests to access data under data protection legislation and is intended as best practice guidance. Further information and reference material in relation to data protection obligations generally is available in the members’ area of the Society’s website <https://www.lawsociety.ie/dataprotection>.

<b><u>Task</u></b>	<b><u>Complete</u></b>
For access requests by non-clients, open a file for correspondence in relation to the data access request entitled ‘general data access requests by non-clients’.	
Review the legislation –the GDPR and the Data Protection Act 2018	
<b>HOW TO APPROACH A DATA ACCESS REQUEST WITHIN THE FIRST FEW DAYS</b>	
<b>1. If the request has been received orally, has the request from the data subject been documented?</b>	
<b>2. Is the person making the data access request the person they claim to be?</b> If required, have you established that the person making the request is the person who they say they are by verifying, in person, by reference to photographic identification? If a face-to-face meeting is not possible (for whatever reason), you should request a certified copy of photographic identification.	
<b>3. When must the data access request be completed?</b> <ul style="list-style-type: none"> <li>• You must respond to the request as soon as may be and within one month (unless extended).</li> <li>• Notify the data subject in writing, as early as possible, should you intend to require identification verification.</li> <li>• Notify the data subject if you intend to extend the response period.</li> <li>• Diary reminders for yourself from the date you receive the request right up until the end of the one month time limit (unless extended) to ensure that you meet the deadline.</li> </ul>	
<b>4. Write to the data subject – Letter 1 of 2</b> Write an initial letter to the data subject along the lines suggested in the Guidance Note.	

<b>HOW TO PROCESS THE DATA ACCESS REQUEST</b>	
<p><b>1. How should I search for data in relation to a data subject?</b></p> <ul style="list-style-type: none"> <li>• Conduct a search of electronic data – along the lines suggested by the Guidance Note.</li>   <li>• Conduct a search of manual data – along the lines suggested by the Guidance Note remembering the important definition of “filing system”.</li> </ul>	
<p><b>2. Is the person entitled to access the data in relation to another individual?</b></p> <p>Consider whether Article 15(4) of the GDPR applies to the data or where appropriate, documentation should be redacted to remove data relating to other individuals.</p>	
<p><b>3. Do I hold personal data in relation to the data subject?</b></p> <ul style="list-style-type: none"> <li>• Refer to the definition of personal data contained in Article 4(1) of the GDPR – personal data “means any information relating to an identified or identifiable natural person (‘data subject’); 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”;</li>   <li>• Could the data be interpreted as falling within the meaning of personal data?</li>   <li>• Is the data a type of personal data to which access is restricted (e.g. containing an expression of opinion about the person)?</li> </ul>	
<p><b>4. Is the data exempted from the right of access? – primarily, section 162 and section 60 of the Data Protection Act 2018</b></p> <p>Is the data exempt from disclosure under any of the exemptions set out under the Data Protection Act 2018? For example, is the data covered by legal professional privilege or does it consist of a confidential expression of opinion about the requester etc?</p>	
<p><b>5. Inform the data subject of the results of the processing of their data access request – letter 2 of 2</b></p> <ul style="list-style-type: none"> <li>• Write a second letter to the data subject, along the lines suggested in the Guidance Note</li>   <li>• Note, informing them of the outcome of the process, without undue delay and within the one month time-frame (unless extended).</li>   <li>• If a solicitor decides to refuse access, the letter should outline the reasons why the solicitor believes that the data subject should not be allowed to access the data and should also inform the individual about their right to complain to the Data Protection Commission about the refusal or seek judicial remedy</li> </ul>	