



Subject Access Requests

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This information sheet explains how to get from the UK Border Agency, information the agency holds about an individual. The UK Border Agency is the Home Office agency responsible for asylum, immigration and nationality.

Home Office policy on giving information

Chapter 24 of the Immigration Directorate Instructions (the IDIs) sets out how the UK Border Agency will respond to requests for personal information. Chapter 25 sets out how the UK Border Agency will respond to requests for other information (i.e. freedom of information requests – this is not dealt with in this information sheet) where the information is not specific to an individual or does not require an individual's personal information to be disclosed.

Chapter 24 is called "Disclosure of information". It is divided into 13 sections which explain how the UK Border Agency will respond to requests for information from applicants, legal representatives, the media, the general public, employers, foreign governments and others. Chapter 24 is available at: www.ind.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter24/

This information sheet is specifically concerned with subject access requests.

Subject access requests

A subject access request is where an individual asks the UK Border Agency to disclose personal information that it holds about him or her. Section 11 of Chapter 24 deals with subject access requests.

An individual on whom the agency holds information is generally entitled to be provided with that information under the Data Protection Act 1998. This also applies to information held by other government departments and other organisations.

How to make a subject access request

A legal or other adviser may be able to assist in making a subject access request. If the individual has given his or her written authorisation, an adviser may be able to obtain a client's file by making a subject access request. A copy of that written authorisation should be provided with the request so as avoid delays.

There is a £10 fee to make a subject access request. An application needs to include a cheque or postal order for £10 made payable to "The Accounting Officer – Home Office".

A subject access request can be made by sending a written request with the cheque or postal order to:

The Data Protection Unit
Lunar House
40 Wellesley Road
Croydon CR9 2BY

There is no specific form on which an application should be made. A request does not need to explain why the individual wishes to see the information held by the UK Border Agency.

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www.ilpa.org.uk/infoservice.html

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information sheet

The written request will need to clearly identify the individual making the request. It would usually be necessary to include the individual's full name, date of birth, nationality and any reference numbers used by the UK Border Agency. If the request does not provide sufficient details to clearly identify the individual, the agency may request further information before responding to the request.

How the UK Border Agency responds to subject access requests

The UK Border Agency is required to provide information in response to a subject access request within 40 days of receiving the request.

This 40 days period may be extended if the original request does not provide sufficient details to clearly identify the individual making the request. If the UK Border Agency needs to request further details, the 40 days period will start from when sufficient details are made available to the agency.

Unless a subject access request is very specific, or the agency has reason to withhold some information, the UK Border Agency will usually respond to a request by sending the individual a photocopy of the agency's file. This means that someone who has made an application to the UK Border Agency may be able to obtain a full copy of the agency's file by making a subject access request.

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When the UK Border Agency may withhold information

The UK Border Agency may decide not to provide information in the following circumstances:

- it is considered necessary to withhold the information to safeguard national security
- the information relates to the prevention, investigation or prosecution of crime
- the information consists of requests by the agency for legal advice or consists of legal advice the agency has received
- the information relates to another individual who can be identified from the information
- the information relates to an investigation by another government department

If the UK Border Agency decides not to provide information for any of these reasons, it is not required to tell the individual that it has decided to withhold information. When the agency responds to a subject access request, it will usually simply state that it has complied with its obligations under the Data Protection Act 1998.

If it is thought that the UK Border Agency may be withholding information but it has not said that it is, it may be useful to ask whether it does hold the information in question.

Note of caution

Making a subject access request will require someone at the UK Border Agency to obtain and consider the individual's file. This may cause the UK Border Agency to begin actively considering an outstanding case that was not being actively considered.

Individuals may, therefore, wish to obtain legal advice before making a subject access request.

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