

Procedure for data subjects to exercise their rights or make data protection complaints

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V1.01	3.20 Changed 'Record Office' to 'Barrister Records Team'.

1. Introduction

- 1.1. The General Council of the Bar (GCB) is committed to meeting its data protection obligations and ensuring that the six data protection principles set out in the UK General Data Protection Regulation (UK GDPR) are followed when we handle personal data.
- 1.2. The UK GDPR sets out a number of rights data subjects have in relation to the handling of their personal data. This procedure sets out how GCB aims to respond to requests to exercise these rights, and how it will deal with any complaints relating to exercising these rights or any other data protection issues.
- 1.3. This procedure aims to:
 - Explain how you can request to exercise your rights under the UK GDPR
 - Explain how you can make a complaint relating to the handling of your personal data
 - Help us to respond to those requests and complaints swiftly and efficiently.

2. What is a data protection complaint?

- 2.1. A data protection complaint is any expression of dissatisfaction about how we have handled your personal data. But such dissatisfaction may in fact amount to a request to exercise a right under the UK GDPR and the Data Protection Act. A complaint about personal data handling may also really be reporting a personal data breach.
- 2.2. For example:
 - A complaint that any personal data we are processing is inaccurate would be treated as the data subject exercising their **right to rectification**.
 - A complaint that we have published your personal data when we should not have, or should not continue to do so, would be treated as you exercising your **right to erasure**.
 - A complaint that we have sent your personal data to someone we should not have is likely to be a **personal data breach**, and we would act as if it is.

3. Exercising data subjects' rights

- 3.1. We set out below the rights data subjects have and how we deal with related requests.

Subject Access Requests (SARs)

- 3.2. A SAR (or 'DSAR' – Data Subject Access Request) is a request made by or on behalf of an individual for the information which he or she is entitled to ask for under Article 15 of the UK GDPR. This means you have the right to be told what personal information the Bar Council and/or the Bar Standards Board (BSB) is holding about you and, unless an exemption applies, to receive a copy of that information. You are also entitled to know:

- The purpose of the processing
 - The categories of personal data concerned
 - The recipients or categories of recipient the data has or might be shared with
 - Where possible, how long the data will be held
 - The source of the personal data if it is not direct from you
 - Whether your personal data has been subject to any automatic decision-making
 - Any safeguards in place for any international transfers of your data.
- 3.3. You have the right to see your own personal data, but not necessarily to see copies of documents that include that personal data. You are also not entitled to personal data relating to other people.
- 3.4. Various exemptions to the right of subject access apply in certain circumstances or to certain types of personal data.
- 3.5. When making a subject access request, it helps us to respond promptly the more information you can give us about the information you want. For example, if the information you want relates to a specific event or matter it helps if you tell us that, rather than asking for all the personal data we hold about you. And a date range always helps too.

The right to rectification

- 3.6. If personal data is inaccurate or incomplete, you have the right to have inaccurate data rectified without undue delay and, taking into account the purposes of processing, to have incomplete data completed.
- 3.7. We will not necessarily amend data just because you ask us to, however. In a situation where an individual has reported the conduct of a barrister, for example, the barrister may ask for the report to be amended because they say it is inaccurate. However, it will be for the BSB's investigation to establish whether the data is inaccurate or not. In those circumstances, the data would not be amended, but we may accept a supplementary statement from the barrister about the accuracy of the data.
- 3.8. If we do rectify personal data and that data has been shared with a third party, we will inform the third party about the rectification without undue delay.

The right to erasure (the 'right to be forgotten')

- 3.9. You have the right to have your personal data erased:
- when the data is no longer needed for the purposes it was collected, or
 - where you withdraw your consent and there is no other lawful basis for processing, and
 - in some other specific circumstances.
- 3.10. We do carefully consider requests for personal data to be erased, but this right does not apply when the lawful basis for processing that data is for the "performance of a task carried out in the public interest or in the exercise of official authority vested in

the data controller". Given that almost all of the personal data processing carried out by BSB and much of the processing carried out by the Bar Council is on this basis, the right to erasure does not apply to most of the processing we do.

The right to restriction of processing

- 3.11. You have the right to ask us to restrict processing of your personal data where:
- you contest the accuracy of the data. Processing is restricted for the time it takes us to verify the accuracy
 - the processing is unlawful, but you don't want the data erased and request restriction of the processing of the data instead
 - we no longer need to keep the personal data, but you need it to be kept in relation to a legal claim
 - You have objected to the processing of your data and the processing is restricted pending verification of our legitimate grounds for processing the data.
- 3.12. Where processing has been restricted, we can only store the data, and some other limited processing, unless you give consent to further processing.
- 3.13. We must inform you before any restriction to processing is lifted.

The right to data portability

- 3.14. You have the right to receive in a structured, commonly used, machine-readable format, personal data that you provided to us yourself, but it only applies where the basis for processing is "consent" or "the performance of a contract", and where the processing is carried out by automated means. If asked we, as the data controller, have to pass this to another data controller where this is technically feasible. The right does not apply when processing is on the basis of "performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller", so it will not apply to very much processing carried out by the General Council of the Bar.

The right to object to processing

- 3.15. You have the right to object to processing when the lawful basis of processing is:
- the "performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller" or
 - "legitimate interests"
- and so this right will apply to much of the processing we do. If you object, we can no longer process the personal data, unless we can demonstrate compelling legitimate grounds for doing so, which outweigh your rights and freedoms.
- 3.16. In addition, you can object to your personal data being processed for direct marketing purposes and the personal data can then no longer be processed for those purposes.

The right not to be subject to solely automated decision-making

- 3.17. You have the right not to be subject to a decision based solely on automated processing where this produces legal effects concerning you or significantly affects you. Currently, we do not make any decisions based solely on automated processing.

Any procedures involving automated processing will include a human element, so this right will not apply to any of our data processing.

The right to withdraw consent

- 3.18. If we are processing your data on the basis of your consent, you can withdraw that consent at any time (this will usually be for the purposes of communications, such as email newsletters).
- 3.19. If you receive an email newsletter from us and no longer wish to receive it, you should find an 'unsubscribe' option at the end of the email (except for Regulatory Update sent to practising barristers).
- 3.20. If you have an account on 'MyBar' you can log on and change your communications preferences at any time. You can also ask the Barrister Records Team to amend these for you by emailing Records@BarCouncil.org.uk or writing to them at the address below.
- 3.21. If you withdraw consent, we will ensure that we no longer process your data for that purpose as quickly as possible.

4. Who can complain or make a request to exercise a right?

- 4.1. A data protection complaint or request to exercise a right can be made by anyone whose personal data the General Council of the Bar has processed or is processing. If you want to make a complaint on someone else's behalf, we would need their permission to deal with you. We will respond to all requests to exercise data protection rights and, where we consider it appropriate, we will respond to a complaint and ensure that any investigation of it is fair and impartial.

5. When can a data protection complaint or request be made?

- 5.1. Investigations of data protection complaints generally require a good understanding of the actions and communications that happened at the time of the event complained of, so complaints should be made as soon as possible after the event occurs or the problem is discovered. This enables us to consider, investigate and act on any issues raised in the best way possible.
- 5.2. Data subjects can make requests to exercise their rights at any time, but if the request relates to a specific issue or problem, the request should be made as soon as possible as set out in 5.1 above.

6. Complaints/Requests process

- 6.1. Data protection complaints can be addressed to the person you have been dealing with, or to the Data Protection Officer who keeps records of all formal complaints.
- 6.2. Complaints and requests can be made verbally, but if they are made by telephone we will ask you to put it in writing if you can. This helps to ensure we get the correct details of the request or complaint. However, if we do take the details down over the telephone, we will send you a copy of the request or complaint to ensure we have taken it down correctly.

6.3. If you send us your request or complaint and we do not have all the information we need in order to respond, we may ask you for clarification when we acknowledge receipt of your request. The normal response time is one month, but if the request is particularly complex, especially subject access requests, we may need to extend that period by up to a further two months.

6.4. The address is:

FAO: Data Protection Officer
General Council of the Bar
289-293 High Holborn
London WC1V 7HZ

Email: Privacy@BarCouncil.org.uk

Phone: 020 7611 1398

Before we deal with your complaint, we will log it for monitoring and management information purposes.

7. Response to Data Protection Complaints and Requests

7.1. Either the Data Protection Officer or the Head of Operational Support in the BSB will investigate your complaint or deal with your request, as appropriate. For a complaint, they will assess this and determine whether it needs to be dealt with as exercising a specific right – as detailed in (3) above. They will acknowledge your complaint and advise you about how it will be treated in terms of data subjects' rights and when they expect to respond.

7.2. The statutory timescale for dealing with data subjects' requests to exercise their rights, is one month, and we normally respond to data protection complaints in the same timescale. However, if your complaint is about a data breach, we will respond more quickly. We will let you know if the investigation of your complaint or dealing with your request is going to take longer than the normal one month and, if so, when you can expect a response. For complaints, we will look at all the evidence and talk to everyone involved to find out what happened and why. We will then send you a response in writing letting you know how we investigated the complaint, what we found and what we propose to do. This may include explaining or apologising, and letting you know what improvements we intend to make when these are necessary.

8. Review

8.1. If you are dissatisfied with the response to your data protection complaint, or to how we have dealt with a request to exercise your data subjects' rights, you can complain to the Information Commissioner. See the ICO's website for details:
<https://ico.org.uk/global/contact-us>