

## INTRODUCTION

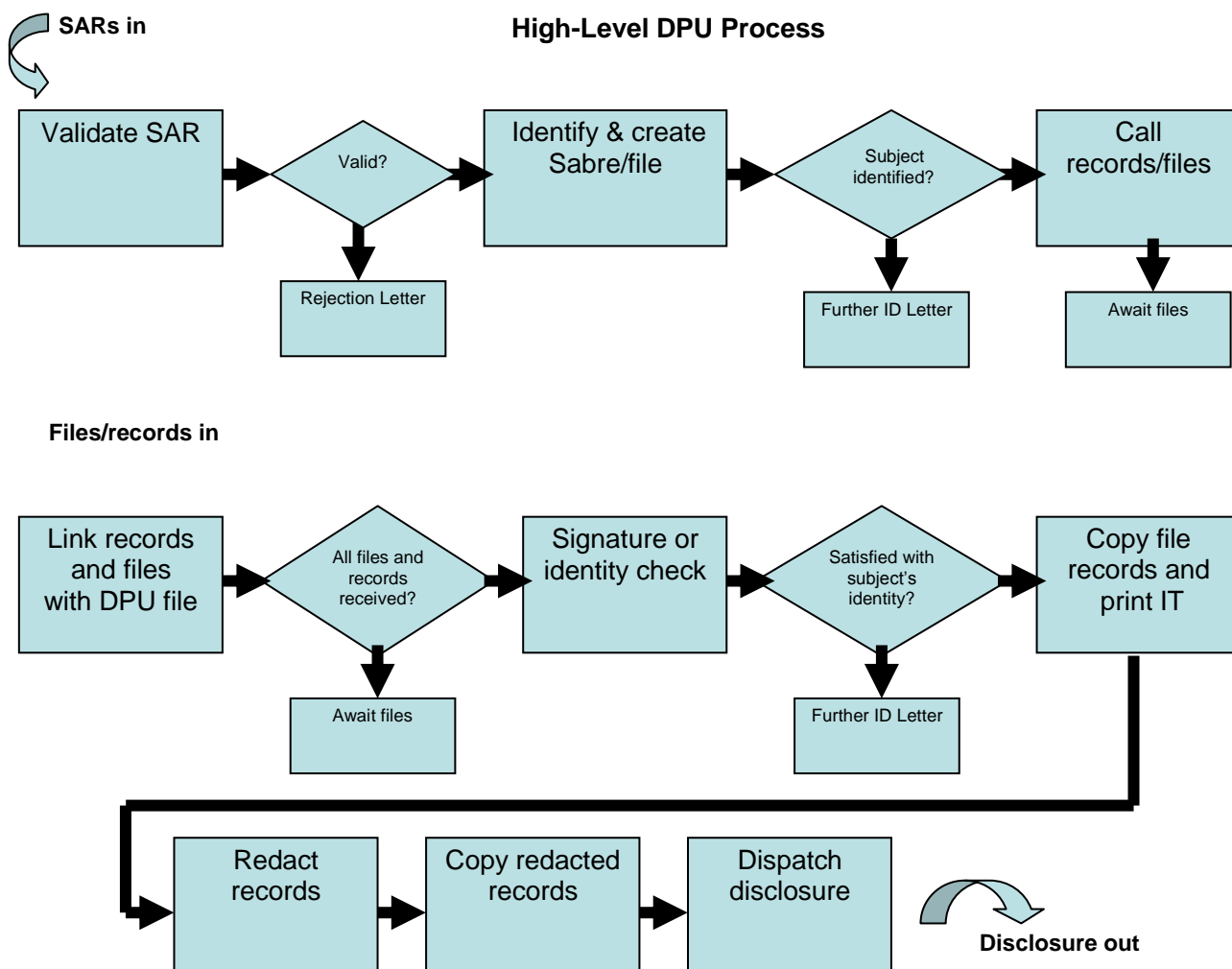
The Data Protection Act 1998 ('DPA') allows individuals access to personal records held on them by organisations – for the UK Border Agency this means that individual subjects are entitled to request access to their records held by us. They do this by submitting a 'Subject Access Request' ('SAR') which must be accompanied by a £10 fee; under the DPA we are then legally required to disclose all personal data records (excluding any exemptions) held on the subject within 40 calendar days. The Data Protection Unit ('DPU') handles all SARs for the UK Border Agency.

[Redacted – s.36(2)(c)]

It is vitally important that we take as much care as we can to ensure that not only the right records are identified, and quickly, but also that they are then subsequently disclosed according to the DPA. That Act legally obliges us to handle the data of individuals securely and to only disclose records to the individual subject concerned, or to those persons the subject has allowed to represent them (indeed, most of our requests come via a subject's legal representatives). In certain areas we are legally obliged not to disclose data (for example, third party details) and the DPA also allows us to exempt certain sensitive data from disclosure (see 'Exemptions' for greater detail).

The result is, after having received the request, the Data Protection Unit must fulfil the Agency's statutory obligations under the Data Protection Act and disclose a subject's records within 40 calendar days. [Redacted – s.36(2)(c)]

The diagram below shows the high-level process undertaken by the DPU:



This Training Guidance document relates to the processes and tasks undertaken by the DPU.

## AO GUIDANCE

### **Dealing with new Subject Access Requests (SARs)**

#### **Is the request acceptable?**

- Is there an original signed authorisation, less than 12 months old?  
Either a formal authorisation via the legal representative or the letter itself from an individual subject.
- Is the correct fee enclosed? A £10 cheque/postal order, no older than 6 months and made payable to 'The Accounting Officer – Home Office'
- Has the subject's identity been clearly given? e.g. name and date of birth – ideally using a copy of an identification document

If the answer to any of these questions is 'No', then rejection of the SAR is likely to be appropriate.

A missing/incorrect fee is a straightforward rejection, however, original signed authorities can be more difficult to judge – if you have any doubts, you must refer to a HEO before deciding to reject on such grounds. If the authorisation is dated older than 12 months, then it is a rejection and we will ask for a new authorisation.

If the subject's identity given is too vague or throws up too many possible subjects, then rejection is appropriate [although see '[Further ID Requests](#)' below].

#### **Status Requests**

The UK Border Agency no longer issues Status Letters to individuals – this is simply because we need to adhere to EU rules on acceptable Immigration Status documents – Status Letters are not secure. Individuals must have their status in the form of either a national passport (e.g. British passport) or have a valid visa vignette stuck in their passport showing they are resident or have permission to be here.

People who still make such requests for Status Letters to the main Agency caseworking team are told they must make an application to either get a British passport or to get a visa vignette stuck in their own national passport. But, these people may choose to make a subject access request instead!

[Redacted s.36(2)(c)]

You will need to identify that it is in fact a status request and identify the subject as normal.

If you are able to identify the subject on CID you no longer need to pass this to the AA for IT printouts to be done, this can go straight to [Redacted s. 40(2)] to hand out to an EO who will then find the required information to print off and then send this with the Status letter found in the Shared Drive.

If you are unable to find any CID record for the subject but can identify a Home Office file for them, this file will need to be requested. Once the file has arrived you will need to do the usual checks, do not put this case into case prep as above this will be passed straight to [redacted s. 40(2)] who will then pass this straight to an EO to deal with.

[Redacted – s.31(1)(e)]

### **Requests for 'IRIS' data**

The IRIS system (Iris Recognition Immigration System) is a method of securely identifying someone by their iris pattern. Joining the system is free and voluntary and when they are enrolled, passengers can enter the UK through automatic immigration control barriers, once they have looked into an iris recognition camera.

The system logs the occasions when a subject uses these barriers and subjects can ask for that data to be disclosed to them. [redacted s.31(1)(e)] Such Iris requests are not treated as Subject Access Requests – the Iris programme discloses subjects' data as a matter of business as usual and subjects can request their data via a dedicated email address without having to pay any fee.

[redacted – s.31(1)(e)]

### **UKBA Staff SARs**

On occasion DPU receives requests from UKBA staff for their personal data. These requests should be made by email and in writing to "UKBA HR Subject Access Requests (POISE)".

[redacted – s. 36(2)(c)]

### **SARs Requesting Transcripts Of Phone Calls**

If you receive a SAR which requests a transcript of a phone call, before processing, you need to establish the following -

Has the person informed us who they have called

Have they given us the date and time of the call

You will need to contact the unit to whom the call was made to establish whether they keep recordings, if so - for how long, what additional information do they need to identify the call.

EG IEB (Immigration Enquiry Bureau) need to know the number the call was made from.

Along with these checks we also need all the usual checks fee, ID and authority.

If you find that the recordings have been destroyed as part of the retention and destruction policy i.e. one month, three months etc then instead of processing you can send a no trace.

### **Search Sabre – do we already have a record for the subject?**

If a Home Office reference number is quoted, search Sabre with this reference number (and entering 'Home Office' in Manual Record type), to make sure this request does not already exist on Sabre.

If a HO reference number has not been provided then search using the subject's name.

### **Duplicate records**

If a duplicate record is found and it relates to a request that is still awaiting completion, the new request should be rejected. The 'Rejection Duplicate' template letter (found on the Shared Drive) should be used – it must be sent to the legal representatives (or the subject themselves) who have submitted the new SAR. If the legal representative has changed, this rejection letter must be sent to both the new and old representatives. **Important:** You must also ensure that the new representative and address is clearly marked on Sabre on the 'Admin Notes' tab and the DPU file so that the disclosure bundle is sent to the new representative.

### **Repeat requests**

If searching against Sabre reveals we have made a disclosure on the subject within the last 6 months, then it is likely that we will reject the new SAR on the basis that a reasonable period has not passed since that last disclosure. The first question that must be asked is:

- Has it been 6 months or less since the last SAR?

If the answer to that question is 'yes' – do not create a new case on Sabre; pass it straight to an HEO, with the date of the previous disclosure, for them to confirm whether it is right to reject the new SAR

The HEO will consider the request under section 8 (3) of the Data Protection Act and with particular regard to section 8 (4).

Section 8 (3) of the DPA 1998 says:

“Where a data controller has previously complied with a request made under section 7 by an individual, the data controller is not obliged to comply with a subsequent identical or similar request under that section by that individual unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.”

For DPU case working purposes, in the first instance we will take six months as a 'reasonable period'.

However, Section 8 (4) gives some clarification on what is a reasonable interval and how that relates to casework activity on a case – e.g. as an extreme example, it may be only three months since we disclosed, but since then intense activity on the case– in such circumstances, we would disclose on the recent activity back to the date of the last disclosure.

Section 8 (4) says:

“In determining for the purposes of subsection (3) whether requests under section 7 are made at reasonable intervals, regard shall be had to the nature of the data, the purpose for which the data are processed and the frequency with which the data are altered.”

Each request must be dealt with on a case-by-case basis;

## **Rejections**

If the SAR does not contain the required information such as the £10 fee and the original authorisation or we are unable to identify the subject with the information provided we can reject the request.

A new Sabre reference number still needs to be generated, but a DPU folder is not required since everything is simply returned to the sender. [see 'Creating a new case on Sabre' below]

On Sabre, change the 'Caseworker' field to 'Rejected' and enter notes in the Caseworker Notes tab to explain why the case has been rejected. On the Admin Notes tab tick the 'Cancelled box' and put in that day's date.

You must then prepare the Rejection letter which can be found in the 'SAB' Shared Drive in the 'Letters' folder. The rejection letter, and everything sent with the SAR is then sent back to the sender – by recorded delivery if there is a cheque or postal order.

Sabre Caseworker notes must be noted with who the rejection was sent back to and what was enclosed (including cheque/postal order numbers and the recorded delivery reference).

### **Unable to identify a subject or too many possible subjects**

These are not the same thing and the action to be taken differs. Sometimes a SAR could give just a name and no date of birth, but if the name was not a common one, we may be able to find them or at least find only a handful of possible subjects. If only a name is given and it is a common name (e.g. Arabic, Asian and Chinese names), then we would likely get hundreds of possible matches.

So, as a general rule:

- If there are just a handful of possible subjects (three, four or five), we will ask for further identification in an effort to identify which one is the subject. [redacted – s.31(1)(e)]
- If the identity given in the SAR is either not clear, or throws up more than five possible matches, then we will reject the SAR. [see 'Rejections' above]

The ideal SAR would supply us with the full names, DOB, nationality and any/all UKBA/HO references held by the subject.

### **Creating a new case record on Sabre**

[redacted s.31(1)(e)] and the SAR is valid, we must create a new case record which will allocate a unique DPU reference to the SAR. This reference is crucial for all correspondence, file requests and file movements into and out of DPU.

The following is a step-by-step guide:

- Select 'New Sabre Record' – this will open into fields to be completed:

- 'Date Received' – this is the date received in the Lunar House Post room or any UKBA business unit (it can be found as a date stamp on the envelope – if there is no stamp, add two days to the date of the request letter if there is a date on that).
  - 'Date in SAB' (Subject Access Bureau – as the DPU was previously named) – this is the date DPU received the SAR
  - 'Name', 'Nationality' and 'D.O.B' of subject
  - 'Assign to' – change to 'Awaiting Files'
  - 'Save' this data
- This will then generate a Sabre reference number. Once the case is open, it will show as a 'Waiting' case
  - If the subject of the new SAR has a previous Sabre case record, select 'Set Related' and enter the previous DPU reference number and select 'Set'
  - Click on the 'Request Dates' tab and tick the relevant boxes for 'fee', 'authority' and 'identified'. Make sure that the date you put in is the date the post was received in the Post Room/UKBA Business Unit and not the date received in DPU. Once completed, this will change the case status to Green
  - Click on the 'Admin Notes' tab and fill in the name/telephone number of the requestor (legal representative or subject themselves)
  - At the bottom of the 'Admin Notes' page select 'Edit Letters Sent'. Click on 'Ack letter (v3)'
  - Complete the Acknowledgement letter, which can be found in the 'SAB' Shared drive in the 'Letters' folder

### **Acknowledgement Letters & original identity documents**

The Acknowledgement Letter is dispatched by ordinary mail, unless there are original identity documents such as a driving license, passport, birth certificates, in which case you must return them with the Acknowledgement Letter by registered post.

**Important** – if any original identity documents such as driving licenses, birth certificates, passports, utility bills etc are submitted with the SAR, these must be copied for the DPU file and the originals returned with the Acknowledgement Letter. Do not leave original identity documents on DPU



files – you only need to copy the photo and signature pages of passports, not every page.

### **Processing Cheques/Postal Orders**

You will need to take two A4 copies of the cheque/postal order.

- One copy should be placed in the DPU file with the Subject's name and DPU reference number clearly written on the page.
- You then need to write the following on the reverse of the cheque/postal order itself:
  - Name of Subject
  - DPU reference number
  - That day's date
  - Name in capitals (initial and surname) of the staff member handling the cheque (typically the AO handling the initial SAR)

The cheque/postal order should then be attached to the second copy by paperclip and placed in the 'Fees' tray to be processed at the end of each day.

**Important** – cheques/postal orders are valuable items and must not be left on desks or left lying around. They must be dealt with promptly and securely – it is the responsibility of the person dealing with the SAR at the initial case working stage to ensure the proper guidelines above are followed.

### **Prioritising SARs that are close to or already over the 40 calendar day deadline**

Where we receive a SAR that has not come directly to the DPU, for whatever reason, it is sometimes the case that the delay between UKBA receiving it and DPU actually getting it is close to or more than 40 calendar days.

If this is the situation, such SARs must be prioritised and passed to HEOs immediately for their attention.

[redacted – s.31(1)(e)]

## **Calling subject records/files**

Firstly, check the SAR itself to see if the subject is requesting *all* information held on them in UKBA records or do they require only limited specific information (i.e. asking for a letter or a particular document only).

[redacted – s.36(2)(c)]

It may be that you can print off certain documents such as refusals and permission letters from CID – in which case, you do not need to call for the HO file(s). Or you may be able to contact the case owner holding the file and have them copy and fax/post over certain documents from that file(s).

[redacted – s.31(1)(e)]

Only personal files of the subject should be called, if you receive files of other family members that are travelling with your subject's files you can quickly check these files and mark up any pages that need to be copied. If there are any files that only need to be partially copied or not copied at all, make sure that the appropriate cover sheet is attached to front of the file so that the AA's are aware of this.

For example, you should place a clear 'Do Not Copy' A4 sheet on top of the files of related persons if there is nothing within it relating to the main subject that is not already on the main subject's file anyway. In general, we should not be copying related files at all.

## **Linking Files/records to the DPU case**

HO Files and records constantly come into the DPU after being called – they must be dealt with quickly and attached to the DPU file in order for case preparation to start as quickly as possible.

Sabre must be fully updated to reflect which files have been called for – similarly, it must be updated when those files come into DPU. For example, if the file has been received, Sabre should be updated from 'Requested' to 'Received'.

Once everything has arrived, the case is then ready to allocate to 'Case Prep' in the Caseworker field.

Please note if we have received files from a Bulk Request unit, but still await records such as a port file or landing cards etc, then the caseworker must be changed from 'Bulk Await' to simply 'X Awaiting Files'.

The first step with HO files is to ensure that they are file-tracked on FTS into DPU.

### **Verifying the identity of the subject ('Signature Check')**

You must compare the signature provided with the subject's original SAR letter/authorisation against any example you may find in the records received for that subject.

This is extremely important because otherwise we could breach the Data Protection Act by disclosing personal data to a third party – we must be satisfied that the individual requesting the disclosure is really the subject of the records.

Section 7 (3) (a) of the Data Protection Act 1998 states:

Where a data controller...reasonably requires further information in order to satisfy himself as to the identity of the person making a request under this section and to locate the information which that person seeks...the data controller is not obliged to comply with the request unless he is supplied with that further information.

For the purposes of the DPA, UKBA is the 'data controller'.

If there is no signature within the HO records/files, then we will need to ask for further identification such as previous addresses, previous legal reps, perhaps even a photo – this extra information will enable us to be satisfied, in the absence of a signature on UKBA files, that the subject is who they say they are.

In these situations where Further ID is asked for, the case goes back to a status of 'waiting' as within the step-by-step process below.

### **Further Identification**

To request further ID you will need to do the following:-

- Go to the 'Request Dates' tab in Sabre
- Un-tick the box 'Request Authorised' and the case will go back to 'Waiting'
- Note the Caseworker Notes to explain the reason for seeking further ID
- In Admin Notes click on 'Edit Letters Sent' and select 'New Signature Request'
- Then allocate the case back to (8th/12th/13th floor) 'Waiting ID'
- Go into the 'Letters' folder on the Shared Drive and complete a 'Request for Further ID' letter and send
- The DPU files goes onto the 'Awaiting ID' shelves

[redacted – s.36(2)(c)]

For most 'missed records' follow-on letters, however:

- Send the standard letter found in the Letters folder on the Shared Drive (named 'missing information follow up').
- **There is no need to retrieve the disclosure bundle from filing.**
- **There is no need to place a copy on the disclosure bundle, just ensure that Sabre admin notes are updated to say a 'Missing Information Follow-Up' letter was sent out.**

## EO GUIDANCE

### **The UK Border Agency's Obligations under the Data Protection Act 1998**

It is a statutory requirement by law that we need to process subject access requests within 40 calendar days of the original request being received by the Agency.

Section 7 of the DPA gives individuals the right to access their personal data that is held on them by government organisations and departments. The right of subject access only applies to "personal data" within the meaning of the DPA. Section 1 of the DPA states:

"Personal data" means data which relate to a living individual who can be identified –

- (a) from those data, or
- (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.

Individuals are not required to give a particular reason why they wish to see their records, nor do they have to have any nationality or residence requirements to make a Subject Access Request (SAR).

In order to process a DPU request the SAR should contain original authorisation from the individual on who the request is being made and a £10 fee. We would also need to be able to identify the subject on our systems to be able to proceed with the request. If we are not able to satisfy all of the above the AO would reject this request.

## **A Guide to the Manual and IT records of the UKBA:-**

The UK Border Agency holds and maintains data on subjects across a range of manual and IT records.

Ideally customers will have a single casework file. However, due to the structure of the organisation and nature of the business a large number have data held on more than one file or IT system. Under the Data Protection Act all of these files must be identified and requested so that all personal data can be disclosed to the subject.

### **Removals**

On occasion a subject will make a Subject Access Request and then is removed from the country before it has been processed. In these instances, if the subject has a representative, then it is necessary to call them and enquire as to whether or not they still want their information. If not, the request can be cancelled.

### **Pre-Redaction Checks**

- Check the details on the request letter tally with those on the front of the DPU folder, Sabre and CID. Note whether the request letter mentions a reference number.
- Also check the request letter to confirm that they want all of their data and that it is not a specific request.
- Always casework with CID open.
- Note any aliases and their type.
- Check Sabre and CID to ensure all records received and copied/printed.
- Note if there are any outstanding or withdrawn decisions on CID. Letters/minutes may need withholding/excluding/exempting on this basis.

### **Tips For Speedy Casework:-**

- Sort the various file copies and IT records into an order.
  - Minutes
  - File papers
  - Landing Cards/Globe/DEMS
  - CID
  - Work Permit file minutes and papers
  - NASS file minutes and papers
  - ASYS (do not split the letters from the report)

- Highly recommend date ordering the minutes and file papers. Easy to see what's going on and to note failed attempts at detention, unserved decisions etc.
- Start caseworking through from the IT records through to ASYS. Starting with CID usually allows for a good overview of the subject's immigration history. It also gives the caseworker a heads up on things to look out for in the main file minutes and papers.
- Make a note of any exemptions. Using post-it notes is slow and wasteful so highlight any exemptions and turn the relevant page at a right angle so it sticks out of the bundle.
- Do not read any unnecessary documents, for example SEF/Application forms, letters to and from the rep or applicant and any paperwork served on the applicant. As long as the paperwork is relating to your applicant and unless there is a specific reason for reading the documents they can be put straight into the bundle. There will be no redaction required on such 'public' documents.
- It is quicker to work with the various applications running already, rather than opening and closing things as and when they are needed. Always have ACID and GCID open as these are the two flavours under which most cases are applicable. This makes minuting CID that a disclosure bundle has been completed and despatched quicker.
- Save the relevant text for CID in a notepad .txt file and open it so that you can quickly switch to it, copy the text and paste it into CID.
- Also, always have a completed letter template open to edit once a case is completed.

### **REDACTING DATA:-**

The casework bundle begins with a DPU a list of common abbreviations, which can be found in the SAB shared drive in the Proforma's folder.

Before sending your bundle you need to ensure that the documents in your bundle are in order and not mixed up; i.e. all the minutes are together, all the IT printouts are together and so on. **There is no requirement to place them in any specific order within the bundle or even in date order. However there is a legal requirement to ensure the bundle is in an intelligible format and placing them in some sort of order will help with this.**

Caseworker's need to be aware of the **DATA CAPTURE** date when they are processing the request. The date that is written on the coversheet of the DPU

folder in the **DATE RECEIVED IN UKBA** box is a cut off point for disclosure.

The subject is only entitled to see the information up until the date the request was received in UKBA.

### **Exemptions:-**

Within the DPA there are various exemptions and exclusions that can be applied to your casework to prevent certain documents from being released.

These exemptions are in place to safeguard UKBA's policies and procedures from the general public. Here is a list of the types of exemptions used in DPU and an explanation of when to use them.

### **Sec 28 - National Security:-**

This exemption is used for the purposes of safeguarding national security.

This exemption also applies to the national security of other countries.

### **Sec 29(a) – The Prevention & Detection of Crime:-**

This section provides an exemption from the subject access provisions for personal data which is processed for the purposes of the prevention or detection of crime.

### **Sec 29(b) – The Apprehension or Prosecution of Offenders:-**

In this exemption the term "offenders" includes people who have committed offences under the immigration acts.

### **Schedule 7, Section 10: Legal & Professional Privilege (LPP):-**

This exemption is used to remove data relating to legal/policy advice that should not be disclosed to the general public.

### **Third Party Data:-**

Section 7(4) of the DPA provides that if you cannot comply with the request without disclosing information relating to another individual who can be identified from that information, then you do not have to comply with the request unless:

- The third party has consented to the disclosure; or
- It is reasonable in all circumstances to comply with the request without the consent of the third party individual.

However, there is no obligation to try and get consent and DPU do not actively seek this.

Section 7(4) of the Act is only relevant if information about the third party individual is necessarily part of the information which the requesting individual is entitled to. You will need to consider whether it is possible to comply with the request without revealing information which relates to and identifies a third party individual. In doing so, you should not only take into account the information you are disclosing, but also any information which you reasonably believe the person making the request may have, or get hold of, that may identify the third party individual. As your obligation is to provide information rather than documents, you may delete names or edit documents if the third party information does not form part of the requested information.

**Remember that a duty of confidentiality is owed to the third party individual.**

Section 7(5) of the Act says that you are obliged to communicate as much of the information requested as you can without disclosing the identity of the third party individual. So, disclosing the data with any third party information edited or deleted may be the best way to meet the request if you are unable to disclose all of the above information.

#### **When to consult IMD Policy Team:-**

EOs should look to this guidance material in the first instance for answers; however, there may be issues that are not covered here, and so EOs should approach either their HEO or the SEO/Grade 7 of DPU. If they are unable to assist, or wish to seek further specialist Policy or legal guidance, then IMD Policy will be contacted either by management or you will be directed to do so yourself.

#### **Completion Process:-**

Once the case has been completed you will need to follow these guidelines to ensure the case is accurately recorded as so on SABRE.

- On Sabre enter the DPU number and click Search.
- Once the record is found click open case.
- You will need to make sure that Sabre has been updated correctly and that they correspond with the case you have just completed. For example nothing should still say identified or requested unless specifically informed of a reason why.
- You then need to make a note in the CASEWORKER NOTES tab. You will need to explain what exemptions, if any, have been applied and to what documents. If no exemptions have been



applied then you will need to write – **No exemptions made, case ready for despatch.**

- You will need to put a date at the beginning of any notes made and either your name/initials at the end.
- If exemptions have been made you will then need to record these on Sabre by clicking onto the EXEMPTIONS tab. Click on EDIT EXEMPTIONS you will then need to select from the drop-down menu the exemption that is applicable and the number of times that it has been applied. This number should always be 1.
- You will then need to shut the case down on Sabre by putting a completion date in. Click on the REQUEST DATES tab and in the completion date box put in that day's date.
- The case will then show as either a Completed, Partial or Interim disclosure.
- Place the photocopies of the exemptions in the left-hand side of the DPU folder in a brown envelope marked "exemptions"
- You will then need to alter the relevant stock letter to match the details of the subject. The completed, partial and interim letters can be found in the SAB shared drive in the letters folder.
- The letter will need to be printed twice, one copy in the DPU folder and the other on top of the bundle. Place a rubber band around the case and place in the appropriate area for despatch.
- You will then need to update CID to show that a bundle has been completed. You will need to make sure you are in the correct "flavour" of CID (ACID or GCID). Go into the most recent case and click on the NOTES icon. Go to the last minute on this screen and press the DOWN ARROW key on the keyboard, this will create a new minute entry. You will then need to put this wording onto this screen –

"Subject Access Request received from this subject under the Data Protection Act on dd/mm/yyyy – all paper HO file records and CID records copied/printed and redacted and dispatched to the [subject] or [legal representatives – name of solicitors]. [Name of EO] [date] Data Protection Unit"

- Click the save/exit button once complete.

### **Completed Disclosure**

This is when we have copied and redacted all records we have managed to locate and receive for a subject – the disclosure is completed once these records have been redacted and dispatched to the subject, or their legal representative. If you note from Sabre that a file says IT Record Only rather than received this would still count as a completed disclosure as no physical file actually exists for us to obtain.

### **Partial Disclosure**

Partial disclosures are where we have not been able to obtain all of the records identified as relating to the subject [redacted – s.36(2)(c)]. Such disclosures should not be confused with Interim Disclosures (see below).

In practical terms, it is simply not possible to disclose copies of records that are missing or lost. Nor is it proportionate effort on our part to continue to try and locate them [redacted – s.36(2)(c)].

BUT, it is imperative that we have made every reasonable effort to locate all records for a subject before we resort to dispatching a partial disclosure

We must use all of our statutory 40 calendar days to make every reasonable effort to locate records, and Sabre notes must reflect this. [redacted – s.36(2)(c)]

### **Interim Disclosure**

Interim Disclosures occur when we are still waiting for files/records to arrive in order to complete the case and yet the subject or legal representative wishes to have an interim disclosure of the records we *do* have. In which case, an Interim Disclosure will be sent and when the remaining files/records arrive we can complete the full disclosure of all records.

## **APPENDIX A**

### **Guidance for handling Border Force-related Subject**

### **Access Requests (SARs) under the Data Protection Act**

#### **Where should SARs be sent to?**

SARs will come into the Agency and be dealt with by the Data Protection Unit (DPU). The UKBA website contains guidance on how SARs should be submitted (we require a £10 fee, for example). Should any such requests come into Border Force direct, they should be immediately forwarded to the DPU (via IDS to The Data Protection Unit, Lunar House, Croydon). Please note: the 40 calendar days starts when the SAR is received by the Agency, not when it gets to DPU.

#### **What will DPU do?**

DPU will raise a file and create a record on the DPU database. We will assure the contents of the SAR, and most importantly ensure that the £10 fee has been submitted. A unique DPU reference is generated at this point.

If acceptable, the subject (i.e. individual requesting their records, or via their legal rep) will be sent a DPU acknowledgement letter with this reference on and informing them that we are dealing with the request within the statutory 40 calendar days. Any contact on the subject of the SAR from this point on should be directed to the DPU.

#### **What does Border Force need to do?**

Where it is clear from the SAR that the request relates primarily to Border Force, DPU will identify which Region it relates to and direct a request for information to that Region's Secretariat. We will clearly mark all emails as 'Urgent Subject Access Request' and include the DPU reference.

Regional/Specialist BF Secretariats will need to respond to this request by DPU within 10 working days, unless strictly advised otherwise.

Regional Secretariats will be required to check whether any records are held on a subject locally – e.g. on Port stop log books, Port files, officers' notebooks, complaints and correspondence logs. DPU will require all records held locally to be copied or printed out – for example, with Port files every page and the cover must be copied. Please do not copy double-sided. If the number of records is small, then scanning in copies and sending them electronically is better.

### **What must Border Force send to DPU?**

DPU must be sent good, clear A4 copies of all records –

Original Port files can be sent and DPU will copy them – if records are limited to a few pages or notebook copies, then scanned electronic copies should be sent to the DPU inbox ([DataProtectionUnit@UKBA.gsi.gov.uk](mailto:DataProtectionUnit@UKBA.gsi.gov.uk))

### **What can be excluded or exempted from disclosures under the DPA?**

The DPA allows certain information not to be disclosed, if it is being processed essentially on the grounds of:

- national security, or
- prevention or detection of crime, or
- the apprehension or prosecution of offenders, or
- legal and professional privilege (legal advice we have received from HO Legal Advisors or Treasury Solicitors for example)

### **What should Secretariats do if they can't find any records?**

If no records can be found, the Secretariat must advise DPU of such – DPU will simply inform the subject that no records have been found.

### **What should Secretariats do if they can't get records on time?**

Secretariats must contact DPU as soon as possible if they cannot meet their 10 working day turnaround for responding.

The Agency as a whole only has 40 *calendar* days to disclose all records related to a subject, and we should only go over this deadline in the most exceptional circumstances.

### **What should Secretariats do if the records are lost?**

Again, advise DPU of this within the 10 working days as you would if no records had been found at all. DPU will advise the subject if records have been lost.

[redacted – s.36(2)(c)]

[redacted – s.31(1)(e)]

