



**Accounting
Technicians
Ireland**

**ACCOUNTING TECHNICIANS IRELAND
SUBJECT ACCESS REQUEST POLICY
DATA PROTECTION ACTS**

Document Control

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1.0 Introduction

Privacy and data protection rights of data subjects are very important to Accounting Technicians Ireland (ATI).

Data Protection is the safeguarding of the privacy rights of individuals in relation to the processing of personal data, in both paper and electronic format. The Data Protection Acts 1988 and 2003 (the Acts) lay down strict rules about the way in which personal data and sensitive personal data are collected, accessed, used and disclosed. The Acts also permit individuals to access their personal data on request, and confer on individuals the right to have their personal data amended if found to be incorrect.

Inquiries about this access request policy ("Access Request Policy") should be referred to the companies Data Protection Officer or Committee.

2.0 Rationale

Data Subject have rights under Sections 3 – 7 of the Acts to request, obtain and have corrected or erased personal data which might be held by ATI.

3.0 Scope

The policy covers both personal and sensitive personal data held by Plato Dublin. The policy applies equally to personal data held in manual and automated form.

This policy outlines ATI's Access Request Policy to help ensure that we comply with requests made under and within the strict timelines outlined in the provisions of the Acts.

All Personal and Sensitive Personal Data will be treated with equal care by ATI. Both categories will be equally referred to as Personal Data in this policy, unless specifically stated otherwise.

4.0 Procedure

The procedure applies to all manual and electronic records in existence at the time of receipt of an access request regardless of when the record was created. The process which should be followed in all instances of an access request is:

- Verification/Search/Review & Respond

Data Subjects may make the following requests from our company:

4.1 Right to establish existence of personal data (Section 3 of the Acts)

Under section 3 of the Data Protection Acts an individual may write to ATI asking whether any personal data on him/her is being retained by the company. Whether or not such personal data is collected, ATI must respond within 21 days of receipt of the request. If personal data is held then a description of the data and the

purpose(s) for which it is kept will be provided to the Data Subject.

The individual does not have to pay a fee for making a request of this type. Any requests must be in writing and addressed to the Data Protection Officer, stating that the individual is making their request under section 3 of the Data Protection Acts. Before ATI respond to the request, the individual must provide the company with satisfactory evidence of their identity and address.

Section 3 requests are not accepted via telephone, email or text message. If such a request is received, notify the data subject that only requests received by post with the necessary identification proof will be acceptable and responded to.

Any response provided to the Data Subject should be communicated in intelligible and permanent form i.e. tabular format with headings and the relevant details. The response must only be sent by post/courier to the Data Subject and in a hard copy format. If this request is received via a legal representative of the Data Subject and the request states that the response should be sent to the legal representative, you need to contact the Data Subject and request in writing that ATI have their permission to do so.

4.2 Making an Access Request (Section 4 of the Acts)

Under section 4 of the Data Protection Acts, an individual/Data Subject may request a copy of their personal data held by ATI upon written request. Procedures are in place to ensure that all relevant manual files and personal data held on computers will be checked for the relevant data in respect of which the access request is being made. This information is held on the “**name & location on computer of mapping file to be inserted**” file which is maintained by the Data Protection Officer.

In order to respond to any Section 4 requests, the company requires the individual to:

1. Complete, sign and date the Access Request Form
2. Be specific as possible about the information the data subject wishes to access.
3. Attach a photocopy of your proof of identity and address to the Access Request Form.
4. Enclose a cheque or postal money order payable to the company in the amount of €6.35 and:
5. Post the Access Request Form to the Data Protection Officer.
6. If the data subject cannot download the Access Request Form from the internet and they contact the company, you should post out a form. Use of the Access Request Form is not mandatory; however, completing the Access Request Form will enable us to process the section 4 request more efficiently.

The Company reserves the right not to process and release the data requested where the Data Subject has not complied with the requirements of Section 4 of the Acts, namely the requirements in points 3. to 5. above.

4.2.1 Responding to an Access Request under Section 4

Once the Data Subjects fully completed Access Request Form, proof of identity and address, and the prescribed fee the Company have been received, a response must be sent to the Data Subject within the statutory period of forty (40) days.

In the case of Examinations Data, there is an increased time limit for responding to an access request from 40 days to 60 days and an access request is deemed to be made at the date of the first publication of the results or at the date of the request, whichever is the later.

Copies of the information must be provided in hard copy/permanent form unless it is too expensive or the data subject agrees otherwise or this is impossible or involves disproportionate effort.

Section 4(5) states any amendments to the personal data concerned made since the receipt of the request is acceptable as long as these amendments would have occurred regardless of the receipt of a request. However, no other amendments would be acceptable i.e. deletion of the data or correction of incorrect data, etc.

The data subject is entitled to and should be provided with the following:

- A copy of all data that we are keeping about him/her;
- The various categories that their data is collected under and the purpose(s) for processing it;
- The identity of those to whom we have disclosed the data to;
- The source of the data, unless it is contrary to public interest;
- The logic involved in any automated decisions/profiling if applicable;
- All third-party data i.e. data that could identify another individual, should be redacted unless we have received consent from the third party;
- Expression of opinions by external individuals to the Company can be give unless it was provided with an expectation of confidentiality;
- Expression of opinions by internal employees must be provided unless it is a complaint. For example, if a manager says that 'X' is a bully then you must disclose, however, if a sub-ordinate says 'X' is a bully, you don't have to disclose;
- Information can be withheld if it falls under any of the Section 5 exceptions, listed below.

The fee is not refunded if ATI find that no personal data is being held relating to the Data Subject. However, the fee must be refunded if ATI do not comply with the request, or if there is a need to rectify, supplement or erase the personal data concerned.

4.2.2 Exceptions from provisions of Section 4 (Section 5 of the Acts)

Section 5 of the Acts provides the exemptions from the provisions of Section 4 i.e. personal data may be withheld by ATI in certain situations and for certain types of personal data. The Right of Access does not apply:

- To health (medical records) & social work personal data which is restricted in the interest of the Data Subject i.e. to protect the individual from hearing anything about himself or herself which might cause harm to his/her physical or mental health or emotional well-being.
This exemption could only be relied upon if the information held by our Company has been assessed by a qualified health professional prior to the decision to disclose to the Data Subject.
- Where the information is back-up data.
- Where the information would be subject to legal professional privilege in court.
- Where the information concerns an estimate of damages or compensation in respect of a claim against the company, where granting the right of access would be likely to harm the interests of the company.
- Where the data relates to the purposes of preventing, detecting or investigating an offence, the apprehension or prosecution of offenders, the assessment or collection of any tax or other moneys owed to or payable to the State.
- Where the information is held only for the purpose of statistics, but only where the information is not disclosed to anyone else, and where the results of the statistical work are not made available in a form that identifies any of the individuals involved.
- Any data held in the form of opinions which were given with an expectation of confidentiality.
- ATI can decide whether or not to comply with an access request if any of the circumstances outlined below exist. However, best practice would be to notify the Data Subject outlining why ATI are not complying so as to provide every opportunity to the Data Subject to rectify the issue.
 - If the request is not in writing
 - If the request has not included the appropriate fee
 - If the Company is not satisfied as to the identity of the Data Subject
 - If the request contains insufficient details to locate the information required.
 - If the Data Subject waives their rights

- If the supply of such a copy is not possible or would involve disproportionate effort.
- In order to protect the fundamental rights and freedoms of a third party
- Where ATI has previously complied with an identical or similar request unless, in our opinion, a reasonable interval has elapsed since the previous request.

If ATI relies on any exemption under this Section of the Acts, the following action is required:

- Notify the Data Subject in writing within 40 days including a statement of the reasons for refusal.
- Notify the Data Subject about their right to complain to the Data Protection Commission about the refusal.
- Notify the Data Subject can also complain if they feel that the outcome of the access request is incomplete.

It is paramount that the response is accurate and within the specified timeframe otherwise the Data Subject is within their rights to make a complaint to the Office of the Data Protection Commissioner (ODPC). The ODPC have the powers to either conduct an investigation or issue an Enforcement notice. It should also be noted that if the Data Subject who has placed the complaint disagrees with the outcome of the decision by the ODPC, they have the right to appeal against such a decision through the Circuit Court.

4.3 Data Subjects Right To Rectification, Blocking Or Erasure (Section 6 of the Acts)

Data Subject can make a written request to ATI and seek the rectification, blocking or erasure of personal data that are inaccurate. No fee is allowed to be charged for this request. The request must be in writing in order for the Data Subject to enforce this right, and the response must be within 40 days, informing them that ATI have complied with the request.

If the request is for data to be 'blocked', then a 'marker' will be require to be placed on the particular data to either restrict access to it, or prevent processing of the data for certain purposes, whichever has been requested by the Data Subject.

Where inaccurate data has been passed on to a third party, there is an obligation on ATI to ensure that the requested change is implemented on all the relevant data which has been shared or distributed during a period of 12 months prior to the request.

If the request is for personal data to be deleted, such data will be deleted if this data should not be held but ATI do not need to delete if there is a lawful purpose for retaining it i.e. accreditation/auditing purposes.

However, ATI can rely on an exemption to this obligation if the request proves impossible to deliver, or involves disproportionate effort.

4.3.1 Right To Preventing Processing Likely To Cause Damage Or Distress (Section 6 (a))

Under this section Data Subjects have the right to object to processing of data at any stage. They can request ATI to cease or not begin processing where the processing is causing or likely to cause substantial and unwarranted damage or distress. However, the damage or distress caused must be 'unwarranted and substantial', it cannot be used for frivolous or trivial matters.

This right may only be invoked in cases where ATI is processing the data for:

- The legitimate activities of ATI
- The performance of tasks carried out in the public interest
- In the exercise of official authority vested in the Company

This right does not apply where:

- The Data Subject has given his/her explicit consent to the processing
- The processing is necessary for the performance of a contract or with a view to entering a contract
- The processing is necessary for compliance with any legal obligation
- The processing is in the vital interests of the Data Subject
- Any other circumstances prescribed by a Government Minister

To take advantage of this right the Data Subject must:

- Notify the company in writing ('Data Subject Notice')
- Specify the reasons for the objection to processing
- Specify the purpose or manner of processing that is objectionable.

ATI must respond in writing, within 20 days and the response must contain the following information:

- A statement that ATI has complied, or intends to comply with the Data Subject Notice
- Or

- A statement that ATI regards part or all of the Data Subject Notice as unjustified, and the extent to which ATI has complied or intends to comply with it.

If a Data Subject disagrees with the course of action outlined by ATI, the Data Subject has the option to make an application to the Data Protection Commissioner to make a determination surrounding the processing.

4.3.2 Right in relation to automated decision making (Section 6(b))

ATI do not perform any automated decision making.

If in the future, ATI introduce any automated decision making and where the processing is conducted solely by automatic means and the decision significantly affects the individual, the Data Subject would be entitled to be informed, free of charge, of the logic behind the processing.

This right is only available to data Subjects when the decision does not go their way i.e. when the automated process leads to a decision that is not in the Data Subject's favour.

This Section prevents ATI taking evaluation decisions concerning individuals by automated means alone. Therefore, if in the future ATI did introduce this process it would include some human intervention in the process so that it would meet this provision of the Acts.

Examples identified specifically in the Acts as decisions which cannot be made solely by automated means:

- Performance at work
- Creditworthiness
- Reliability
- Conduct

This restriction does not apply:

- Where the processing is necessary for the performance of a contract or with a view to entering a contract
- Where the processing is necessary for compliance with any legal obligation and the Data Subject has been informed of the proposal to make the decision
- Where the Data Subject has given their consent to the processing

4.4 Right to compensation (Section 7 of the Acts)

Data Subject who believes that ATI has not met the obligations imposed by the Acts and has suffered damage through that contravention, is entitled to make a claim for compensation. No statutory guidance is available as to the amount of compensation; therefore, this will be determined through an agreement between ATI and the Data Subject or through the courts if a reasonable agreement cannot be reached.

4.5 Right to prevent processing for the purpose of direct marketing (Section 7 of the Acts)

This Section predominantly relates to unsolicited receipt of 'direct mail' i.e. direct marketing. In order for communication to meet the definition of direct marketing, it must be directed towards a particular individual. If the communication is addressed to 'the Occupier' or 'the Householder', it is not considered to be direct marketing.

ATI do not engage in direct mailing campaigns.

If in the future ATI ever embarked on a direct marketing campaign, the relevant staff members would be aware that the Data Subject has the right to require ATI to cease, or not to begin processing for the purpose of direct marketing. If ATI ever received this type of request it would cease the direct marketing as soon as possible within 40 days from receipt of request. It is noted that the request from the Data Subject must be in writing and there would be an obligation on ATI to respond to the Data Subject, in writing, acknowledging that the request has been complied with.

If ATI ever failed to comply with the request, the Data Subject would have the right to contact the Data Protection Commissioner in order to enforce compliance.

4.6 Compliance Responsibility

Overall responsibility for ensuring compliance with the requests made under the Acts rests with the Data Protection Officer.