

RMB Automotive

GDPR Subject Access Request Policy

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Summary

A Subject Access Request is an individual's legal entitlement under the Data Protection Act to request confirmation from an organisation regarding the personal data held by them about the individual. The individual has the right to know what information is held about them and the Act provides a framework to ensure that personal information is handled properly. The General Data Protection Regulation (GDPR) will become law in May 2018 and takes the position further by removing the £10 fee per request and shortening the response time from 40 to one month. This applies to all UK organisations handling data.

Introduction

This document outlines RMB Automotive policy and approach to Subject Access Requests as defined by the Data Protection Act 1998, and the General Data Protection Regulation (GDPR) due to become law in May 2018. Guidance from the IOC and the Professional Standards Authority has been sought in creating of this policy.

Background

Under the GDPR, individuals will have the right to obtain confirmation that their data is being processed and access to their personal data and other supplementary information (this largely corresponds to the information that should be provided in a privacy notice), similar to existing subject access request rights under the DPA.

Purpose

The GDPR clarifies that the reason for allowing individuals to access their personal data is so that they are aware of and can verify lawfulness of the processing. RMB Automotive must provide a copy of the information free of charge. The removal of the £10 subject access fee is a significant change from the existing rules under the DPA. However, RMB Automotive can charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive. RMB Automotive can also charge a reasonable fee to comply with requests for further copies of the same information, but this does not mean that RMB Automotive can charge for all subsequent access requests. The fee must be based on the administrative costs of providing the information.

Time to Comply

RMB Automotive will have less time to comply with a subject access request under the GDPR. Information must be provided without delay and at the latest within one month of receipt. RMB Automotive will be able to extend the period of compliance by a further two months where requests are complex or numerous. If this is the case, you must inform the individual within one month of the receipt of the request and explain why the extension is necessary.

Excessive Requests

Where requests are manifestly unfounded or excessive, in particular because they are repetitive, RMB Automotive can charge a reasonable fee taking into account the administrative costs of providing the information or refuse to respond. Where we refuse to respond to a request, we must explain why to the individual, informing them of their right to complain to the supervisory authority and to a judicial remedy without undue delay and at the latest within one month.

Providing the Information

RMB Automotive must verify the identity of the person making the request, using "reasonable means". If the request is made electronically, we should provide the information in a commonly used electronic format. The GDPR introduces a new best practice recommendation that, where possible, organisations should be able to provide remote access to a secure self-service system which would provide the individual with direct access to his or her information. This will not be appropriate for all organisations, but there are some sectors where this may work well. The right to obtain a copy of information or to access personal data through a remotely accessed secure system should not adversely affect the rights and freedoms of others.

Large Amounts of Data

Where we process a large quantity of information about an individual, the GDPR permits us to ask the individual to specify the information the request relates to. The GDPR does not introduce an exemption for requests that relate to large amounts of data, but we may be able to consider whether the request is manifestly unfounded or excessive.

Policy

1. Purpose

- 1.1 This document sets out our policy for responding to subject access requests under the Data Protection Act 1988 (DPA). The Act took effect from 24 October 1998.
- 1.2 It is the Act in the UK that explains the rights and responsibilities of those dealing with personal data. All staff are contractually bound to comply with the Act and other relevant authority policies.
- 1.3 From May 2018 the General Data Protection Regulation (GDPR) will apply and we have taken steps to ensure our policy meets these requirements.

2. Introduction – What is the DPA and GDPR?

- 2.1 The DPA and the GDPR give individuals the right to know what information is held about them. It provides a framework to ensure that personal information is handled properly. The DPA will be superseded by the GDPR on 25 May 2018.
- 2.2 The DPA states that anyone who processes personal information must comply with eight principles, which make sure that personal information is:
 - Fairly and lawfully processed
 - Processed for specific and lawful purposes
 - Adequate, relevant and not excessive
 - Accurate and up to date
 - Not kept for longer than is necessary
 - Processed in line with the individuals' rights
 - Secure
 - Not transferred to other countries without adequate protection

2.3 In relation to the GDPR, there are 7 Principles and 8 Rights that have to be observed

Principles

1. Legality, Transparency and Fairness
2. Purpose Limitation
3. Minimisation
4. Accuracy
5. Storage Limitation
6. Integrity and Confidentiality
7. Accountability

Rights

1. The right to be informed
2. The right of access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing
6. The right to data portability
7. The right to object
8. In relation to automated decision making and profiling

3. General Policy

- 3.1 RMB Automotive welcomes the rights of access to information that are set out in the DPA and GDPR. We are committed to operating openly and to meeting all reasonable requests for information that is not subject to specific exemption in the DPA.

4. How does a person make a Subject Access Request?

- 4.1 A subject access request is a written request for personal information (known as personal data) held about the person by RMB Automotive. Generally, people have the right to see what personal information RMB Automotive holds about them, people are entitled to be given a description of the information, what RMB Automotive use it for, who RMB Automotive might pass it onto, and any information RMB Automotive might have about the source of the information. However, this right is subject to certain exemptions that are set out in the Data Protection Act.

5. What is Personal Data?

- 5.1 Personal data is information which is biographical or which has the individual as its focus.
- 5.2 Further information on what amounts to personal data can be found at appendix A.

6. What do we do if we receive a Subject Access Request?

Checking of Identity

- 6.1 We will first check that we have enough information to be sure of the person's identity. Often RMB Automotive will have no reason to doubt a person's identity, for example, if we have regularly corresponded with them. However, if we have good cause to doubt the person's identity we can ask the person to provide any evidence we reasonably need to confirm the person's identity. For example, we may ask the person for a piece of information held in the person's records that we would expect the person to know such as vehicle registration number or proof of address.
- 6.2 If the person requesting the information is a relative/representative of the individual concerned, then the relative/representative is entitled to personal data about themselves but must supply the individual's consent for the release of their personal data. If a person has been appointed to act for someone under the Mental Capacity Act 2005, they must confirm their capacity to act on their behalf and explain how they are entitled to access their information. If the person is a parent/guardian of a child under 16, we will need to consider whether the child can provide their consent to the person acting on their behalf.
- 6.3 Should a person make a data subject access request but are not the data subject, they must stipulate the basis under the Data Protection Act that they consider makes them entitled to the information.

Collation of Information

- 6.4 We will check that we have enough information to find the records of the person requested. If we feel we need more information, then we will promptly ask the person for this. We will gather any manual or electronically held information (including emails) and identify any information provided by a third party or which identifies a third party. This includes records created before 24 October 1998.
- 6.5 If we have identified information that relates to third parties, we will write to them asking whether there is any reason why this information should not be disclosed. We do not have to supply the information to the person unless the other party has provided their consent or it is reasonable to do so without their consent. If the third party objects to the information being disclosed we may seek legal advice on what action we should take.
- 6.6 Before sharing any information that relates to third parties, we will where possible anonymise information that identifies third parties not already known to the individual (e.g. the RMB Automotive employees), and edit information that might affect another party's privacy. We may also summarise information rather than provide a copy of the whole document. The DPA requires us to provide information not documents.

Issuing our Response

6.7 Once any queries around the information requested have been resolved, copies of the information in a permanent form will be sent to the person except where the person agrees it is impossible, or where it would involve undue effort. In these cases, an alternative would be to allow the person to view the information on screen.

6.8 We will explain any complex terms or abbreviations contained within the information when it is shared with the person. Unless specified otherwise, we will also provide a copy of any information that the person has seen before.

7. Will we Charge a Fee?

7.1 Under the DPA we are able to charge a maximum £10 fee. In practice, RMB Automotive doesn't charge a fee. As of 25 May, the GDPR prevents the charging of fees for individual requests.

8. What is the Timespan for Responding?

8.1 The DPA states 40 days, but under the GDPR we have 1 month starting from when we have received all the information necessary to identify the person, to identify the information requested, to provide the person with the information or to provide an explanation about why we are unable to provide the information. In many cases, it will be possible to respond in advance of the 1 month target and we will aim to do so where possible.

9. Can we Avoid Providing a Subject Access Request?

Previous Request

9.1 If the person has made a previous subject access request we must respond if a reasonable interval has elapsed since the previous request. A reasonable interval will be determined upon the nature of the information, the time that has elapsed, and the number of changes that have occurred to the information since the last request.

Exemptions

9.2 The DPA contains a number of exemptions to our duty to disclose personal data and we may seek legal advice if we consider that they might apply. Possible exemptions would be: information covered by legal professional privilege, information used for research, historical and statistical purposes, and confidential references given or received by RMB Automotive.

10. What if there is an Error in the Records?

10.1 If we agree that the information is inaccurate, we will correct it where practicable and destroy the inaccurate information. We will consider informing any relevant third party of the correction. If we do not agree or feel unable to decide whether the information is inaccurate, we will make a note of the alleged error and keep this on file.

11. What if the Person wants RMB Automotive to Stop Processing the Records?

11.1 Under section 10 of the DPA, a person can object to the Authority processing your data altogether, in relation to a particular purpose or in a particular way through a data subject notice. However, this only applies to certain processing activities and there is a process that the person must follow when making such an objection. We must then give the person written notice that either we have complied with their request, intend to comply with it or state the extent to which we will comply with it and why. This information will be given to the person within 21 days of RMB Automotive receiving the

data subject notice. Further information on this, can be found at www.informationcommissioner.gov.uk.

12. Complaints Procedure

- 12.1 If the person requesting the information is not satisfied by our actions, they can seek recourse through our internal complaints procedure, the Information Commissioner or the courts.
- 12.2 The Manager will deal with any written complaint about the way a request has been handled and about what information has been disclosed. The Manager can be contacted at:

RMB Automotive
Cygnet Drive
Bowesfield Farm
Stockton on Tees
TS18 3DZ

Telephone: 01642 667788

- 12.3 If the person requesting information remains dissatisfied, they have the right to refer the matter to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Telephone: 01625 545 745
Fax: 01625 524 510
Email: enquiries@ico.gsi.gov.uk

13. Definitions

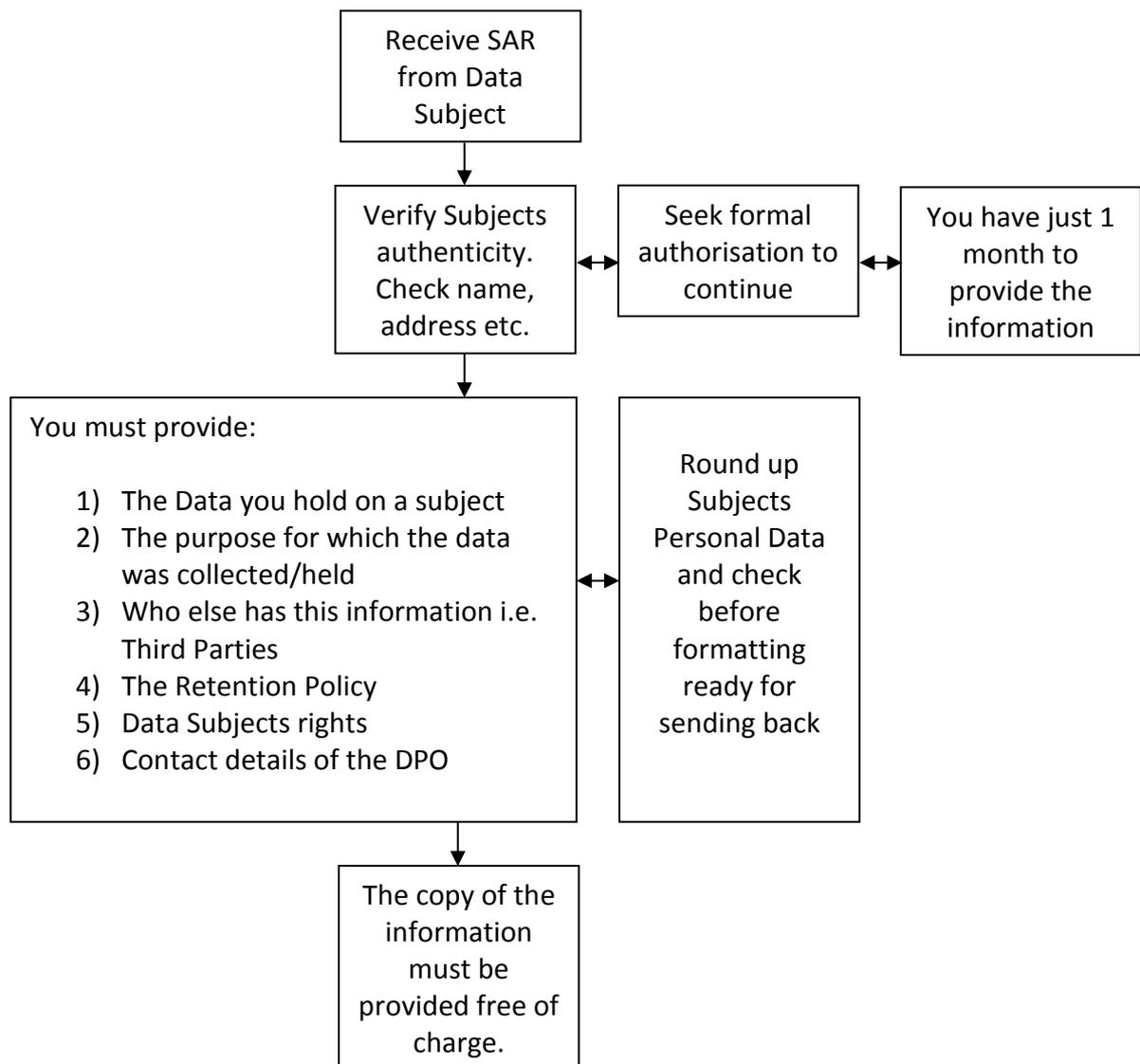
- 13.1 Personal data is information that relates to a living individual who can be identified from the information and which affects the privacy of that individual, either in a personal or professional capacity. Any expression of opinion about the individual or any indication of the intentions of any person in respect of the individual will be personal data.
- 13.2 Provided the information in question can be linked to an identifiable individual, the following are likely to be examples of personal data:
- an individual's salary or other financial information
 - information about an individual's family life or personal circumstances, employment or personal circumstances, any opinion about an individual's state of mind
 - sensitive personal information – an individual's racial or ethnic origin, political opinions, religious beliefs, physical or mental health, sexual orientation, criminal record, and membership of a trade union
- 13.3 The following are examples of information, which will not normally be personal data:
- mere reference to a person's name, where the name is not associated with any other personal information
 - incidental reference in the minutes of a business meeting of an individual's attendance at that meeting in an official capacity
 - where an individual's names appear on a document or email indicating only that it has been sent or copied to that particular individual

- the content of a document or email that does not amount to personal data about the individual unless there is other information about the individual in it

13.4 If a document has been sent by a third party, that contains information about an individual, which relates to their personal or professional life, it is personal data. An outline of an organisation's standard procedure, relevant to an individual's complaint/s case will not be personal data.

14. Subject Access Request Flow Diagram

This is a flow diagram of the data protection SAR process adopted by RMB Automotive



Responsibility for updating and dissemination of this document rests with RMB Automotive owner and senior management. The policy is subject to regular review to reflect changes in legislation. All staff are required to understand, apply and abide by the policy and if in any doubt to seek advice.

All Data Subjects have the "Right of Access", the Subject Access Request is the formal process for a Data Subject requesting "Right of Access" to the PII (Personally Identifiable Information) held about them.

The Data Subject may respond with a “Corrective Action Request” based on their GDPR Rights. It is important to process these requests correctly, accurately and in a timely fashion.

Rights

1. The right to be informed
2. The right of access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing
6. The right to data portability
7. The right to object
8. Rights in relation to automated decision making and profiling

If the Data Subject requests rectification, erasure, restricted processing, data portability, objection or the right to restrict/stop automated decision making, and profiling. Ensure the corrections are made in a timely fashion and a record of the action is taken for future reference.

GDPR rules require proof to demonstrate that the action has taken place as requested, this can be problematic if not documented correctly. Remember to provide proof of any amendments with the response when you send it.

Make sure the Data Management team is kept informed at all stages and is kept up to date throughout the whole process; they will be able to advise and assist if required.

The Data Management Team should be contacted at GDPR@rmbauto.co.uk with all requests.

Version History

01 – Subject Access Request Policy 30/04/2018 – initial document approved by Chris Jennings