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## Federation of Irish Sport

### Data Subject Access Request Procedure

#### Introduction:

This Procedure Document is for use with the Federation of Irish Sport Data Subject Rights Request Flowchart (the "Flowchart"). In particular, this Procedure Document provides further detail for the Federation of Irish Sport in relation to responding to a Data Subject Access Request and should be read in conjunction with the Flowchart.

Please note that this Procedure Document is subject to change based on developing practice in relation to the General Data Protection Regulation ("GDPR") and any implementing legislation and any further guidance issued by the Data Protection Commission ("DPC").

#### Data Subject Access Requests ("DSAR"):

The GDPR gives any individual ("Data Subject") the right to obtain from the Federation of Irish Sport as a Data Controller:

- confirmation that their data is being processed.
- access to their personal data.
- other supplementary information.

The 'supplementary information' referred to includes information about the source/recipients of the data, details of any international transfers, envisaged retention periods and the right to complain to the relevant supervisory authority.

The requested information must be provided by the Federation of Irish Sport without delay and, at the latest, within one month (30 days) of receipt of the request. This can be extended



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by a further two months where the request is very complex or where there are numerous requests received. If this is the case the Data Subject must be contacted within one month (30 days) of the receipt of the request and given an explanation of why the extension is necessary. Where the extension of time is being sought, this should be approved by the Federation of Irish Sport CEO (Mary O'Connor) as soon as possible and in advance of the end of the initial thirty day period.

Any refusal by the Federation of Irish Sport to comply with a DSAR (Data Subject Access Request) must be set out in writing to the Data Subject together with details of how the Data Subject can make a complaint to the Irish Data Protection Commission.

### Can the Federation of Irish Sport charge any fees for a request?

In certain contexts a "reasonable fee" can be charged for further copies of the same information a Data Subject has received or when a request is manifestly unfounded or excessive (particularly if it could be said to be repetitive). However, any fee must be based on the administrative cost of providing the information.

This will usually only apply in limited circumstances and advice from Legal and Compliance should be sought prior to requesting any fees from the Data Subject.

### What is Personal Data?:

With the obligation on the Federation of Irish Sport to provide a copy of all "personal data" to the Data Subject upon a request being received from such an individual, the Federation of Irish Sport must make sure that the information provided is accurate, not excessive and does not inadvertently disclose the personal data of other Data Subjects. As such when undertaking a review of documents to respond to a data access request it is necessary to ensure that one fully understands the scope of the definition of "personal data".



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The definition of “personal data” in Article 4 of the GDPR is as follows: *"any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person"*.

This is a broad definition. To assist in determining whether particular information constitutes “personal data” within the meaning of GDPR, a breakdown of the definition of personal data into its constituent elements is set out below.

### *“Any information”*

The term information is to be given a wide interpretation. This means that personal data includes information available in any form (including both hard copy and digital/electronic form). In addition, the type of information that can constitute personal data could be textual (e.g. letters or emails), numerical (e.g. lists of numbers in spreadsheets), graphical (e.g. charts, photographs), or audio-visual (e.g. videos or sound recordings of telephone calls). Information also includes objective as well as subjective information, opinions and assessments i.e. it does not have to be factually correct.

### *“Relating to”:*

To establish that data “relates” to an individual, one of three elements should be present:

- (a) *Content* - The information is given about a particular person regardless of any purpose on the part of the data controller or the impact of that information on the Data Subject.
- (b) *Purpose* - The data are used, or are likely to be used, to evaluate, treat in a certain way or influence the status or behaviour of an individual.



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- (c) *Result* - the use of the data is likely to have an impact on a certain person's rights and interests.

An individual does not need to be the primary subject of a particular document in order for the information to relate to that individual i.e. information may “relate” to an individual even if it does not “focus” on that particular individual. For example, an appraisal report about one particular employee may also contain personal information relating to the employee's co-workers.

“Identified or identifiable”:

A number of factors need to be taken into account when establishing whether it is likely that a person can be identified from the information held by the data controller. It ought to be reasonably clear whether or not a person is directly identified in a particular document or documents. Where further thought is required, is in identifying whether or not a person is indirectly identified (i.e. ‘identifiable’). The overriding consideration is the means reasonably likely to be used to identify that person in the context in which it is presented. A mere hypothetical possibility to single out the individual is not enough. However, this does not mean that oblique references cannot also constitute personal data (for instance the phrase “our friend in accounts” appearing in emails between a Data Subject's colleagues where the Data Subject is the only employee of the accounts department).

“Natural person”:

The GDPR only applies to living natural persons. Accordingly, information solely relating to individuals who have deceased or legal persons (such as companies) is not personal data.

### Are there any exceptions when providing the personal data?

The legislation sets out limited exceptions where Data Subjects do not have a right to a copy of information relating to them. This is a complex area so please seek advice of the Federation of Irish Sport CEO (Mary O'Connor) however, the following in particular are noteworthy:



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**References to third parties:** With regard to the rights and obligations provided for Data Subjects under the GDPR, where the information requested by one Data Subject contains personal data relating to a different data subject than the one making the access request, then the personal data of the other individual should not be provided without the consent of that other individual. If it is feasible to redact the documentation then the information should be disclosed in the redacted form.

**Legal professional privilege:** this applies to data in respect of which a claim of privilege could be maintained in proceedings in a court in relation to communications between a client and his/her professional legal advisors or between those advisors. Access rights of a Data Subject do not apply where:

- personal data is processed by the Federation of Irish Sport for the purpose of seeking, receiving or giving legal advice;
- personal data in respect of which a claim of privilege could be made for the purpose of or in the course of legal proceedings, including personal data consisting of communications between a client and the Federation of Irish Sports legal advisers or between those advisers;
- where the exercise of such rights or performance of such obligations would constitute a contempt of court.

**Estimating liability in respect of a compensation claim:** where the information concerns an estimate of damages or compensation in respect of a claim against the Federation of Irish Sport and granting the right of access would be likely to harm the interests of the Federation of Irish Sport in relation to that claim.

**Expressions of opinion in confidence:** an exemption is available where a person (e.g. in the Federation of Irish Sport) has provided an expression of opinion in confidence about the individual making the request. The Irish Data Protection Commission places quite a restrictive interpretation on this exception. Previously this operated whereby that in order to rely on the



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exemption, the opinion in question would not have been given but for the understanding of confidentiality and that documents in this category should be marked confidential.

***Disproportionate effort:*** the applicable supervisory authority (in this case the Data Protection Commission) can determine whether a fee can be charged or whether the request can be refused.

***Repeat requests:*** The Federation of Irish Sport may charge a "reasonable fee" based on administrative costs" for any further copies of personal data requested by a Data Subject. This wording implies that while the Federation of Irish Sport can potentially charge a fee for any repeat requests, the Federation of Irish Sport will not be at liberty to deny requests.

### Format of Responses:

Where the Data Subject makes a DSAR by electronic means (e.g. e-mail), and unless otherwise requested by the Data Subject, the information should be provided in a commonly used electronic format (potentially including USB drives, secure file sharing or emails).

Before providing any information, the Federation of Irish Sport must verify the identity of the person making the request using "reasonable means" where there are grounds for having a concern as to the identity of the Data Subject. This may involve obtaining a copy of the Data Subjects ID or a household bill with their name and address, however it is important to note that any time taken to verify the identity of the Data Subject will generally not be added on to the 30 day period and the information gathering should run in parallel to the verification process.

### Why we need to properly address DSARs?

If a company or organisation does not comply with the request in full within the time specified this is a breach of the GDPR.

The Data Protection Commission may investigate where there is suspected non-compliance with a DSAR. Furthermore, under the GDPR, there is a possibility that a fine up to €20 million



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or 4% of their total worldwide annual turnover could be imposed for not complying with the right of access by the Data Subject.

Queries:

If you have any queries in respect of this policy or require further assistance, please contact the Federation of Irish Sport CEO (Mary O'Connor – [mary.oconnor@irishsport.ie](mailto:mary.oconnor@irishsport.ie)).

Policy has been approved:

This Policy will be reviewed and updated on an annual basis, or sooner if deemed necessary.

This policy has been approved and authorised by:

**Name:** Mary O'Connor

**Position:** CEO Federation of Irish Sport

**Date:** 25<sup>th</sup> May

**Signature:**