**cid:image002.gif@01D38872.FEC68A30**

**HSE Data Protection &**

**General Data Protection Regulation**

**Template Letters**

***November 2020***

**Index of Letters**

1. Acknowledgement Letter **– page 3**
2. Insufficient Information Letter **– page 4**
3. Decision to amend record(s) **– page 5**
4. Decision not to amend record(s) **– page 6**
5. Decision to grant access with redactions **– page 7**
6. Decision to grant full access to records **– Page 8**
7. Decision to extend time period **– Page 9**
8. Decision to refuse access to records **– Pages 10 – 14** *(see below)*

* *Unfounded or Excessive in particular because of repetitive character*
* *Insufficient Information*
* *Not possible to supply copy/disproportionate effort*
* *Previous request(s)*
* *Personal Data relating to other individuals*
* *Information given in confidence*
* *Personal data relating to physical or mental health*
* *Social work data*
* *Restrictions on obligations of controllers and rights of data subjects for important objectives of general public interest*
* *Legal Privilege*

**Acknowledgement Letter**

**Date**

*(Name and Address of Requester)*

**RE: General Data Protection Regulation (GDPR) & the Data Protection Act 2018**

Dear XXX

I refer to your request, received in this office on XXXX, made under Data Protection Legislation, for access to records held by the Health Service Executive (HSE). Your request was received by the HSE on [insert date].

In your request you are seeking **[**quote from the request the records sought**]**

Data Protection Legislation provides that a decision be made on a request within 1 month and therefore you can expect your decision by XXX.

If you do not hear from me within 1 month, please contact this office for an update on your request.

Yours sincerely

**Name**

**Data Protection Decision Maker**

**Insufficient Information Letter**

**Date**

*(Name and Address of Requester)*

**RE: General Data Protection Regulation (GDPR) & the Data Protection Act 2018**

Dear XXX

I refer to your request under the Data Protection legislation for access to records held by the Health Service Executive (HSE).

Unfortunately I am unable to identify you from the information provided that you are a data subject and I am therefore asking you to provide me with additional information about you and the services that you may have attended and your contact address at that time.

This information will assist in identifying the records that you are requesting.

Yours sincerely

**Name**

**Data Protection Decision Maker**

**Decision to amend record(s)**

**Date**

*(Name and Address of Requester)*

**Re: General Data Protection Regulation (GDPR) & the Data Protection Act 2018**

Dear XXX

I refer to your request, received in this office on XXXX, made under Data Protection Legislation, for amendment of (a) record(s) relating to your personal information held by the Health Service Executive (HSE).

I wish to advise you that a decision has been made to grant your request. The amendment of the record(s) to which your request related will be effected by (select the appropriate phrase below)

* Altering it so as to make the information complete/correct or not misleading.
* Adding to the record a statement specifying the respects in which the HSE is satisfied that the information is incomplete, incorrect or misleading.
* Deleting the information in question.

As required by the Act, the HSE will take all reasonable steps to notify relevant individuals and Departments of the amendment.

If you are unhappy with this decision you may make a complaint in writing to the ***Office of the Data Protection Commission, 21 Fitzwilliam Square South, Dublin 2, D02 RD28.***

Yours sincerely,

**Name**

**Data Protection Decision Maker**

**Decision not to amend record(s)**

**Date**

*(Name and Address of Requester)*

**Re: General Data Protection Regulation (GDPR) & the Data Protection Acts 1988 to 2018**

Dear XXX

I refer to your request, received in this office on XXXX, made under Data Protection Legislation, for amendment of (a) record(s) relating to your personal information held by the Health Service Executive (HSE).

I have decided that the personal information contained in the record(s) to which your application refers is not judged to be incomplete/incorrect/misleading for the following reasons:

Sections 36(1) & 52(1) of the Act cover suitable and specific measures of processing and processing of special categories of personal data for purposes of Article 9(2)(h). I am satisfied that the HSE has met its legal requirements under the Act and is in compliance with the GDPR.

The weight of your argument is not sufficient to show that the data is inaccurate and requires to be corrected and I must therefore refuse your request to have the record amended.

If you are unhappy with this decision you may make a complaint in writing to the ***Office of the Data Protection Commission, 21 Fitzwilliam Square South, Dublin 2, D02 RD28.***

Yours sincerely,

**Name**

**Data Protection Decision Maker**

**Decision to grant access with redactions**

**Date**

*(Name and Address of Requester)*

**Re: General Data Protection Regulation (GDPR) & the Data Protection Acts 1988 to 2018**

Dear XXX

I refer to your request, received in this office on XXXX, made under Data Protection Legislation for access to records held by the Health Service Executive. I wish to advise that following consideration of the provisions of the above legislation, it has been decided to grant you access in part only to these records.

The purpose of this letter is to explain the reasons for this decision:

• 1

• 2

• ……

• …..

• …….

If you are unhappy with this decision you may make a complaint in writing to the ***Office of the Data Protection Commission, 21 Fitzwilliam Square South, Dublin 2, D02 RD28.***

Yours sincerely

**Name**

**Data Protection Decision Maker**

**Decision to grant full access to records**

**Date**

*(Name and Address of Requester)*

**Re: General Data Protection Regulation (GDPR) & the Data Protection Acts 1988 to 2018**

Dear XXX

I refer to your request, received in this office on XXXX, made under Data Protection Legislation for access to records held by the Health Service Executive. I wish to advise you that, following consideration of the provisions of the above legislation, it has been decided to grant your request in full to these records.

A copy of the records are enclosed herewith.

If you are unhappy with this decision you may make a complaint in writing to the office of the ***Office of the Data Protection Commission, 21 Fitzwilliam Square South, Dublin 2 D02 RD28.***

Yours sincerely

**Name**

**Data Protection Decision Maker**

**Decision to extend time period**

**Date**

*(Name and Address of Requester)*

**Re: General Data Protection Regulation (GDPR) & the Data Protection Acts 1988 to 2018**

Dear XXX

I refer to your request(s), received in this office on XXXX, made under Data Protection Legislation for access to records held by the Health Service Executive. Following consideration of the provisions of the above legislation, I wish to advise you that I require additional time to process your request(s).

This is due to [insert reason for delay] and I hope to issue my decision by [insert date].

Please do not hesitate to contact this office should you have any queries.

Yours sincerely

**Name**

**Data Protection Decision Maker**

**Decision to refuse access to records (**delete where Appropriate**)**

**Date**

*(Name and Address of Requester)*

**Re: General Data Protection Regulation (GDPR) & the Data Protection Acts 1988 to 2018**

Dear XXX

I refer to your request, received in this office on XXXX, made under Data Protection Legislation for access to records held by the Health Service Executive (HSE). Following consideration of the provisions of the above legislation, it has been decided to refuse you access to (some of) these records.

The purpose of this letter is to explain the reasons for this decision [*delete as appropriate*]:

**Unfounded or Excessive in particular because of repetitive character**

Article 12 (5) of the GDPR states that:

*‘Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either:*

* *charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or*
* *refuse to act on the request.’*

I am therefore refusing your request for access to any relevant personal data, which may be held by the HSE.

**Insufficient Information**

As you have not supplied sufficient information to enable me to:

* satisfy myself as to your identity

or

* locate any relevant personal data or information,

I am refusing your request for access to any relevant personal data, which may be held by the HSE.

**Not possible to supply copy/disproportionate effort**

I am unable to grant your request for access to personal data held by the HSE as the HSE does not hold any personal data relating to your request.

or

I am unable to supply you with a copy of personal data relating to you, which is held by the HSE due to the volume of the data involved and it would have a disproportionate effect on the resources of the HSE.

You may contact me at the above number to discuss this matter further.

**Previous request(s)**

I am refusing your request for access to personal data held by the HSE on the basis that a copy of all personal data relating to you was supplied to you on [insert date]

**Personal Data relating to other individuals**

Article 15.4. of GDPR states that:

*‘The right to obtain a copy referred to in paragraph 3 shall not adversely affect the rights and freedoms of others.’*

The specific records, identified as records X, Y, Z in the attached record schedule, contain personal data relating to another individual. I am refusing access to this specific data, as the individual that the data relates to has not consented to its disclosure to you.

I am also unable to omit sufficient particulars from this data to enable its disclosure to you without the identity of the other individual being revealed.

I am therefore refusing access to these specific records for the reasons outlined above.

**Information given in confidence**

Section 60(3)(b) of the D.P. Act 2018 states that:

*‘The personal data relating to the data subject consist of an expression of opinion about the data subject by another person given in confidence or on the understanding that it would be treated as confidential to a person who has a legitimate interest in receiving the information’*

*The specific records, identified as records X, Y, Z contain an expression of opinion about you that was given to the HSE*

* *In confidence*

***or***

* *on the understanding that it could be treated as confidential*

*I am therefore refusing access to these specific records as outlined above*

**Personal data relating to physical or mental health**

*Regulation 4 (1) of the Data Protection (Access Modification) (Health) Regulation, 1989 (as amended by the DP Act 2018) states that:*

*“Information constituting health data shall not be supplied by or on behalf of a data controller to the data subject concerned in response to a request under Article 15 of the Data Protection Regulation, if it would be likely to cause serious harm to the physical or mental health of the data subject, but this restriction on providing information applies only to the extent to which, and for so long as, that likelihood pertains..”*

The specific records, identified as records X, Y, Z, contain sensitive personal data which fall into the category as outlined above.

I am refusing to supply a copy of this data to you on the advice of a suitably qualified health professional.

**Social work data**

Regulation 4 (2) of the Data Protection (Access Modification) (Social Work) Regulations, 1989 (as amended by the DP Act 2018) states that:

*“Information constituting social work data shall not be supplied by or on behalf of a data controller to the data subject concerned in response to a request under Article 15 of the Data Protection Regulation, if it would be likely to cause serious harm to the physical or mental health or emotional condition of the data subject, but this restriction on providing information applies only to the extent to which, and for as long as, that likelihood pertains.”*

I am refusing to supply a copy of this data to you on the advice of a suitably qualified health professional.

**Restrictions on obligations of controllers and rights of data subjects for important objectives of general public interest**

Section 60 (1) of the Data Protection Act 2018 states that:

*“The rights and obligations provided for in Articles 12 to 22 and Article 34, and Article 5 in so far as any of its provisions correspond to the rights and obligations in Articles 12 to 22—*

* 1. *are restricted to the extent specified in subsection (3), and*
  2. *may be restricted in regulations made under subsections (5) or (6).”*

Subsection 3 of Section 60 provides that the rights and obligations referred to above are restricted where “

*“(a) the restrictions are necessary and proportionate—*

1. *to safeguard cabinet confidentiality, parliamentary privilege, national security, defence and the international relations of the State,*
2. *for the prevention, detection, investigation and prosecution of criminal offences and the execution of criminal penalties,*
3. *for the administration of any tax, duty or other money due or owing to the State or a local authority in any case in which the non-application of the restrictions concerned would be likely to prejudice the aforementioned administration,*
4. *in contemplation of or for the establishment, exercise or defence of, a legal claim, prospective legal claim, legal proceedings or prospective legal proceedings whether before a court, statutory tribunal, statutory body or an administrative or out-of-court procedure,*
5. *or the enforcement of civil law claims, including matters relating to any liability of a controller or processor in respect of damages, compensation or other liabilities or debts related to the claim, or for the purposes of estimating the amount of the liability of a controller on foot of a claim for the payment of a sum of money, whether in respect of damages or compensation, in any case in which the application of those rights or obligations would be likely to prejudice the commercial interests of the controller in relation to the claim*

I am therefore refusing your request as it is necessary to do so in the interest of XXXX outlined above.

**Legal Privilege**

Section 162 of the Data Protection Act 2018 states that

*The rights and obligations provided for in-*

1. *Articles 12 to 22 and 34 of the Data Protection Regulation (as well as Article 5 in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22), and*
2. *Sections 87, 90, 91, 92 and 93 and section 71, insofar as it relates to those sections,*

*do not apply-*

1. *to personal data processed for the purpose of seeking, receiving or giving legal advice,*
2. *to 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 his or her legal advisers or between those advisers, or*
3. *where the exercise of such rights or performance of such obligations would constitute a contempt of court.*

I am therefore refusing your request as it is necessary to do so as the records you have requested fall into category XXXX as outlined above.

**Rights to appeal**

If you are unhappy with this decision you may make a complaint in writing to the **Office of the Data Protection Commission, *21 Fitzwilliam Square South, Dublin 2, D02RD28***. This will involve an independent investigation of the matter by the Data Protection Commission.

Yours sincerely

**Name**

**Data Protection Decision Maker**