



## Access to your Personal Data

This fact sheet is intended for the *data subject*, i.e. the individual whose personal data is being used.

THIS FACT SHEET WILL ANSWER THE FOLLOWING QUESTIONS:

What does the right to access entail?

How should requests for access be submitted?

What is the scope of a data subject's right to access?

Under which conditions will you gain access?

In what cases may the controller refuse your request for access?

How may a controller deal with your request for access in practice?

What can you do if you want to know more or have a complaint?

Which other rights do you have?

Perhaps you regularly receive mail from companies that you are unfamiliar with and would like to know which data these companies have that relate to you. Or perhaps you would like to know which information is held in your employee file. Or perhaps your child is at primary school and you would like to have access to his/her pupil file. Under the Wet bescherming persoonsgegevens (Wbp) [Dutch Data Protection Act], you are entitled to access to all the data collected that relate to you or your child.

### The right to access

You may ask a company or institution (hereinafter: organisation) whether it is collecting and recording any of your personal data, and if so, which. The organisation must respond to your request in writing or by e-mail within a period of four weeks. You are not obliged to indicate why you wish to have access to your data. To make a request for access, you can use the *modelbrief* [model letter] of the Dutch Data Protection Authority (Dutch DPA) [College bescherming persoonsgegevens (CBP)]. If you request access to your data, an organisation must inform you in a clear and comprehensible manner which data is being used, the purpose for which it is being used and to which parties, if any, your data has been disclosed. Where possible, the organisation must also inform you where it obtained your data.

An organisation can charge you for the costs from handling your request for access. When providing copies of a document a fee per page of €0,23 can be charged with a maximum of €4,50. This fee is laid down by law in the *Besluit kostenvergoeding rechten betrokkene Wbp* [Individual Reimbursement Decree with the Wbp].

Besides the Wbp also the Wet op de geneeskundige behandelingsovereenkomst (Wgbo) [Medical Treatment Contracts Act] can apply when requesting access to your medical record. More information on the right to access, as laid down in the Wgbo, can be found in the fact sheet *Your rights as a patient* [Uw rechten als patiënt].

### How to submit requests for access

In practice, where requests for access are to be submitted to a government body, these must be made in writing or by e-mail. It is advisable that the same approach be adopted for all other types of organisation. After all, if your request for access is refused (in part) and you wish to take the case to a court of law, you will be expected to demonstrate the steps you have undertaken. This also applies if you ask the Dutch DPA to mediate on your behalf. For information on mediation by the Dutch DPA, please see the fact sheet entitled *Mediation by the Dutch DPA in Respect of Your Data* [Bemiddeling door het CBP inzake uw gegevens].

### The scope of the right to access

Your right to access to your data, provided for under the Wbp, extends solely to access to your own data. If the controller uses personal working notes as a reminder, these notes do not fall within the scope of the right to access. However, if these notes are subsequently added to a file or disclosed to third parties, you will be entitled to access to these notes, too. Under the Wbp, you are not generally entitled to information pertaining to other data subjects. For more information, please see the fact sheet entitled *The Disclosure of Your Personal Data* [Verstrekken van uw persoonsgegevens].

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The titles in italics are also available on [www.cbppweb.nl](http://www.cbppweb.nl).

### **Conditions applicable to access**

Obtaining access is subject to the following conditions:

1. The organisation must be able to establish that you are the person to whom the personal data pertains. This is to prevent others from accessing your data by using your name. Your identity can be established on the basis of a driving licence, passport or other identity document.
2. You will only be able to submit a request for access if you are older than 16 and have not been placed under guardianship. Where you are unable to submit a request for access yourself, the request must be made by your legal representative (a parent, for example) and the response should be addressed to that representative.

### **Reasons for refusal**

An organisation may refuse to comply with your request for access in the following four cases:

1. in order to prevent, detect and prosecute criminal offences. For example, the Social Security Fraud Department or a private detective agency may refuse access in the interest of the investigation;
2. in case of weighty economic and financial interests on the part of the state and other public bodies;
3. in order to supervise compliance with statutory regulations laid down to enable the detection and prosecution of criminal offences or to safeguard weighty economic and financial interests on the part of the state and other public bodies;
4. if this is necessary for the protection of rights and freedoms of other parties, including the organisation's. An organisation may invoke this ground if he can demonstrate that the administrative burden on his part will be increased to such an extent as to affect or threaten to affect his rights and freedoms.

An organisation must be able to substantiate a refusal. He must be able to demonstrate that the matter was given careful consideration. This means that he must balance your interest and rights against his own interest when refusing a request for access.

### **Practical effects of right to access**

An organisation may:

- provide you with copies of all documents pertaining to you, where paper files are concerned. In principle, these include reports of meetings and (telephone) notes that concern the establishment and implementation of a (contractual) relationship between you and an organisation, since these documents may contribute to the way in which you are assessed or treated in social and economic life;
- give you a clear paper overview/printout of the data in the case of automated processing, i.e. digital files. If no such overview is provided, you will be entitled to access to the electronic form, which you can use to make printouts yourself. Listening to recorded telephone conversations may also fall within the right to access. The overview should enable you in any case to exercise the right of correction. For information on the right of correction, please see the fact sheet entitled *The Correction of Your Personal Data* [Correctie van uw persoonsgegevens];
- ask you to make your request for access more specific if he has a considerable quantity of information on you;
- in highly exceptional cases, ask you to inspect your file in situ. This would apply, for example, in cases where a file is very extensive and copying would take a disproportionate amount of time and effort;
- refuse you access to part of your data. This may be necessary, for example, in order to safeguard information about another person contained in a social services' file held on you. If this person is likely to object to the provision of access to you, the organisation must give this individual the opportunity to state his views before allowing access;
- initially refuse to provide you with copies that are already in your possession. This may concern copies of agreements and copies of correspondence, for example. In that case, the organisation may restrict itself to providing a list of the documents contained in the file. However, if you indicate that you still wish to have a copy, this copy should be provided to you after all;
- grant you access to your file on situ only, in the event that you request access to a police register. This has been provided for by law. For more information, see the fact sheet entitled *Uw gegevens bij de politie* [Your Data Held by the Police].

### **If you have any questions or complaints**

Your first course of action should always be to contact the organisation itself about your questions or complaints. Where you are unable to resolve these together, you may ask the Dutch DPA to mediate on your behalf or to investigate your complaint. For more information, please see the fact sheets *Mediation by the Dutch DPA in Respect of Your Data* [Bemiddeling door het CBP inzake uw gegevens] and *Your Complaint and the Dutch DPA* [Uw klacht

en het CBP]. If a government body refuses (in part) to comply with your request for access or fails to respond in time, you may file an objection or lodge an appeal with that government body. The government body is obliged to inform you in this respect.

### **Your other rights**

In addition to your right to access, you are entitled to request that an organisation supplements, corrects, erases or blocks your personal data (this is known as the right of correction) and to raise an objection. For more information on exercising these rights , please see the fact sheet entitled *Data Subjects and their Rights* [Rechten van de betrokkene].