

e-Portfolio Activity – GDPR Case Studies

URL : <https://dataprotection.ie/en/pre-gdpr/case-studies>

My Case Study : The importance of data controllers having appropriate mechanisms in place to respond to access requests and document compliance.

Background

A complaint from a person whose information was asked for, saying that eir didn't fully comply with an access request. The complainant told us that eir sent him "a bunch of random pages of information with no explanation of what was on them" in response to his request for access.

During the investigation, they found that eir was actually trying to use some legal exceptions to the right of access. But in its answer to the requester's request for access, it didn't say anything about the fact that it had kept some personal information from him. Only when they were talking to eir about their investigation, about five months after eir got the access request, did they tell us that they weren't giving us personal information because of exemptions. They also gave us a list of the exemptions they were relying on.

During our investigation, we also found out that eir didn't keep a copy of the personal information it gave to the complainant, so it couldn't tell what information had been given to the complainant. Because eir didn't keep track of what personal data had been released, it couldn't tell what personal data had been kept back or not given, either because of an exemption in the Data Protection Acts of 1988 and 2003 or for other reasons.

They told eir it would be difficult for them to clarify their purported application of a statutory exemption to this access request because they weren't sure what personal data had been provided to the complainant. They told eir to re-start the access request process. We asked eir to:

While the complainant in this case withdrew his complaint against eir, the investigation highlighted the importance of data controllers having adequate organisational and operational mechanisms to comply with their statutory obligations regarding access requests. Equally important is a data controller's

ability to post-facto demonstrate compliance with its obligations (when required by the DPC, such as in a complaint). A data controller must justify statutory exemptions used to deny access to personal data. Data controllers should have appropriate record keeping systems and processes in place to justify their position on a data subject's right request. These mechanisms should let them track and produce copies of any correspondence with a data subject regarding an access request or other data protection right.

This case study shows that a person's right to access personal data is not limited to accessing the data. It's also about giving the data subject enough, meaningful information so they can understand what personal data is processed about them, when, and why. In this case, the bundle of unexplained documents provided in response to the access request did not meet the minimum requirements applicable to eir as a data controller under Section 4 of the Data Protection Acts 1988 and 2003, causing confusion for the data subject and prompting a complaint to the DPC.