

Data Protection - subject access requests, where a suspicion report has been made

- 6.90 Occasionally, a subject access request¹ under the data protection legislation will include within its scope one or more money laundering/terrorist financing reports which have been submitted in relation to that customer. Although it might be instinctively assumed that to avoid tipping off there can be no question of ever including this information when responding to the customer, an automatic assumption to that effect must not be made, even though in practice it will only rarely be decided that it is appropriate to include it. However, all such requests must be carefully considered on their merits in line with the principles below.
- 6.91 Data protection in the UK is governed primarily by the UK General Data Protection Regulation (GDPR) and the Data Protection Act 2018 as amended by the Data (Use and Access) Act 2025.
- 6.92 An individual is generally entitled to obtain from a (data) controller:
- confirmation that the controller is processing their personal data; and if so
 - be given a description of that data, the purposes for which it is being processed and to whom it is or may be disclosed; and
 - have communicated to them in an accessible and understandable form all the information that constitutes their personal data and any information available to the controller as to the source of that data.
- 6.93 Personal data is exempt from disclosure to the extent that disclosure would be likely to prejudice the prevention or detection of crime or the apprehension or prosecution of offenders.
- 6.94 Each subject access request must be considered on its own merits in determining whether, in a particular case, the disclosure of a suspicion report is likely to prejudice an investigation and, consequently, constitute a tipping-off offence. In determining whether an exemption applies, it is legitimate to take account of the fact that although the disclosure does not, in itself, provide clear evidence of criminal conduct when viewed in isolation, it might ultimately form part of a larger jigsaw of evidence in relation to a particular crime (although a firm may not have visibility of this). It is also legitimate to take account generally of the confidential nature of suspicion reports when considering whether or not exemptions might apply.
- 6.95 Exemptions² from disclosure include, but are not limited to, cases involving the suspicion of money laundering or terrorist financing (including disclosures made in terms of the Proceeds of Crime Act and the Terrorism Act). To guard against the tipping-off offence, nominated officers should ensure that no information relating to a suspicion report is released without the nominated officer's authorisation. Further consideration may need to be given to suspicion reports received internally that have not been submitted to the NCA. A record should be kept of the steps that have been taken in determining whether disclosure of a report would involve tipping off and/or the availability of exemptions.

¹ Also known as a 'data subject request' or 'right to access'

² Data Protection Act 2018 Schedule 2

- 6.96 Where a firm withholds a piece of information in reliance on an exemption, it is not obliged to tell the individual that any information has been withheld, where doing so would itself be likely to prejudice an investigation or constitute a tipping-off offence. The information in question can simply be omitted and no reference made to it when responding to the individual who has made the request.
- 6.97 In cases where the fact that a disclosure had been made had previously been reported in legal proceedings, or in a previous investigation, and the full contents of such disclosure had been revealed, that may be a relevant factor when considering whether an exemption applies. However, caution should be exercised as often the disclosure would have been limited strictly to matters relevant to those proceedings, and firms should still assess whether a disclosure would be likely to prejudice the prevention or detection of crime or the apprehension or prosecution of offenders.
- 6.98 Firms should bear in mind that subject access requests must be responded to within one month, although an extension is possible.
- 6.99 The timing of enquiries to the NCA, or any other party, to obtain further information, or for guidance on whether disclosure would be likely to prejudice an investigation, should be made with this deadline in mind.