

Enforced subject access requests

Guidance for people with convictions

This information is written for people with convictions. [More detailed guidance is available on our Hub here.](#)

We have [separate guidance](#) which is written for employers and organisations.

Introduction

This short guide explains a process known as 'enforced subject access', which is where another individual or organisation (for example, an employer) requires you to provide a copy of your police record. This became a criminal offence on the **10th March 2015**. This guide explains what to do if you think somebody is attempting to do an 'enforced subject access'. The guide does not go into detail about how the legislation works, as this is covered in [guidance by the Information Commissioners Office \(ICO\)](#).

What is 'enforced subject access'?

- This is where you are being required to provide a copy of your police record (either from the Police National Computer (PNC) or from local police records) to another individual or organisation.
- This 'right of access' is something only you as an individual have for yourself – this can be done through what's known as a '[subject access' request](#)' from the Police.
- Others, such as employers and insurers, are not legally allowed to *require* you to provide a copy of your police record. This is now a criminal offence under section 56 of the Data Protection Act 1998.

However, it's important to note that a 'police record' is different to a criminal record check. Most criminal record checks are done by Disclosure Scotland (basic level checks) and the Disclosure and Barring Service (standard and enhanced level checks), and the level of check that an employer can/might carry out depends on the specific role. An employer that cannot require you to provide a copy of your police record will still be able to ask (or apply for) a copy of your criminal record from the above organisations.

Examples of enforced subject access

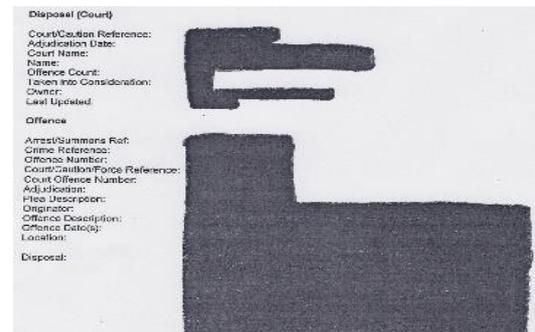
Below are a couple of examples of what would be regarded as an 'enforced subject access':

You are applying for a job in a hotel. You are told to provide a copy of your police record via a subject access request before your appointment can be confirmed. This would be regarded as an enforced subject access request. The employer would be able to carry out a basic disclosure check instead.

You have put your name forward to go on a TV game show. As part of the application process, you're told that you have to provide a 'clean' criminal record by getting a copy of your police record. This would be regarded as an enforced subject access request if carried out.

Why this is important

Your police record contains very personal information. It can include cautions or convictions that might not otherwise come back on a basic, standard or enhanced criminal record check. A copy of your local police records can also include allegations made against you, as well as personal details from when you've been arrested, such as your height and any distinctive markings you had.



Example of a subject access

There have been many examples where employers, volunteer recruiters, insurers, colleges, universities and housing associations have been found to be using 'subject access' as a way of getting around the regulations that apply for undertaking a criminal record check.

How the law works

Section 56(1) of the Data Protection Act 1998 states:

*'(1) A person must not, in connection with—
(a) the recruitment of another person as an employee,
(b) the continued employment of another person, or
(c) any contract for the provision of services to him by another person,
require that other person or a third party to supply him with a relevant record or to produce a relevant record to him.'*

This subsection makes it a criminal offence for a person (this can include employers and organisations) to require an individual to make a subject access request for a copy of their police record (or other records).

What to do if you suspect an 'enforced subject access'?

This will depend on your individual case. You first need to make sure that the situation falls under the remit of an 'enforced subject access'. To help with this, you should read this guidance, and the guidance of the ICO. If you're not sure, you can seek advice from our helpline, where we can advise on what to do next.

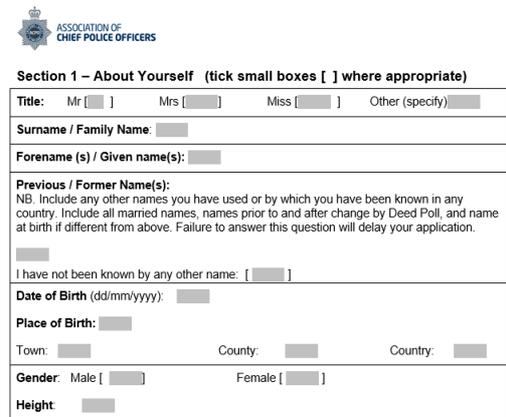
In practice, the individual/organisation guilty of 'enforced subject access' will need to be challenged. This can sometimes be difficult to do as an individual, which is why we're working closely with the ICO to highlight examples and take action in specific cases. The ICO has indicated that it intends to prosecute those who continue to make enforced subject access requests, and you can contact them for advice.

If you see any examples of enforced subject access, please let us know.

When might 'subject access' be useful?

It's important to note that your rights under the Data Protection Act to access your police records can be very useful, particularly if you are applying for a job that involves a standard or enhanced check, as you can't currently get your own copy of one of these before applying for specific jobs.

For £10, you can apply to your local police force, or through ACPO, and you'll be provided with a copy of either your printout from the PNC, or a copy of your local records (depending on what you ask for – you can often ask for both in one request). It can take up to 40 working days, but often it's done quite quickly.



ASSOCIATION OF CHIEF POLICE OFFICERS

Section 1 – About Yourself (tick small boxes [] where appropriate)

Title:	Mr []	Mrs []	Miss []	Other (specify) []
Surname / Family Name: []				
Forename (s) / Given name(s): []				
Previous / Former Name(s): NB. Include any other names you have used or by which you have been known in any country. Include all married names, names prior to and after change by Deed Poll, and name at birth if different from above. Failure to answer this question will delay your application.				
I have not been known by any other name: []				
Date of Birth (dd/mm/yyyy): []				
Place of Birth: []				
Town:	[]	County:	[]	Country:
Gender:	Male []	Female []		
Height: []				

ACRO application for subject access

Further information

This is only a brief guide for people with convictions. For more information, [search for 'enforced subject access' on our self-help information site, hub.unlock.org.uk.](#)

We have worked with the ICO, who have produced their own guidance on enforced subject access requests. They are the body that is responsible for taking action against those suspected to have breached section 56. [You can view their guidance here.](#)

If you want to apply for a copy of your own police records, you can find out more information by [searching for 'police records' on hub.unlock.org.uk.](#)

About this information

This document was first published in March 2015. The information may have since been amended or updated. Latest versions are available through searching for 'enforced subject access requests' on hub.unlock.org.uk.

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Feedback?

If you plan to use this information, please [let us know how you get on](#). This helps us when we're providing advice to others in similar situations. Also, if you've got a suggestion, found a broken link, or have a personal experience that would help to add a 'real-life' example to this information, please contact us.

Contact us

Helpline - Confidential peer advice on overcoming the effects of criminal convictions

Call: 01634 247350 – Monday to Friday, 10am to 4pm

Text: 07824 113848

Email: advice@unlock.org.uk

Visit: hub.unlock.org.uk for self-help information

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Visit www.unlock.org.uk for more information.

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