

Data Subject Rights Policy and Procedure



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1. Purpose

- 1.1 The responsibilities of the Birmingham Organising Committee for the 2022 Commonwealth Games limited (“Birmingham 2022”) to individuals (data subjects) under the data protection legislation are detailed within this policy. The data protection legislation includes; the General Data Protection Regulation (EU) 2016/679 (GDPR), the Data Protection Act 2018 (DPA), and the Privacy and Electronic Communications Regulations (EC Directive) 2003 (PECR).
- 1.2 This policy aims to establish processes and provide guidance to Birmingham 2022 employees when handling individuals’ rights and requests under data protection legislation.
- 1.3 This policy is issued in conjunction with Birmingham 2022’s Confidentiality and Data Protection Policy and should be read alongside that document.

2. Scope

- 2.1 This policy applies to all persons working for Birmingham 2022 or on its behalf in any capacity (for example: employees, secondees, consultants, service providers etc), wherever located. It is available to all employees via SharePoint or can be sourced directly from the Compliance Manager.
- 2.2 This policy covers all personal information held and processed by, or on behalf of Birmingham 2022, regardless of the format in which it is held. Such formats may include information held, manually or on paper, in audio or visual format, electronically, including via email, and in information systems managed or used by Birmingham 2022 and any suppliers (data processors) acting on behalf of Birmingham 2022.

3. Introduction

- 3.1 The data protection legislation provides individuals (data subjects) with specific rights relating to the use of their personal data. These rights aim to provide individuals with greater control and autonomy over the use of their personal data.
- 3.2 Under data protection legislation, individuals have the following rights, each of which shall be considered in turn:
 - the right to be informed;
 - the right of access (also known as a subject access request);
 - the right of rectification;
 - the right to erasure (also known as the right to be forgotten);
 - the right to restrict processing;
 - the right to data portability;
 - the right to object to processing (including for direct marketing); and
 - rights in relation to automated decision making and profiling.

3.3 Birmingham 2022 takes its responsibilities with respect to an individual's rights under the data protection legislation very seriously. Failure to comply with these rights could result in Birmingham 2022 receiving a fine of up to €20 million, or 4% of the organisation's annual turnover, whichever is the higher amount.

4. Common conditions applying to specific rights

4.1 The conditions laid out in points 4.2 to 4.9 below, apply to requests made by individuals to exercise the following rights:

- the right of access (also known as a subject access request);
- the right of rectification;
- the right to erasure (also known as the right to be forgotten);
- the right to restrict processing;
- the right to data portability;
- the right to object to processing.

4.2 An individual can make a request verbally (i.e. in person or by telephone) or in writing. It can also be made to any part of the organisation (including by social media) and does not have to be made to a specific person or contact point. If the request is made verbally then a log must be made of the requester's name, the nature of the request, their contact details and the date of the request. For the request to be actioned, sufficient information must be provided by the individual to be able to correctly identify them, and Birmingham 2022 must also hold information relating to the individual.

4.3 If there are any doubts about the identity of the person making the request Birmingham 2022 is entitled to ask for more information to confirm the individual's identity. The individual must be informed as soon as possible if more information is required from them. The period for responding to the request begins when any required additional information is received.

4.4 Requests may be made by persons acting on behalf of the individual, either with their express permission or with the appropriate legal authority. Often, this will be a solicitor acting on behalf of a client, but it could simply be that an individual feels more comfortable allowing someone else to act for them on their behalf. In these cases, Birmingham 2022 must be satisfied that the third party making the request is entitled to act on behalf of the individual. It is the third party's responsibility to provide evidence of this entitlement. This might be a written authority to make the request or it might be a more general power of attorney.

4.5 There are cases where an individual does not have the mental capacity to manage their own affairs. Although there are no specific provisions in the GDPR, the Mental Capacity Act 2005 or in the Adults with Incapacity (Scotland) Act 2000 enabling a third party to exercise rights on behalf of such an individual, it is reasonable to assume that an attorney with authority to manage the property and

affairs of an individual will have the appropriate authority. The same applies to a person appointed to make decisions about such matters:

- in England and Wales, by the Court of Protection;
 - in Scotland, by the Sheriff Court; and
 - in Northern Ireland, by the High Court (Office of Care and Protection).
- 4.6 In most cases, Birmingham 2022 cannot charge a fee to comply with an individual's request, unless it is considered to be 'manifestly unfounded' or 'excessive' in nature, in which case Birmingham 2022 may charge a "reasonable fee" for the administrative costs of complying with the request. The individual should be contacted promptly and informed if a fee is to be charged. The request does not need to be complied with until the fee has been received, where applicable. Alternatively, Birmingham 2022 can refuse to comply with a manifestly unfounded or excessive request. The website of the Information Commissioner's Office provides further details of what constitutes manifestly unfounded and excessive requests (see www.ico.org.uk).
- 4.7 Requests must be processed without undue delay and within one calendar month of receipt of the request (whether it is received on a working day or not). However, the time limit may be extended to a further month if:
- it has been necessary to clarify the request;
 - it has been necessary to confirm the requester's identity;
 - if a fee has been charged (fees can only be charged in limited circumstances).
- 4.8 The time limit can be extended by a further two months if the request is complex or if there have been a number of requests received from the same individual. Individuals must be informed of any decision to extend the time period within one month of receiving their request and an explanation of why the extension is necessary must also be provided.
- 4.9 If Birmingham 2022 is unable to comply with a request, the individual making the request must be informed without undue delay and within one month of receipt of the request. They should be notified of:
- the reasons why the request is not being complied with;
 - their right to make a complaint to the ICO or another supervisory authority; and
 - their ability to seek to enforce this right through a judicial remedy.

This information should also be provided if a reasonable fee is requested or if additional information is required to identify the individual.

5. The right to be informed

- 5.1 Articles 13 and 14 of GDPR give individuals the right to be informed about the collection and use of their personal data at the time their personal data is collected from them.
- 5.2 Individuals have the right to be informed as to how their personal data is collected, the purpose for processing their personal data, how long their data will be kept (the retention period), and who their data will be shared with.
- 5.3 This information must be provided using concise, plain, transparent and clear language, and be easily identifiable and accessible to individuals.
- 5.4 Birmingham 2022 demonstrates compliance with this right via its various privacy notices. At present the following four privacy notices are in place;
- **website privacy notice** – this notice informs website users how personal data collected via the website is used, for instance when people provide Birmingham 2022 with their contact information in order to volunteer or to receive marketing data;
 - **cookie notice** – this notice provides information about Birmingham 2022’s use of cookies and analytics tools on the website;
 - **applicant privacy notice** – this notice informs job applicants about how Birmingham 2022 uses their data during the recruitment process;
 - **employee privacy notice** – this notice informs employees how their personal data is used to provide services such as payroll and HR services.
- 5.5 Privacy notices are subject to change and will be reviewed annually, or sooner if there are significant changes to the way in which personal data is used. If employees think that any of Birmingham 2022’s privacy notices require updating, or if additional privacy notices are required, they must contact the Compliance Manager who will undertake any such amendments.
- 5.6 There are exceptions to the right to be informed. When collecting personal data from individuals, they do not need to be provided with any information that those individuals already have. Also, when obtaining personal data from other sources, individuals do not need to be provided with privacy information if:
- the individual already has the information;
 - providing the information to the individual would be impossible;
 - providing the information to the individual would involve a disproportionate effort (to determine this involves balancing the difficulty of providing the information against the potential impact it could have on the individual not providing it);
 - providing the information to the individual would render impossible or seriously impair the achievement of the objectives of the processing;
 - Birmingham 2022 is required by law to obtain or disclose the personal data; or
 - Birmingham 2022 is subject to an obligation of professional secrecy regulated by law that covers the personal data.

6. The right of access

6.1 Article 15 of GDPR gives individuals the right to access their personal data. When individuals exercise this right, it is commonly referred to as a subject access request (SAR). The right of access helps individuals to understand how and why organisations are using their personal data, and to check it is being processed lawfully.

6.2 The right of access provides individuals with the right to obtain the following:

- confirmation that their personal data is being processed;
- a copy of their personal data; and
- other supplementary information – this largely corresponds to the information that is provided in a privacy notice. This includes:
 - the purposes for processing their personal data;
 - the categories of their personal data;
 - the recipients or categories of recipient of their personal data;
 - the retention period for storing their personal data or, where this is not possible, the criteria for determining how long it will be stored;
 - the existence of an individual's right to request rectification, erasure or restriction or to object to such processing;
 - the right to lodge a complaint with the ICO or another supervisory authority;
 - information about the source of the data, where it was not obtained directly from the individual;
 - the existence of automated decision-making (including profiling); and
 - the safeguards to protect the personal data if it is transferred to a third country or international organisation.

6.3 An individual is only entitled to their own personal data, and not to information relating to other people (unless the information is also about them or they are acting on behalf of someone).

6.4 It is unlikely that Birmingham 2022 will hold personal information relating to children, however it should be noted that children can also make subject access requests on their own behalf. Before responding to a subject access request for information held about a child, the Chief Legal Officer will consider whether the child is mature enough to understand their rights, taking into account a number of considerations. If so, then the response will be made directly to the child. Parents may also be allowed to exercise the child's rights on their behalf if the child authorises this, or if it is evident that this is in the best interests of the child.

6.5 A request does not have to include the phrase 'subject access request' or refer to 'Article 15 of the GDPR', as long as it is clear that the individual is asking for access to their own personal data.

6.6 Subject access requests must be passed immediately to the Compliance Manager, or in her absence, to the Chief Legal Officer.

- 6.7 It is not necessary for subject access requests to be made in writing. However, Recital 59 of the GDPR recommends that organisations ‘provide means for requests to be made electronically, especially where personal data are processed by electronic means’. A subject access request form has therefore been developed (provided at Appendix A) and individuals can be invited to complete and submit this form electronically to: dp@Birmingham2022.com . Use of this form is not compulsory but using the form makes it easier for individuals to provide sufficient information for Birmingham 2022 to be able to identify them and to reference all of the necessary information required to locate the information they are seeking.
- 6.8 If an individual makes a request in writing without using the form provided at Appendix A, the request must still be complied with as long as it meets the standard required to be a valid subject access request.
- 6.9 Further to point 6.7, if an individual makes a request electronically, the response should be provided in a commonly used electronic format, unless the individual requests otherwise. Anything that is not intelligible, such as handwritten notes or codes, should be made legible (e.g. typed) or deciphered.
- 6.10 If the data subject has declared that they have a disability it will be necessary to consider the most appropriate format for disclosure of the information, for instance they may require a copy of their data be provided in Braille or in an audio format.
- 6.11 If a large amount of information about an individual is being processed, more information can be requested from that individual to clarify what personal information they may require and where it might be held. The individual must be informed as soon as possible that more information is required from them. The period for responding to the request begins when any additional information is received.
- 6.12 If an individual refuses to provide any additional information, Birmingham 2022 must still endeavour to comply with their request by making reasonable searches for the information covered by the request.
- 6.13 In most cases a fee cannot be charged in order to comply with a subject access request, unless it is considered to be ‘manifestly unfounded’ or ‘excessive’ in nature. However, we can charge a reasonable fee if an individual requests further copies of their data following an initial subject access request.
- 6.14 The information that must be disclosed in response to a subject access request is the data subject’s own personal data and so before a response is made to a data subject access request, the following must be undertaken:
- a) An investigation as to whether the individual’s personal data is held by Birmingham 2022.
 - b) An assessment of whether an exemption applies (see point 6.18 below).

- c) An assessment of whether the information to be disclosed contains the personal data of someone other than the requester. If it does, the information can be disclosed if the other individual has consented to the disclosure of their information; or it is reasonable to comply with the request without that individual's consent. If consent is refused, the relevant information should be redacted. If, despite redaction, it is still possible to determine the other person's identity it may be necessary to redact more information or withhold certain documents entirely, or if it is not possible to obtain the other person's consent, but it would be reasonable in the circumstances to disclose the other person's personal data, then the data may be disclosed. To do so, the following factors should be considered: whether the information is confidential; how sensitive the information is; how likely it is that the other person will suffer damage and/or distress if the information were to be disclosed; if the data subject already knows the identity of the other person.
- d) An exercise to extract data from documents which are not specifically related to the individual. For example, if an individual is referred to in an email chain, or meeting minutes, Birmingham 2022 only needs to disclose the section of the document that references the individual's personal data. This can be achieved either by redacting (i.e. blanking out) the information that is not relevant, or by extracting the personal data into a new document. It is important to not disclose whole documents/emails that contain information that is not personal data as they may contain data that is confidential to Birmingham 2022.

6.15 In keeping with Birmingham 2022's Archiving and Retention Policy, a copy of all information disclosed in response to a subject access request must be retained until August 2022. At this point, all subject access requests will be disposed of securely.

6.16 If Birmingham 2022 does not hold personal data about the individual or does not hold the personal data that was requested, the individual should be informed of this as soon as possible.

6.17 Birmingham 2022 can refuse to comply with a subject access request if:

- an exemption applies (see 6.18 below) - If an exemption applies Birmingham 2022 are required to tell the requester that some personal information being processed is subject to an exemption and to inform them which exemptions apply;
- it is manifestly unfounded;
- it is excessive;
- it would mean disclosing information about another individual who can be identified from that information, except if the other individual has consented to the disclosure; or it is reasonable to comply with the request without that individual's consent. (See point 6.14 above)

6.18 The following is a list of possible exemptions that may apply to subject access requests made to Birmingham 2022. The Information Commissioner's Office website provides further details of additional exemptions under GDPR and DPA 2018 at www.ico.org.uk;

- References provided in confidence
- Crime and taxation
- Legal professional privilege
- Information to be disclosed by law or in connection with legal proceedings
- Management forecasts
- Negotiations
- Protection of the rights of others (Schedule 2 part 3, DPA 2018)
- National security (Part 2, Chapter 3, DPA 2018)

7. The right of rectification

- 7.1 Article 16 of the GDPR and section 46 of DPA 2018 includes a right for individuals to have inaccurate personal data rectified. For instance, if an employee moves address or changes their name, they have the right to have their personal details which Birmingham 2022 holds about them amended to ensure the data is accurate. An individual may also be able to have incomplete personal data completed – although this will depend on the purposes for the processing.
- 7.2 The Data Protection Act 2018 (DPA 2018) states that personal data is inaccurate if it is incorrect or misleading as to any matter of fact.
- 7.3 A request to rectify personal data does not need to mention the phrase ‘request for rectification’ or ‘Article 16 of the GDPR’ to be a valid request. As long as the individual has challenged the accuracy of their data and has asked for it to be corrected or has asked that Birmingham 2022 takes steps to complete data held about them that is incomplete, this will be a valid request under Article 16.
- 7.4 Most routine requests for personal data to be rectified can be completed by the functional area holding the personal data. Changes to current employee data can be made by the employee themselves using Employee Self Service (ESS). Any requests from individuals wanting to exercise their right of rectification which are deemed to be contentious must immediately be sent to the Compliance Manager, or the Chief Legal Officer in her absence.
- 7.5 Account must be taken of any argument or evidence presented by the individual relating to the change of their personal details. Some changes to personal data require documentary evidence before the changes can be implemented. For instance, a change in name must be supported by appropriate documentation such as a marriage certificate or change of name deed.
- 7.6 The more important it is that the personal data is accurate, the greater the effort which should be made into checking its accuracy and, if necessary, taking steps to rectify it. For example, a greater effort should be made to rectify inaccurate personal data if it is used to make significant decisions that will affect the individual.

- 7.7 Article 18 of GDPR provides an individual with the right to request restriction of the processing of their personal data where they contest its accuracy and where the data is being checked for accuracy. Birmingham 2022 will therefore restrict the processing of personal data whilst verifying its accuracy, whether or not the individual has exercised their right to restriction.
- 7.8 Following the checking process, if the personal data is found to be inaccurate the data will be rectified and confirmation will be sent to the individual that the data has been amended.
- 7.9 If the personal data has been disclosed to others, the recipients must be informed of the rectification or completion of the personal data - unless this proves impossible or involves disproportionate effort. If asked to, Birmingham 2022 must also inform the individual about these recipients. The GDPR defines a recipient as a natural or legal person, public authority, agency or other body to which the personal data are disclosed. The definition includes controllers, processors and persons who, under the direct authority of the controller or processor, are authorised to process personal data.
- 7.10 Where information systems permit, Birmingham 2022 will note on the system that the individual has challenged the accuracy of their data and their reasons for this.
- 7.11 If the personal data is deemed to be accurate, the individual will be informed that Birmingham 2022 will not be amending the personal data which it holds about them. The decision of Birmingham 2022 will be explained, and the individual will be notified of their right to make a complaint to the Information Commissioner's Office or another supervisory authority and enforce their rights through a judicial remedy.
- 7.12 Birmingham 2022 can also refuse to comply with a request for rectification if:
- an exemption applies under GDPR or DPA 2018;
 - it is manifestly unfounded; or
 - it is excessive.

8. The right of erasure

- 8.1 Under Article 17 of the GDPR, individuals have the right to have the personal data which Birmingham 2022 holds about them erased. This is also known as the 'right to be forgotten'. This right is not absolute and only applies in certain circumstances. A request does not have to include the phrase 'request for erasure' or 'Article 17 of the GDPR' to be considered valid.
- 8.2 Individuals have the right to have their personal data erased if:
- the personal data is no longer necessary for the purpose which it was originally collected or processed for;

- consent as the lawful basis for holding the data, and the individual withdraws their consent;
- legitimate interests are the lawful basis for processing the data, the individual objects to the processing of their data, and there is no overriding legitimate interest to continue this processing;
- the personal data is being processed for direct marketing purposes and the individual objects to that processing;
- the personal data has been processed unlawfully (i.e. in breach of the lawfulness requirement of GDPR);
- the personal data should be erased to comply with a legal obligation; or
- the personal data has been processed to offer information society services (i.e. online services) to a child.

8.3 The request will be deemed valid if sufficient information is provided by the individual to be able to correctly identify them, if Birmingham 2022 holds information relating to the individual and as long as one of the conditions listed at point 8.2 applies.

8.4 If a valid erasure request is received and no exemption applies, then Birmingham 2022 will be required to take steps to ensure erasure from backup systems as well as live systems. The IT Department can provide further assistance in this matter.

8.5 If the data to be erased has already been disclosed to other parties, Birmingham 2022 must contact each recipient and inform them of the erasure, unless this proves impossible or involves disproportionate effort.

8.6 Where personal data has been made public in an online environment (for example on social networks, forums or websites) reasonable steps should be taken to inform other controllers who are processing the personal data to erase links to, copies or replication of that data. When deciding what steps are reasonable, the cost of implementation and available technology should be taken into account.

8.7 Birmingham 2022 can refuse to comply with a request for erasure if:

- an exemption applies under GDPR or DPA 2018 (see points 8.8 and 8.9 below);
- it is manifestly unfounded; or
- it is excessive.

8.8 The right to erasure does not apply to personal data if processing is necessary for one of the following reasons:

- to exercise the right of freedom of expression and information;
- to comply with a legal obligation;
- for the performance of a task carried out in the public interest or in the exercise of official authority;
- for archiving purposes in the public interest, scientific research, historical research or statistical purposes where erasure is likely to render impossible or seriously impair the achievement of that processing; or

- for the establishment, exercise or defence of legal claims.
- 8.9 The right to erasure does not apply to special category data (data relating to race; ethnic origin; politics; religion; trade union membership; genetics; biometrics (where used for ID purposes); health; sex life; or sexual orientation), if processing is necessary for one of the following reasons:
- if the processing is necessary for public health purposes in the public interest (e.g. protecting against serious cross-border threats to health, or ensuring high standards of quality and safety of health care and of medicinal products or medical devices); or
 - if the processing is necessary for the purposes of preventative or occupational medicine (e.g. where the processing is necessary for the working capacity of an employee; for medical diagnosis; for the provision of health or social care; or for the management of health or social care systems or services). This only applies where the data is being processed by or under the responsibility of a professional subject to a legal obligation of professional secrecy (e.g. a health professional).

9. The right to restrict processing

- 9.1 Article 18 of the GDPR gives individuals the right to restrict the processing of their personal data in certain circumstances. This means that an individual can limit the way that Birmingham 2022 uses their data. This is an alternative to requesting the erasure of their data.
- 9.2 Any requests from individuals wanting to exercise their right to restrict processing must immediately be sent to the Compliance Manager, or Chief Legal Officer in her absence.
- 9.3 Individuals have the right to restrict the processing of their personal data where they have a particular reason for wanting the restriction. This may be because they have issues with the content of the information which Birmingham 2022 holds or how their data has been processed. In most cases, it will not be necessary to restrict the processing of an individual's personal data indefinitely, but the restriction will need to be in place for a certain period of time.
- 9.4 The right to restrict processing only applies in the following circumstances:
- the individual contests the accuracy of their personal data and the accuracy of that data is being verified;
 - the data has been unlawfully processed (i.e. in breach of the lawfulness requirement of the first principle of the GDPR) and the individual opposes erasure and requests restriction instead;
 - Birmingham 2022 no longer needs the personal data, but the individual wants it to be kept in order to establish, exercise or defend a legal claim; or

- the individual has objected to the processing of their data under Article 21(1), and Birmingham 2022 are considering whether its legitimate grounds override those of the individual.

9.5 If a request to restrict processing has been received and any of the above apply, Birmingham 2022 will use methods of restriction that are appropriate for the type of processing that is being carried out. The GDPR suggests a number of different methods that could be used to restrict data, such as:

- temporarily moving the data to another processing system;
- making the data unavailable to users; or
- temporarily removing published data from a website.

9.6 The individual who has requested that the processing of their personal data be restricted will be informed in writing of the restriction.

9.7 When data processing has been restricted, it must not be processed in any way except to store it, unless:

- the individual has provided their consent;
- it is for the establishment, exercise or defence of legal claims;
- it is for the protection of the rights of another person; or
- it is for reasons of important public interest.

9.8 If the restricted personal data has been disclosed to other parties, each recipient must be informed of the restriction of the personal data - unless this proves impossible or involves disproportionate effort. If requested, Birmingham 2022 is also required to inform the individual about these recipients.

9.9 The restriction of processing may only be temporary, specifically when the restriction is on the grounds that:

- the individual has disputed the accuracy of the personal data and this is being investigated; or
- the individual has objected to the processing of their personal data on the basis that it is necessary for the performance of a task carried out in the public interest or the purposes of legitimate interests, and Birmingham 2022 is considering whether the legitimate grounds override those of the individual.

When a decision has been made on the accuracy of the data, or where Birmingham 2022's legitimate grounds override those of the individual, the restriction may be lifted. The individual must be informed before the restriction is lifted.

9.10 Birmingham 2022 can refuse to comply with a request to restrict processing if:

- an exemption applies,
- it is manifestly unfounded; or
- it is excessive.

10. The right to data portability

10.1 In addition to obtaining a hard copy of all personal data from Birmingham 2022, Article 20 of the GDPR also gives individuals the right to receive their personal data which they have provided to Birmingham 2022 in a structured, commonly used and machine readable format (i.e. the data must be in a format that can be automatically read and processed by a computer.)

10.2 Data portability allows individuals to move, copy or transfer personal data easily from one IT environment to another, in a safe and secure manner, without affecting its usability.

10.3 Article 20, also gives individuals the right to request that Birmingham 2022 transmits an individual's personal data directly to another organisation or data controller. It should be noted that the right to data portability however, does not create an obligation for Birmingham 2022 to adopt or maintain processing systems which are technically compatible with those of other organisations.

10.4 The right to data portability only applies to the following:

- information an individual has provided to Birmingham 2022;
- when the processing of the data is based on the individual's consent or for the performance of a contract; and
- when the processing is carried out by automated means, i.e. by computer.

10.5 A request for data portability does not have to include the phrase 'request for data portability' or a reference to 'Article 20 of the GDPR', but one of the conditions listed at point 10.4 must apply.

10.6 Before any personal data is sent to another organisation or to an individual, steps must be undertaken to check and verify the quality and accuracy of the data in order to comply with the requirements of the accuracy principle of the GDPR.

10.7 Birmingham 2022 is required to take appropriate measures to ensure that when transmitting the personal data to another organisation or individual it is transmitted securely and is sent to the right destination. The IT Department will be consulted to confirm the most appropriate method of secure data transfer.

10.8 If the personal data is being sent directly to an individual, it is possible that they will store the information in a system with less security than that of Birmingham 2022. Therefore, individuals will need to be made aware of this so that they can take appropriate steps to protect the information they have received.

10.9 Birmingham 2022 can refuse to comply with a request for data portability if:

- an exemption applies, (i.e. either Birmingham 2022 has legal obligations to fulfil, an official authority, or a task in the public interest that requires processing of the personal data);
- it is manifestly unfounded;
- it is excessive;
- it adversely affects the rights and freedoms of others. If the requested information includes information about others (e.g. third party data) consideration needs to be made whether transmitting that data would adversely affect the rights and freedoms of those third parties. Generally speaking, providing third party data to the individual making the portability request should not be a problem, assuming that the requestor provided this data to Birmingham 2022 in the first place. However, Birmingham 2022 must consider whether there will be an adverse effect on the rights and freedoms of third parties, in particular when transmitting data directly to another organisation or data controller.

10.10 Any requests from individuals wanting to exercise their right to data portability must be sent immediately to the Compliance Manager or to the Chief Legal Officer in her absence.

11. The right to object to processing (including direct marketing)

11.1 Article 21 of the GDPR gives individuals the right to object to the processing of their personal data at any time. A request does not have to include the phrase 'objection to processing' or 'Article 21 of the GDPR'.

11.2 Individuals must be informed of their right to object at the time of Birmingham 2022's first communication with them, where:

- the personal data is processed for direct marketing purposes, or
- the lawful basis for processing is:
 - public task (for the performance of a task carried out in the public interest);
 - public task (for the exercise of official authority vested in Birmingham 2022);
 - or
 - legitimate interests.

Birmingham 2022's various privacy notices also inform individuals of their right to object to processing.

11.3 The objection may be in relation to all of the personal data which Birmingham 2022 holds about an individual or may only pertain to certain information. It may also only relate to a particular purpose for which the organisation is processing the data.

11.4 The right to object only applies in certain circumstances. Whether it applies depends on the purposes for processing the data and the lawful basis for processing. Individuals can object if the processing is for:

- a task carried out in the public interest;

- the exercise of official authority vested in Birmingham 2022; or
- Birmingham 2022's legitimate interests (or those of a third party).

In these circumstances the right to object is not absolute.

Individuals also have a more limited right to object to processing if their personal data is being processed for scientific or historical research, or statistical purposes, although it is unlikely Birmingham 2022 will be processing data for these purposes.

11.5 An individual must give specific reasons why they are objecting to the processing of their data. These reasons should be based upon their particular situation. Birmingham 2022 can refuse to comply if:

- It can be demonstrated that there are legitimate grounds for the processing, which override the interests, rights and freedoms of the individual; or
- the processing is for the establishment, exercise or defence of legal claims.

11.6 When determining whether there are compelling legitimate grounds which override the interests of an individual, the reasons why they have objected to the processing of their data should be considered. In particular, if an individual objects on the grounds that the processing is causing them substantial damage or distress (e.g. the processing is causing them financial loss), the grounds for their objection will have more weight. In making a decision, the individual's interests, rights and freedoms should be balanced with the legitimate grounds of Birmingham 2022.

11.7 Individuals have the absolute right to object at any time to the processing of their personal data if it is for direct marketing purposes. There are no exemptions or grounds for Birmingham 2022 to refuse to comply with this request. **This includes any profiling of data that is related to direct marketing. Therefore, if any objections are received from individuals to their data being processed for direct marketing, any such processing must cease immediately.**

11.8 However, this does not automatically mean that an individual's personal data must be erased. It may be preferable to suppress an individual's details and retain just enough information about them to ensure that their preference not to receive direct marketing is respected in future.

11.9 Any request from individuals objecting to their personal details being used for direct marketing should be sent to the Compliance Manager and the Head of Marketing. The Head of Marketing will ensure the database of individuals who wish to receive marketing communications is updated accordingly.

12. Rights in relation to automated decision making and profiling

12.1 The GDPR has provisions on:

- automated individual decision-making (making a decision solely by automated means without any human involvement. An example of this would be a recruitment aptitude test which uses pre-programmed algorithms and criteria); and
- profiling (automated processing of personal data to evaluate certain things about an individual). Profiling can be part of an automated decision-making process.

12.2 Article 22 of the GDPR restricts organisations from making solely automated decisions, including those based on profiling, that have a legal or similarly significant effect on individuals. These types of effect are not defined in the GDPR, but the decision must have a serious negative impact on an individual to be caught by this provision. A legal effect is something that adversely affects someone's legal rights. Similarly, significant effects are more difficult to define but would include, for example, e-recruiting practices that make decisions without human intervention.

12.3 Birmingham 2022 can only carry out solely automated decision-making with legal or similarly significant effects if the decision is:

- necessary for entering into or performance of a contract between Birmingham 2022 and the individual;
- authorised by law (for example, for the purposes of fraud or tax evasion); or
- based on the individual's explicit consent.

If we are using special category data (data relating to race; ethnic origin; politics; religion; trade union membership; genetics; biometrics (where used for ID purposes); health; sex life; or sexual orientation) Birmingham 2022 can only carry out processing described in Article 22(1) of GDPR if:

- the individual has provided their explicit consent; or
- the processing is necessary for reasons of substantial public interest.

12.4 If any of Birmingham 2022's processing falls under Article 22 it must:

- use appropriate mathematical or statistical procedures;
- provide individuals with meaningful information about the logic involved in the decision-making process, as well as the significance and the envisaged consequences for the individual;
- ensure that individuals can express their point of view and obtain human intervention;
- ensure that individuals can obtain an explanation of the decision, challenge it and request a review of the decision;
- put appropriate technical and organisational measures in place, to correct inaccuracies, secure personal data in a way that is proportionate to the risk to the interests and rights of the individual and minimise the risk of error. This will involve carrying out regular checks to make sure that Birmingham 2022's systems are working as intended and to prevent errors, bias or discrimination.

12.5 Because this type of processing is considered to be high-risk, the GDPR requires Birmingham 2022 to carry out a Data Protection Impact Assessment (DPIA) to demonstrate they have identified and assessed what those risks are and considered how to address them. Birmingham 2022 has a Data Protection Impact Assessment template and accompanying procedure which is available on SharePoint or can be requested from the Compliance Manager.

13. Breaches of this policy

13.1 Any employee who breaches this policy, knowingly or recklessly or deliberately acts outside of their recognised responsibilities will be subject to Birmingham 2022's disciplinary procedure, which could result in dismissal for gross misconduct, and possible legal action taken against the individual.

13.2 Birmingham 2022 may terminate its relationship with other individuals and organisations working on its behalf if they breach this policy.

14. Monitoring

14.1 The Compliance Manager will monitor the implementation of this policy by:

- Reviewing Birmingham 2022's responses to data subject requests and assessing whether they comply with the data protection legislation.
- Monitoring any complaints received from individuals about how their data subject requests have been handled by Birmingham 2022.

15. Review

15.1 This policy will be subject to review if any of the following occur:

- the adoption of the policy highlights any errors or omissions in its content;
- following monitoring of Birmingham 2022's compliance with data subject requests amendments are required to the content of the policy;
- where relevant changes in legislation or national guidance impact upon the content of this policy.

16. Guidance and Legislation

- Confidentiality and Data Protection Policy, Birmingham 2022
- Archiving and Retention Policy, Birmingham 2022
- Data Protection Impact Assessment Procedure, Birmingham 2022
- The Data Protection Act 2018
- The General Data Protection Regulation (EU) 2016/679
- The Privacy and Electronic Communications Regulations (EC Directive) 2003
- Information Commissioner's Office guidance at: www.ico.org.uk

Subject Access Form and Guidance

Subject to certain exemptions, you have the right under Article 15 of The General Data Protection Regulation to be told whether Birmingham 2022 holds any information about you (**your personal data**) and a right to be provided with a copy of that information within a calendar month.

Before you make a request for your personal information it is important to bear in mind that Birmingham 2022 will not make information available if any of the following apply:

- The release of the information relates to another individual, from which that individual can be identified and to whom Birmingham 2022 has a duty of confidence, except if, the other individual has consented to the disclosure; or it is reasonable to comply with the request without that individual's consent.
- There are any exemptions to prevent disclosure of that information or if the information being processed is being used for the prevention/detection of crime or the arrest/prosecution of offenders or for the purposes of safeguarding national security.
- The request is manifestly unfounded or excessive. (see www.ico.org.uk for a definition)

Proof of identity

Birmingham 2022 has a duty to keep information secure, and therefore will only provide information to you if it is satisfied that you are the person entitled to receive it. Your application must be accompanied by 2 original pieces of documentation from the list below.

You should supply one form of documentation from each section. Your documentation will be returned to you by recorded delivery if it is provided in paper format.

Section A (showing name and address)	Section B (photographic id)
<ul style="list-style-type: none"> • a recent utility bill (not mobile phone) • council tax statement • UK bank or building society statement no older than 3 months old – internet bank statements are not acceptable • Recent mortgage statement from a recognised lender (within last 6 months) • Current local council rent card or tenancy agreement (within last 6 months) 	<ul style="list-style-type: none"> • current UK or EU passport • national identity card • current disabled blue drivers pass • current UK photo-card driving licence

Please complete and return this application form and the supporting documentation listed above to the following address:

Compliance Manager
Birmingham Organising Committee for the 2022 Commonwealth Games Ltd,
One Brindley Place,
Birmingham,
B1 2JB.

Or scan and send by email to: dp@Birmingham2022.com

Subject Access Request Form

Section 1: Your details	
Title (Mr, Mrs, Miss, Ms, Dr, Rev etc.):	
Surname:	
First name(s):	
Maiden/former name(s) if applicable:	
Date of birth:	
Home address including postcode:	
Previous addresses (if you lived at the above address for less than 5 years, please list previous addresses)	
Contact number:	
Email address:	
What is your connection with Birmingham 2022? (this will help us locate your information)	
<input type="checkbox"/> current employee <input type="checkbox"/> former employee <input type="checkbox"/> supplier/contractor <input type="checkbox"/> other (please specify)	
Section 2: Personal data sought	
Please provide as much detail as possible about the information you are requesting and any other assistance you can give that may help in tracing it. For example, likely locations of the information (e.g. where it was created), name of the person who created it, and any time period associated with the data.	
Section 3: Proof of identity	

Are you the data subject, i.e. the individual to whom the information applies?

Yes

No

If you are the data subject, please provide **two original pieces of documentation that confirm your identity (one from section A and one from Section B)**. Please tick below to indicate which documents are enclosed.

If you are acting on behalf of the data subject with their express permission or with the appropriate legal authority this must be evidenced in writing and enclosed along with this form and **two original pieces of documentation that confirm the identity of the data subject to whom the information belongs**.

NB if you are sending important documents by post, please use special or recorded delivery. Birmingham 2022 cannot be held responsible for any items lost in the post.

Section A documentation

- | | |
|--------------------------|--|
| <input type="checkbox"/> | • recent utility bill |
| <input type="checkbox"/> | • council tax statement |
| <input type="checkbox"/> | • UK bank or building society statement |
| <input type="checkbox"/> | • recent mortgage statement from a recognised lender |
| <input type="checkbox"/> | • current local council rent card or tenancy agreement |

Section B documentation

- | | |
|--------------------------|---|
| <input type="checkbox"/> | • current UK photo-card driving licence |
| <input type="checkbox"/> | • passport |
| <input type="checkbox"/> | • disabled blue drivers pass |
| <input type="checkbox"/> | • UK identity card |

Section 4: Declaration

I confirm that the information given by me, on this form, is correct to the best of my knowledge, and that I am entitled to apply for information held about me under the Data Protection Legislation.

Applicants signature:

Date:

Please note that subject access requests are treated as confidential and are retained in a secure environment until August 2022, after which they will be destroyed securely.

For office use only

	Confirmation	Initials
Application checked	yes / no	
Identification documents checked & returned	yes / no	
Date application form received		