

Process Id# :: 0009
Process Name :: NSSO third party release Policy
Date Last Updated :: 1/4/2020

Description ::

[Article 28](#) of the GDPR details the rules a processor works under. A28(3)(a) states a processor :: ‘processes the personal data **only** on documented instructions from the controller, ..., unless required to do so by Union or **Member State law** to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest’.

Purpose of Process ::

Some third parties, notably An Garda Síochána (AGS), the Welfare Inspectors of The Department of Employment Affairs and Social Protection (DEASP), GSOC and Revenue Inspectors may make requests to access processing records held by the NSSO on behalf of client bodies. They do this based on powers granted to them in their own legislation. This is different to requests from third parties such as pension scheme auditors.

Under Article 28(3)(a) the NSSO is legally obliged to release such data. This process sets out the steps that should be taken when such a request is received to authenticate, adopting the caution applies in other areas such as Article 12(6).

Access & Control ::

The Data Protection Commission (DPC) considers that requests for downloads of CCTV footage made by An Garda Síochána to third parties should be followed up in writing at all times. Using that basis, any requests for any NSSO held data should be ::

- documented on An Garda Síochána headed paper (official request – can be scanned & submitted);
- quote the explicit and specific data fields they require (minimisation);
- should also cite the legal basis for the request;
 - The AGS DPO has confirmed that they have advised Gardai that they should make the request as an Order Pursuant [to Section 41\(b\)](#) of the Data Protection Act 2018.
 - The NSSO DPO feels S41(b) is a vague enabling power and that a further citation under Official Offences legislation would be more appropriate. The NSSO DPO has accepted the argument of AGS that this would disclose the nature of the offence being investigated and has accepted assurances in good faith that their interpretation has been validated by the DPC.
- The headed paper must be signed, or ideally counter signed, by a Garda at the level of Superintendent or above. The equivalent for a request from DEASP (Principal Officer).

This policy remains under review and in all such cases the DPO must be consulted.

Access request to data :: NSSO staff obligations

1. Any requests for personal data from a third party must be sent to the DPO and to the data protection unit.
2. They will assess the nature of the query and liaise directly with the requester and the controller to determine if the data can be released and/or what further steps need to be taken to validate the request.
3. No team in the NSSO is approved to release any data to any third party without the approval of the data protection teams. The DPO/DPU may advise on the preparation of the data if it is anticipated the data will be released subject to minor clarifications.