

# Enforced subject access requests

## Guidance for employers and organisations

*This information is written for employers and organisations. More details are available in the [section for employers on our website](#). We have [separate guidance](#) which is written for people with convictions.*

### Introduction

This short guide explains a process known as 'enforced subject access'. This became a criminal offence on the **10<sup>th</sup> March 2015**. This guide focuses on what you as an organisation should do if you currently carry out subject access requests. The guide does not go into detail about how the legislation works, as this is covered in [guidance by the Information Commissioners Office \(ICO\)](#).

### Who is this aimed at?

This guidance is primarily designed for employers, as that is where the majority of examples of 'enforced subject access' take place. However, this guidance, and the offence of 'enforced subject access', applies to any individual or organisation. That means it also applies to organisations such as volunteer recruiters, insurers, colleges, universities and housing associations.

### What is 'enforced subject access'?

This is the practice where you require an individual to obtain a copy of their police record, for example, as part of an application process for a job. For some employers, this has been a condition of employment.

### Why is this important?

An enforced subject access request reveals more details than what an individual would have to disclose. For example, the information might include spent convictions under the Rehabilitation of Offenders Act, or minor cautions that would no longer be disclosed on an enhanced check. Both the ICO and the Disclosure and Barring Service have expressed concern that enforced subject access requests abuse of an individuals' rights and undermine public policies.

### What you need to do

You should check the policies and practices that you have in place. If you use 'enforced subject access' as a way of obtaining criminal record information, you should stop this practice immediately, otherwise you risk committing a criminal offence which carries an unlimited fine. You should consult the ICO guidance and ensure that your policies do not breach section 56 of the Data Protection Act 1998. The ICO has indicated that it intends to prosecute those who continue to make enforced subject access requests.

## What types of checks can be done

Depending on the nature of your work, there may be alternative practices available to you. For example, if you recruit employees or volunteers, you may look at a formal criminal record check. Depending on the situation, this may be a basic, standard or enhanced level check.

## Further information

This document was first published in March 2015. The information may have since been amended or updated. Latest versions and more details are available through a [specific section for employers on enforced subject access](#) on our website, in the [area for employers](#).

If you have any questions about this information, or if you need advice or support in amending your policies or practices, please contact us (see below)

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 of breaching section 56. [You can view their guidance here](#).

## Questions or queries?

We provide support to employers, volunteer recruitment organisations and others that deal with criminal records. Our aim is to promote, encourage and support the safe, legal and effective recruitment and employment of people with convictions. To find out more, visit the [section for employers](#) on our website, or email [employer@unlock.org.uk](mailto:employer@unlock.org.uk).

## About Unlock

We are an independent award-winning charity, providing trusted information, advice and advocacy services for people with criminal convictions. Our staff and volunteers combine professional training with personal experience to help others overcome the long-term problems that having a conviction can cause. Our expertise, knowledge and insight helps us work with government, employers and others to change policies and practices so that together we can create a fairer and more inclusive society.

**address** Maidstone Community Support Centre, 39-48 Marsham Street, Maidstone, Kent, ME14 1HH  
**web** [www.unlock.org.uk](http://www.unlock.org.uk) & [@unlock2000](https://twitter.com/unlock2000)

Guardian Charity Awards Winner 2011

President: General The Lord David Ramsbotham GCB CBE

2 of 2 © Unlock, Charity No 1079046 and Company No 3791535

