



# Subject Access Request Policy

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Author	Derek O'Connor	
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## Purpose

This document sets out the Councils policy for dealing with subject access requests under the current Data Protection legislation.

## **What is personal information?**

Personal data means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

## **Data Protection legislation**

Data Protection legislation gives individuals the right to know what information is held about them. It provides a framework to ensure that personal information is handled properly.

The legislation works in two ways. Firstly, it states that anyone who processes personal information must comply with six principles, which make sure that personal information is:

- Fairly and lawfully processed and in a transparent manner.
- Processed for specific, explicit and legitimate purposes
- Adequate, relevant and limited to what is necessary
- Accurate and where necessary kept up to date
- kept in a form which permits identification of data subjects for no longer than is necessary
- Processed in a manner that ensures appropriate security of the personal data

Secondly, it provides individuals with important rights, including:

- Right of access
- Right to rectification
- Right to erasure (right to be forgotten)
- Right to restrict processing
- Right to data portability
- Right to object
- Right regarding automated decision making, including profiling

**This policy deals only with the right of access.**

## **What is the Council's general policy on providing information?**

We welcome the rights of access to information that are set out in the current Data Protection legislation. We are committed to operating openly and to meeting all reasonable requests for information that are not subject to specific exemptions.

## **What is a subject access request?**

A subject access request is a written request for personal information (known as personal data) held about individuals by the Council. Generally, individuals have the right to see what personal information we hold about them, they are entitled to be given a description of the information, informed what we use it for, who we might pass it onto, and any information we might have about the source of the information.

## **What should we do when we receive a subject access request?**

We will verify proof of identity and current address for any requests. Proof of identity can be established by providing one of the following, birth certificate, passport or driving licence. Proof of address can be established by providing one of the following, utility bill, bank statement dated in the last 6 months or driving licence. Utilising other verification methods dependent upon the relationship with the requester. Original documents are required as photocopies are not acceptable. Original documentation should be sent securely (for example recorded delivery) and which will be returned immediately once verified.

If the person requesting the information is a relative/representative of the individual concerned, then the relative/representative must supply the individual's consent for the release of their personal data. If they have been appointed to act for someone under the Mental Capacity Act 2005, they must confirm their capacity to act on their behalf and explain how they are entitled to access their information. If they are the parent/guardian of a child under 16, we will need to consider whether the child can provide their consent.

### **Collation of information**

We must check that we have enough information to find the records requested. If we feel we need more information, then we must promptly ask for this. We will gather any manual or electronically held information.

If we have identified information that relates to third parties, we will need to consider whether or not we have their consent to disclose it, or whether or not it is deemed reasonable in all the circumstances to disclose it without consent.

Before sharing any information that relates to third parties, we will where possible anonymise information that identifies third parties where appropriate.

### **Issuing our response**

Once any queries around the information requested have been resolved, copies of the information in a permanent form will be sent except where you agree otherwise, or where it would involve undue effort. In these cases, a possible alternative would be to allow you to view the information at a Council office.

We must explain any complex terms or abbreviations contained within the information when it is shared. Unless specified otherwise, we may also provide a copy of any information that has been previously provided.

### **Will we charge a fee?**

Under the current Data Protection legislation there is no charge however where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the Council may either:

- charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or
- refuse to act on the request.

## **What is the timeframe for responding to subject access requests?**

We must respond within one month starting from when we have received all the information necessary to identify the requester and the requested information.

That period may be extended by two further months where necessary, taking into account the complexity and number of the requests.

## **Are there any grounds we can rely on for not complying with a subject access request?**

### **Previous request**

If a previous subject access request has been made we must respond only if a reasonable interval has elapsed since the previous request. A reasonable interval will be determined upon the nature of the information, the time that has elapsed, and the number of changes that have occurred to the information since the last request.

### **Exemptions**

Data Protection legislation contains a number of exemptions to our duty to disclose personal data and we may seek legal advice if we consider that they might apply. Possible exemptions would be: information covered by legal professional privilege, information used for research, historical and statistical purposes, and confidential references given or received by the Authority.

### **Complaints procedure**

If a data subject is not happy with the way their subject access request has been handled, they may complain through the Councils Data Protection officer in the first instance. If still not happy they may submit complaint to the Information Commissioner and/or the courts.

The Councils Data Protection Officer will deal with any written complaint about the way a request has been handled and about what information has been disclosed.

Contact - Information Governance Manager

by email - [info-gov.unit@conwy.gov.uk](mailto:info-gov.unit@conwy.gov.uk)

by telephone - 01492 574016

by post - Conwy County Borough Council, Bodlondeb, Conwy, LL32 8DU