



Individual GDPR rights

Response procedures

Note: requests ought generally be responded to within one month of receipt. The Council may be the subject of a financial penalty if it fails to comply with the deadline.

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1. About these procedures

- 1.1 Individuals have certain rights in respect of *their* personal data. These procedures provide a framework for responding to requests to exercise those rights. **If you are at all uncertain as to what to do you must speak with the Council's Data Protection Officer.**
- 1.2 For the purposes of these procedures, "personal data" means any information relating to an identified or identifiable individual. An identifiable Individual is one who can be identified, directly or indirectly, by reference to an identifier, such as their name, identification number or online identifier. "Processing" means any operation or set of operations that is performed on personal data, such as collection, use, storage, dissemination and destruction.

2. Responding to requests to access personal data

- 2.1 Individuals have the right to request access to their personal data processed by us. Such requests are called subject access requests (SARs). When an Individual makes a SAR, we shall take the following steps:
- (a) log the date on which the request was received (to ensure that the relevant timeframe of one month for responding to the request is met);
 - (b) [Very Important] **confirm** the identity of the Individual who is requesting access to their personal data;
 - (c) search databases, systems, applications and other places where the personal data which are the subject of the request may be held; and
 - (d) **confirm** to the Individual whether their personal data is being processed. **For the avoidance of doubt processing includes where the information is simply being stored by the Council.**
- 2.2 If personal data of the Individual is being processed, we must provide them with the following information in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in writing or by other (including electronic) means:
- (a) the purposes [why we are] of the processing;
 - (b) the categories of personal data concerned (for example, name, contact details, DOB, requests for service etc.);
 - (c) the recipients or categories of recipient to whom the personal data has been or will be disclosed in particular any recipients overseas (for example, US-based cloud service providers);
 - (d) where possible, the envisaged period for which their personal data will be stored, or, if not possible, the criteria used to determine that period;
 - (e) the existence of their right to request rectification or erasure of personal data or restriction of processing of personal data or to object to such processing;
 - (f) the right to lodge a complaint with the Information Commissioner's Office (ICO). **Individuals ought to be advised to speak to the Data Protection Officer in the first instance [this may resolve matters] but they are not under an obligation to do so.**

- (g) where the personal data are not collected from the individual, any available information as to their source;
- (h) (where applicable) the existence of any automated decision-making and meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for them; and
- (i) where personal data are transferred outside the EU, details of the appropriate safeguards to protect the personal data.

- 2.3 We shall also, unless there is an exemption (see paragraph 9 below), provide the Individual with a copy of the personal data processed by us in a commonly used electronic form (unless they either did not make the request by electronic means or they have specifically requested not to be provided with the copy in electronic form) within **one month** of receipt of the request. If the request is complex, or there are a number of requests, we may extend the period for responding by a further two months. If we extend the period for responding, we **MUST** inform the Individual within one month of receipt of the request and explain the reason(s) for the delay.
- 2.4 Before providing the personal data to the Individual making the SAR, we shall review the personal data requested to see if they contain the personal data of other Individuals. If they do, we may redact the personal data of those other Individuals prior to providing the Individual with their personal data, unless those other Individuals have consented to the disclosure of their personal data. **For further guidance on this please consult the ICO website – www.ico.gov.uk where you will find a Code of Practice. Please also speak with the Data Protection Officer.**
- 2.5 If the SAR is manifestly unfounded or excessive, for example, because of its repetitive character, we may charge a reasonable fee, taking into account the administrative costs of providing the personal data, or refuse to act on the request.
- 2.6 If we are not going to respond to the SAR, we shall inform the Individual of the reason(s) for not taking action and of the possibility of lodging a complaint with the ICO.

3. Responding to requests to rectify personal data

- 3.1 Individuals [this may arise when they have been provided with a copy of their information] have the right to have any inaccurate personal data rectified. Rectification can include having incomplete personal data completed, for example, by the Individual providing a supplementary statement regarding the data. Where such a request is made, we must, unless there is an exemption (see paragraph 9 below), rectify the personal data without undue delay.
- 3.2 We shall also communicate the rectification of the personal data to each recipient to whom the personal data have been disclosed (for example, any third-party service providers who process the data on our behalf) unless this is impossible or involves disproportionate effort. We shall also inform the Individual about those recipients if the Individual requests it.

4. Responding to requests for the erasure of personal data

- 4.1 Individuals have the right, in certain circumstances, to request that we erase their personal data. Where such a request is made, we shall, unless there is an exemption (see paragraph 9 below), erase the personal data without undue delay if:

- (a) the personal data are no longer necessary [**consider if we need it for a continuing purpose**] in relation to the purposes for which they were collected or otherwise processed;
- (b) the Individual withdraws their consent to the processing of their personal data and consent was the basis on which the personal data were processed and there is no other legal basis for the processing;
- (c) the Individual objects to the processing of their personal data on the basis of our legitimate interests which override their interests or fundamental rights and freedoms—unless we either can show compelling legitimate grounds for the processing which override those interests, rights and freedoms, or we are processing the data for the establishment, exercise or defence of legal claims; [**Please speak with the Data Protection Officer if this situation arises**]
- (d) the Individual objects to the processing of their personal data for direct marketing purposes;
- (e) the personal data have been unlawfully processed, or;
- (f) the personal data have to be erased for compliance with a legal obligation to which we are subject.

4.2 When an Individual makes a request for erasure in the circumstances set out above, we shall, unless there is an exemption (see paragraph 4.5 and paragraph 9 below), take the following steps:

- (a) log the date on which the request was received (to ensure that the relevant timeframe of one month for responding to the request is met);
- (b) confirm the identity of the Individual who is the subject of the personal data. We may request additional information from the Individual to do this;
- (c) search databases, systems, applications and other places where the personal data which are the subject of the request may be held and erase such data within one month of receipt of the request. If the request is complex, or there are a number of requests, we may extend the period for responding by a further two months. If we extend the period for responding, we shall inform the Individual within one month of receipt of the request and explain the reason(s) for the delay;
- (d) where we have made the personal data public, we must, taking reasonable steps, including technical measures, inform those who are processing the personal data that the Individual has requested the erasure by them of any links to, or copies or replications of, those personal data; and
- (e) communicate the erasure of the personal data to each recipient to whom the personal data has been disclosed unless this is impossible or involves disproportionate effort. We shall also inform the Individual about those recipients if the Individual requests it.

4.3 If the request is manifestly unfounded or excessive, for example, because of its repetitive character, we may charge a reasonable fee, taking into account the administrative costs of erasure, or refuse to act on the request.

4.4 If we are not going to respond to the request, we shall inform the Individual of the reasons for not taking action and of the possibility of lodging a complaint with the ICO.

- 4.5 In addition to the exemptions in paragraph 9 below, we can also refuse to erase the personal data to the extent processing is necessary:
- (a) for exercising the right of freedom of expression and information;
 - (b) for compliance with a legal obligation which requires processing by law and to which we are subject; or
 - (c) for the establishment, exercise or defence of legal claims.

5. Responding to requests to restrict the processing of personal data

- 5.1 Individuals have the right, unless there is an exemption (see paragraph 9 below), to restrict the processing of their personal data if:
- (a) the Individual contests the accuracy of the personal data, for a period to allow us to verify the accuracy of the personal data;
 - (b) the processing is unlawful, and the Individual opposes the erasure of the personal data and requests the restriction of their use instead;
 - (c) we no longer need the personal data for the purposes we collected them, but they are required by the Individual for the establishment, exercise or defence of legal claims; and
 - (d) the Individual has objected to the processing, pending verification of whether we have legitimate grounds to override their objection.
- 5.2 Where processing has been restricted, we shall only process the personal data (excluding storing them):
- (a) with the individual's consent;
 - (b) for the establishment, exercise or defence of legal claims;
 - (c) for the protection of the rights of another person.
- 5.3 Prior to lifting the restriction, we shall inform the Individual of the lifting of the restriction.
- 5.4 We shall communicate the restriction of processing of the personal data to each recipient to whom the personal data have been disclosed, unless this is impossible or involves disproportionate effort. We shall also inform the Individual about those recipients if the Individual requests it.

6. Responding to requests for the portability of personal data [this is unlikely to apply to the Council]

- 6.1 Individuals have the right, in certain circumstances, to receive their personal data that they have provided to us in a structured, commonly used and machine-readable format that they can then transmit to another organisation. Where such a request is made, we shall, unless there is an exemption (see paragraph 9 below), provide the personal data without undue delay if:
- (a) the legal basis for the processing of the personal data is consent or pursuant to a contract; and
 - (b) our processing of that data is automated.

- 6.2 When an Individual makes a request for portability in the circumstances set out above, we shall take the following steps:
- (a) log the date on which the request was received (to ensure that the relevant timeframe of one month for responding to the request is met);
 - (b) confirm the identity of the Individual who is the subject of the personal data. We may request additional information from the Individual to confirm their identity; and
 - (c) search databases, systems, applications and other places where the personal data which are the subject of the request may be held and provide the Individual with such data (or, at their request, transmit the personal data directly to another company, where technically feasible) within one month of receipt of the request. If the request is complex, or there are a number of requests, we may extend the period for responding by a further two months. If we extend the period for responding, we shall inform the Individual within one month of receipt of the request and explain the reason(s) for the delay.
- 6.3 If the request is manifestly unfounded or excessive, for example, because of its repetitive character, we may charge a reasonable fee, taking into account the administrative costs of providing or transmitting the personal data, or refuse to act on the request.
- 6.4 If we are not going to respond to the request, we shall inform the Individual of the reasons for not taking action and of the possibility of lodging a complaint with the ICO.

7. Responding to objections to the processing of personal data

- 7.1 Individuals have the right to object to the processing of their personal data where such processing is on the basis of our legitimate interests unless we either:
- (a) can show compelling legitimate grounds for the processing which override the individual's interests, rights and freedoms; or
 - (b) are processing the personal data for the establishment, exercise or defence of legal claims.
- 7.2 Individuals also have the right to object to the processing of their personal data for scientific or historical research purposes, or statistical purposes.
- 7.3 Where such an objection is made, we shall, unless there is an exemption (see paragraph 9 below), no longer process the individual's personal data.
- 7.4 Where personal data are processed for direct marketing purposes, Individuals have the right to object at any time to the processing of their personal data for such marketing. If an Individual makes such a request, we shall stop processing the personal data for such purposes.

8. Responding to requests not to be subject to automated decision-making

- 8.1 Individuals have the right, in certain circumstances, not to be subject to a decision based solely on the automated processing of their personal data, if such decision produces legal effects concerning them or similarly significantly affects them. Where such a request is made, we shall, unless there is an exemption (see paragraph 9 below), no longer make such a decision unless it:
- (a) is necessary for entering into, or the performance of, a contract between us and them;

- (b) is authorised by applicable law which lays down suitable measures to safeguard their rights, freedoms and legitimate interests; or
- (c) is based on their explicit consent.

8.2 If the decision falls within paragraph 8.1(a) or paragraph 8.1(c), we shall implement suitable measures to safeguard their rights, freedoms and legitimate interests, including the right to obtain human intervention, to express their point of view and to contest the decision.

9. Exemptions

9.1 Before responding to any request, officers must check whether there are any exemptions that apply to the personal data that are the subject of the request. These may apply where it is necessary and proportionate not to comply with the requests described above to safeguard:

- (a) national security;
- (b) defence;
- (c) public security;
- (d) the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
- (e) other important objectives of general national public interest, an important national economic or financial interest, including monetary, budgetary and taxation matters, public health and social security;
- (f) the protection of judicial independence and judicial proceedings;
- (g) the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
- (h) a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority in the cases referred to in paragraph 9.1(a) and paragraph 9.1(g) above;
- (i) the protection of the Individual or the rights and freedoms of others; or
- (j) the enforcement of civil law claim

If you believe that a restriction may apply then you should speak with the Data Protection Officer.