

Subject Access Procedure Version 3.0



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Subject Access Procedure

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1. Personal data

1.1 Personal data is defined in the UK General Data Protection Regulation (UK GDPR) as any information that relates to a living individual, who can be identified from the information, directly or indirectly.

1.2 In practice, this is likely to include a very wide range of information, including, but not limited to:

- Names, addresses and dates of birth
- Reference numbers, such as employee or national insurance numbers
- Personal financial information such as bank details
- Descriptive or biographical information regarding an individual
- Photographs or other images

1.3 Carmarthenshire County Council (the Council) processes personal data about our customers, clients, residents and employees in order to deliver our services. These individuals are referred to in the UK GDPR as '[Data] Subjects'.

1.4 The terms 'personal data' and 'information' are used throughout this document and have the same meaning.

2. The right of access

2.1 Article 15 of the UK GDPR provides individuals with the right to obtain a copy of the information that is processed about them by making what is known as a 'Subject Access Request'.

2.2 Requests for access to personal data can also be made on behalf of another person (where they have legal authority to do so, or where they have the permission of the data subject), for example a parent on behalf of their child or a solicitor instructed by their client. Where the permission of the data subject is required, this should be evidenced in writing.

2.3 The UK GDPR allows an individual to request and receive all of the information processed about them by an organisation. In practice, however, many people ask for specific information, such as the personal data held in relation to their application for housing, their personnel file etc. The UK GDPR does not prevent us from providing only what the individual has asked for, rather than everything the Council holds on the person.

2.4 The Council will ensure that it provides individuals with up to date and correct information on how to make a request on its website and suitable advice and contact details in its **Privacy Notices**.

3. Timescale for response

3.1 The Council has a legal obligation under the UK GDPR to comply with Subject Access Requests without undue delay and within one calendar month.

3.2 The Information Commissioner's Office's guidance advises that we should calculate the timescale for response from the day the request is received to the corresponding calendar date in the next month. **Therefore, if a request is received on 3rd September, the Council will have until 3rd October to comply with the request.**

3.3 If this is not possible because the following month has no corresponding calendar date, the date for response is the last day of the following month. If the corresponding date falls on a weekend or a public holiday, the Council has until the next working day to respond.

- **So for example, if a request is received on 30th March, the time limit starts from the next day, 31st March. As there is no equivalent date in April, we have until 30th April to comply with the request.**
- **If 30th April falls on a weekend, or is a public holiday, the Council has until the end of the next working day to comply with the request.**

3.4 Where we consider a request to be complex, we are able to extend the time for compliance by a further two months, but we must inform the requester within a month of receiving the request and explain why this is the case. A checklist is attached as **Appendix 1**, which can be used to assist in determining whether the request is complex.

3.5 Failure to handle requests correctly and in a timely manner can result in complaints being made against us which could ultimately result in enforcement action by the Information Commissioner's Office.

4. Straightforward requests

4.1 Some requests we receive may be straightforward and can be easily addressed. For example, an individual whose identity is obvious to us is asking for a limited and very specific piece of information that they clearly have a right to have. We must therefore adopt a practical approach to requests from individuals.

4.2 With the person's agreement, requests that take place as part of normal business can be dealt with informally, unless of course the release of the personal data would breach the requirements of the UK GDPR.

5. The purpose and scope of this procedure

5.1 This document sets out the Council's three-step procedure for dealing with requests for access to personal data that cannot be responded to informally. It is intended to provide employees with sufficient information as to what they must do when they receive and/or have to deal with a Subject Access Request.

5.2 Whilst timescales for completing each step are specified, if it is possible to handle and respond to a request more quickly, then we must do so.

5.3 This procedure applies to all employees of the Council, including:

- Temporary employees and agency workers
- Volunteers

6. Step 1 - receiving the request

6.1 The UK GDPR allows individuals to make requests verbally or in writing. In practice, many requests may be received by email and can also be included within items of correspondence. A request does not have to include the phrase 'Subject Access Request' or refer to the UK GDPR, as long as it is clear that the individual is asking for their own personal data.

6.2 Employees must therefore:

- Be aware of the right of access to personal data
- Ensure that any Subject Access Requests we receive are not overlooked and are acted upon
- Ensure that all Subject Access Requests are dealt with in accordance with this procedure

6.3 If a person chooses to exercise their right to make a verbal request, the employee taking the call or meeting the individual in person must ensure that an accurate record of the request is created, including:

- The full name of the requester
- The date the request was made
- An address/email address for the individual
- Their telephone number, for when a direct conversation with the requester may be required, for instance, to clarify a request
- The scope of the request, including what information the individual is requesting (if they are not requesting access to all of their personal data)
- The preferred method of access to the personal data

6.4 If received by post, the request must be date stamped on the day of receipt.

6.5 A copy of the request must be forwarded to the **Data Protection Officer** without delay to be logged and for the deadline for response to be calculated.

6.6 Requests for access to Children's Services records will be passed to the division's **Data Disclosure Officer**.

6.7 An acknowledgement email or letter must also be sent to the requester. An example of suitable text for an acknowledgement is included as **Appendix 2**.

6.8 If there is doubt as to the identity of the person making the request, we are permitted to ask for more information at this stage in order to confirm this, however, the method used to confirm identity must be proportionate to the personal data being requested. Suitable methods can include:

- Security questions, asking the requester for information that only they could know
- Viewing an identity document, such as a birth certificate, passport or driver's licence – in such cases, a copy of the document must not be retained, however, a record should be kept that confirms what type of document was seen
- Matching signatures or other appropriate identifiers provided in the request with existing records held by the Council.

6.9 In many cases, the requester will have an ongoing relationship with the relevant service(s), which means that we already know who has made the request. In such cases, we would clearly not need proof of identity to proceed. Where proof of identity is needed to proceed with a request, the timescale for response will begin once we receive sufficient information to confirm that the person making the request is who they say they are.

Step 1 should be completed within 3 calendar days of receiving the request.

7. Step 2 - compiling and reviewing the information

7.1 An officer within the relevant service will be designated to lead on handling the request. Where the request involves more than one department, the Data Protection Officer or Data Disclosure Officer will liaise with designated officers in the relevant business units and co-ordinate the response.

7.2 Where a large amount of personal data is processed about an individual, the Council is allowed to ask a requester to clarify their request, where we reasonably need this to proceed. If further clarification regarding the scope of the request or the information being requested is required, the Data Protection Officer, Data Disclosure Officer or another designated officer will contact the requester at the earliest opportunity.

7.3 The requested information must be retrieved and compiled as soon as practicably possible using all available search tools and sources. These will include, but are not limited to:

- Specific Management Information Systems used by services
- Electronic Records Management Systems, such as *Information@Work*
- SharePoint/CFP online
- Local and corporate archive registers
- Email mailboxes

7.4 An appropriate method for collating the information and allowing access to those employees that need to see it must be used. An example of an effective method is setting up a specific folder in an appropriate area in SharePoint/CFP online and allowing access to the officers who are dealing with the request.

7.5 The Data Protection Officer or Data Disclosure Officer will then discuss the request with the lead officer(s) and decide which information should be released, or determine whether any information should be withheld. A record of any exemption relied upon to withhold personal data will be made alongside the details logged for the request.

7.6 This process will also involve deciding on whether to disclose any personal data relating to people other than the requester (third parties) which is included in the information.

7.7 It may also be necessary to consult with other officers, for example Senior Managers or a solicitor from Legal Services in carrying out this review.

7.8 Where it is decided that information cannot be provided it must be withheld using the following methods:

- Removing the document from the bundle to be disclosed, if all of the personal data within the document cannot be disclosed
- Redacting the document, by removing the specific content that cannot be disclosed, whilst leaving the remaining content intelligible

7.9 Appropriate redaction tools and methods include, but are not be limited to:

- Specialist redaction tools
- PDF editing software
- Using a correction roller on paper documents and then re-copying or scanning them

7.10 Preparation of the information to be disclosed, including redactions, will be carried out by the officer handling the request. Care must be taken when redacting to ensure that the information being withheld cannot be seen by the requester when documents are disclosed.

7.11 The information prepared for disclosure should be reviewed and checked by another officer before it is released.

7.12 Decisions to withhold or disclose personal data must be taken in accordance with the guidance provided by the Information Commissioner's Office.

Step 2 should be completed within 14 calendar days of receiving the request.

8. Step 3 – providing the response

8.1 An email or letter must be sent to the requester in response to a Subject Access Request. This communication will:

- Provide confirmation as to whether or not personal data is being processed about the requester – if not, then advice as to alternative sources of information should be provided where possible and appropriate
- Explain whether any, or all of the personal data has been withheld and the reason for doing so where this is possible
- Provide the supplementary information listed in Article 15 of the UK GDPR – in most cases this will be information provided in the **Privacy Notice** of the service(s)
- Confirm the arrangements for providing the information where this is necessary
- Include information on the right to lodge a complaint with the Information Commissioner's Office

8.2 Where personal data is being processed about the individual, in most cases the most suitable methods for providing the information would be:

- Releasing electronic copies of the personal data using a secure email system
- Arranging collection of hard copies from Council premises
- Hand delivery where this is feasible

8.3 If the request was made electronically, the Council should provide the information in a commonly used electronic format, unless the individual requests otherwise.

8.4 The use of other options must be in accordance with the Council's **Handling Personal Data Policy** and the method of releasing the information must take into account the requirement for security – it is likely in many cases that the disclosure will contain Special Category (sensitive) personal data that could cause distress or even harm if lost or misdirected.

8.5 As above, where collection of hard copies from Council premises has been arranged, the email or letter sent to the requester in response to the request must confirm the

agreed arrangements. Further reminders to the requester may be required in order to ensure that the information is accessed by them within the timescale for response.

8.6 A record that the information has been received in the form of a receipt should be completed and signed by the requester when they collect personal data from Council premises. This process can include an additional identity check where necessary.

8.7 In some circumstances, if it is required and with their agreement, a meeting can be arranged between the relevant Council service and the requester to provide an opportunity to explain the information, avoid any misinterpretations, discuss queries etc.

8.8 A copy of the information released and any personal data that is withheld must be retained to assist with handling any complaints or queries that may arise. This copy and the records kept regarding the request must be retained only for the period specified in the Council's **Retention Guidelines**, which is 5 years after administrative use is concluded.

Step 3 should be completed within the deadline that has been calculated for response.

9. Other data protection rights

9.1 Individuals have a number of other rights in relation to their personal data under the UK GDPR. These include but are not limited to:

- The right to have any inaccurate or incomplete information rectified (corrected)
- The right to object to the processing of personal data

9.2 As with Subject Access Requests, individuals may choose to exercise these rights:

- Verbally
- By making specific requests in writing
- By including requests as part of correspondence

9.3 The Council is required under the UK GDPR to respond to these requests within one month.

9.4 Employees must therefore be mindful of these rights and ensure that such communications are forwarded to the Data Protection Officer at the earliest opportunity.

10. Ensuring equality of treatment

10.1 All employees are required to adopt a positive, open and fair approach and ensure the Authority's **Equality and Diversity Policy** is adhered to and applied consistently to

all irrespective of race, colour, nationality, ethnic or national origins, disability, religion and belief or non-belief, age, sex, gender reassignment, gender identity and gender expression, sexual orientation, pregnancy or maternity, marital or civil partnership status.

10.2 In addition, the Welsh Language Standards ask us to ‘ensure that the Welsh language is treated no less favourably than the English language’ and this principle should be adopted in the application of this procedure.

Appendix 1

Subject Access Requests Complex request checklist

Request reference	DP/....
Data subject name	
Form completed by	
Date	

1. The request involves processing more than 50 individual documents	Yes ☐ No ☐
2. The personal data requested includes special category data	Yes ☐ No ☐
3. There are potential issues relating to the disclosure of personal data information about a child to a parent or legal guardian	Yes ☐ No ☐
4. Processing the request requires extensive redaction of information	Yes ☐ No ☐
5. There are technical difficulties in retrieving the information – for instance, the data is electronically archived	Yes ☐ No ☐

Assessment	
Considering the factors set out above, is the request assessed as being complex? Please include any additional comments to explain this decision below.	Yes ☐ No ☐

Appendix 2

Example of text for an acknowledgement email or letter

Dear,

Thank you for your request for copies of information held about you, which was received on and is being dealt with under the right of access to personal data provided by Data Protection legislation.

We are required to respond promptly and in any event, within one month of receiving the request. If we find that your request is complex, we reserve the right extend the period for response by a further months. If this is the case, we will let you know as soon as possible.

In the meantime, if you have any queries, please do not hesitate to contact us, remembering to quote the reference provided above in any communications.