

Maghull Town Council



MAGHULL TOWN COUNCIL

Subject Access Requests

Policy

May 2018

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SUBJECT ACCESS REQUESTS POLICY

What is the right of access?

The right of access, commonly referred to as subject access, gives individuals the right to obtain a copy of their personal data as well as other supplementary information. It helps individuals to understand how and why we are using their data, and check we are doing it lawfully.

What is an individual entitled to?

Individuals have the right to obtain the following from us:

- confirmation that we are processing their personal data;
- a copy of their personal data; and
- other supplementary information – this largely corresponds to the information that is provided in our privacy notice.

Personal data of the individual

An individual is only entitled to their own personal data, and not to information relating to other people (unless the information is also about them or they are acting on behalf of someone). Therefore, it is important that you establish whether the information requested falls within the definition of personal data.

Other information

In addition to a copy of their personal data, you also must provide individuals with the following information:

- the purposes of your processing;
- the categories of personal data concerned;
- the recipients or categories of recipient you disclose the personal data to;
- your retention period for storing the personal data or, where this is not possible, your criteria for determining how long you will store it;
- the existence of their right to request rectification, erasure or restriction or to object to such processing;
- the right to lodge a complaint with the ICO or another supervisory authority;
- information about the source of the data, where it was not obtained directly from the individual;
- the existence of automated decision-making (including profiling); and
- the safeguards you provide if you transfer personal data to a third country or international organisation.

How do we recognise a request?

The GDPR does not specify how to make a valid request. Therefore, an individual can make a subject access request to you verbally or in writing.

A request does not have to include the phrase 'subject access request' or Article 15 of the GDPR, as long as it is clear that the individual is asking for their own personal data.

How should we provide the data to individuals?

If an individual makes a request electronically, you should provide the information in a commonly used electronic format, unless the individual requests otherwise.

Can we refuse to comply with a request?

We can refuse to comply with a subject access request if it is manifestly unfounded or excessive, taking into account whether the request is repetitive in nature.

If a request is manifestly unfounded or excessive we can request a "reasonable fee" to deal with the request; or refuse to deal with the request. In either case we need to justify the decision.

We should base the reasonable fee on the administrative costs of complying with the request. If we decide to charge a fee we should contact the individual promptly and inform them. We do not need to comply with the request until we have received the fee.

What should we do if we refuse to comply with a request?

We must inform the individual without undue delay and within one month of receipt of the request. We should inform the individual about:

- the reasons we are not taking action;
- their right to make a complaint to the ICO or another supervisory authority; and
- their ability to seek to enforce this right through a judicial remedy.

We should also provide this information if we request a reasonable fee or need additional information to identify the individual.

Process to follow

1. On receipt of a subject access request forward it immediately to the Town Clerk or Data Protection Officer.
2. Identify whether a request has been made under the Data Protection legislation.
3. If there are any doubts as to the identity of the person making the request, we can ask for more information or to see some form of identification. The period for responding to the request begins when you receive the additional information.
4. A member of staff, and as appropriate, councillor, who receives a request to locate and supply personal data relating to a subject access request must make a full exhaustive search of the council's records - search the council's shared drive, all staff e-mails (including archived e-mails and those that have been deleted but are still recoverable), word documents, spreadsheets, databases, scanned documents, removable media (for example, memory sticks, CDs), paper records in filing cabinets and lever arch files etc.
5. All the personal data that has been requested must be provided unless an exemption can be applied. You must not withhold personal data because you believe it will be misunderstood; instead, you should provide an explanation with the personal data. You must provide the personal data in an "intelligible form", which includes giving an explanation of any codes, acronyms and complex terms. The personal data must be supplied in a permanent form except where the person agrees or where it is impossible or would involve undue effort. You may be able to agree with the requester that they will view the personal data on screen or inspect files on our premises. You must redact any exempt personal data from the released documents and explain why that personal data is being withheld.
6. A subject access request log will be maintained allowing the council to report on the volume of requests and compliance against the statutory timescale.
7. We must respond without undue delay and at the latest within one month after receipt.
8. Subject Access Requests must be undertaken free of charge to the requestor unless the legislation permits reasonable fees to be charged.
9. Where a requestor is not satisfied with a response to a subject access request, the council must manage this as a complaint.
10. When responding to a complaint, we must advise the requestor that they may complain to the Information Commissioners Office if they remain unhappy with the outcome.

Template letters

All letters must include the following information:

- (a) the purposes of the processing;
- (b) the categories of personal data concerned;
- (c) the recipients or categories of recipient you disclose the personal data to;
- (d) your retention period for storing the personal data or, where this is not possible, your criteria for determining how long you will store it;
- (e) the existence of their right to request rectification, erasure or restriction or to object to such processing;
- (f) the right to lodge a complaint with the Information Commissioners Office;
- (g) if the data has not been collected from the data subject: the source of such data;
- (h) the existence of any automated decision-making, including profiling;
- (i) the safeguards you provide if you transfer personal data to a third country or international organisation.

Replying to a subject access request providing the requested personal data

Thank you for your letter of *[date]* making a data subject access request for *[subject]*. We are pleased to enclose the personal data you requested.

Include 1(a) to (i) above.

Copyright in the personal data you have been given belongs to the council or to another party. Copyright material must not be copied, distributed, modified, reproduced, transmitted, published or otherwise made available in whole or in part without the prior written consent of the copyright holder.

Release of part of the personal data, when the remainder is covered by an exemption

Thank you for your letter of *[date]* making a data subject access request for *[subject]*. To answer your request we asked the following areas to search their records for personal data relating to you:

- *[List the areas]*

I am pleased to enclose *[some/most]* of the personal data you requested. *[If any personal data has been removed]* We have removed any obvious duplicate personal data that we noticed as we processed your request, as well as any personal data that is not about you. You will notice that *[if there are gaps in the document]* parts of the document(s) have been blacked out. *[OR if there are fewer documents enclose]* I have not enclosed all of the personal data you requested. This is because *[explain why it is exempt]*.

Include 1(a) to (i) above.

Copyright in the personal data you have been given belongs to the council or to another party. Copyright material must not be copied, distributed, modified, reproduced, transmitted, published, or otherwise made available in whole or in part without the prior written consent of the copyright holder.

Replying to a subject access request explaining why you cannot provide any of the requested personal data

Thank you for your letter of *[date]* making a data subject access request for *[subject]*.

I regret that we cannot provide the personal data you requested. This is because *[explanation where appropriate]*.

[Examples include where one of the exemptions under the data protection legislation applies. For example the personal data might include personal data is 'legally privileged' because it is contained within legal advice provided to the council or relevant to on-going or preparation for litigation. Other exemptions include where the personal data identifies another living individual or relates to negotiations with the data subject. Your data protection officer will be able to advise if a relevant exemption applies and if the council is going to rely on the exemption to withhold or redact the data disclosed to the individual, then in this section of the letter the council should set out the reason why some of the data has been excluded.]