

Appendix

Information Rights Policy

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1. Summary

This policy sets out how the Council will comply with the UK-General Data Protection Regulation, the Data Protection Act 2018, Freedom of Information Act 2000, Environmental Information Regulations 2004 and any other applicable regulations and good practice in relation to requests for information. It will inform individuals what their rights are, any restrictions on those rights and how these rights can be exercised.

Fairness, transparency and openness are fundamental to the council's approach to information rights and requests. The council recognises the public interest in the disclosure of information and respects the rights of individuals and organisations to make requests for personal information, and for information under Freedom of Information Act 2000 and Environmental Information Regulations 2004.

2. Rights of the Individual

The UK-GDPR and the Data Protection Act 2018 give individuals certain rights with regards to the personal data held by the Council and includes the following:

- The right to be informed
- The right of access (also known as a Subject Access Request)
- The right to rectification
- The right to erasure
- The right to restrict processing
- The right to data portability
- The right to object
- The rights of individuals where automated decision-making and profiling is carried out by the Council

Complying with requests to enforce these rights is subject to exemptions provided in the relevant legislation. It is the role of the Council's Data Protection Officer (DPO) to determine when these rights should be upheld and where applicable, exemptions that should be used.

3. The Right to be Informed

The right to be informed incorporates some of the key transparency requirements of the UK GDPR. It is the requirement of the council to provide you with clear and concise information about what we will do with your personal data. This information is provided to you within the council's Privacy Notice and outlines:

- Why we collect your personal information
- What personal information we may collect

- How we collect your personal information
- The laws that allow us to use your personal information
- Who we might share your personal information with
- How long we will keep your personal information
- Your rights under the law
- How to access your personal information held by the Council
- Information about the council's filming and photography
- Contact details for the Council's Data Protection Officer and the Information Commissioner
- An overview of our service areas

The Privacy Notice is available on our website at <https://www.sandwell.gov.uk/privacynotice>

4. The Right of Access – Subject Access Request (SAR)

This right is commonly known as a Subject Access Request and gives you the right to obtain copies of the personal information the council holds about you.

Requests for a Subject Access Request may be made verbally or in writing to any officer of the council. There are a number of ways in which you can make your request, and these are detailed under section 14.

Identification of the Requestor

We may need you to provide identification in the form of nationally accepted photo identification such as a copy of your passport or driving licence. This is to ensure that when we undertake searches we identify the correct information and not that of another person and to ensure that before providing you with the information you are the person to whom the information relates.

Where the council requires you to provide identification, copies of the personal information requested will not be provided to you until this has been received.

Timescales for Responding to your Subject Access Request

There is a statutory requirement for the council to respond to your request within one calendar month from the date of receipt i.e. a request received on 1st January will be responded to on or before the 1st February. However, this timescale may be extended by up to two further months where the request is deemed to be particularly complex or onerous.

Processing your Subject Access Request

Once you have told us what information you require we will search all relevant records and systems and extract all the personal information that relates to you and your request. Information about other people will be redacted unless we think you

would already know this information or you provide consent from the other individuals to disclose their information.

There may be some instances where the council requires clarification of the personal information being requested by you. It is important that you respond as quickly as possible as the council will not start any searches for your information until this clarification has been received.

There are some circumstances where the information will be exempt from the right of subject access. However, where this is the case our response will outline the relevant exemptions from within the legislation that has allowed us to do this.

Subject Access Request made on Behalf of a Minor (Data Subject under the age of 13)

Where a Subject Access request is made in relation to a minor then we will need nationally accepted photo identification and proof of your parental or guardian right to make the request and receive the response. This might take the form of birth certificates, proof of residence or a document issued by a competent court of law in the UK and European Union.

Before responding to a SAR for information held about a child, the council will consider whether the child is mature enough to understand their rights. If the council believes that the child can understand their rights, then we may respond directly to the child. In these circumstances the council will however, allow the parent to exercise the child's rights on their behalf if the child authorises this, or if it is evident that this is in the best interests of the child.

Subject Access Request made on Behalf of an Adult with Capacity to Consent

Where a Subject Access Request is made on behalf of another adult who has the capacity to consent then nationally accepted photo identification is required for the individual whose personal data is being requested. Consent or a letter of authorisation must also be provided from the individual whose data is being requested.

Subject Access Request made on Behalf of an Adult without Capacity to Consent

Where a Subject Access Request is made on behalf of another adult who does not have the capacity to consent, nationally accepted photo identification and proof of the legal right to make the request and receive the response is required. For example, a lasting power of attorney.

Subject Access Request made for the Personal Information of someone Deceased

To make a request for the personal information of someone who is deceased the request must be made by the personal representative of the deceased. To do this the requestor must provide a nationally accepted photo identification and proof of the legal right to make the request and receive the response. For example, probate, letters of administration, proof they are the executor of the will, authorisation from the executor of the will.

Charging a Fee for a Subject Access Request

In accordance with the provision of UK GDPR and the Data Protection Act 2018, the council does not charge for SARs. Data protection law however, permits the council to apply a reasonable administrative charge if the request is repetitive, manifestly unfounded or excessive in nature.

Refusing a Subject Access Request

The council may refuse to act on a SAR for one or more of the following reasons:

- The requester has made more than two repetitive requests within a 12-month period
- The request is judged to be manifestly unfounded
- The request is excessive in nature
- There are legal prohibitions around the release of the requested information
- Releasing the information will cause harm and distress to one or more living individuals

Should your request be refused then you will be advised of this decision in writing within one calendar month from the receipt of your request.

Subject Access Request Review

If you are dissatisfied with our response to your Subject Access Request, you can make a request for review within 21 days of the date of our response. If a request for review is received after 21 days, the council will treat the SAR as a new request. To request a review, please contact the council's Data Protection Officer, contact details can be found below at point 14.

5. The Right to Rectification

This right allows you to request that personal data held about you is rectified. If you believe we hold information about you which is inaccurate or incomplete you can ask us to rectify (i.e. correct) the information or complete it if it is incomplete.

In some circumstances you may be asked to provide supporting information to evidence the requested changes / alterations. Where a right to rectification request is

received the council will review the information and the details you have provided and make a decision as to whether we need to change the information we hold.

After reviewing your request, we will inform you of our decision and outline the reasons for our decisions.

6. The Right to Erasure

The Right to erasure also known as the '*right to be forgotten*' is your right, in some circumstances, to ask for any personal information held by the council about you to be erased / deleted. You have this right where:

- You withdraw your consent for the Council to hold this information and the council's legal basis for processing this information is consent.
- It is no longer necessary for us to hold the information for the purpose for which it was originally collected / processed
- You object to the processing of your information and we have no overriding legitimate reasons to allow us to continue using your information
- Your information has been unlawfully processed by the council or has to be erased in order to comply with a legal obligation e.g. a court order;

This right does not apply where the information is processed:

- To comply with a legal obligation or for a task carried out in the public interest or in the exercise of the council's official authority.
- Exercise or defend legal claims
- For certain purposes relating to public health, for archiving in the public interest, scientific or historical research or statistical purposes.

After reviewing your request, we will inform you of our decision and any actions we have taken regarding the personal information the council holds about you.

7. The right to Restrict Processing

You have the right to ask the council to restrict the processing of your personal data in the following circumstances:

- You contest the accuracy of the personal data the council holds about you
- The personal information has been unlawfully processed
- The data is due to be destroyed in accordance with the council's retention schedule but you require it to establish, exercise or defend a legal claim.
- You have objected to the processing and we are considering whether we have a legitimate reason to process your information which overrides this.

Where you exercise your right to restrict processing the council will write to you outlining our decision.

8. The right to data portability

The right to data portability allows you to obtain and reuse the personal data held by the council for your own purposes.

Where this right applies, the council must provide the personal data to you in a structured, commonly used and machine-readable format. If you request it, we may transmit the data directly to another organisation if this is technically feasible.

The right to data portability only applies to personal data you have supplied to the council, where the legal basis for processing the information is that you have consented, or you have given us the information for a contractual arrangement and the processing is carried out by automated means.

The right to data portability does not apply if information is being processed for a task carried out in the public interest or in the exercise of the council's official authority.

9. The Right to Object

The right to object gives you, in certain circumstances, to object to the council's processing of your personal information. This effectively allows you to stop or prevent the council from processing your personal data.

You have the absolute right to object to the processing of your personal data if the legal basis used by the council is that of consent i.e. newsletters from our communications team.

You can also object to the processing of your personal information if the council processes your information for:

- Its legitimate interests
- A task carried out in the public interest
- The exercise of the council's official authority
- Certain scientific / historical research for statistical purposes

However these circumstances are not absolute and in line with the applicable legislative requirements the council may refuse your right to object.

Where you exercise your right to object the council will write to you outlining our decision and the reasons for these.

10. Rights of individuals where automated decision-making and profiling is carried out by the Council

Where the council uses automated decision making or profiling and that decision could affect you or another individual, you have the right to:

- Ask for human intervention to review or challenge a decision made by automated means
- Obtain an explanation of the decision and challenge it.

11. Freedom of Information Requests

The Freedom of Information Act 2000 provides you with the ability to access information held by the council. It does this in two ways:

- By obliging the council is to publish certain information about our activities.
- Allowing you to request recorded information held by the council.

The Freedom of Information Act places the following responsibilities on the council:

- To accept and consider requests for information made under the Freedom of Information Act
- To ask the requester for further information to enable the council to gain an understanding of the requester's expectations.
- To provide advice in writing to the requester as to whether the council holds the requested information
- Where allowable under the Freedom of Information Act to provide the requested information
- To inform the requester if the information / part of the information requested is exempt from disclosure.

Making a Freedom of Information Request

There are a number of ways in which you can make your request, and these are detailed under section 14.

When making a request you must:

- Make the request in writing (this can include requests made by email, social media, postal etc.)
- Include your real name (this can be a company name or a person on behalf of a person e.g. solicitor on behalf of a client)
- Include an address for correspondence (this can either be a postal address or email address)
- Clearly detail the information required. It must be subject specific - "tell me everything about" ... is not a valid request

Timescales for Responding to Freedom of Information Request

The council has a statutory timescale of 20 working days from the date of receipt to respond to your request. Day 1 is calculated as the first working day after the request has been received. You will however receive an email from our system (DASH)

informing you that we have logged your request along with the response target date and the FOI reference number.

An extension to the statutory timescale of 20 working days for responding to an FOI can only be made where:

- An exemption being used requires a public interest test to be undertaken
- More time is needed to consider whether it would be in the public interest to confirm or deny whether the information is held.

Where the council needs to extend the statutory timescale we will inform you of this and the reasons for the extension.

Requests for Clarification

It may be necessary to seek clarification from you regarding the information being requested. Where this is required you will be given 2 months to respond after which the request will be closed. The timescale for responding to your request will not start until the council receives the clarification regarding your request.

Refusal of a Freedom of Information Request

The council can refuse an entire request under the following circumstances:

- The request is vexatious.
- The request repeats a previous request from the same person.
- Requests which include abusive or hostile language

In line with the Freedom of Information Act the council limits the cost threshold for responding to Freedom of Information requests at a maximum of 18 hours to locate, retrieve and extract the information requested (this does not include time required to apply any necessary exemptions or redactions). Where responding to the request will take longer than 18 hours it will be refused. Where this happens however you will be advised as to how you may be able to amend your request to meet the cost threshold.

Exemptions to withhold information held by the Council

The Freedom of Information Act contains a number of exemptions that allow the council to withhold information from a requester. In some cases, the council may refuse to confirm or deny whether it holds the information.

Any exemption used and the reasons for using them will be outlined in the response to your request.

Freedom of Information Request Review

If you are unhappy with our response to your Freedom of Information Request, then you are entitled to an Internal Review. Internal Review requests should be submitted within 40 working days of the date of receipt of this correspondence.

To request a review, please contact the Council's Data Protection Officer, contact details can be found below at point 14.

12. Environmental Information Requests

The Environmental Information Regulations 2004 is the legislation that provides you with the ability to access environmental information held by the council. It does this in two ways:

- By obliging the council to proactively make environmental information available
- Allowing you to request environmental information held by the council.

Environmental information is recorded information in any form regarding the state of elements of the environment and their interaction (air, atmosphere, water, soil, land and landscape, natural sites, flora and fauna) discharges, emissions, noise, radiation, waste.

Environmental Information Regulation requests are similar to FOI requests and will be processed in the same way as described above under section 11 'Freedom of Information Requests'.

13. Publication Scheme

The council maintains a publication scheme and updates it regularly to maintain its relevance. The publication scheme contains documents, policies, plans and guidance used by the Council. It also specifies how this information will be made available to the public.

The publication scheme can be accessed via the following link:

<https://www.sandwell.gov.uk/council/publication-scheme>

14. How to access your rights and request information?

In order to make a request regarding your rights and access to information discussed above please contact the Council in one of the following ways;

By Post:

Information Management Unit
Sandwell Council House
Freeth Street
Oldbury
West Midlands

B69 3DE

By email:

Info_Management@Sandwell.gov.uk

Or if you have a My Sandwell account at:

<https://my.sandwell.gov.uk/>

If you are unhappy with how the Council has processed your personal data or handled your request then you can make a complaint to the Council's Data Protection Officer

By Post:

Office of the DPO
Sandwell Council House
Freeth Street
Oldbury
West Midlands
B69 3DE

By email:

dp_officer@sandwell.gov.uk

If for any reason you are not happy with how we have handled your personal information or the response from our Data Protection Officer, you can contact the Information Commissioner's Office (ICO).

You can contact the Information Commissioner at the following address:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Alternatively, you can use their online tool for reporting concerns:

<https://ico.org.uk/concerns/>

You can telephone them on 0303 123 11113.