

# Subject Access Request Policy

---

London Borough of Richmond

*June 2024*

## **Subject Access Request (SAR) Policy**

### **CONTENTS**

- 1. INTRODUCTION**
- 2. PURPOSE**
- 3. SCOPE**
- 4. SAR PROCEDURE**
- 5. TRAINING AND AWARENESS**
- 6. MONITORING AND AUDIT**
- 7. COMPLAINTS**
- 8. POLICY REVIEWS**

### **APPENDIX A: EXEMPTIONS**

### **APPENDIX B: DOCUMENTARY EVIDENCE REQUESTED FOR ID PURPOSES**

## 1. INTRODUCTION

Living individuals (“data subjects”) have the right under the UK General Data Protection Regulation 2016/679 (UK GDPR), the Data Protection Act 2018 (the 2018 Act) and other data protection legislation to request a copy of their personal data and certain other supplementary information. The Council will seek to fulfil its obligations under the UK GDPR and the 2018 Act by responding to such requests, subject to specific exemptions detailed in the UK GDPR, the 2018 Act and any other applicable legislation.

Personal data is information that relates to an identified or identifiable living individual who is a natural person, as opposed to data relating to a non-natural person such as a limited company or an organisation.

## 2. PURPOSE

This Policy outlines the procedures the Council will take when a data subject requests a copy of their personal data, commonly referred to as a “Subject Access Request” (SAR) or a “Data Subject Access Request” (DSAR).

Data subjects have the right to receive the following supplementary information:

- the purposes for processing their personal data;
- the categories of personal data processed by the Council;
- the recipients or categories of recipient who the Council has disclosed to or will be disclosing their personal data to (including recipients or categories of recipients in third countries or international organisations);
- it’s retention period for storing their personal data or, where this is not possible, the criteria for determining how long it will store it;
- how to exercise their right to request rectification, erasure or restriction or to object to processing their personal data;
- how to exercise their right to lodge a complaint with the Information Commissioner’s Office (ICO);
- information about the source of their data, if the Council did not obtain it directly from them;
- whether or not the Council uses automated decision-making (including profiling) and information about the logic involved, as well as the significance and envisaged consequences of the processing for the individual; and
- the safeguards provided by the Council where personal data has or will be transferred to a third country or international organisation.

### 3. SCOPE

This Policy applies to data subjects such as residents, service users and employees who request access to their personal data that is held by the Council.

It includes all personal data the Council collects and uses whether it is held in electronic or paper format and includes voice recordings, imaging records, photographs and CCTV. Appendix A lists the types of personal data that will be exempt.

### 4. SAR PROCEDURE

#### What is a valid request?

A SAR request is valid provided there is a sufficient description of the information required. Requests can be made via the online form on the Council's website at [https://www.richmond.gov.uk/make\\_a\\_subject\\_access\\_request](https://www.richmond.gov.uk/make_a_subject_access_request).

Requests can also be made by email, letter or verbally.

The Council must be satisfied that the data subject is who they say they are and therefore have the right to request a copy of their personal data. The data subject **will** be required to provide identification to evidence that they are the requestor. If a third party is making a request on behalf of a data subject, the Council will expect to receive a letter of authority or some other form of documentation for example, a power of attorney to evidence that they are acting in an official capacity on behalf of the data subject.

The Council has a duty to ensure that the confidentiality of the personal data is maintained at all times and that the personal data is supplied to the person who is entitled to receive it.

A list of the suggested documentation is available in Appendix B. Whilst it is important to confirm identification, the Council will do so in a reasonable and proportionate way, in particular if there is an on-going relationship with the data subject, e.g. an employee or a service user, we probably do not need to request more information.

A valid request can be made by a child. The Council considers a child to be under the age of 18. This is in accordance with the United Nations Convention on the Rights of the Child which defines a child as everyone under the age of 18, unless "under the law applicable to the child, majority is attained earlier") may also authorise someone else to make a request on their behalf, usually someone with parental responsibility for the child. An assessment of the child's maturity to understand their SAR rights and the nature of the personal data requested will be assessed by the relevant service who will collect and collate the requested personal data. The service can seek advice from the Information Governance Team.

A parent does not have an automatic right to information held about their child. The right belongs to the child and the parent acts on their behalf, providing the parent has Parental Responsibility. Once the child reaches sufficient maturity, the child can

exercise their own right, and the parent must act with the child's consent. The Council will need to consider whether the child has the competence to understand and consent for themselves (the 'Gillick competence test').

Where parents have separated, consideration should be given to the 'best interests' of the child in releasing information to the requesting parent.

In England and Wales, the age at which the child reaches sufficient maturity is judged to be the age of 13, but this may vary according to factors particular to that child.

When determining if a child is able to understand the nature of a SAR and to understand the information provided the Council will take into account all relevant factors, including:

- the child's level of maturity and their ability to make decisions like this;
- the nature of the personal data;
- any court orders relating to parental access or responsibility that may apply;
- any duty of confidentiality owed to the child or young person;
- any consequences of allowing those with parental responsibility access to the child's or young person's information. This is particularly important if there have been allegations of abuse or ill treatment;
- any detriment to the child or young person if individuals with parental responsibility cannot access this information; and
- any views the child or young person has on whether their parents should have access to information about them.

The Council will endeavour to use clear and plain language when it is disclosing information to a child.

### **How does the Council handle the SAR?**

All requests received in any part of the Council must be forwarded to the Information Governance Team for recording without delay to:

[SARR@richmondandwandsworth.gov.uk](mailto:SARR@richmondandwandsworth.gov.uk). The Council will comply with the request undue delay and at the latest within one month of receipt of the request or within one month of receipt of:

- any information requested to confirm the requester's identity or
- a fee (only in certain circumstances).

In order to adhere to the statutory response deadline Council staff are reminded to recognise any SAR requests that may be contained in other correspondence addressed to the Council, for example a letter of complaint or a Council social media channel.

The Council will calculate the time limit from the day it receives the request, fee or other requested information (whether it is a working day or not) until the corresponding calendar date in the next month.

If this is not possible because the following month is shorter (as there is 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 will have until the next working day to respond.

This means that the exact number of days the Council has to comply with a request varies, depending on the month in which the data subject makes the request.

The time limit therefore commences on the day the request is received by the Council and the identification documentation has been validated by the Information Governance Team. Once they have validated the identification documentation, the Information Governance Team will forward the request to the relevant department(s) to perform a reasonable search and provide a response.

If the Council needs to seek clarification from the requestor regarding the SAR this should be done without delay and before the one-month deadline expires. The IG team will seek clarification on behalf of the department. The clock will be paused for up to one month. If no response is received after one month the Council will adopt a reasonable and proportionate approach taking into consideration issues brought to its attention by the requestor on a case-by-case basis before closing the request.

The department will be responsible for keeping a record of the SAR response, both redacted and unredacted copies.

The Information Governance Team is available to offer guidance and will contact the data subject if the Department requires further information to facilitate locating the requested information. The response will normally be sent to data subjects by the Department within the legal time limits. This will be via email, unless the requestor has specified another method (for example: post or collecting in person). When information is posted, it will be sealed securely and sent by recorded delivery to the address provided in the identification check. When collecting in person the individual will need to provide recent photographic evidence, e.g. a valid passport or valid photocard driving license. No SAR is to be delivered via a social media channel.

The response must be provided in a concise, intelligible and easily accessible form, using clear and plain language.

The Council has a legal duty to make reasonable adjustments for people with disabilities, depending on the specific needs of the individual, by ascertaining from them how the Council can meet their needs. This may mean for example providing the response in large print, audio formats or braille.

If the request is voluminous or complex (for example: from an employee or for social care information) the legislation allows for an extension of a further two months. The data subject will be advised of an extension within one month of receipt of their request or earlier, with an explanation as to why the extension is necessary.

The Council may refuse to comply with a SAR, under certain circumstances where it can be shown for example that the request, or a series of requests, is manifestly unfounded or excessive or to avoid obstructing an official or legal inquiry, investigation or procedure.

Where a SAR is clearly or obviously unreasonable, for example it largely repeats a previous request or requests and no reasonable interval has elapsed, the Council will consider whether the request is manifestly excessive with a view to refusing to provide information that has previously been provided.

A SAR may be manifestly unfounded when a requestor targets an employee against whom they have a personal grudge or systematically and regularly submits a number of SARs in order to cause disruption to the Council. The Council may consider whether the request is manifestly unfounded and refuse to provide the requested information.

A copy of the information sent will be retained for three years on completion of the request and six years after the outcome of an appeal has been concluded as required by the Corporate Retention Schedule and Corporate Retention rules, unless there is a legal basis to retain the information for longer.

## **5. TRAINING & AWARENESS**

Since the rights of the data subject to access their personal data is a statutory duty, all Council staff are required to undertake regular corporate Data Protection and Information Security training so that they are able to carry out this responsibility in accordance with data protection legislation.

## **6. MONITORING AND AUDIT**

SAR performance relating to response times will be reviewed by the Information Governance Strategic Board (IGSB) on a quarterly basis and will be used to inform future policy and procedures.

## **7. COMPLAINTS**

If Data subjects are concerned about the response to their SAR or how their SAR has been handled, they may ask for an Internal Review. The Internal Review will be carried out by the Data Protection Officer (DPO) at [dpo@richmondandsworth.gov.uk](mailto:dpo@richmondandsworth.gov.uk) who will communicate their findings to the data subject and address any concerns they have found. Data subjects should raise any concerns with us within three months of their last meaningful contact with the Council. The Council will aim to respond within 20 working days from the date the concern is received.

If the data subject is still not satisfied, they have the right to request that the Information Commissioner make a further assessment of compliance:

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

**Telephone:** 0303 123 1113

**Fax:** 01625 524510

**Live Chat** <https://ico.org.uk/global/contact-us/live-chat>

The data subject is also entitled to seek to enforce their rights through a judicial remedy.

## **8. POLICY REVIEWS**

This policy will be reviewed every 2 years. An earlier review will be undertaken if recommended by the DPO and agreed by the Information Governance Strategic Board in response to exceptional circumstances, such as relevant changes in legislation/guidance.

## APPENDIX A. EXEMPTIONS

The 2018 Act includes several exemptions, which means that certain information may not be disclosed in response to a SAR. When the Council applies an exemption, it will do so on a case-by-case basis and will advise the data subject of the reasons for their decision.

The list below is not exhaustive, but includes those exemptions most relevant to Council business:

- information processed for the prevention and detection of crime and for taxation purposes
- information subject to legal professional privilege
- information where there is a statutory enactment or court order restricting disclosure, for example: adoption records
- confidential references provided or received by the Council about the data subject, for example relating to the employment of the data subject
- information about another individual also referred to as third party personal data
- information relating to the deceased since the UK GDPR and the 2018 Act only applies to living individuals. A request could, depending on the circumstances, be made under the Access to Health Records Act 1990 or made under Freedom of Information legislation. For further information see:  
[Freedom of Information - London Borough of Richmond upon Thames](#)
- information held by Elected Members. They should be contacted directly
- information held by Schools. They should be contacted directly
- any negotiations between the Council and a data subject that would prejudice negotiations with that data subject
- child abuse data if the request is from someone with parental responsibility, under 18 or someone appointed by the court to manage the affairs of an individual who is incapable of managing their own affairs. The exemption only applies if complying with the SAR would not be in the best interest of the child.



## **APPENDIX B - DOCUMENTARY EVIDENCE REQUESTED FOR IDENTIFICATION PURPOSES**

Please supply one from each of the following categories (copies only, originals will not be returned, (the name on the photographic document will need to correspond with the name on your address identification document, see below)). If you are making a request on behalf of someone else, both you and the data subject will need to comply with the below list.

Please note: you'll need to scan or copy the above documents in colour. We don't accept black and white.

### ***Personal identity***

- a copy of a valid passport
- a copy of a current, valid photocard driving licence
- birth/adoption certificate
- If your request is for Body Worn Video footage or CCTV footage, documentary evidence that contains your facial image must be provided to prove your identity for example, a copy of a valid passport, a copy of a current valid photocard driving licence, valid student identification or company identification.

### ***Address***

- recent original utility bill (dated within the last three months) (note that mobile telephone bills will not be accepted as they can be sent to different addresses)
- local authority tax bill (valid for the current year)
- a copy of a current, valid photocard driving licence if not used for evidence of name)
- bank statement, building society passbook containing current address (dated within the last three months)

<b>Policy Title</b>	<b>Subject Access Request (SAR) Policy</b>
<b>Policy Area</b>	<b>Information Governance</b>
<b>This Policy will impact on:</b>	<b>All Data Subjects</b>
<b>Version</b>	<b>1.2</b>
<b>Author</b>	<b>Katrina Waite</b>
<b>Effective Date</b>	<b>April 2020</b>
<b>Review Date</b>	<b>June 2026</b>
<b>Approval Record</b>	<b>Information Governance Strategic Board (IGSB) October 2022 IGSB June 2024</b>
<b>Consultation</b>	<b>SAR Working Group</b>
	<b>Information Governance and Security Forum (IGSF)</b>