

Data Protection Subject Access Policy

London Borough of Barnet

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Document Control

POLICY NAME	Data Protection Subject Access Policy		
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1 Introduction and scope

This document is applicable to all officers (including but not limited to employees, contractors, agency workers, consultants, and interims) who have been permitted access by the council to use or access council data on its behalf. It further includes Barnet councillors when acting on behalf of the council.

The aim of the document is to provide a sound overview and understanding of what a subject access request is and how to recognise a request. It further aims to provide officers with an understanding of what their responsibilities are in responding to requests of this nature.

If you are responsible for, or involved in undertaking a subject access request, you must ensure you also adhere to the "Subject Access – Handling Guidance".

2 What is a Subject Access Request?

A Subject Access request, or a SAR as it is often referred to, enables individuals eg. members of the public or staff, to find out what personal information the council holds about them.

This right of access forms a part of the provisions stated in the Data Protection Act 1998.

A request may be received in many different ways and may be difficult to detect. However, the simple rule is if the information being requesting is about the requester, or they can be identified in any way by it, it's likely to be covered by SAR provisions.

Personal information can take a number of forms eg paper, electronic, CCTV footage, a picture or even an audio recording. It can include facts and information about an individual and also include views or opinion of others about the individual.

An individual who makes a valid SAR and requests personal information about themselves is entitled to be:

- told whether any of their personal data is being held;
- given a description of the personal data, the reasons it is being held, and whether it will be given to any other organisations or individuals;
- given a copy of the information comprising the data; and
- given details of the source of the data (where this is available).

An individual can also request information about the reasoning behind any automated decision, such as a computer-generated decision. For example where an organisation uses an automatic key word scanning process to accept or reject application forms.

There are some types of personal data that are exempt from the right of subject access, which means if the personal data you hold falls within a particular exemption you do not have to disclose it.

Further information on Exemptions can be found in the “Subject Access – Handling Guidance”.

3 What are my key responsibilities?

- Adhering to the Data Protection Act is the responsibility of every officer acting for or on behalf of the council. Subject Access requests fall within data protection statutory framework and the ability to identify and appropriately handle a request for information is considered to be part of every employee’s role.
- Your primary responsibility is to ensure that Subject Access Requests are in the first instance directed to your service Link Officer. They will log the request on the case management system, acknowledge it and coordinate the response. They will also provide you with advice and assistance at each appropriate step. It is important that requests are passed on as soon as they are received to assist in meeting the statutory deadline.
- Whilst Barnet has put in place a network of Link Officers this does not remove the responsibilities from other officers. All officers should provide help and assistance to Link Officers when asked to enable them to meet the statutory deadlines on behalf of the council.
- Assigned Link Officers will lead on the collation, redaction and disclosure of information:
 - Link Officers are responsible for checking SAR responses before they are sent. They must ensure they are happy that the request meets the statutory duty and that the information being disclosed and / or redacted has been done so in line with the council’s duties under the Data Protection Act.
 - Link Officers are responsible for raising any concerns in regards to the disclosure, and seeking appropriate sign off as outlined in the Subject Access Handling Policy.
 - Line Managers should ensure their Link Officer has appropriate time and resource allocated to them to facilitate this role.
- All officers must be extra vigilant to ensure that they do not provide other people’s personal data in response to a Subject Access Request unless it

is deemed appropriate to do so under the provisions of the Data Protection Act.

4 How can an individual make a SAR?

A SAR can be made in a number of different ways, but for it to be valid it must always be made in writing. If the requester advises that a written request is not possible, then liaise with the Information Management Team for advice. The most common routes being:-

- a) By downloading and completing the [Subject Access Request Pack](#) available on the internet.
- b) By writing a letter or email requesting personal data.
- c) By telephone or in person – in this scenario the officer dealing should either refer the requester to the website form, or offer to post / email a request pack to them for completion.

It is quite common that a request for personal data can be intertwined with either a complaint, business as usual, or a Freedom of Information request. For example: An individual appealing their parking ticket may request a copy of the information which led to the ticket being issued. In most cases as the request is for something very specific and minimal effort is required to supply it, the request is more than likely going to be dealt with as business as usual (and the fee waived).

NB No matter how a request is received there is no requirement for the requester to mention either the Data Protection Act or Subject Access for it to be a valid request. In some cases the requester may even state the wrong legislation eg Freedom of Information Act, but the request will still be valid.

Either way, it is the responsibility of the officer dealing to appropriately recognise a request as one for personal data, ie information relating to the requester, and process it accordingly.

Failing to recognise a SAR is not an excuse for non-response and the council will still fall foul of the Data Protection Act should a response not be provided in a prompt and appropriate manner.

If you are ever unsure of which legislation a request falls under and therefore how it should be handled you should seek advice from the Information Management Team.

5 Can an individual request personal information on behalf of another person?

The simple answer is yes they can.

The Act allows for an individual to make a request on behalf of another person. This may be a solicitor acting on behalf of the individual, a parent making a request for their child's information, a third party making the request for someone who has limited capacity, or indeed many other reasons.

However, whilst the Act allows us in certain circumstances to process a request in this way, there are a number of considerations and checks that need to be undertaken before you process a request which is made on behalf of another person. For example, a parent is not necessarily automatically entitled to information about their children.

Further information with regards to SARs made on behalf of another person can be found in the "Subject Access – Handling Guidance".

6 Does a SAR have to be received in any particular format?

The only requirement is that the request must be made in writing.

Whilst it is useful for requesters to complete a Barnet Subject Access Request Pack, it is not a mandatory requirement. A written request which contains sufficient information to locate the data, and provides enough information to satisfy ourselves of the identity of the requester should not be delayed just because a request has not been submitted on a Barnet form.

In addition requests may also be received via council social media sites, these again are still valid and must be acted upon within the timeframe.

If any information is missing from a request contact should be made with the requester to seek clarification or request the missing information as appropriate. You can not automatically reject a request on the basis of it being incomplete or perhaps unclear.

NB Due consideration should be made to those applicants less able, who may have difficulty making a request via the standard route. Guidance should be sought from the Information Management Team if officers are unsure of how to proceed.

Further information with regards to dealing with requests from less able individuals can be found in the "Subject Access – Handling Guidance".

7 Can I charge for the request?

The council can charge a flat fee of £10 per request. (council policy is that we do not charge for students, pensioners, staff, benefit claimants and those on income support). It is the requester's responsibility to provide evidence that they are exempt from the fee.

8 What do I do if I receive a request?

In practice, if someone wants to see a small part of their data (a council tax entry or a copy of a letter previously sent to them); you need to apply common sense. You should not require a formal SAR if the individual can prove their identity, the information is readily available there and then, and no other third party data will be unreasonably released. Such requests should be dealt with quickly, as business as usual and with little formality, although officers must keep a file note of what is provided and when.

Even if a request is dealt with as business as usual, the request itself would still be captured under the subject access statutory rules and therefore the response must be provided within a maximum of 40 calendar days.

All other (“non-routine”) requests for personal data which are likely to take a reasonable amount of resource must be directed to your service Link Officer who has been trained to deal with such requests.

Link Officers are a valuable source of information. They will determine whether the request is a valid one, will log the request on the iCasework case management system and coordinate the collation of the data.

Further information with regards to the Link Officer role can be found in the “Subject Access – Handling Guidance”.

NB Subject Access requests can take up a lot of resource and time and officers should provide help and assistance to their Link Officer as and when requested by them, in collating and locating the necessary information within the stated deadline.

9 How long do I have to respond?

The council has a maximum of 40 calendar days starting from the day the request, identification (if required) and payment (where applicable) is received, to comply with the request. This is a statutory requirement which must be adhered to.

In any event the request should be responded to as quickly as possible. The deadline is a maximum and any deliberate or unjustified delay to hold back a response until nearer the deadline expiry is not acceptable. e.g. data such as CCTV footage is subject to “automatic / routine” deletion, which means that after 28 days the data is automatically wiped. If a request is received for data that is subject to automatic deletion such as this, you must not delay the request until after the deletion date, but instead consider responding within the 28 days in a timely manner, or where this is not possible due to other priorities you should mark it for non-deletion to allow the request to be fulfilled after the deletion date but still within the 40 days.

10 Locating information

Processing a subject access request can prove very difficult if you do not have adequate information systems in place. Well structured file plans and standard file naming conventions within services should be in place to assist in locating information easily.

Poor file management / knowledge of systems can not be used as a reason for being unable to respond to a SAR effectively.

Requests for information are not limited to “live” files. SARs cover **all** information held by the council regardless of where it is stored, closed, archived, and in some cases even deleted information (eg. located in outlook deleted items) should be considered as part of a request.

Unfortunately, there is no outright exemption or time threshold with regards to the amount of time it may take officers to locate SAR information.

Further information with regards to resource intensive or complex SARs can be found in the “Subject Access – Handling Guidance”.

11 Use of service providers and subject access requests

When procuring a service provider to undertake work on behalf of the council, you must ensure appropriate protocols have been agreed with them to ensure they are aware of their responsibility to provide you with information (where necessary) that they may hold relevant to a subject access request received by the council.

12 Monitoring of SAR responses

Regular meetings will be held with Link Officers to allow the Information Management Team to keep an overview of SAR handling and responses. Spot checks will be undertaken to check for the quality of responses and to ensure continuity in the way responses are being handled.

13 Policy Review

This policy will be reviewed on an annual basis or sooner as is required e.g. where there are changes in legislation, or recommended changes to improve best practice.

14 Additional guidance & training

More specific guidance is available in the “Subject Access – Handling Guidance”. This guidance is primarily aimed at Link Officers who have been allocated responsibility in their area for handling these types of requests.

These policies form part of a suite of Information Management Policies which are all available within the Information Management section of the intranet and provide further information on council information standards, data security and working practices which must be adhered to.

Remember, your service Link Officer should be your first point of contact for responding to a SAR and they will liaise as necessary with the Information Management Team if further guidance is required.

General SAR advice is also available from the Information Management Team by emailing: data.protection@barnet.gov.uk.

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15 Subject Access flow process

This document provides a simplified overview of how a SAR should be processed. More detail on the process is provided in the "Subject Access – Handling Guidance".

