

# Subject Access Request (SAR) Procedure

## 2025 – 2028

*Reference number*

*Approved by*  
Information Governance Steering Group

*Date approved*  
6 March 2025

*Version*  
0.03

*Last revised*  
February 2025

*Review date*  
March 2028

*Category*  
Corporate Governance

*Owner*  
Information Governance Manager

*Target audience*  
All staff and members of the public.

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# 1.Introduction

The Data Protection Act 2018 (DPA 2018) and UK General Data Protection Regulations (UK GDPR) govern the handling of personal information relating to living individuals.

Personal data is defined in data protection legislation as:

“Any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person”.

The data protection legislation gives individuals a right of access, commonly known as a Subject Access Request (SAR), to receive a copy of their personal data. They also have the right to obtain confirmation that an organisation is processing their personal data and other supplementary information. They have the right to be told:

- The purpose of, and legal basis for, processing.
- The categories of personal data concerned.
- The recipients or categories of recipients to whom the personal data has been disclosed.
- Their right to request rectification, erasure, or restrictions or to object to processing.
- That they have the right to lodge a complaint with the Information Commissioner’s Office (ICO).
- Any information about the origin of the personal data concerned.
- Whether or not automated decision making (including profiling) has been used, and if so, details about the logic involved and significances and envisaged consequences of the processing for the individual.

## 2.Statement of Purpose

This document sets out Herefordshire Council’s procedure for dealing with SAR’s. It sets out what the council does to ensure its compliance with the provisions of the data protection legislation and informs all council staff and members of their responsibilities when receiving and processing SAR’s made under this legislation. This document also informs members of the public of the process the council has established for complying with SAR’s.

This procedure provides a framework within which the council will ensure compliance with the requirements of the data protection legislation. Incorporating guidance from the ICO, it will underpin operational procedures and activities connected with its implementation.

Herefordshire Council is committed to meeting its obligations with regards to SAR's and will use appropriate and necessary means at its disposal to comply with the legislation and associated guidance.

## 3.Scope of the Procedure

SAR's cover requests for records about living identifiable individuals held in both electronic and paper form.

This procedure covers requests made by individuals (requesters) to see records about themselves or those for whom they have some form of legal responsibility (authorised requesters).

Requests for adoption records should be sent to an individual's local adoption service. In Herefordshire this is Adoption Central England (ACE) [enquiries@aceadoption.com](mailto:enquiries@aceadoption.com)

To obtain school records individuals should contact the last school they attended; that school will handle the request.

[Requests for CCTV](#) images of an individual should follow that procedure.

[Your rights under the new data protection legislation](#) sets out the procedure for handling other data subject rights e.g. rectification, erasure, etc. set out in the data protection legislation.

## 4.Procedure for responding to SAR's

### 4.1

The council is responsible for ensuring that people are aware they can make a SAR request and advise them how to make this request; and this is set out on the [Access to Information](#) web-pages on the council's website.

### 4.2

A request does not have to refer to 'SAR', 'right of access' or 'Article 15 of the UK GDPR' to be handled under the legislation; it just needs to be clear the individual is asking for their own personal data or that they are an authorised third-party requester. It may also be treated as a valid SAR even if it refers to other legislation such the Freedom of Information Act 2000 (FOIA).

### 4.3

SAR's can be made verbally or in writing, including via social media. There is a [subject access request form](#) on the council's website which individuals can complete and submit electronically should they wish. All SAR's will be dealt with by the Information Governance team. If a SAR is received by another team, or direct by any officer or member, then they should forward the request to the [Information Governance Team](#) promptly upon receipt.

### 4.4

A request for information about a living individual can be made by: an adult with a capacity to understand their right, a person under 18 years of age who understands what it means to exercise their right, a person who has parental responsibility or rights over a child and where the child does not have sufficient understanding of their right or has authorised the application, the person who has legal charge of an adult who lacks capacity and has authorised someone such as a solicitor to make an application on their behalf.

#### **4.5**

Where a request has been made on behalf of another adult or child who understands their right of subject access, evidence will be sought (before its processed further) that the data subject has consented to the request, or that the applicant has a Lasting Power of Attorney or is acting as the person's Litigation Friend.

#### **4.6**

To protect confidentiality, before the request is processed, the identity of the requester or the person the request is made on behalf of, will be established if it is reasonable and proportionate to do so. When making the request sufficient evidence such as a copy of an official document with a photograph e.g. driving licence or passport, should be submitted. Alternatively, the requester can show their proof of identity at any council office, together with the request, and the member of staff will notify the Information Governance team that they have checked the ID. Further evidence will not be requested if the requester's identity is obvious e.g. a care leaver who has made the request via their 16+ worker.

#### **4.7**

There is no charge for making a SAR under this procedure.

#### **4.8**

Requesters can make a SAR for specific information such as records relating to a particular department e.g. social care, specific year or incident, or the request could be for "all information" held. Herefordshire Council is only required under the legislation to carry out a reasonable search for the information, and so, the Information Governance team may ask for further clarification as to whether the request is in relation to anything specific to ensure that this information is captured in the search undertaken.

#### **4.9**

If the request is for information that the individual is entitled to through an existing / current process, then the request will not be processed as a SAR but referred to the relevant department for processing as a business-as-usual request. E.g. requests for HR information while a case is going through the grievance process, or a request for social care documentation which the requester has been provided with by social services previously but has misplaced, or should have been sent but hasn't received, and the case is still live or has only closed in the last six months.

#### **4.10**

A SAR may be refused if it is considered to be manifestly unfounded or excessive. The criteria for refusal includes: if the requester has made numerous requests for their information or has been provided with the same information over a short period of time (within one year); the council has

taken all reasonable steps to locate and provide (subject to any exemptions) all the information held about an individual or the council would need to process an unreasonable amount of personal data of other individuals to locate the information about a particular individual, such as carrying out an email search of all email records. If we refuse a request for being manifestly unfounded or excessive we will explain in writing our reasons for this.

#### **4.11**

Requests will be acknowledged promptly and within 5 working days of receipt by the Information Governance team.

#### **4.12**

The council aims to respond to all requests promptly and within the statutory response period of 30 calendar days. The time limit is calculated from the day the request and (if required) proof of identity and consent is received (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 (and 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 public holiday, the council has until the next working day to respond.

#### **4.13**

The response timescales can be extended by a further 2 months (so 3 months in total) if the request is complex e.g. the request involves a large volume of sensitive information, or, because the council has received a number of requests from the individual including other types of requests relating to the individuals rights. Currently all SAR's from care leavers are considered complex.

#### **4.14**

If the council needs to request ID / consent / proof of authorisation to act on someone's behalf, or, if the council processes large amounts of information about an individual, then the Information Governance team will ask the requester to provide that information or clarify the specific information or processing activities their request relates to before processing the request further. The 'clock' will stop whilst this clarification is sought and obtained. Such requests will be held open for a period of 2 months before being closed down if the information requested is not provided.

#### **4.15**

When processing the request, the Information Governance team will carry out a reasonable search for the requested information or instruct the relevant service area(s) holding the information to do so. Emails, archived electronic and manual files, CCTV footage and recordings of telephone calls may all be included as personal data and must be searched for if the data subject requires this. Information held by a third party on behalf of the council (such as Hoople) also forms part of the searchable data. SAR's should be handled in confidence and officers in service areas who are asked to provide information for requests should not discuss them more widely without prior approval from the Information Governance team. Information will be provided in an accessible, concise and intelligible format.

#### **4.16**

There is a legal duty to release the information under SAR unless it falls within an exemption contained within the legislation. Access to information can, and will, only be denied if an exemption applies to disclosure, in whole or part. Some of the common exemptions that can apply include: information about a third party (unless the third party has given their consent), information given in confidence, information covered by legal professional privilege, crime prevention and detection and information that may cause serious harm to the physical or mental health or condition of the applicant or any other person. A full list of the exemptions is available from the [ICO](#).

#### **4.17**

If the request has been made by a parent or legal guardian for information about the child, even if the child is too young or lacks capacity to understand the implications of subject access rights, data about them is still their personal data and does not belong to anyone else, including that parent / guardian. It is the child who has a right of access to the information held about them, even if those rights are being exercised by someone with parental responsibility for them. Even legitimate requests for information about a child may have certain information exempted or withheld such as where there are safeguarding issues or information given in confidence.

#### **4.18**

Information to which an exemption applies will be redacted from a copy of the record or withheld in full if it applies to the whole document, and the reasons for redaction / withholding provided in writing. The Information Governance team are the only ones permitted to apply any exemptions or carry out redactions for SAR's covered by this procedure, and all responses will be sent from this team.

#### **4.19**

No changes to the original records are permitted as a result of the council receiving a SAR, even if they contain inaccurate or embarrassing information.

#### **4.20**

If the records contain information from other organisations, including the police or health services, discussions may be needed with the other organisations to form a view on their release, such as whether the information was provided in confidence.

#### **4.21**

If original records are to be viewed, the viewing must take place under supervision by a member of council staff. This will usually be arranged via the Information Governance team.

#### **4.22**

The response letter issued will also advise the requester of their right to a review and their right to approach the ICO if they are unhappy with the response that they receive.

#### **4.23**

Once records are ready, the Information Governance team will share these with the requester electronically via secure electronic transfer. If paper records are required these should be requested at the time of making a request / receiving acknowledgement. Care leavers open to the

16+ will be provided with paper copies via the 16+ team who will support them to go through these records by means of a safety plan.

#### **4.24**

If paper copies are required by non-care leavers, these will be sent, double wrapped, in a sealed envelope, marked 'Private & Confidential', addressed to a named person. Copies will be sent via Royal Mail recorded delivery.

#### **4.25**

If a SAR response is to be collected personally by the applicant, proof of identity must be provided before any information is released, and the applicant or authorised collector must sign for receipt.

#### **4.26**

The council reserves the right to charge for disbursement costs, including further paper copies of a response previously provided in that format, or a request for a hard copy of a response after an electronic copy has already been provided. Further details are set out in the [Charging Policy](#).

#### **4.27**

If the individual requesting the information is not satisfied with the council's response they can apply for an internal review of the decision. All requests for review should be forwarded to the [Information Governance team](#) and will be dealt with in line with the council's [SAR's review procedure](#). The requester also has the right to appeal to the ICO and can raise a complaint and ask them for an independent review. The ICO will determine if it is appropriate to investigate the complaint and if so, make a decision on their findings.

#### **4.28**

All requests and responses will be recorded and held by the Information Governance team for a period of 6 years from the date the request was submitted. Copies of ID will be deleted once the request has been processed.

## **5.Roles and Responsibilities**

### **5.1 Corporate Leadership Team**

The Corporate Leadership Team will be responsible for ensuring that the council complies with its responsibilities with regards to SAR's through monitoring of activity via monthly reporting. The Corporate Leadership Team will also ensure that there are adequate resources to support the work outlined in this procedure to ensure compliance with the legislation.

### **5.2 Information Governance Steering Group**

The Group will be responsible for monitoring activities via regular reporting and escalating issues where appropriate to the Corporate Leadership Team or the relevant directorate management team.

## 5.3 Information Governance Team

The Information Governance Team will:

- Produce and maintain up to date policies and procedures in relation to SAR's to ensure compliance with current legislation and guidance.
- Produce training materials to ensure staff are fully aware of their responsibilities with regards to SAR's.
- Work with all council departments to ensure appropriate mechanisms are in place to raise staff awareness.
- Log and acknowledge all SAR requests covered by this procedure and obtain any necessary clarification.
- Collate the requested information or instruct service areas to collate it.
- Carry out any appropriate internal or external consultation.
- Carry out any necessary redactions / withhold information, determining if any appropriate exemptions apply.
- Provide a response to the requester within the statutory timescales and explain the reasons any information has been redacted / withheld.
- Log and carry out any requests for internal review.
- Act as a point of contact for, and co-operate with, the ICO.
- Carry out monthly reporting and provide statistics on the number of requests received and compliance rates to the Corporate Leadership Team / Information Governance Steering Group / directorates as applicable.

## 5.4 All staff and members

All staff and members have responsibilities with regards to SAR's. It is the duty of all staff and members to ensure:

- They are fully aware of this procedure and their responsibilities, and they must comply with this procedure and any associated procedures.
- Any requests for SAR's that they or their service area receive direct are dealt with in line with the legislation around SAR's, and in compliance with this procedure and any prevailing procedures.
- Any requests they receive direct are forwarded to [Information Governance](#) promptly upon receipt.
- Any SAR's made verbally to them are recorded, with the contact details of the requester and a description of the information required noted for reference and audit purposes, and that this information is provided immediately to [Information Governance](#).
- If asked by a requester, at a council office, to check their proof of identity for a SAR, to do so and then notify the Information Governance team they have checked the ID against the person.
- If they are requested by the Information Governance team to collate information for a SAR, they do so promptly and within the timescales set by the Information Governance team to ensure responses can be sent out in a timely manner.



- If they are approached by the Information Governance team to:
  - collate information
  - help them to gain access to records so the Information Governance team can comply with a request, or
  - consult with them regarding disclosure of records in relation to a specific individual (e.g. a social worker consulted about a service user they have been working with) that the request is treated in confidence, and the officer does not disclose this more widely to **anyone** else without the prior approval of the Information Governance team.
- They maintain a good awareness of SAR's and the data protection legislation by undertaking relevant training. This is included in mandatory training for all new starters and for councillors at the point of election. Staff should complete mandatory refresher training annually.
- It is the responsibility of all staff and members to ensure that they comply with the requirements of this procedure and any associated policies and procedures. Failure to do so may result in disciplinary action being taken against staff, or councillor may be referred to the Monitoring Officer for breach of the code of conduct.

## 5.5 Contract / agency staff

All contract / agency staff are bound by the same code of behaviour and policies / procedures as council staff, including this procedure.

# 6. Who will implement and monitor this procedure?

The Information Governance Manager (or their representative) will be responsible for compiling bi-annual reports for the Corporate Leadership Team, which provides details of the council's compliance with SAR's.

Monthly reports will be produced by the Information Governance team which will be sent to Corporate Directors and includes details of the number of SAR's and compliance rates for the directorate.

This procedure and any associated procedures will be monitored by the Information Governance Steering Group. The Director, Governance & Law will be kept informed of any issues and instances of non-compliance regarding this procedure.

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 Approval: Information Governance Steering Group  
 Date approved: 6 March 2025  
 Publisher: Herefordshire Council  
 Rights copyright: Copyright of Herefordshire Council  
 Security Classification: Unclassified  
 Publication: External  
 Date for review: March 2028  
 Ref. no: