Kingston St Mary Parish Council

Subject Access Request Policy

December 2020

Subject Access Requests Policy

This Subject Access Requests (SARs) Policy was adopted by the Kingston St Mary Parish Council in order to comply with the requirements of the General Data Protection Regulations (GDPR), which took effect from 25 May 2018.

Introduction

This procedure is to be followed when an individual contacts Kingston St Mary Parish Council to request access to their personal information held by the Council. Requests must be completed within one month, so it needs to be actioned as soon as it is received. SARs should be provided free of charge, however, the Council can charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive.

The steps below should be followed to action the request:

1. Is it a valid Subject Access Request?
    a) The request must be in writing (letter, email, social media ,etc.).
    b) Has the person requesting the information provided sufficient information to enable the information to be searched for? (The Council is allowed to request more information from the person if the request is too broad).
2. Verify the identity of the requestor.
    a) The Council must be confident that the person requesting the information is indeed the person the information relates to. The Council should ask the person to provide valid evidence to prove their identity (see 'How must I do it? below).
3. Determine where the personal information will be found.
    a) Consider the type of information requested and determine where the records are stored. (Personal data is data which relates to a living individual who can be identified from the data (name, address, email address, database information) and can include expressions of opinion about the individual).
    b) If the Council does not hold any personal data, inform the requestor. If the Council does hold personal data, continue to the next step.
4. Screen the information.
    a) Some of the information the Council retrieves may not be disclosable due to exemptions, however legal advice may be required before applying some exemptions. Examples of exemptions are:
        - References given;
        - Crime and taxation;
        - Management forecasts e.g. re-organisations, redundancies);
        - Negotiations with the requestor;
        - Regulatory activities (e.g. planning enforcement, noise nuisance);
        - Legal advice and proceedings;
        - Protecting the rights of others.

5. Is the Council able to disclose the information?
    a) In some cases, emails and documents may contain the personal information of other individuals who have not given their consent to share their personal information with others. If this is the case, the other individual's personal data must be redacted before the SAR response is sent out.
6. Prepare the SAR response (using the appropriate sample letter at the end of this document) and make sure to include as a minimum the following information:
    a) the purposes of the processing;
    b) the categories of personal data concerned;
    c) the recipients or categories of recipients to whom personal data has been or will be disclosed, in particular in third countries or international organisations, including any appropriate safeguards for transfer of data;
    d) where possible, the envisaged period for which personal data will be stored, or, if not possible, the criteria used to determine that period;
    e) the existence of the right to request rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;
    f) the right to lodge a complaint with the Information Commissioners Office (ICO);
    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 and any meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject;
    i) a copy of any personal data undergoing processing.

What must I do?

1. MUST: On receipt of a subject access request you must forward it immediately to the Kingston St Mary Parish Council Clerk.
2. MUST: We must correctly identify whether a request has been made under the Data Protection legislation.
3. MUST: A member of staff, and as appropriate, councillor, who receives a request to locate and supply personal data relating to a SAR must make a full exhaustive search of the records to which they have access.
4. MUST: All the personal data that has been requested must be provided unless an exemption can be applied.
5. MUST: We must respond within one calendar month after accepting the request as valid.
6. MUST: Subject Access Requests must be undertaken free of charge to the requestor unless the legislation permits reasonable fees to be charged.
7. MUST: Councillors and managers must ensure that the staff they manage are aware of and follow this guidance.
8. MUST: Where a requestor is not satisfied with a response to a SAR, the council must manage this as a complaint.

How must I do it?

1. Notify the Kingston St Mary Parish Council Clerk upon receipt of a request.
2. We must ensure a request has been received in writing where a data subject is asking for sufficiently well-defined personal data held by the council relating to the data subject. You should clarify with the requestor what personal data they need. They must supply their address and valid evidence to prove their identity. The council accepts the following forms of identification (*These documents must be dated in the past 12 months, +These documents must be dated in the past 3 months):

    - Current UK/EEA Passport;
    - UK Photocard Driving Licence (Full or Provisional);
    - Firearms Licence / Shotgun Certificate;
    - EEA National Identity Card;
    - Full UK Paper Driving Licence;
    - State Benefits Entitlement Document*;
    - State Pension Entitlement Document*;
    - HMRC Tax Credit Document*;
    - Local Authority Benefit Document*;
    - State/Local Authority Educational Grant Document*;
    - HMRC Tax Notification DocumentDisabled Driver's Pass;
    - Financial Statement issued by bank, building society or credit card company+;
    - Judiciary Document such as a Notice of Hearing, Summons or Court Order;
    - Utility bill for supply of gas, electric, water or telephone landline+;
    - Most recent Mortgage Statement;
    - Most recent council Tax Bill/Demand or Statement;
    - Tenancy Agreement;
    - Building Society Passbook which shows a transaction in the last 3 months and your address.

3. Depending on the degree to which personal data is organised and structured, you will need to search emails (including archived emails and those that have been deleted but are still recoverable), Word documents, spreadsheets, databases, systems, removable media (for example, memory sticks, floppy disks, CDs), tape recordings, paper records in relevant filing systems etc. which your area is responsible for or owns.
4. 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.

5. Make this clear on forms and on the council website.
6. You should do this through the use of induction, my performance and training, as well as through establishing and maintaining appropriate day to day working practices.
7. A database is maintained allowing the council to report on the volume of requests and compliance against the statutory timescale.
8. When responding to a complaint, we must advise the requestor that they may complain to the Information Commissioners Office ("ICO") if they remain unhappy with the outcome.

All subject access request 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 recipients to whom personal data has been or will be disclosed, in particular in third countries or international organisations, including any appropriate safeguards for transfer of data, such as Binding Corporate Rules[1] or EU model clauses[2];

d) where possible, the envisaged period for which personal data will be stored, or, if not possible, the criteria used to determine that period;

e) the existence of the right to request rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;

f) the right to lodge a complaint with the Information Commissioners Office ("ICO");

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 and any meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject;

i) a copy of any personal data undergoing processing.

[1] "Binding Corporate Rules" is a global data protection policy covering the international transfer pf personal data out of the European Union. It requires approval of a data protection regulator in the European Union. In most cases this will be the relevant regulator where an organisations head quarters is located. In the UK, the relevant regulator is the Information Commissioner's Office.

[2] "EU model clauses" are clauses approved by the European Union which govern the international transfer of personal data. The clauses can be between two data controllers or a data controller and a data processor.

Replying to a subject access request providing the requested personal data.

[Name] [Address]

[Date]

Dear [Name of data subject]

Data Protection subject access request

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 (h) 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.

Yours sincerely

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

[Name] [Address]

[Date]

Dear [Name of data subject]

Data Protection subject access request

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 (h) 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.

Yours sincerely

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

[Name] [Address]

[Date]

Dear [Name of data subject]

Data Protection subject access request

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.]

Yours sincerely.