

Data Protection Act 1998

Your Rights to get details about your Personal Data (Subject Access Requests)

1. Introduction

- 1.1 One of your most important rights under the Data Protection Act, is your right of access to your personal data.

2. What are my legal rights of access?

- 2.1 Personal data means data about you, where you can be identified from that data, or from that data and other information which is in (or likely to come into) our possession. This includes expressions of opinion about you, and any indication of the council's (or any other person's) intentions towards you.

- 2.2 Broadly, the right of access means we have to:

- ◆ Tell you whether or not personal data about you are being processed, by or on behalf of the council

If so we have to:

- ◆ Give you a description of the data, and the purposes for which they are being processed
- ◆ Give you a description of the people or organisations, to whom we've disclosed, or might disclose the data.
- ◆ Give you copies of the data.
- ◆ Give you any information which is available to us, about where we got the data from.

3. Can I just ask for all information the council has about me?

- 3.1 Sometimes people make a subject access request, asking for "all the information the council has about me". However, the Act says we needn't comply with a request, unless we're supplied with such information as we may reasonably require to "locate the information" which you're seeking. Because the council is a

very large organisation, providing many different services, it would take up too much of its resources to try and search all of its computer and filing systems. This is why we ask people to give us some very basic details about the information they're seeking.

- 3.2 The Request Form which goes with this document should help you with this, as it explains how you can describe the information you want.

4. How do I prove who I am?

- 4.1 We're also entitled to ask you for some information, so that we can be certain you are who you say you are.

- 4.2 Clearly, it's important that we only give the information to the right person. Again, the Request Form will help you with this, as it says how evidence of identity can be given. If someone else is making a request on your behalf, it also says what's needed to give your consent etc.

5. Do I have to use the Request Form?

- 5.1 Yes. This means we'll be able to deal with your request more quickly, because it should save us having to write to you, to ask for details about what information you're seeking, and for proof of identity.

- 5.2 Our experience shows that people often make these requests when they've got a concern or complaint about a service they're getting from the council. We would much rather deal with these matters in as informal and personal a way as we can. This means that even where you make a formal request, services may get in touch with you informally, to see if this is related to a problem you're experiencing with our services. Again, where a request relates to a very personal matter, such as an education or social services issue, we may well get in touch, to see if your request can be dealt with in a more personal, informal way.

- 5.3 Your legal right of access to your personal data, doesn't affect your right to use the council's compliments and complaints policy, or to complain to the local government Ombudsman.

6. How long has the council got to deal with my request?

- 6.1 Generally, we've got to comply with a request "promptly" and in any event within 40 days (not working days) of receiving the request. However, if we need to ask for more information to help us locate the information, or to prove your identity, the 40 day period only starts once we get that information.

- 6.2 Generally, we should be able to deal with straightforward requests well within the 40 day period. If we think we might not be able to give you a full answer within the

40 day period, we'll get in touch to say why, and to let you know how long it will take us to give you a full answer.

- 6.3 There are special rules for requests for an "education record". We've got to comply within 15 school days. Broadly, an education record is any record of information processed by or on behalf of a governing body or teacher, relating to a present or former pupil, originating from or supplied by a council/Education (Leeds) employee, a school teacher/employee, the pupil or a parent.

7. How much do I have to pay?

- 7.1 At the moment, the council could generally only charge a maximum fee of £10, but it usually doesn't charge a fee. For requests for education records, a fee of up to £50 is charged, on a sliding scale.

- 7.2 If we don't hold your information electronically, or in a filing system, or as part of what the Act says is an "accessible record", we don't have to comply with the whole of your request if we estimate the cost will go over £450.

8. What if the information has details about other people?

- 8.1 Where giving you the information will also mean disclosing information about someone else, who can be identified from that information, we don't have to give you the information unless the other person says we can. We can still give you the information if "it is reasonable in all the circumstances" for us to comply with your request without the other person's agreement.

- 8.2 This rule won't apply where we can delete other names, or other identifying particulars.

- 8.3 This rule also applies, where another person could be identified from a combination of the information we'd be giving you, and information which we reasonably think you already have, or may get.

- 8.4 The Act says in deciding whether to disclose without the other person's agreement, we've got to have regard to any duty of confidentiality, whether we've asked for their agreement, whether they've expressly refused to agree, and whether the other person's capable of agreeing.

- 8.5 If we think there could be any risk to the safety or welfare of the other person, we wouldn't disclose without their agreement.

9. Does the council always have to comply with my request?

- 9.1 There are a small number of cases where we don't have to give you the information you've asked for.

- 9.2 If we're using data for the purposes of preventing or detecting crime, or apprehending or prosecuting offenders, or for assessing or collecting the Council Tax, we don't have to comply if doing so "would be likely to prejudice" those purposes. In cases where it's known the Police are investigating, or prosecuting offences, we will ask for their view whether providing you with the information would "prejudice" their activities.
- 9.3 There are exemptions for health, and education. Broadly, these apply to personal data processed by a court, where this consists of a report or other evidence given by us, and where complying with your request would be likely to cause serious harm, to the physical or mental health or condition of you, or someone else.
- 9.4 There's also an exemption for social work. Broadly, this applies to social services data, where complying with a request would be likely to prejudice the carrying out of social work, again by reason of the fact that serious harm would be likely to be caused, to the physical or mental health or condition of you, or someone else.
- 9.5 Other exemptions include
- ◆ disciplinary proceedings against council staff, or the investigation of complaints of misconduct against council Members
 - ◆ data processed for research, statistical or historical purposes
 - ◆ data which is statutorily available to the public
 - ◆ management forecasting or management planning
 - ◆ records of intention in relation to negotiations
 - ◆ exam scripts, and
 - ◆ legal advice.
- 9.6 We don't have to supply you with copies of the information where:
- ◆ you agree you don't want printed copies or
 - ◆ the supply of copies isn't possible, or would involve "disproportionate effort".

Please note however, that the council will still provide the information, for example by e-mail if you want the information given to you in this way.

10. Can I make more than one request?

- 10.1 We don't have to comply with an identical or similar request, by the same person, unless a "reasonable interval" has elapsed.
- 10.2 The Act says in deciding what is a "reasonable interval" we've got to consider the nature of the data, what we're using it for, and how often it's altered.
- 10.3 Basically, if the answer will be the same, we will tell you but we won't provide identical copies of it a second time.

11. What happens if the council doesn't comply with your request?

- 11.1 The Information Commissioner can give you advice about your request, and if they think the council hasn't dealt with it properly, they will tell us, and help you to get the information. The Information Commissioner's details are:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF
Telephone: 01625 545700 Fax: 01625 524510
Email: data@dataprotection.gov.uk
Website: www.informationcommissioner.gov.uk

- 11.2 If you think we haven't complied properly with your request, you could ask the courts to order us to comply.
- 11.3 The Act says if you suffer "damage" as a result of us not complying, you could get compensation, including compensation for distress. Damage means financial loss, or physical injury.

12. Who do I contact to make my request?

- 12.1 Please fill in the Request Form, and take it to any One Stop Centre, with proof of your identity.
- 12.2 Or send to Property and Finance section, Legal, Licensing and Registration Services, c/o Civic Hall, Leeds, LS1 1UR.
- 12.3 Or e-mail to cs.freedom.of.information@leeds.gov.uk.