

PROCESS PROCEDURE FOR THE HANDLING OF SUBJECT ACCESS REQUESTS

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Purpose

The purpose of this process procedure is to ensure all staff understand and comply with subject access requests (SAR's) received by the Council as part of an individual's Right of Access under the Data Protection Act 2018. Individuals have the right to know:

- a) what information about them is being used;
- b) what its being used for;
- c) why it's being used;
- d) where it came from;
- e) who can see the information and;
- f) how long that information will be retained (retention).

A process flow diagramme can be found as [Appendix 1](#) at the end of the document.

Scope

This process procedure applies to all staff across every Service area of the Council. All elements of personal information are covered by this process procedure. This includes, but is not limited to;

- Paper records, including handbooks and notepads;
- Electronic files and database records;
- Microfiche, video and audio recordings;
- Data held on portable devices (tablet/ mobile phone, smart watches etc).

Data maintained in third-party systems for example CareDirector, Uniform or Civica is also covered by the scope of a subject access request.

Responsibilities

- The Information Governance Manager shall be responsible for ensuring subject access requests are completed in accordance with the Data Protection Act 2018.
- IG Team is responsible for managing SAR cases;
- All staff are responsible for passing a subject access requests they receive to members of the Information Governance Team;
- All staff are responsible for supplying personal information belonging to data subjects requested under this process procedure.

Reminder: It is a criminal offence to alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of all or part of the information a person making a SAR would have been entitled to receive.

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Definitions

DPA18	Data Protection Act 2018
Data Subject	An individual who is the focus of personal information
ICO	The Information Commissioners Office, statutory body responsible for ensure the DPA is complied with
IG Team	Information Governance Team
Redaction	the censoring or obscuring of part of a text for legal or security purposes
Right of Access	The official term for a subject access request
Response time	SAR requests must be completed within 30 days of receipt of the request.
SAR	The right of anyone to request copies of their personal data from an organisation or individual

Procedure

A subject access request must be completed within the statutory 30-day timescale. The overall process involves 6 key stages;

Stage	Action	Timescale (days)	Responsibility of
1	Validate request & confirm identity of data subject	1	IG Team
2	Initiate search and retrieval of personal data	5	Service Area SPOC
3	Collate and compile data	5	IG
4	Redact information	10	IG
5	QA final response	6	IG
6	Final preparation and viewing	3	IG
	<i>Response period for SAR</i>	<i>30</i>	

Stage 1 - Validate request and confirm identity of data subject (estimated duration 1 day)

- On receipt of a Subject Access Request (SAR) from a Data Subject, the Access to Information Officer will check the validity of the request and acknowledge the request. The Access to Information Officer will add the details of the SAR to the SAR Tracker in SharePoint.
- If necessary, IG staff will request confirmation of identity and address of the Data Subject. Note, the 30-day response time period does not begin until the identity of the Data Subject is established. If an ID check is required, the Status field of the SAR Tracker shall be set to "ID requested". Where a request for ID is not responded to within one month of the verify ID request, the SAR Status shall be set to "On hold"

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for a further two months. If no response for ID is received after 3 months from the initial request date, then the SAR Status shall be set to “Closed”.

- Once the request has been validated and ID confirmed, the Access to Information Officer will request the data from the service area and update the Tracker. Where the IG Team do not consider the SAR to genuine or compliant they will respond to the data subject. The SAR status is then set to “Closed” and no further action taken.
- ***For IG Staff only** – if you are assigned a SAR and that individual is known to you, you must inform the IG Manager who will then re-assign the SAR to another officer.*

Stage 2 - Initiate search/ retrieval of personal information (estimated duration 5 days)

The handling IG Officer will complete template form [SAR1](#) and email the completed form to all relevant Service Areas requesting copies of the Data Subjects personal information.

Services have 5 days in which to search for and retrieve all requested data.

Searches must be made across all locations where the personal information belonging to the Data Subject might be found. This search includes employee note books, paper records, work phone, Teams and emails.

If no records are found following a search for personal information, then the Service must respond to the requesting IG Team member via email stating that no records have been found. If no information is forthcoming within 5 working days of the search request form date, the IG Officer will send a reminder to Service Areas and CC the IG Manager into the communication.

Once located, the SPOC for the service area will pass the personal information on to the member of the IG team handling the request. The IG member handling the request will update the SAR tracker with the date the requested information was received. If no response is received from the original request or any reminder, the IG Officer shall inform the IG manager who will escalate the issue to the head of compliance and relevant Service Director.

Note: Search requests are for all information including documents classified as “confidential”. Any necessary exemptions are to be applied by the IG Team or their deputy and not service areas.

Stage 3 - Collate and compile data (estimated duration 5 days)

On receipt of the requested information the IG Officer will convert all documentation received from the search to adobe PDF and remove any files not covered as part of the request, for example Police Reports, NHS.

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Where the sum of all pages exceeds 500 pages, the IG Officer will email or call the Data Subject and explain that due to volume of data an extension to the 30-day response period is needed. This communication will contain a revised completion date which is to added to the SAR Tracker.

Where the response to a SAR results in more than 1000 pages of information being generated, the IG Officer may at their discretion contact the data subject and ask if they (data subject) require all of the pages or if a particular sub-set will suffice. See [Appendix2](#) for more information of meaning of complex.

Stage 4 - Redact information (estimated duration 10 days)

Using ADOBE PRO, the IG Officer redact all non-personal information and that of third-parties mentioned in correspondence. The names of Council staff should not be routinely redacted unless there is an explicit safe guarding concern, for example a history of violence, intimidation and or threatening behaviour.

Should the IG Officer become aware that the processed personal information contains content referencing any safeguarding issue (self-harming, suicide attempts, significant psychological issues or abuse etc) then the IG Officer will inform the IG manager of any concerns. The IG Manager or their deputy will then arrange a case meeting to discuss any safeguarding measures necessary to protect the data subject. Personal information should not be released unless a safeguarding meeting has been arranged. On rare occasions this may result in the Personal Information being withheld.

All redacted areas shall be annotated with one of the following “third-party information” or “redacted following legal advice”.

Stage 5 – QA final response (estimated duration 6 days)

personal information contains significant involvement with Children & families

The IG Officer shall request a quality check be done before release. The quality check should be done by another IG member.

On receipt of the SAR data the IG officer quality check 10% of the pages at random. Where the IG officer finds additional redaction is required, the IG officer shall undertake the redaction.

Stage 6 – Final preparation and collection/ viewing (duration 3 day)

It is the responsibility of the IG Officer to arranged for the data subject to collect their personal information.

Where personal information is to be emailed or posted on memory card; then the file/s shall be password protected using an agreed password – for example a date of birth or post code.

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Where the data subject asks for paper copies then a reasonable fee can be charged. When determining a reasonable fee, you can consider the administrative costs of:

- assessing whether or not you are processing the information;
- locating, retrieving and extracting the information;
- providing a copy of the information; and
- communicating the response to the individual, including contacting the individual to inform them that you hold the requested information (even if you are not providing the information).

[Handling requests from vulnerable individuals and children \(additional information\)](#)

Where the data subject has had considerable engagement with the Council's care services from an early age and is considered to be a "vulnerable person" then the IG Officer must engage with the data subjects Care Support network and discuss the most appropriate way of processing that individual's SAR.

Should an IG Officer have any concerns in relation to a data subjects SAR, then the IG officer will arrange a meeting with the appropriate health care professional to discuss the best response, putting the needs and rights of the data subject first.

Before responding to a SAR for information held about a child, staff should consider whether the child is mature enough to understand their rights. The NSPCC have a useful page on assessing "[Gillick Competence and Fraser Guidelines](#)" that is worth reference.

If the request is from a child and staff are confident that the child can understand their rights, staff should usually respond directly to the child. Staff may allow the parent or guardian to exercise the child's rights on their behalf if the child authorises this, or if it is evident that this is in the best interests of the child.

For purpose of a SAR, a child of +13 years can submit a subject access request. When in receipt of a child's SAR the child's parents or guardian have no right to access that child's personal information, without the consent of the child.

[Appeals/ Complaints](#)

Where a data subject complains about the response to a SAR then this shall be treated as part of the Council complaints process and the complaint added to JADU and assigned to the IG manager to resolve.

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ICO Involvement

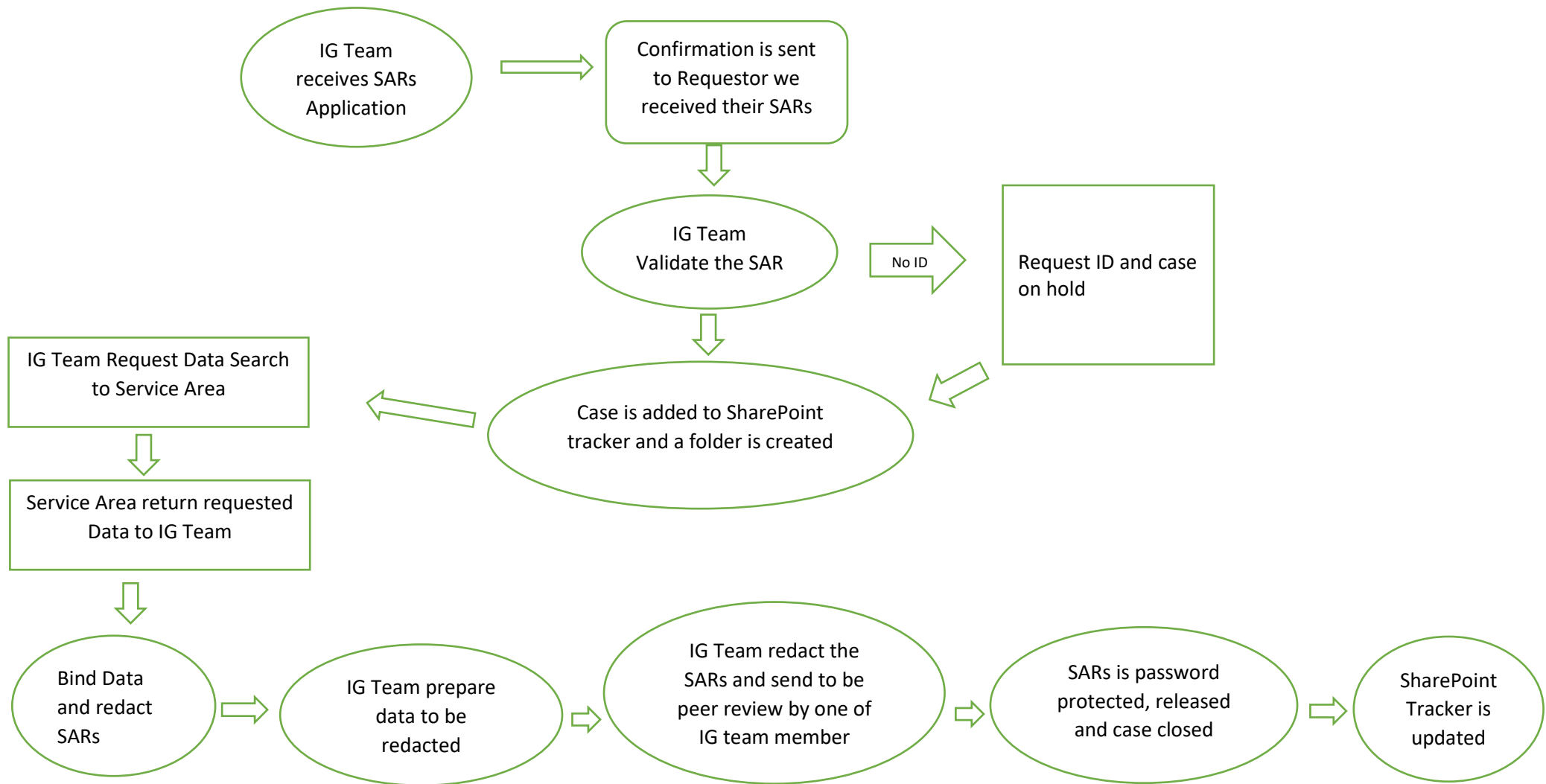
Where a complaint by a data subject involves the Information Commissioners Office (ICO) and is the result of a Service area's failure to comply with the SAR process, then the IG Manager shall pass that complaint to the relevant Head of Service.

References

- Data Protection Act 2018
- ICO Right of Access Guidance version 1.1
- Gillick competency and Fraser guidelines- NSPCC

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Appendix 1 Process flow diagramme



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Appendix 2 - Meaning of “Complex”

Whether a request is complex depends upon the specific circumstances of each case. What may be complex for one controller may not be for another – the size and resources of an organisation are likely to be relevant factors. Therefore, staff need to consider, specific circumstances of the particular request, when determining whether the request is complex.

The following are examples of factors that may, in some circumstances, add to the complexity of a request. However, staff need to be able to demonstrate why the request is complex in the particular circumstances.

- Technical difficulties in retrieving the information – for example if data is electronically archived.
- Applying an exemption that involves large volumes of particularly sensitive information.
- Clarifying potential issues around disclosing information about a child to a legal guardian.
- Any specialist work involved in obtaining the information or communicating it in an intelligible form.
- Clarifying potential confidentiality issues around the disclosure of sensitive medical information to an authorised third party.
- Needing to obtain specialist legal advice. If staff routinely obtain legal advice, it is unlikely to be complex.
- Searching large volumes of unstructured manual records (only applicable to public authorities).

Requests that involve a large volume of information may add to the complexity of a request. However, a request is not complex solely because the individual requests a large amount of information.

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