



**Bollington**

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# Subject Access Request Policy

This policy was adopted by the Council at its meeting held on 7<sup>th</sup> February 2023.

This version of the Subject Access Request Policy supersedes any previous versions.

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Table 1 Document Version Control

<b>Version</b>	<b>Date</b>	<b>Initials</b>	<b>Comment</b>
00.01_2022	01/09/22	HW	Policy replaced previous SAR Policy
01.00_2023	07/02/23	HW	Approved by Personnel, Policy & Governance Committee on 11/01/23. Adopted by Full Council on 07/02/23

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# 1. Introduction

Under the Data Protection Act 2018, individuals have the right to request what data controllers hold on them, why their data is being processed and whether it will be or has been given to any third party.

This is known as a 'subject access request' or "SAR".

The reason for allowing individuals to access their personal data is so that they are aware of and can verify the lawfulness of the processing.

The Data Protection Act 2018 sets out the [right of access](#) including:

- (1) An individual is entitled to obtain from a controller—
  - (a) confirmation as to whether or not personal data concerning the individual is being processed, and
  - (b) where that is the case—
    - (i) communication, in intelligible form, of the personal data of which that individual is the data subject, and
    - (ii) the information set out in subsection (2).
- (2) That information is —
  - (a) the purposes of and legal basis for the processing;
  - (b) the categories of personal data concerned;
  - (c) the recipients or categories of recipients to whom the personal data has been disclosed;
  - (d) the period for which the personal data is to be preserved;
  - (e) the existence of a data subject's rights to rectification and erasure of personal data;
  - (f) the right to lodge a complaint with the Commissioner and the contact details of the Commissioner;
  - (g) any information about the origin of the personal data concerned.

The Bollington Town Council Privacy Notice informs data subjects of their right to access data.

## 2. Responsibilities

Both Councillors and staff must be aware of and follow this policy.

Personal data or Personally Identifiable Information (PII) controlled by Bollington Town Council will be easily accessible at all times in order to ensure a timely response to SARs and that personal data on specific data subjects can be easily filtered.

## 3. Overview of the SAR response

The following is an overview of the steps that will be followed on receipt of a SAR.

1. Forward the SAR immediately to the Clerk and alert the DPO,
2. If required, request proof of ID,
3. If required, clarify the request (The time limit for responding to the request is paused until you receive clarification. This is referred to as 'stopping the clock'.)
4. Make a full exhaustive search of all records,
5. All the personal data that has been requested must be provided unless there are grounds for refusal or an exemption can be applied,
6. Respond within one calendar month after accepting the request as valid,
7. Subject Access Requests will be undertaken free of charge to the data subject,
8. If requested by the data subject, stop processing or erase their data,
9. Where a data subject is not satisfied with a response to a SAR, the council must manage this as a complaint.

As a minimum the SAR response must include:

- The PII data held,
- The purpose of why it is held/collected,
- Who else has their PII,
- The retention policy,
- The subject's rights,
- The contact details of the DPO.

## 4. Subject Access Requests (SARs)

An individual can make a SAR verbally or in writing, including by social media. They can make it to any part of the organisation and they do not have to direct it to a specific person or contact point.

Any verbal request made must be followed up in writing.

If a disabled person is unable to fulfil the requirement for a written request, a verbal request will be accepted.

A third party (e.g. a relative, friend or solicitor) may request a SAR on behalf of another individual. However, Bollington Town Council will need to be satisfied that this request is genuine and as such will seek written authority, signed by the individual, stating that they give the third-party permission to make a SAR on their behalf.

For more information, see the [ICO website on Subject Access Requests](#).

All councillors and staff must be able to recognise a SAR and immediately inform the Clerk of the request. No one member of staff will be tasked with responding to a SAR although a single officer will be tasked with coordinating the response.

A SAR can be followed by a request to stop processing or erase the data subject's PII.

## **5. Children**

A child has a right to access information the Council holds about them even if:

- they are too young to understand the implications of the right of access,
- the right is exercised by those who have parental responsibility for the child,
- they have authorised another person to exercise the right on their behalf.

Before responding to a SAR for information held about a child, the Council will consider whether the child is mature enough to understand their rights. If the request is from a child and we are confident that the child can understand their rights, we will usually respond directly to the child. We 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.

If a child is competent, they may authorise someone else – other than a parent or guardian – to make a SAR on their behalf. This could be an adult or a representative such as a child advocacy service, charity or solicitor. However, we will not consider a child to be competent if it is evident that they are acting against their own best interests.

For more information, see the [ICO website on Subject Access Requests](#).

## **6. Response time**

A SAR response must be given in one month from the point at which all the information has been provided (including proof of ID where required) to enable the search.

A further two months may be added if Bollington Town Council can demonstrate exceptional circumstances, but the data subject must be notified of this within the first

month and an explanation of why extension is necessary, how long this is expected to take and what they can do if they are dissatisfied.

## **7. Fees**

A fee will not be charged unless it can be demonstrated that the SAR is unfounded or made multiple times or excessively.

A fee may be charged if multiple copies are required for the same information.

## **8. Proof of identity**

To avoid personal data about one individual being sent to another, either accidentally or as a result of deception, the Council needs to be satisfied that:

- it knows the identity of the requester (or the person the request is made on behalf of),
- the data it holds relates to the individual in question (e.g. when an individual has similar identifying details to another person).

Any requests for information to evidence the data subject (or the person the request is made on behalf of) is the person that the data is about must be reasonable and proportionate. For example, if the data subject is known, formal identification is not required.

## **9. Refusing a SAR**

A SAR can be rejected if it would adversely affect the rights of others e.g. intellectual property or trade secrets, or it is unfounded or excessive.

If Bollington Town Council can demonstrate grounds for refusing to action a SAR request, the data subject must be informed within 1-3 months with an explanation of why the request was refused.

If an exemption applies, a SAR can be refused (wholly or partly). Not all exemptions apply in the same way – each exemption must be examined carefully to see how it applies to a particular request.

A SAR can also be refused if it is:

- manifestly unfounded,
- manifestly excessive.

## 10. Exemptions

There are exemptions from some of the rights and obligations in some circumstances.

- Crime and taxation: general
- Crime and taxation: risk assessment
- Legal professional privilege
- Functions designed to protect the public
- Regulatory functions relating to legal services, the health service and children's services
- Other regulatory functions
- Judicial appointments, independence and proceedings
- Journalism, academia, art and literature
- Research and statistics
- Archiving in the public interest
- Health, education and social work data
- Child abuse data
- Management information
- Negotiations with the requester
- Confidential references
- Exam scripts and exam marks

For more information, visit the [ICO website](#).

## 11. Third party data

Care must be taken to protect the rights of third parties when responding to a SAR.

There is an exemption in the DPA 2018 that says you do not have to comply with a SAR if doing so means disclosing information which identifies another individual, except where:

- the other individual has consented to the disclosure,
- it is reasonable to comply with the request without that individual's consent.

All decisions must be documented.

## 12. Council employees

Bollington Town Council employees may also make a SAR e.g. about confidential data held about them.



### **13. SAR database**

All requests will be logged on a SAR database.

The database will be maintained allowing the council to report on the volume of requests and compliance against the statutory timescale.

The database will also record the form of ID (if required) checked for proof of identity or if the individual was known.

### **14. Types of ID**

Bollington Town 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 Document
- Disabled 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

### **15. Searching records**

Reasonable efforts should be made to find and retrieve the requested information. However, searches that are unreasonable or disproportionate to the importance of

providing access to the information are not required but this should be checked with the DPO.

To determine whether searches may be unreasonable or disproportionate, the following will be considered:

- the circumstances of the request,
- any difficulties involved in finding the information,
- the fundamental nature of the right of access.

Table 2 Searching records

<b>Storage system</b>	<b>Requirement</b>
Emails	Must form part of the SAR response, including searching the deleted folder
Electronic Files	Must form part of the SAR response
Deleted records	Not required
Archived/backup records	Included in SAR response
Paper files	Included in SAR response
BYOD	Not required as personal data not processed on personal devices

## **16. Procedure for handling a SAR**

Upon receipt of a SAR Bollington Town Council will:

1. Verify if it is the controller of the data subject's personal data. If not, the data subject will be informed and referred to the actual controller.
2. Verify the identity of the data subject. If needed, request any further evidence on the identity of the data subject.
3. Verify the access request. Is it sufficiently substantiated? Is it clear what personal data is requested? If not, request additional information.
4. Verify whether requests are unfounded or excessive. If so, the request can be refused or the data subject charged an administrative fee of £25.
5. Promptly acknowledge receipt of the SAR and inform the data subject of any costs involved in the processing of the SAR.
6. Verify whether the council processes the data requested. If not, inform the data subject accordingly.
7. Ensure data will not be changed as a result of the SAR. (Routine changes as part of the processing activities concerned are permitted).

8. Verify whether the data requested also involves data on other data subjects and make sure this data is filtered before the requested data is supplied to the data subject. If data cannot be filtered, ensure that other data subjects have consented to the supply of their data as part of the SAR.

## **17. Responding to a SAR**

Once the personal data is located and retrieved, the data subject will be provided with a copy.

If the individual submitted the SAR electronically (e.g. by email or via social media), the data must be provided in a commonly used electronic format. The council will choose the format, unless the requester makes a reasonable request for it to be provided in another commonly used format (electronic or otherwise).

If the individual submitted the SAR by other means (e.g. by letter or verbally), the data must be provided in a commonly used electronic format. The council will choose the format, unless the requester makes a reasonable request for it to be provided in another commonly used format (electronic or otherwise). However, where the information is sensitive, the data will be transferred to the requester using an appropriately secure method.

The Council will keep a record of:

- the date the individual made their request,
- the date the Council responded,
- details of who provided the information,
- what information was provided.

Individuals have the right to receive the following information:

- The Council's purposes for processing,
- Categories of personal data the Council processes,
- Recipients or categories of recipient the Council has or will be disclosing the personal data to (including recipients or categories of recipients in third countries or international organisations),
- The Council's retention period for storing the personal data or, where this is not possible, the criteria for determining how long it will be stored,
- The individual's right to request rectification, erasure or restriction or to object to processing,
- The individual's right to lodge a complaint with the Information Commissioner's Office (ICO),
- Information about the source of the data, if it was obtained it directly from the individual,

- Whether or not the Council uses automated decision-making (including profiling) and information about the logic involved, as well as the significance and envisaged consequences of the processing for the individual,
- Safeguards the Council has provided where personal data has or will be transferred to a third country or international organisation.

## **18. Personal Data Complaints**

For complaints relating to the use of personal data and/or previous responses(s) subject access requests, refer to the Council's Personal Data Complaints Policy.

The Council has a separate Complaints Procedure to address complaints in relation to the council.