

Subject access request policy

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Version: 1.2 (published)

Last updated: July 2026

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1. Introduction and purpose

Section 45 of the Data Protection Act 2018 and Article 15 of the UK General Data Protection Regulation (UK GDPR) give individuals rights of access to their personal records held by Luton Council (the council).

Requests of this nature are commonly referred to as either a:

- subject access request (SAR)
- data subject access request (DSAR)

Note: this document will refer to both of the above as ‘the legislation’.

Subject access is a fundamental right for individuals and an opportunity for us to provide clear, efficient and transparent customer service. By responding to SARs effectively and ensuring the personal information we hold is accurate and well managed, we can support both compliance and public trust. This policy explains how we will meet our legal obligations.

2. Policy statement

We recognise the legislation as an important way of supporting an honest, safe and open relationship with residents, service users and employees.

Subject access is most commonly used by individuals who want to see the personal information the council holds about them. However, the right of access is broader than this. Individuals are also entitled to be told whether their personal data is being processed and to receive information about:

- the personal data held about them
- why it is being processed
- who it may be shared with
- a copy of the personal data
- the source of the data, where this is available

Individuals can also request information about the reasoning behind any automated decisions made about them, such as computer-generated decisions about benefits, grant entitlement or workplace assessments.

The aim of this policy is to ensure we meet our legal obligations under the legislation and can demonstrate compliance. It also aims to ensure that we:

- have clear and robust processes for handling SARs efficiently
- build trust and confidence by being open about the personal information we holds
- improve transparency in line with public policy requirements.

This policy should be read alongside the SAR procedure.

3. Scope of the policy

This document explains how an individual can request access to their personal information under the legislation and how we will process that request.

It is not a legal document. It does not create any additional rights or override any legal or statutory provisions that may require or prevent the disclosure of personal information.

This document reflects the key requirements of the legislation and explains the steps the council will take to comply with its obligations when handling requests for personal information.

Requests for access to the records of deceased individuals are outside the scope of this policy, as data protection legislation only applies to living, identifiable individuals.

These requests will be handled under the Freedom of Information Act 2000 (FOIA), or as miscellaneous requests, depending on the nature of the information and the reason for the request.

4. Key definitions

SAR or DSAR

A request for access to data by a living person under the legislation is known as a subject access request (SAR) or data subject access request (DSAR). All records that contain the personal data of the subject will be made available, subject to certain exemptions.

Freedom of information request (FOI)

A request for access to data held is dealt with under the Freedom of Information Act 2000 and is known as a freedom of information request or FOI. Requests for the data of deceased people may be processed under this legislation.

Personal data

Personal data means data which relate to a living individual who can be identified directly or indirectly from the data, particularly by reference to an identifier.

Personal data can be factual (such as a name, address or date of birth) or it can be an opinion (such as a performance appraisal).

Special category data

Certain personal data, special category data, is given special protections under the legislation because misuse could create more significant risks to a person's fundamental rights and freedoms. For example, by putting them at risk of unlawful discrimination.

Special category data includes:

- race
- ethnic origin
- religious or philosophical beliefs
- trade union membership
- genetics
- biometrics (where used for ID purposes)
- health
- sex life
- sexual orientation

Political opinions are also classed as special category data.

Data controller

The organisation which determines the purposes and the manner in which, any personal data is processed is known as the data controller. The council is the data controller of all personal data used and held within each individual department.

Data processor

Organisations or individuals who process personal data on behalf of a data controller are known as data processors. Employees of data controllers are excluded from this definition, but it could include suppliers which handle personal data on our behalf.

5. Duties of the Information Commissioner's Office (ICO)

The ICO is the UK's independent regulator for information rights. It promotes openness by public bodies, protects individuals' data privacy rights, considers complaints, and acts where organisations fail to comply with the law.

The ICO is responsible for overseeing compliance with data protection legislation across the UK. It has a range of powers to encourage and enforce compliance, including issuing guidance, conducting audits, requiring organisations to take specific action, and investigating concerns.

Where an organisation breaches the legislation, the ICO may issue enforcement notices, require improvements through undertakings, or order the organisation to stop certain activities. In serious cases, the ICO may issue monetary penalties of up to £17.5 million or 4% of annual worldwide turnover, whichever is higher.

The ICO can also prosecute organisations and individuals for criminal offences under data protection legislation.

6. Roles and responsibilities

Compliance with data protection legislation is the responsibility of every officer acting for, or on behalf of, the council. SARs fall within the data protection statutory framework, and all employees must be able to recognise and handle requests for personal information appropriately.

Your main responsibility is to ensure that any SAR is referred to the Information Governance team as soon as possible by emailing SAR@luton.gov.uk.

The Information Governance team will:

1. log the request on the case management system
2. acknowledge the request
3. request the relevant information from service areas
4. provide advice and support at each stage where needed

Once the Information Governance team has received the relevant files, the request will be allocated to a SAR officer, who will review the information and apply any necessary redactions. It is important that requests are forwarded promptly when they are received to help ensure the statutory deadline is met.

Specific roles and responsibilities are set out below.

Chief executive

The chief executive holds overall responsibility for compliance with the legislation. This is delegated to the data protection officer and SARs on a day-to-day basis are delegated to the complaints and information governance manager.

Senior information risk owner (SIRO)

The council's SIRO has executive responsibility for the management of SARs; this includes dealing with complaints from the Information Commissioners Office, general compliance issues and data subject queries and concerns.

Caldicott guardian

A Caldicott guardian is a senior person responsible for protecting the confidentiality of people's health and care information and making sure it is used properly.

All NHS organisations and local authorities which provide social services must have a Caldicott guardian.

Data protection officer (DPO)

Our DPO is responsible for upholding data subject's rights in relation to various aspects of the legislation.

Information Governance team

The IG team is responsible for:

- the coordination of SARs
- ensuring requests are responded to correctly in accordance with the statutory requirements
- supporting services to obtain the relevant records, coordinating completion with SAR officers whilst liaising with the applicant

Employees

All employees, including temporary staff, must understand:

- their duty of care to ensure the confidentiality of all personal data
- this policy
- where to direct individuals enquiring about subject access requests

Service managers

Service managers must ensure that:

- SARs are responded to in a timely manner
- only data that the data subject is entitled to access is sent out

Service managers are also responsible for completing a double check of all SARs before they are securely dispatched.

Data governance board

The data governance board addresses the requirements that the law, ethics and policy place upon information management and processing across the council.

This is in addition to raising awareness of good information governance and the assurance that effective system controls, training and best practice mechanisms are in place across the organisation.

Information governance framework

A framework which establishes good practice, promotes a culture of awareness and quality improvement in addition to ensuring that the council complies with legislation and other mandatory standards.

7. How can an individual make a SAR?

An individual can make a subject access request verbally or in writing, including by post, email, social media or an online form.

A request is valid if the individual is asking for their own personal data. They do not need to use specific wording, refer to data protection legislation, or send the request to a particular person or team.

Requests for personal data may be made alongside a service request, complaint or freedom of information request. For example, someone appealing a parking ticket may ask for the information used to issue the ticket. Where the request is specific and straightforward, it may be handled as part of normal business processes.

A request can still be valid even if the individual does not mention the Data Protection Act, UK GDPR or subject access, or if they refer to the wrong legislation, such as the freedom of information act. Officers must be able to recognise when a request is for the requester's own personal data and ensure it is handled appropriately.

Failure to recognise a SAR is not a valid reason for failing to respond. The council may still breach the legislation if a request is not dealt with promptly and appropriately.

8. Can individuals request personal information on behalf of another person?

Yes. The legislation allows someone to make a subject access request on behalf of another person. This could include a solicitor acting for a client, a parent requesting information about their child, or someone acting for a person who has limited capacity.

However, checks must be completed before the council can process a request made on someone else's behalf. This includes confirming the requester's authority to act and considering whether disclosure is appropriate. For example, a parent is not automatically entitled to access information about their child.

Further guidance on SARs made on behalf of another person is set out in the subject access request procedure.

9. How long do we have to respond?

We must respond to a subject access request without undue delay and within one calendar month. Where proof of identity or clarification is reasonably required, the response period may be paused until that information is provided.

For complex or multiple requests, the deadline may be extended by up to two further months, provided the requester is informed within the original one-month period.

The DUAA 2025 makes it clearer that the response deadline can be paused where we reasonably need proof of identity or clarification before progressing a subject access request. The clock will only start or will restart once the requester has provided the information needed to deal with the request.

10. Can I charge for the request?

No. In most cases, a copy of the information must be provided free of charge.

A reasonable fee may only be charged where a request is manifestly unfounded or excessive, particularly if it is repetitive. A reasonable fee may also be charged for providing further copies of the same information, but this does not mean a fee can be charged for all subsequent access requests.

Any fee must be based on the administrative cost of providing the information. Advice should be sought from the information governance team at SAR@luton.gov.uk before considering a charge for a SAR.

11. What do I do if I receive a request?

In practice, where someone asks for a small amount of their own information, such as a Council Tax entry or a copy of a letter previously sent to them, common sense should be applied. A formal SAR should not be required where:

- the individual's identity can be confirmed
- the information is readily available
- disclosure would not unreasonably reveal third-party information

These requests should normally be handled quickly, informally and as part of business as usual.

All other non-routine requests for personal data, particularly those likely to require significant resource or involve third-party information, must be referred to the Information Governance team at SAR@luton.gov.uk.

The team will:

- decide whether the request is valid
- log it on the case management system
- work with the relevant service area to obtain the required information

The Information Governance team will support the process and apply any necessary redactions.

Individuals still have the right to request a copy of all personal information we hold about them. However, under the Data (Use and Access) Act 2025, we are only required to carry out searches that are reasonable and proportionate.

This means we do not have to search every system or record, or carry out very broad or speculative searches, where this would be excessive compared with the information likely to be found.

Requesters should be asked to provide enough detail to help us locate the information they want, such as the relevant service, date range, team, topic or type of information.

Very broad or general requests, including requests generated using artificial intelligence tools, may need to be clarified or narrowed before a reasonable and proportionate search can be carried out.

12. How do I locate the information requested?

Processing a SAR can be difficult if information is not well organised. Services should maintain clear file structures and consistent file naming conventions so information can be located quickly and efficiently.

Poor file management or limited knowledge of systems cannot be used as a reason for failing to respond to a SAR effectively.

SARs are not limited to live files. They apply to all personal information held by the council, regardless of format or location. This may include closed or archived records and, in some cases, deleted information that is still accessible, such as items in Outlook deleted folders.

There is no automatic exemption or fixed time limit based solely on the amount of work required to locate information. Further guidance on complex or resource-intensive SARs is available in the subject access request procedure.

13. Can I provide all information found in relation to the data subject?

The simple answer is no.

The council must first consider whether it can respond to the SAR without disclosing information that identifies another individual or information that may be exempt from disclosure.

Examples of third-party or sensitive information that should not be shared routinely without specialist consideration include:

- social care records involving multiple children, siblings, parents, or other adults
- case conference notes or similar records containing confidential information about unrelated children or adults
- legally privileged information
- professional advice or information from doctors, the police, probation services or other relevant professionals
- employee records that identify managers, colleagues or others who have contributed to, or are discussed in, the file

Particular care must be taken before sharing this type of information.

Further guidance is available in the SAR procedure or from the Information Governance team at SAR@luton.gov.uk.

14. What is a double check?

In certain circumstances, service managers may be required to complete a final check before a SAR is sent to the data subject. This is to ensure that third-party information has been removed appropriately and that the documents have been redacted in line with the service's requirements.

If third-party information is disclosed to the wrong person, this may constitute a data breach under the Data Protection Act 2018 and could have serious consequences for us.

Where a final check is required, service managers are responsible for completing it before the information is released. Further guidance is available in the SAR procedure.

15. How do I respond to a SAR?

We should provide the information in the format requested by the data subject, where possible.

The Information Governance team will provide the information securely, either in paper copy or electronically, once:

- the information has been collated
- duplicates have been removed
- third-party information has been removed or redacted
- a final check has been completed

Under the UK GDPR, there is no explicit legal duty to provide SAR documents in chronological order.

If the data subject asks to meet to discuss their file, this should be managed by the relevant service area.

Further guidance is available in the SAR procedure.

16. Complaints

We will give data subjects the opportunity to complain if they are dissatisfied with how their SAR has been handled or with the information provided.

If a data subject is unhappy with the response, they should contact the Information Governance team at SAR@luton.gov.uk in the first instance. The Information Governance team will review the request with the data protection officer to assess how it was handled and the information disclosed.

Where service-specific issues are identified, including data protection concerns, the Information Governance team may refer the matter through our complaints procedure and, where appropriate, escalate it as a stage 1 complaint for the relevant service.

If the data subject remains dissatisfied, they may ask the Information Commissioner's Office to carry out an independent investigation. Data subjects will be signposted to the ICO as part of the review process.

17. Appealing a decision to refuse disclosure of information

If we refuse to disclose information in response to a SAR, the data subject will be given the opportunity to challenge that decision through an internal review. A data subject may also request an internal review if they believe an error has been made in the handling of, or response to, their SAR.

The data governance and information compliance manager will arrange internal reviews on our behalf. Where necessary, this may be delegated to the complaints and information compliance manager.

Once a review request is received, the data subject will be sent an acknowledgement and the original request and response will be reconsidered. The outcome of the internal review will be provided as soon as possible. Wherever possible, reviews should be completed within 20 working days.

If the case is complex, this timeframe may be extended, and the data subject will be informed as soon as practicably possible.

If the appeal is successful, the requested information will be provided as soon as possible. If the appeal is not upheld, the council will explain the reasons for its decision and provide information about how the data subject can take the matter further.

18 Complaining to the Information Commissioner's Office (ICO)

If a data subject remains dissatisfied with our decision, they have the right to complain to the ICO. The ICO will usually carry out an initial assessment before deciding whether further investigation is needed.

The ICO provides guidance for individuals on how to make a complaint on its website.

19. Related documents

1. Data Protection Policy
2. Data Breach Policy
3. Corporate Complaints Procedure
4. Subject Access Request Procedure
5. Whistleblowing Policy
6. Freedom of Information Policy
7. Retention Policy
8. IT Acceptable Use Policy

20. Further information

If you need any more information about this policy or any other aspect of SARs, please contact us.

- Address: Information Governance, DDAT, Luton Council, Town Hall, Luton, Bedfordshire, LU1 2BQ
- Email: SAR@luton.gov.uk

21. Review of the policy

This policy will be reviewed as a minimum every two years to ensure that we meet statutory requirements and any codes of practice made under the act.

A review will be conducted sooner if recommended by the data protection officer in response to a change in legislation, guidance or local process.

Next scheduled review date: July 2028.