



**information**  
management & security



## **Access to Personal Information (Subject Access) Policy**

**version 3.1**

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## 1. Policy statement

Under the Data Protection Act 1998 (DPA), an individual has a right of access to information held about them by any organisation. This is known as the Right of Subject Access.

Gloucestershire County Council (the Council) will ensure that the rights of subject access to information held by the Council can be fully exercised by everyone. The information held within files can hold many answers to a person's past, and the Council recognises the positive importance of accessing files, especially when they may be the only source of information regarding someone's childhood and family. All individuals have a right of access to both current open files and closed files relating to their past, e.g. post-care adults.

The Council will provide individuals with a copy of the information held about them within 40 calendar days of receiving a request, identification, consent (where appropriate), a fee, and sufficient details to locate the required information.

The Council requires a £10 fee per data subject to process requests for access to personal information and £50 for access to Occupational Health Records. The fee is required even if the searches do not result in any information being provided. Access to education records will be charged in accordance with the sliding scale set out in the [Information Commissioner's guidance](#).

If the personal data is unstructured (i.e. not filed by reference to the data subject) the Council will refuse requests where it would exceed the appropriate limit (e.g. 18 hours of work) to locate, retrieve and extract the information.

Under section 8 of the Data Protection Act, the Council can refuse to respond to requests until a reasonable period has elapsed since responding to the last request; the Council has defined that period as 12 months.

The Council will only withhold information if there is a legal reason to do so.

All requests will be dealt with in accordance with the [Subject Access Policy supporting procedures](#).

The Council will ensure there is a complaints procedure in place relating to requests for information.

## 2. Scope

The Data Protection Act is fully retrospective and this policy and procedures apply to all information, no matter when created or how it is held.

The policy applies to any request from an individual, or their advocate/legal representative, to access their personal information held by any part of the Council, except for requests to access adoption records. To access adoption records individuals should be asked to contact the Adoption Support Team on 01242 532362.

This policy and the Data Protection Act do not apply to access to information about deceased individuals.

This policy only applies to requests made by, or on behalf of, the data subject. Wider requests for personal information, including sharing data between organisations, are dealt with under locally agreed procedures and/or Information Sharing Protocols.

This policy does not apply to information held by schools. To access school records individuals should be advised to contact the Head Teacher of the most recent school attended.

This policy and procedures replace the Access to Personal Social Services Records Policy (1997) and the Access to Personal Information (Subject Access) Policy 2008.

### **3. Legal context**

#### **Data Protection Act 1998**

The Data Protection Act 1998 governs how information about people (Personal Data) should be treated. It also gives rights to individuals whose data is held. The Act came into force on 1 March 2000 and applies to all personal data collected at any time whether held on computer or in/as a manual record. The Act is enforced by the Information Commissioner.

#### **Freedom of Information Act 2000**

This Act extended some of the provisions of the Data Protection Act to unstructured information held by public authorities. It also made it a criminal offence to alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of information when a request has been made.

#### **The Data Protection (Subject Access Modification) (Social Work) Order 2000**

This Order gives an exemption to release of information where release is likely to prejudice the carrying out of social work by reason of the fact that serious harm to the physical or mental health or condition of the data subject or any other person would be likely to be caused.

#### **The Adoption and Children Act 2002**

This Act restates and amends the law relating to adoption, and access to information which would enable an individual to obtain a certified copy of their birth records.

## **The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004**

These regulations allow an authority to refuse a request, or part of a request, if to respond to it would exceed an 'appropriate limit'.

## **The Pupil Information Regulations 2005**

These regulations provide the right of access to educational records. This includes any statement of special educational needs and educational psychology assessments.

## **Related Policies**

[Data Protection Policy](#)

[Recording Policy \(Adult Social Care\)](#)

[Freedom of Information Policy](#)

[Gloucestershire Mental Capacity Act 2005 Multi Agency Policy, Procedures & Guidance](#)

[Corporate Information Compliance Complaints Procedure](#)

## **4. Complaints**

Complaints about the Council's processing of personal data will be dealt with in accordance with the Council's [Corporate Information Compliance Complaints Procedure](#).

Unlike Freedom of Information, the Data Protection Act does not set out a specific complaints regime for data protection issues. However, individuals do have a right to request that the Information Commissioner make an assessment of compliance of particular circumstances with the Data Protection Act.

The Information Commissioner's Office,  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire,  
SK9 5AF

## **5. Implementation**

This policy is effective immediately.

## **6. Monitoring and Review**

This policy will be monitored by the Information Management Service.

The policy will be reviewed annually.

## 7. Useful Contacts

The Information Management Service 01452 426837 or  
[foi@gloucestershire.gov.uk](mailto:foi@gloucestershire.gov.uk)

## 8. Document Information

<b>Author:</b>	Kirsty Benzie, Strategic Planning and Policy Officer Jenny Grodzicka, Corporate Information & Compliance Manager
<b>Owner:</b>	Heather Forbes, Head of Information Management & Archives
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<b>Version</b>	<b>Version date</b>	<b>Summary of Changes</b>
1-0	May 2008	Approved, Community & Adult Care Policy Board
2-0	February 2011	Changed process to reflect corporate procedures, fees and repeated requests. Approved by Information Board
2-1	December 2011	Incorporate access to education records procedures and minor amendments to meet Clearmark: Access to Records Quality Mark. Approved by Information Board.
3-0	March 2012	Procedures put into separate document and definition of parental responsibility added. Approved by Information Board.
3-1	October 2012	Added CLEARmark logo