

# **Data Protection – Information Rights Policy**

## **1. Summary**

This policy sets out how the council will comply with the General Data Protection Regulation (GDPR), the Data Protection Act 2018, other regulations and good practice standards in relation to your information. It will inform you what your rights are, any restrictions on those rights and how to exercise those rights.

## **2. Scope**

This policy applies to all individuals that the council processes information about. This includes employees as well as all service users and residents of Merton. It covers personal data we collect and use on paper and electronically, including our computer databases and network, paper records, videos and photographs, voice recordings, CCTV and mobile devices such as laptops, mobile phones, memory sticks and pendant alarms.

## **3. Introduction**

The law gives individuals a number of rights to control what personal information is given to the council and how it is used by us. This policy details how and when these rights apply to the information processed by the council.

The council is tasked with carrying out a number of statutory duties and is legally required to use and store information to support these tasks. In these circumstances the council might not legally be in a position to comply with some of the rights listed below. Depending on the circumstances for which information has been collected and used the GDPR provides the following rights for individuals:

- The right to be informed;
- The right of access;
- The right to rectification;
- The right to erasure (also known as the right to be forgotten);
- The right to restrict processing;
- The right to data portability;
- The right to object; and
- Rights in relation to automated decision making and profiling.

## **Requests**

If you wish to make a request to exercise any of the rights detailed in this policy, this can be done verbally or in writing. However it would help us to confirm and clarify the details if you could put the request in writing. If you are unable to do this, or would prefer not to, one of our staff will log the details and ask you to confirm their understanding of your request verbally. If we require information to confirm your identity or to verify any of the details provided we will contact you and request additional information.

We do not normally charge a fee for dealing with your request but in certain circumstances we may do so. This is only where we would consider a request to be

unfounded or excessive (especially repeat requests) and we would inform you of any charge before proceeding with your request.

The law requires that any communications we provide to you regarding your rights must be clear and transparent using plain language. If you receive any information which is not clear please contact us and we will ensure further explanations are provided to you. Where you correspond with us by electronic means (such as email) we will normally respond by the same method unless you request otherwise.

## **Response Times**

If you make a request to us about any of the rights in this policy regarding any personal information we hold about you, we have one month to respond to the request. Where necessary, because a request is complex, we receive a number of similar requests from someone or the request contains a significant volume of information, the response period may be extended by a further two months.

We will advise you of any time extension within a month of receiving your request and explain the reasons for the delay. Where we decide not to action a request, we will inform you of our reasons.

## **4. The Right to be Informed**

When we collect information from you, you have the right to be told what we are going to do with that information. We will tell you what we will use your data for, how long we will keep it, who we may share it with and the other details listed below. We will not provide this information every time you contact us but we will do so where you apply for a new service.

This information will usually be provided to you in a Privacy Notice. The information in the notice must be concise, transparent, intelligible, easily accessible and written in clear and plain language. There are full details regarding privacy notices on our website at <https://www.merton.gov.uk/legal/privacy-and-cookies>

Where we collect information from you we will provide the details listed below (see the privacy page detailed above for further information about different council services and the information they use):

- The identity and contact details of the data controller (London Borough of Merton).
- The contact details of the council's Data Protection Officer.
- The reasons why we use your information.
- The legal reason for processing your information.
- Any people or organisations who we share information with or disclose data to.
- Any transfers of information to certain countries or international organisations (the council is unlikely to make any international transfers but we will inform you if we think this is applicable).
- How long we will keep your information.

- Advise you of your rights in relation to your information (as detailed in this procedure).
- Advise you of your right to complain to the Information Commissioner's Office.
- We will inform you where it is a statutory requirement to provide information i.e. where there is a law in place which means you have to provide the information e.g. assessing Housing Benefit entitlement, or we require the information for a contractual requirement. We will also inform you of the implications of not providing the information.
- If any automated decisions i.e. decisions made by a computerised system are made or we use any profiling (automated evaluation of personal information used to analyse or predict performance at work, economic situation, health, personal preferences, reliability, or similar matters).

## **5. The Right of Access**

You have the right to ask for copies of the personal information the council holds about you. This is called a Subject Access Request. Requests can be made to the council verbally or in writing. However we would normally ask you to put the request in writing so that we can confirm who you are and we have a written record of your request. We may need to ask you for further information to confirm your identity or to trace the information you want.

If you don't want to put in a written request, please contact us and we will log the details and confirm our understanding of your request with you. When you make a request, the Information Governance Team will send you a written acknowledgement of your request, log it and forward it to the relevant department to provide a response. The response will normally be sent within one month of receipt of the request. We will advise you of any time extension within a month of receiving your request and explain the reasons for the delay.

### **What Information can be provided?**

You are entitled to ask for any information the council holds about you. The council holds a large volume of data in a number of departments and on different systems so it would help us find the information if you could provide details of departments or staff you have dealt with, services you have requested or any reference numbers the council has given you.

Once you have told us what information you require we will search the relevant records and extract all the information that relates to you. Information about other people will be redacted (blocked out) unless we think you would already know this information or you provide consent from the other individuals to disclose their information.

There are some circumstances where the information will be exempt from the right of subject access. For example, if the disclosure would prejudice a criminal investigation. If this applies and we are legally in a position to do so, we will inform

you when we respond to your request. For further information about subject access requests please visit the council's website.

### **CCTV Footage**

If you request a copy of any CCTV footage you will only be entitled to images of yourself. Images of other people or vehicles will be removed. Therefore if you are requesting this information because you want evidence of an incident or accident you should ask the police or your insurance company to make an official request for information. We may be able to provide footage of the full incident directly to them under one of the exemptions within the data protection legislation for the purpose of an official investigation or claim. For further information about accessing CCTV footage please visit the council's website.

### **6. The Right to Rectification**

If you believe we hold information about you which is inaccurate or incomplete you can ask us to rectify (i.e. correct) the information or complete it if it is incomplete.

Where such a request is received we will review the information and the details you have provided and make a decision whether we need to change or complete the information held.

If the information contested is sensitive and / or will be used to make decisions affecting you, we will consider restricting use of the data until the matter is resolved. After reviewing your request we will inform you of our decision and detail the reasons for the decision.

### **7. The Right to Erasure / The Right to be Forgotten**

In some circumstances you can ask for your information to be erased / deleted. You have this right where:

- You withdraw your consent for us to hold this information and the only legal reason we had to process it was because you had consented;
- It is no longer necessary for us to hold the information for the purpose for which it was originally collected / processed;
- You object to the processing of your information and we have no overriding legitimate reasons to allow us to continue using your information;
- You object to the council using your information for marketing purposes;
- Your information has been unlawfully processed by the council or has to be erased in order to comply with a legal obligation e.g. a court order;

This right will not apply if the information is processed:

- To comply with a legal obligation or for a task carried out in the public interest or in the exercise of the council's official authority; for establishing,
- to exercise a right of freedom of expression and information;
- exercising or defending legal claims; or
- for certain purposes relating to public health, for archiving in the public interest, scientific or historical research or statistical purposes.

Where we agree to delete information and have disclosed the data to third parties, we will inform them about the erasure of the personal data.

If the information has been made public via the council's website or other publications we will make all reasonable steps to delete the data and ensure other data controllers delete the data. Reasonable steps will include any technical measures, taking account of available technologies and the costs of implementation.

## **8. The Right to Restriction of Processing**

You have the right to ask the council to restrict the processing of your personal data where:

- you have contested the accuracy of the information and are waiting for us to respond or change the information;
- you have objected to the processing and we are considering whether we have a legitimate reason to process your information which overrides this;
- the processing has not been done in accordance with the council policy but you would prefer the council to restrict the data rather than erase it;
- the data is due to be destroyed in accordance with the council's retention schedule but you require it to establish, exercise or defend a legal claim.

If we have disclosed the personal data to third parties then we will inform them about the restriction of the personal data.

Where processing has been restricted we will inform you before the restriction is lifted.

## **9. The Right to Data Portability**

The right to data portability allows individuals to move, copy or transfer personal data easily from one IT environment to another in a safe and secure way.

This right is primarily where individuals have a contract for a commercial service such as a mobile phone and will enable individuals to take advantage of applications and services which can use this data to find them a better deal.

Where this right applies, we must provide the personal data to you in a structured, commonly used and machine readable form. If you request it, we may transmit the data directly to another organisation if this is technically feasible.

The right to data portability only applies to personal data you have supplied to the council, where the only legal reason we have for processing the information is that you have consented or you have given us the information for a contractual arrangement and the processing is carried out by automated means.

The right to data portability does not apply if information is being processed for a task carried out in the public interest or in the exercise of the council's official authority, such as investigation a safeguarding concern or processing a penalty charge notice.

It is unlikely that any council services will be covered by this right. However, if you think it applies to any of your information, please contact us.

## **10. The Right to Object**

You have the right to object to the council processing your data where:

- the reason for processing is based on legitimate interests;
- the performance of a task in the public interest or the exercise of official authority (including profiling);
- processing is for direct marketing (including profiling); and
- processing is for certain scientific/historical research or statistical purposes.

Where you object to us using your information for direct marketing we will stop using the data for this purpose immediately.

Where you object to our processing your personal data other than for direct marketing, we have to comply with your request unless we can show you overriding compelling legitimate grounds to continue processing or that the processing is for the establishment, exercise or defence of legal claims. We will write to you detailing our decision.

## **11. Rights relating to Automated Decision Making and Profiling**

Where the council uses automated decision making (i.e. where a decision is made by computerised means such as credit scoring) or profiling (automated evaluation of personal information used to analyse or predict performance at work, economic situation, health, personal preferences, reliability, or similar matters), and that decision could affect you or another individual, you have the right to:

- ask for human intervention to review a decision that has been made automatically;
- express your point of view; and
- obtain an explanation of the decision and challenge it.

The right does not apply if the automated decision:

- is necessary for entering into or performance of a contract between you and the council;
- is authorised by law (e.g. for the purposes of fraud or tax evasion prevention); or
- is based on explicit (i.e. clearly given and understood) consent.

If the council processes personal data for profiling purposes we will have measures in place to correct inaccuracies and reduce the risk of errors and ensure appropriate safeguards are in place.

To exercise any of the rights in this policy please email [data.protection@merton.gov.uk](mailto:data.protection@merton.gov.uk) or write to the Information Governance Team, Civic Centre, London Road, Morden, SM4 5DX, or contact us via on 020 8274 4901.