



Nottinghamshire County Council

Access to records/Subject Access Request Procedure

What is a Subject access request?

Subject Access Requests can also be called Access to Records Requests. A subject access request (SAR) is simply a written request made by, or on behalf of, an individual for the personal information which the Council holds about them. A request is made under the Data Protection Act 1998 (DPA). The request does not have to be in any particular form. Nor does it have to include the words 'subject access' or make any reference to the DPA. Indeed, a request may be a valid SAR even if it refers to other legislation, such as the Freedom of Information Act (FOIA).

For information to be personal data, it must relate to a living individual and allow that individual to be identified from it (either on its own or along with other information likely to come into the Council's possession).

Most subject access requests are managed centrally by the Complaints and Information Team. This procedure provides guidance to all staff receiving requests for information and explains where specific responsibilities lie across the Council.

SAR Procedure

1. People can ask to see the information the Council holds about them by making a 'subject access request' in **writing**. An emailed request is as valid as one sent in hard copy. **Any written request received should be forwarded to the Complaints and Information Team (C&IT) at accessto.records@nottscc.gov.uk** The Council's website has a request form which includes all the detail needed to deal with the request. Individuals can be directed to the form, which makes the process easier; however any written request is a valid one. The form can be found at: <http://www.nottinghamshire.gov.uk/council-and-democracy/freedom-of-information/requesting-personal-information>
2. Requests can be made via a third party. Often, this will be a solicitor acting on behalf of a client, but it could simply be that an individual wants someone else to act for them.

3. To avoid personal data about one individual being sent to another either accidentally or as a result of deception, C&IT need to be satisfied about the identity of the requester and will ask them for forms of identification, unless the requester is already known. If the request is being made by a 3rd party on behalf of the data subject, then evidence of consent will be asked for.
4. In the event of a parent requesting their child's records, if the child is 12 or over consideration will be given to obtaining their consent.
5. The DPA requires that the information supplied to the individual is in intelligible form. At its most basic, this means the information should be understandable by the average person. C&IT will usually supply this information electronically on an encrypted disc, unless there is a specific request for it to be in paper form.
6. The Council is required to respond to a subject access request promptly and in any event within 40 calendar days of receiving it.
7. C&IT will download records direct from frameworki, and request others from Solutions4Data and the Records Management Service, these will be scanned and saved electronically. Records will be redacted in accordance with the DPA (see the main exemptions applied in [Annex A](#)).
8. Each case will be redacted by one officer in C&IT and the peer reviewed by another. The Senior Practitioner with quality control a sample (10%) of cases.
9. If cases are very large, C&IT will liaise with the requestor about their priorities and carry out partial releases. C&IT will also speak to the requester to refine their request in appropriate cases.
10. Performance against the KPI is reported to the Information Management Group quarterly.

Requests made by another Organisation

Request received from an outside agency (i.e CAFCASS, Ofsted, Health or Social Worker) wanting VERBAL or WRITTEN confirmation of specific information from a file are dealt with the Safeguarding Children Information Management Team (CIMT – Safeguard). Email: safeguardcimt@nottsc.gov.uk (Please see [Other Agency Requests for Information from Children's Social Care Records](#)).

Request received from outside agency wishing to visit to VIEW files held are dealt with by the locality team who handled the case at the time. (Please see [Other Agency Requests To View Children's Social Care Records](#)).

This document ([Processes for Disclosure of Information](#)) provides advice on how to

respond to requests for personal information about individuals from third parties, for example the Police, the Courts and other local authorities.

Requests not covered by this procedure

The Complaints and Information Team manage most SARs unless it is a request relating to HR records.

Other types of request for information are dealt with elsewhere in the Council.

Day to day business; If, in the course of a normal working relationship, a service user asks a worker to see the current records that the worker has made about them this should not be treated as a 'Subject Access Request'. Staff should share the records they have made with the data subject as a matter of good practice and this should be recorded as part of ongoing work with the service user.

Requests from members of the public or third parties asking for a copy of a specific item of information only (e.g an assessment, or a specific letter or document) should in the first instance be forwarded to the responsible team manager who produced that document; the team manager should make the decision whether or not to disclose and if any redactions are needed (further guidance given in the procedure below).

Cases in which there is an existing legal claim (or the possibility of one): for example, Beechwood and Operation Xeres, these **MUST** be referred to the Risk and Insurance Team in the first instance: risk.insurance@nottsc.gov.uk

Police requests: refer to Legal Services in the first instance. Email: duty.solicitor@nottsc.gov.uk

Court ordered requests: refer to Legal Services in the first instance. Email: duty.solicitor@nottsc.gov.uk

Adopted Adults: refer to the Support After Adoption Team. Email: support.afteradoption@nottsc.gov.uk

HR records: Please contact your HR department Practitioner or alternatively telephone HR Duty Desk's telephone number which will direct you to the appropriate place. Telephone: **0115 977 4433**

Requests for Access to Records of a Deceased Person

Data on a deceased person is confidential however it is not covered by the Data Protection Act but instead by the Freedom of Information Act.

In deciding whether to allow access to an individual requesting information in relation to a deceased person we will need to consider any responsibility of confidentiality to that deceased person.

We should also consider the rights of the applicant and data subject under the Human Rights Act, Article 8 - the right to respect for a private and family life.

Advice and Support

Some types of personal data are exempt from the right of subject access and so cannot be obtained by making a SAR. Information may be exempt because of its nature or because of the effect its disclosure is likely to have. There are also some restrictions on disclosing information in response to a SAR where this would involve disclosing information about another individual, for example.

The Complaints and Information Team can offer advice on what information can and cannot be disclosed (see also [Annex A](#)).

The first point of advice in respect of requests for access to records is Complaints and Information Team:

County Hall,
West Bridgford,
Nottingham.
0115 9772788.

accessto.records@nottscc.gov.uk

Data controller - the data controller is Nottinghamshire County Council as a legal entity.

Data subject - an identified or identifiable, living individual who is the subject of personal data.

The Information Commissioners Office (ICO) produces good practice guidance and other information relating to access to records and data protection which can be found at www.ico.gov.uk

ANNEX A

Exemptions under the DPA

It is not necessary to comply with the DPA where:

- **Information is held for the purpose of the prevention/detection of crime.** The data controller is not required to disclose personal data if it is held to prevent or detect crime or to apprehend or prosecute offenders. This applies to information received from or disclosed by another organisation (e.g. police) and to information held on the Authority's records, such as in adult safeguarding cases where there is a criminal investigation. The data controller is not obliged to allow access to information which might prejudice a criminal investigation. This exemption also applies where an alleged offence involves any unlawful claim for payment out of public funds such as benefits;
- Disclosure would prejudice the carrying out of social work functions **because there is a significant risk that it would result in serious harm to another person.** The data controller need not disclose personal data where to do so would prejudice the carrying out of social services functions because serious harm could be caused to the physical or mental health or condition of the subject or any other person, including employees of the Authority. Only that information which is likely to cause serious harm may be withheld;
- **The data requested has been supplied to a court.** Reports written by the Department become the property of the court at the point at which they are filed with a court;
- **Personal data is covered by other legislation.** In particular, adoption records and reports which are governed by the provisions of the Adoption Act 1976, sections 50 & 51, parental order records and reports which are governed by provisions of the Adoption Act 1976, and the Human Fertilisation and Embryology Act 1990 and regulations (DP (Miscellaneous Subject Access Exemption));
- **The information requested is not covered by the Act** and is confidential (i.e. information relating to deceased persons. Such information is covered by the Freedom of Information Act. Information is exempt from disclosure under the Freedom of Information Act (FOIA) if it was obtained, in confidence, from any other person (including another public authority) and disclosure would constitute a breach of confidence actionable by that or any other person;
- **The information is covered by legal privilege.** The data controller need not disclose personal data if it attracts legal privilege. This covers all communications, written and oral, to and from the Authority's legal staff in which advice is sought and/or provided. It includes notes of telephone calls and legal advice given at meetings and conferences. It also refers to any

process by which legal staff are instructed. Please note: it may not be possible to apply this exemption if the legal advice has already been communicated in any way to the data subject or to a family member or friend acting on his/her behalf. This exemption does not apply to communications with lawyers who do not act for the Authority. Advice should be sought from Legal Services in these circumstances.

If the decision is made to withhold information, the data subject must be informed in writing that an exemption applies, that the information they have requested will not be released to them and their right of appeal.

The ICO has published guidance called, "[Freedom of Information Act. Practical Guidance: Information about the deceased](#)"

Review of this procedure

This procedure will be reviewed every two years.

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