



Kings Hill Parish Council

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## Subject Access Request Policy

Adopted 17/02/2021

# **Subject Access Request Policy**

## **General Data Protection Regulation (GDPR) And Data Protection Act 2018 (DPA)**

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## Document Control

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1	17/08/2020	Data Protection Enterprise Ltd <a href="http://www.dataprotectionenterprise.co.uk">www.dataprotectionenterprise.co.uk</a>	New Policy

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## 1. Introduction

The GDPR and DPA 2018 gives individuals the right to know what information is held about them. It provides a framework to ensure that personal information is handled properly.

The Act works in two ways. Firstly, it states that anyone who processes personal information must comply with six principles (Article 5 of the GDPR), which make sure that personal information is:

- a) processed lawfully, fairly and in a transparent manner
- b) collected and processed for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those original purposes
- c) Adequate, relevant, and limited to what is necessary for the purpose
- d) Accurate and kept up to date
- e) Not kept for longer than is necessary and subject to appropriate technical and organisational measures to safeguard the rights and freedoms of individuals
- f) processed in a manner that ensures appropriate security of personal data, including protection against unauthorised or unlawful processing; and

Article 5(2) adds that 'the controller shall be responsible for, and be able to demonstrate compliance with Article 5(1)('accountability') and

Secondly, it provides individuals with important rights (Articles 13 and 14):

- 1) Right to be informed
- 2) Right of access
- 3) Right to rectification
- 4) Right to erasure (right to be forgotten)
- 5) Right to restrict processing
- 6) Right to data portability
- 7) Right to object
- 8) Rights related to automated decision making including profiling

## 2. Purpose

This document sets out our policy for responding to subject access requests under the General Data Protection Regulation and Data Protection Act 2018 (the Act).

The Parish Council regards the Act as an important mechanism in achieving an honest, safe and open relationship with members of the public, parish councillors and employees.

Subject access is most often used by individuals who want to see a copy of the information the Parish Council holds about them. However, subject access goes further than this and an individual is entitled to be:

- Told whether any personal data is being processed;

- Given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- Given a copy of the personal data; and
- Given details of the source of the data (where this is available).

An individual can also request information about the reasoning behind any automated decisions taken about him or her, such as a computer-generated decision for assessment of performance at work.

The aim of this policy is to ensure that the Parish Council complies with its legal obligations under the General Data Protection Regulation and Data Protection Act 2018 and can evidence that we have done so. It also aims to ensure that the Parish Council:

- Have robust processes in place for dealing with SARs, saving time and effort;
- Increase levels of trust and confidence by being open with individuals about the personal information we hold;
- Improve the transparency of Parish Council activities in line with public policy requirements.

This policy should be read in conjunction with the Subject Access Request Procedure.

### **3. Scope**

This Policy outlines how an applicant can make a request for their personal information under the Act and how it will be processed.

This is not a legal document. It does not confer rights nor override any legal or statutory provisions which either require or prevent disclosure of personal information.

This document considers the key features of the Act and outlines how we will take steps to ensure compliance in relation to requests for personal information.

Requests for access to the records of people who are deceased are not within scope of this Policy as the Act only applies to the data of living individuals. Such requests will be treated as requests for access to information under the Freedom of Information Act or as miscellaneous requests, depending on the nature of the data and the reason the data is being requested.

### **4. What is the Parish Council's general policy on providing information?**

Kings Hill Parish Council welcome the rights of access to information that are set out in the GDPR and DPA. We are committed to operating openly and to meeting all reasonable requests for information that are not subject to specific exemptions in the Act.

Subject Access requests fall within the data protection statutory framework and the ability to identify and appropriately handle a request for information is considered to be part of every member and/or employee of the Parish Council.

## **5. How do you make a subject access request?**

A subject access request is a written request for personal information (known as personal data) held about you by the Parish Council. Generally, you have the right to see what personal information we hold about you, you are entitled to be given a description of the information, what we use it for, who we might pass it onto, and any information we might have about the source of the information.

However, this right is subject to certain exemptions that are set out in the GDPR and Data Protection Act 2018.

A valid subject access request should be made in writing via email to [clerk@kingshillparish.gov.uk](mailto:clerk@kingshillparish.gov.uk) or by post to:

Kings Hill Parish Council  
Kings Hill Community Centre  
70 Gibson Drive  
Kings Hill  
Kent  
ME19 4LG

Individuals may make a subject access request using any Facebook page or Twitter account that the Parish Council have but this is not recommended.

We may require you to complete a request form to ensure we have all the details we need to locate the information you require but we will not use this as a way of extending the time limit for responding.

## **6. What is personal information?**

Personal data is information that relates to a living individual who can be identified from the information and which affects the privacy of that individual, either in a personal or professional capacity. Any expression of opinion about the individual or any indication of the intentions of any person in respect of the individual will be personal data.

Provided the information in question can be linked to an identifiable individual, the following are likely to be examples of personal data:

- an individual's salary or other financial information
- information about an individual's family life or personal circumstances, employment or personal circumstances, any opinion about an individual's state of mind

- special category personal information – an individual’s racial or ethnic origin, political opinions, religious beliefs, genetics, biometrics, physical or mental health, sexual orientation, and membership of a trade union.

## **7. What do we do when we receive a subject access request?**

### **Checking of identity**

- 7.1 We will first check that we have enough information to be sure of your identity.
- 7.2 If the person requesting the information is a relative/representative of the individual concerned, then the relative/representative is entitled to personal data about themselves but must supply the individual’s consent for the release of their personal data. If you have been appointed to act for someone under the Mental Capacity Act 2005, you must confirm your capacity to act on their behalf and explain how you are entitled to access their information. If you are the parent/guardian of a child under 16, we will need to consider whether the child can provide their consent to you acting on their behalf.
- 7.3 Should you make a data subject access request but you are not the data subject, you must stipulate the basis under the GDPR that you consider makes you entitled to the information.

### **Collation of information**

- 7.4 We will check that we have enough information to find the records you requested. If we feel we need more information, then we will promptly ask you for this. We will gather any manual or electronically held information and identify any information provided by a third party or which identifies a third party.
- 7.5 When responding to a subject access request that involves providing information that relates both to the individual making the request and to another individual we do not have to comply with the request if to do so would mean disclosing information about another individual who can be identified from that information, except where:
- The other individual has consented to the disclosure; or
  - It is reasonable in all the circumstances to comply with the request without that individual’s consent

We may sometimes be able to disclose information relating to a third party and the decision will be on a case by case basis. The decision to disclose will be based on balancing the data subject’s right of access against the third party’s individual rights in respect of their own personal data. If the third-party consents to disclosure then it would be unreasonable not to do so. However, if there is no consent, we will decide whether it is ‘reasonable in all the circumstances’ to disclose the information and will consider the following:-

- Is there any duty of confidentiality owed to the third-party;
- Any steps we have taken to try and obtain third-party consent;
- Whether the third-party is capable of giving consent; and
- Any stated refusal of consent by the third-party.

7.6 Before sharing any information that relates to third parties, we may anonymise information that identifies third parties not already known to the individual and edit information that might affect another party's privacy. We may also summarise information rather than provide a copy of the whole document.

## **Issuing our response**

7.7 Once any queries around the information requested have been resolved, copies of the information in a permanent form will be sent to you except where you agree, where it is impossible, or where it would involve undue effort. In these cases, an alternative would be to allow you to view the information on screen at the Parish Council.

7.8 We will explain any complex terms or abbreviations contained within the information when it is shared with you. Unless specified otherwise, we will also provide a copy of any information that you have seen before.

## **8. Will we charge a fee?**

The GDPR does not allow us to charge a fee except when further copies are requested we may charge a reasonable fee based on administrative costs.

## **9. What is the timeframe for responding to subject access requests?**

We have one calendar month to provide you with the information or to provide an explanation about why we are unable to provide the information from when we have received all the information necessary to identify you and to identify the information requested.

In many cases, it will be possible to respond in advance of the one calendar month target and we will aim to do so where possible.

## **10. Are there any grounds we can rely on for not complying with a subject access request?**

### **Previous request**

If you have made a previous subject access request we must respond if a reasonable interval has elapsed since the previous request. A reasonable interval will be determined upon the nature of the information, the time that has elapsed, and the number of changes that have occurred to the information since the last request.

## Exemptions

The Act contains a number of exemptions to our duty to disclose personal data and we may seek legal advice if we consider that they might apply. Possible exemptions would be to safeguard:

- National security
- Defence
- Public security
- The prevention, investigation, detection, or prosecution of criminal offences
- Other important public interests, economic or financial interests, including budgetary and taxation matters, public health and security
- The protection of judicial independence and proceedings
- Breaches of ethics in regulated professions
- Monitoring, inspection, or regulatory functions connected to the exercise of official authority regarding security, defence, other important public interests or crime/ethics prevention
- The protection of the individual, or the rights and freedoms of others
- The enforcement of civil law matters.

### **11. What if you identify an error in our records?**

If we agree that the information is inaccurate, we will correct it and where practicable, destroy the inaccurate information. We will consider informing any relevant third party of the correction.

If we do not agree or feel unable to decide whether the information is inaccurate, we will make a note of the alleged error and keep this on file.

### **12. Our complaints procedure**

If you are not satisfied by our actions, you can seek recourse through our complaints procedure, the Information Commissioner or the courts.

The Parish Council will deal with any written complaint about the way a request has been handled and about what information has been disclosed.

To make a complaint please contact:

Kings Hill Parish Council  
Kings Hill Community Centre  
70 Gibson Drive  
Kings Hill  
Kent  
ME19 4LG Email: [clerk@kingshillparish.gov.uk](mailto:clerk@kingshillparish.gov.uk)

### **13. Complaining to the Information Commissioners Officer**

If you remain dissatisfied, you have the right to refer the matter to the Information Commissioner. The Information Commissioner's Office will make an initial assessment of the case before carrying out an investigation. The Information Commissioner's Office has written guidance notes for applicants on how to complain and published it on their [website](#).

### **14. Policy Review**

This policy will be reviewed annually.

### **15. Links with other Policies**

This Subject Access Policy links with the Parish Council's:

- Data Protection Policy
- Freedom of Information Policy
- CCTV Policy
- Information Sharing Policy
- Information Security Policy
- Records Retention and Deletion Policy
- Security Incident and Data Breach Policy