

Ref. No.	CO/IG/9
Category:	
People	
Place	
Corporate	Yes
In Constitution	

# Individual Rights Policy

## Policy Details

What is this policy for?	The Individual Rights Policy describes how the Council will observe customers' rights under data protection law.
Who does this policy affect?	All members, employees, students, apprentices, volunteers, contractors and other third parties handling council information.
Keywords	Information Governance, Individual Rights, Right to be Informed, Right to Object, SAR, Right to be Forgotten, Automated Decision Making, Data Breach
Author	James Fisher, Information Services Team Leader
Dorset Council policy adopted from	This is a new policy for Dorset Council, which supersedes the below sovereign councils' policies in relation to individual rights under data protection law.
Does this policy relate to any laws?	Data Protection Act 2018; General Data Protection Regulation (GDPR)
Is this policy linked to any other Dorset Council policies?	<p>This policy is part of the Information Governance Framework, which also includes:</p> <ul style="list-style-type: none"> <li>• Data Protection Policy</li> <li>• Data Breach Policy</li> <li>• Data Protection Policy</li> <li>• Data Protection Impact Assessment (DPIA) Policy</li> <li>• Confidential Waste, Clear Desk and Screen Policy</li> <li>• Data Quality Policy</li> <li>• Protective Marking Policy</li> <li>• Records Management Policy</li> <li>• Records Retention Policy</li> <li>• Information Security Management Policy and related standards and protocols</li> </ul>
Equality Impact Assessment (EqIA)	An EqIA screening tool was completed and submitted on 11 <sup>th</sup> March 2019. The tool identified that there was no need to complete an EqIA.
Other Impact Assessments	N/A

## Status and Approvals

Status	Live	Version	1
Last review date	This is a new policy for Dorset Council	Next review date	1 April 2020
Approved by (Director)	Dorset Council Corporate Director: Legal & Democratic	Date approved	December 2018

# Individual Rights Policy

<b>Purpose</b>	<p><i>This policy sets out how Dorset Council will comply with Individual Rights requests in a timely and accurate manner, as well as important roles and responsibilities of employees.</i></p> <p><i>Those who process or use any personal information on behalf of the Council must ensure that they understand their roles and responsibilities in relation to the GDPR.</i></p>
<b>Scope</b>	<p><i>The Data Protection Individual Rights policy forms part of the overarching Information Governance Framework, which describes our responsibilities to comply with individual rights under the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA). This policy covers all personal and special category data for which the Council is the Data Controller. When the Council is the Data Processor, legal responsibilities to third parties must be adhered to. We may add or amend to this policy with additional policies and guidelines from time to time.</i></p> <p><i>Any new or modified policy will be circulated to staff before being adopted.</i></p> <p><i>Our Data Protection Officer (DPO) has overall responsibility for the implementation of this policy but day to day management may be delegated.</i></p>

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## **1. Introduction**

- 1.1. The General Data Protection Regulation (GDPR) and the Data Protection Act 2018 regulate how personal information is managed and gives individuals rights that can be exercised in relation to their personal data.
- 1.2. Individual Rights apply to any data held in a structured filing system, electronically and in manual records.

## **2. Individual Rights**

- 2.1. Right to be Informed (Article 13, 14) - individuals have the right to be told about the processing of their personal data. This includes the collection, use and sharing of their personal data.
- 2.2. Right to Access ("Subject Access") (Article 15) - this right gives individuals the right to obtain a copy of their personal data, as well as other supplementary information, in an easily accessible and machine-readable format (Article 12).
- 2.3. Rectification Right (Article 16) – individuals have the right to request us to correct inaccurate personal data we hold about them. Where this personal data was used in decision making, correct data/opinions should be clearly noted to allow for both copies to be viewed together.
- 2.4. Erasure Right ("Right to be Forgotten") (Article 17) - in limited circumstances, individuals have the right to have their data erased from our records, again, subject to use in decision making.
- 2.5. Data Processing Restriction Right (Article 18) – in some circumstances, as an alternative to requesting deletion of their data, individuals can place restrictions on how we use their data.
- 2.6. Data Portability Right (Article 20) - in very limited circumstances, individuals may require the council to transfer their personal data to another organisation/service provider.
- 2.7. Data Processing Objection Right (Article 21) - Individuals can also object to other kinds of processing which, in limited circumstances, we may have to comply with.
- 2.8. Right to Object to Automated Decision Making (Article 22) – individuals have a general right not to be subject to automated decision making (with no human involvement) and we can only use automated decision making that affects people in limited circumstances.
- 2.9. Breach Notification Right (Article 34) – if a data breach is likely to result in a risk to the data subject(s), under GDPR, we must inform the affected data subject(s) and also the Information Commissioners (ICO).

## **3. Individuals exercising their rights**

- 3.1. Dorset Council shall encourage individuals to submit requests online. Where this is not possible adequate accessible alternatives will be made available. To support compliance, we will:
  - Make the relevant webpages easily accessible for individuals wanting to submit requests;
  - Dorset Council's Privacy Notice will direct individuals to the relevant webpage where they can find out more information about their rights and how to submit a request.
  - Documents will be made available in an alternative accessible format as and when required i.e. Easy Read.
- 3.2. Dorset Council shall accept verbal and written requests as required by the ICO.
- 3.3. Dorset Council shall ensure that a clear procedure is in place so that all staff are aware/trained sufficiently to ensure requests are recorded and actioned in a timely, accurate manner.
- 3.4. Officers shall be trained to record such requests in a central database for the ongoing management and monitoring of such requests.
- 3.5. Dorset Council will complete adequate checks and must be satisfied of the customer/agent's identity and legal right to the information.
- 3.6. An individual over the age of 16 will be assumed to have capacity to consent to the release of their information until proven otherwise. Individuals under the age of 16 should be assessed on a case by case basis, based on Fraser/Gillick competency.

- 3.7. Once a request is deemed active, individuals will be informed of the deadline Dorset Council has to comply (one calendar month by default).
- 3.8. The customer will be made aware of our ability (as per ICO guidance) to extend deadlines by up to two months (one month at a time) for requests that are deemed complex or numerous.
- 3.9. Notice and an explanation will be provided should an extension be deemed appropriate.

#### **4. Roles and Responsibilities**

- 4.1. Everyone processing personal data is responsible for adhering to individual rights, outlined in this policy.
- 4.2. All information users with access to Council information are responsible for:
  - Staff (including temporary employees, contractors, consultants and volunteers):
    - Complying with this policy when processing personal data in the performance of their duties.
    - Knowing how to recognise an Individual Rights request and reporting it accordingly.
    - Failure to adhere to this policy may result in disciplinary action for individuals, and enforcement action, financial loss and/or reputational damage to the Council.
  - Managers:
    - Ensuring staff in their area act in compliance with this policy.
    - Have sufficient training and awareness of procedures in place, to deal with Individual Right requests effectively.
    - Signing-off erasure of personal data and other significant decisions affecting their service area's data.
  - DPO:
    - Overseeing management of complex requests.
    - Delegating responsibility where appropriate
    - Being the first point of contact with the ICO
  - SIRO:
    - Advising the Chief Executive or relevant accounting officer on information risks
    - Ensuring prevention/mitigation plans are in place to protect Individual Rights, following failure of compliance.

#### **5. Equality Impact Assessment**

- 5.1. All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics defined by the Equality Act 2010.
- 5.2. If you believe any other groups are disadvantaged by anything contained in this document, please contact the Equality and Diversity Officer who will actively respond to the enquiry.

#### **6. Related policies**

- 6.1. Please see links or go [enter location] for related policies, including Data Protection Policy

#### **7. Monitoring and Review**

- 7.1. This policy will be subject to annual review by the DPO and SIRO to ensure that it continues to meet the requirements of the Council and current legislation.

#### **8. Associated Legislation**

- 8.1. The GDPR
- 8.2. European Convention on Human Rights
- 8.3. The Data Protection Act 2018
- 8.4. Common Law Duty of Confidentiality

## Glossary

- A **Data Controller** is a person or an organisation who determines the purposes and the manner in which any personal data is processed.
- **Data Processing** - (in relation to information or data) is the collection, recording and/or holding the information and carrying out any actions using it.
- **SIRO** - Senior Information Risk Owner, is responsible for making sure that appropriate procedures are in place so that information risks can be managed.
- **Special Category Data** – is data that includes racial or ethnic origin, political opinions, religious or philosophical beliefs, Trades Union membership, genetic or biometric data for the purpose of uniquely identifying a natural person, health, sex life or sexual orientation. The processing of data relating to criminal convictions also requires special category treatment.
- **Individual Rights** – all the rights outlined in section 2 [‘Individual Rights’](#).