

# SCARBOROUGH BOROUGH COUNCIL



## ABOUT GDPR AND DATA PROTECTION

## A GUIDE TO YOUR RIGHTS AS A DATA SUBJECT

## Section 1

### Introduction

The General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA) aim to give you greater control over your personal data.

The law also means that organisations have to apply minimum standards of protection to the personal data they hold and to ensure that they use it only for the purpose for which it was collected.

Every individual has a number of rights in relation to their own personal data and their privacy and these rights cover things such as the right to see what information an organisation holds about you, and to get any incorrect data corrected. These rights are as follows:

- **The Right to be Informed:** Everyone has the right to ask what information an organisation holds on them and why.
- **The Right of Access** to your personal data (commonly known as a 'data subject access request'). You can ask for a copy of the personal data we hold about you and can check that we are lawfully processing it.
- **The Right to Request Correction** of the personal data that we hold about you. You have the right to have any incomplete or inaccurate data we hold about you corrected, though we may need to check the accuracy of the new data you provide to us.
- **The Right to Request Erasure** of your personal data. You can ask us to delete or remove personal data where there is no good reason for us continuing to process it.
- **The Right to Object to Processing** of your personal data. This only applies in certain circumstances, and where you want to object to processing as you feel it impacts on your fundamental rights and freedoms. This includes at any time where we are relying on consent to process your personal data.
- **The Right to Request Restriction of Processing** of your personal data. This means that you can ask us to suspend the processing of your personal data under certain circumstances.
- **The Right to Data Portability**, ie, to obtain your personal data or to ask for it to be passed to another data controller.
- **Rights related to automated decision making and profiling,**

This guide has been developed to give you information about your rights and how they apply to data that Scarborough Borough Council holds about you. It also explains how you can make a request about your data, what information you need to provide and how you can complain if you are not happy with the response you receive.

In some cases we may not have to comply with these requests but if this is the case we have to explain why. You can also appeal against any decision taken not to comply with a request you make.

## Definitions

### What is personal data?

Personal data is information about an individual which allows them to be identified, either directly, or indirectly with reference to other information. Examples of personal data include name, address, email address, telephone number, etc. Items such as information about your religion, health, finger prints, genetic data, trade union membership, etc, are also personal data. Information about deceased people is not personal data.

### What is a Data Controller?

The Council is a Data Controller. This means that we are responsible for deciding why we use you data and what will be done with it. We also have to ensure that your data is kept safe.

### What is meant by processing data?

Processing data includes collecting, recording, transmitting, or otherwise using it, including storing it.

### What is meant by lawful processing?

By law we have to have a reason to process your data. This is known as the lawful basis or lawful purpose. More information about lawful basis for processing can be found on the Information Commissioner's Office website:

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

## Section 2

### Your Rights

#### Right to be informed

You have a right to be informed about the data that any organisation collects or holds about you. We will tell you:

- Who we are and our contact details, including those of our Data Protection Officer
- Why we collect and use the data
- The legal basis for using the data
- Who we share the data with, if anyone
- If we are going to transfer the data to
- How long we will keep the data for

The way we tell you about which information we collect is through our Privacy Notices. We have a corporate privacy notice which tells you in clear language who we are, why we collect your personal information, how we use it, who we may share it with and how long we may keep the information for. We have also developed additional privacy notices for our services areas which provide further, more specific information.

All these notices are published on our website or you can ask for a copy by contacting the Council's Data Protection Officer using the details provided at the end of this guidance.

#### Right of access

You have a right of access to the information that the council holds about you. You can ask to see this information by making a Data Subject Access Request (DSAR). This includes access to a range of information including CCTV images of yourself.

You can ask:

- To be provided with a copy of the information
- what we use the information for
- Which persons/organisations to whom the information is disclosed

#### What information will I receive?

When you make a request, you can ask for all of the personal information we hold about you on our computers and manual record systems. You will be given a description of the purposes for which we process your data and a list of organisations we disclose the data to. If you do not want to see all the information we have, for example you only want to see as CCTV footage of your car, or information in relation

to a noise nuisance complaint, etc, it will help us to find and send you the information quickly if you can be clear about what information you want.

### **Can I see information about any other person?**

We are not allowed to give you information about other persons, unless they have given their consent. This includes information about members of your family. If you are a parent, or a member of an elderly person's family, you may be provided with information about your child, or the elderly person, but only where you have written permission to ask for it, or are granted powers to do so by a court and we are satisfied that such permissions are genuine.

If data about other individuals are included within documents about you then it is likely that this information will be withheld.

If you are making a request on behalf of someone else, you will also be required to provide their details and will need to provide evidence that you are entitled to request the personal information. For example, if you are the subject's parent, we will need a copy of the long-form birth certificate that includes your name and address. On most occasions, as a third party you will also need to provide a written authority from the person concerned that includes their name, address and signature.

We need the following to be able to disclose records to you:

- Child under 12 (or child lacking mental capacity) - Evidence that you have parental responsibility for that child
- Child over 12 - In certain circumstances your child may be asked to consent to disclose data to you
- Adult (who lacks mental capacity) - Official paperwork listing you as their legal guardian
- Solicitor or Agent (acting on behalf of an individual) - A form of authority addressed specifically to the Council and signed by the data subject or their legal representative. In some circumstances we may also request explicit consent from the data subject

### **Can I access the records of someone who has died?**

The Council is not allowed to disclose a deceased person's records to any individual other than the personal representative of the deceased's estate. That is an individual who has a grant of probate (if the deceased left a will) or letter of administration (if the deceased did not leave a will, otherwise known as intestate).

If you are the personal representative for the deceased's estate and affairs, you need to provide the legal documentation which validates this so that we can be able to consider disclosing the requested records.

### **How will I receive the information?**

We will generally provide the information via email if this is possible. Information may be in the form of a printout from a computer system, or a photocopy of your manually held record. If you have difficulty in understanding any of the contents, you may ask a member of staff for assistance.

### **Is there a charge?**

There is no charge for making a Right of Access Request, unless requests are repeated or manifestly excessive.

### **How long does it take?**

We must provide access to the information without undue delay, and within one month. The time starts from when we receive a clear request and enough identification to be sure that the request is from the data subject. Once we receive this information, we will contact you to acknowledge that the one-month period has started.

We can extend the time to provide a response to you by a further two months if your request is complex or you have made more than one request. We will tell you within one month of receiving your request that we need extra time to consider it and why.

### **Do I need to provide any documents?**

If we are not sure about your identity, we will not process a request for personal data unless you provide evidence – in these cases we require photographic ID that includes your date of birth and signature such as a driving licence, passport or ID card. If you are unable to provide such evidence, please contact us to discuss alternative options.

### **Will I receive all the information I have requested?**

In some circumstances the Council is allowed to withhold information, for example, if disclosure could prejudice a criminal investigation, if disclosure could cause mental or physical harm to any individual, or if information originates from the Court. These are known as exemptions. We can also exclude any information which is about another person if they can be identified from it.

In exceptional circumstances we can refuse to provide you with the information, for example if we consider your request to be manifestly unfounded or excessive.

### **What do I do if the information provided is incorrect?**

You should tell us that the data is incorrect and ask us to correct it. You must do so in writing. We must inform you if we have, or have not, corrected the data within one calendar month of you asking us to do so. If we do not agree that the information is incorrect, you can ask us to record your disagreement on the record itself. If we do not correct the information, you may also appeal to the Information Commissioner's Office,

or the court. These organisations have the power to order us to correct data that is wrong.

You have a right to request to have inaccurate data rectified, blocked, erased, or destroyed. This right extends to any other personal data that contains an opinion about you based on the inaccurate data. More information is provided later in this document.

### **What do I do if I think I have not received all the information I requested?**

You can appeal to us through our internal procedure, or to the Information Commissioner's Office. More information on both of these routes of appeal is provided at the end of this guidance.

#### **Case Study**

Mr W has written to the Council asking for information about noise nuisance complaints made in respect of the pub that he owns. The Council responds providing details of the complaints but removes information relating to the names and addresses of the people who complained. This is because this is their personal data. The Council provides a full explanation of why this information has been removed.

## **Right to rectification**

If you feel that the information that we hold about you is inaccurate or incomplete you have the right to ask for it to be rectified. Requests will be considered and inaccurate information will normally be rectified within one month, although for complex rectification requests, this may take a further two months. If we feel that the information we hold is accurate and does not require rectification, we will provide you with a written explanation.

If we have passed this information onto another organisation we will also make sure that they are also asked to correct their records.

#### **Case Study**

Miss A has found out that the Council has recorded her date of birth incorrectly. The Council asks for proof of her date of birth to check against its records and then corrects this information. The Council had passed the information onto another organisation so it writes to them to ask for the data to be corrected.

## **Right to erasure**

The right to erasure is also known as the right to be forgotten, you may request that information we hold about you is erased. We will assess your request and in specific circumstances the information may need to be kept.

For example, we may need to keep the information for compliance with a legal obligation, or to retain information relating to safeguarding referrals or council tax liability. We will write to you within one month to let you know whether or not we have complied with your request.

### **Case Study**

Mr S has written to the Council asking for personal data held about him in relation to a car parking penalty charge notice to be deleted. The Council refuses the request for the following reasons:

The Council undertakes parking enforcement on behalf of North Yorkshire County Council. Under the contract with North Yorkshire County Council the Council are required to provide and retain information relating to all parking penalty notices issued

The data is obtained and held by the Council in exercise of its official authority as a Parking Enforcement Authority.

Data is also held as evidence should a claim be made against the Council for a refund, or some other loss.

## **Right to object**

You may object to processing based on the legitimate interests, public interest or exercise of official authority or direct marketing or for the purpose of scientific/historical research and statistics. In order to object, you must have reasons relating to your own particular situation. We must stop processing unless we have compelling legitimate grounds which override your interests, rights and freedoms or the processing is for the exercise of legal claims.

The majority of personal data we process is based upon our 'public task' responsibilities (ie, for the performance of a task carried out in the public interest or for the exercise of official authority vested in the Council). For example: collecting Council Tax, and dealing with planning applications. In these circumstances you must give specific reasons why you are objecting to the processing of your data, based upon your particular situation. You can find more information about why we process your data in our Privacy Notices.

### **Case Study**

Mrs C has written to the Council objecting to the processing of information held about her on her council tax record, including name, and number of occupants in the property. The Council refuses the request as it needs this information to be able to send her an accurate bill for council tax and this is part of its Public Task.

## **Right to restrict processing**

This allows you to block or suppress the processing of your personal data. This means that we can retain your information, but not process it any further. We will need to keep some information to ensure that we are able to maintain the restriction. For example, an individual may contest the accuracy of the data we hold about them and we need to stop processing the data until we have checked that the information is correct.

## **Right to data portability**

This allows you to obtain and reuse your own data for your own purposes. This only applies to data that you have provided to the Council, where the processing has been with your consent or for the performance of a contract and that processing has been carried out by automated means. This does not apply to any data held by the Council.

## **Rights related to automated decision making including profiling**

Automated decision making is if a computer has made a decision about you without human involvement. You have the right not to be the subject of a decision if it is based on automated processing and it produces a legal effect or other significant effect on you.

This right does not apply where processing is necessary for the performance of a contract, authorised by law (including fraud) or there is explicit consent.

The Council does not use any "Automated Decision Making" and therefore this right does not apply to any information the Council holds about you.

## Section 3

### How to make a request about your Rights

You can make a request about your rights verbally or in writing. You can also complete the form which is available online at: [www.scarborough.gov.uk](http://www.scarborough.gov.uk)

#### Contact Details

The Council's Data Protection Officer is Miss P Jackson. Contact details:  
Regulation and Governance Team  
Telephone on 01723 232323,  
E-mail [data.protection@scarborough.gov.uk](mailto:data.protection@scarborough.gov.uk),  
Address: Town Hall, St Nicholas Street, Scarborough, YO11 2HG.

#### What if I am not happy with the response to my request?

If you wish to make a complaint about the way we have responded to your request, you can have your complaint considered through our Internal Review process. Please email or write to us using the details above.

If you remain dissatisfied with our response, you can complain to the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 0303 123 1113, Website: [www.ico.org.uk](http://www.ico.org.uk).