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# Subject Access Request (SAR) Policy

including

Rectification, Erasure and Restriction of Data



Kerry County Council  
*Comhairle Contae Chiarraí*

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## - REVISION CONTROL -

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## 1. Introduction

**Data Protection** is the safeguarding of the privacy rights of individuals (Data Subjects) in relation to the processing of personal data in paper and electronic format. The Data Protection Acts 1988 to 2003 and the General Data Protection Regulation (GDPR), effective from 25th May 2018, lay down strict rules about the way in which personal data and special categories of data are collected, processed, stored, disclosed and destroyed. The legislation also gives Data Subjects the right to access their personal data on request and have their personal data amended if found to be incorrect.

As a Data Controller and processor of personal information, Kerry County Council (the Council) complies with the basic principles of the GDPR to make sure that personal data is:

- Collected and processed lawfully, fairly and in a transparent manner
- Processed for specific, explicit and legitimate purposes
- Adequate, relevant and limited to what is necessary
- Accurate and up to date
- Retained for no longer than is necessary
- Safe and secure.

A glossary of terms used in this policy and other related policies is available in Appendix 1 of the Council's Data Protection Policy.

## 2. Purpose

As the Council processes personal information regarding Data Subjects, it is legally obligated to provide any information (with limited exceptions) kept on that Data Subject, on receipt of a Subject Access Request (SAR).

This document outlines the Council's policy for responding to Subject Access Requests for personal data and details the responsibilities of the Council and the rights of the individual. It also outlines the process for Data Subjects when making a Subject Access Request which may include CCTV recordings and footage.

## 3. Personal Information

Personal information is defined, in the GDPR, as

*"Any information relating to an identified or identifiable natural person (Data Subject); an identifiable natural person is one who can be identified,*



*directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.”*

## 4. Right of Access by the Data Subject

The Data Subject has the right to obtain from the Council confirmation as to whether or not personal data concerning him or her are being processed, together with the following information:

- a.** the purposes and legal basis of the processing
- b.** the categories of personal data concerned
- c.** the recipients or categories of recipient to whom the personal data have been or will be disclosed; in particular, recipients in third countries or international organisations
- d.** where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period
- e.** the existence of the right to request from the Council rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing
- f.** the right to lodge a complaint with the Office of the Data Protection Commission
- g.** where the personal data are not collected from the Data Subject, any available information as to their source
- h.** the existence of automated decision-making, including profiling, and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

## 5. Making a Subject Access Request

A Data Subject Access Request may be made in writing or electronically to the Data Protection Officer, Kerry County Council, County Buildings, Rathass, Tralee, Co. Kerry; Email: [dpo@kerrycoco.ie](mailto:dpo@kerrycoco.ie); Telephone: 066 7183500.

When a request is made electronically, the response will be provided in a commonly used electronic format unless otherwise requested in writing.



Requestors must provide identification outlined on the Subject Access Request (SAR) form to ensure the information is only given to the person entitled to it. If there is insufficient information provided to process the SAR, the Council will contact the Data Subject for further specific details or clarifications. The request must not be excessive or disproportionate.

While the Council will provide the information requested free of charge, further copies requested may incur a charge to cover administrative costs. The Council aims to provide the requested information as soon as possible, but at a maximum of one month from the date the request is received. However, where the retrieval or provision of information is particularly complex or subject to a valid delay, the period may be extended by a further two months. In this case, the Data Subject will be contacted within one month and kept informed of the delay and provided with the reasons.

## **6. Subject Access Request – Exemptions and Refusals**

Data Protection legislation and the GDPR contain certain exemptions from the provision of personal information. If one or more of these exemptions apply to a request, the Council will inform the Data Subject at the earliest convenience, or at the latest, within one month of receipt of the request.

These exemptions include; avoiding obstruction to official or legal enquiries, investigations or procedures or avoiding prejudice to prevention, detection, investigation or prosecution of criminal offences. The exemptions also include where the request would involve disproportionate effort or is considered to be unfounded or excessive.

The Council may also refuse a Subject Access Request where the identity of the Data Subject cannot be verified, or where requests are unfounded, excessive or repetitive.

## **7. Right to Rectification of Personal Data**

Legislation includes an individual's right to have inaccurate or incomplete data rectified. This request must be made in writing to the Data Protection Officer and will be processed as soon as possible and not later than one month, subject to the Council's verification of the authenticity of the request. The Council may extend the one-month timeframe for processing the request by a further period, not exceeding two months, having regard to the nature and complexity of the request.



## 8. Right to Erasure of Personal Data

Data Subjects have the right to have their personal data erased if:

- the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed
- the Data Subject withdraws the consent on which the processing is based
- the Data Subject objects on the basis that there is no legitimate basis for processing
- the personal data has been unlawfully processed
- the personal data must be erased for compliance with a legal obligation
- the Data Subject gave consent to processing personal data in relation to the offer of information society services (online services) when they were a child; only children aged 16 or over are able provide their own consent.

If personal data has been disclosed to others the Council will inform each recipient of the erasure unless this proves impossible or involves disproportionate effort. If asked to, the Council will inform Data Subjects about these recipients.

The right of erasure does not apply if processing is necessary for the following reasons:

- for exercising the right of freedom of expression and information
- for compliance with a legal obligation
- for the performance of a task carried out in the public interest or in the exercise of official authority
- for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in so far as erasure is likely to render impossible or seriously impair the achievement of the objectives of that archiving
- for the establishment, exercise or defence of legal claims.

## 9. Right to Restriction of Personal Data

Data Subjects have the right to request, in writing, the restriction or suppression of their personal data. This is not an absolute right and only applies in certain



circumstances. When processing is restricted, the Council will store the personal data, but not use it. The Council will respond to a request within one month.

The right to restrict processing applies in the following circumstances:

- the Data Subject contests the accuracy of their personal data and you are verifying the accuracy of the data
- the data has been unlawfully processed and the Data Subject opposes erasure and requests restriction instead
- the Council no longer needs the personal data but the Data Subject needs the Council to keep it to establish, exercise or defend a legal claim
- the Data Subject has objected to processing their data and the Council are considering whether legitimate grounds override those of the Data Subject.

The Council reserves the right to refuse to comply with a request for restriction where the request is unfounded, excessive or repetitive.

If personal data has been disclosed to others the Council will inform each recipient of the restriction unless this proves impossible or involves disproportionate effort. If asked to, the Council will inform Data Subjects about these recipients.

## 10. Right to Object

Data Subjects can object on “grounds relating to his or her particular situation”, including

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

In cases where processing is based on legitimate interest, the Council must stop processing the personal data unless:

- you can demonstrate compelling legitimate grounds for the processing, which override the interests, rights and freedoms of the individual
- the processing is for the establishment, exercise or defence of legal claims.

In cases where processing of personal data is for direct marketing purposes the Council must stop as soon as an objection is received. There are no exemptions or grounds to refuse.



In cases where processing of personal data is for conducting scientific, historical or statistical research necessary for the performance of a public interest task, the Council is not required to comply with an objection to the processing.

## 11. Right to Data Portability

The right to data portability only applies:

- to personal data a Data Subject has provided to the Council
- where the processing is based on the Data Subject's consent or for the performance of a contract
- when processing is carried out by automated means.

The right to data portability allows Data Subjects to obtain and reuse their personal data for their own purposes across different services.

It allows them to move, copy or transfer personal data easily from one IT environment to another in a safe and secure way, without hindrance to usability.

The personal data will be provided in a structured, commonly used and machine-readable format, free of charge and within one month of the request. The period can be extended by two months where the request is complex and the Data Subject will be informed why the extension is necessary.

## 12. Rights relating to Automated Decision-Making including profiling

The GDPR has provisions on:

- automated individual decision-making (making decisions solely by automated means without any human involvement)
- profiling (automated processing of personal data to evaluate certain things about an individual). Profiling can be part of an automated decision-making process.

The Council does not currently undertake processing which falls under automated decision-making or profiling.

## 13. Complaints to Data Protection Commissioner

If a Data Subject is not satisfied with the outcome of a Subject Access Request, they are entitled to make a complaint to the Data Protection Commissioner at:

Postal Address: Data Protection Commissioner



Canal House  
Station Road  
Portarlinton  
R32 AP23  
Co. Laois.

Telephone: + 353 57 8684800  
Lo Call Number: 1890 252 231  
Fax: + 353 57 868 4757  
Email: [info@dataprotection.ie](mailto:info@dataprotection.ie)