Aberdeenshire COUNCIL

DATA PROTECTION

ACCESS REQUESTS

PERSONAL INFORMATION (YOUR RIGHT TO KNOW)

Advice for members of the public enquiring about their rights under Data Protection legislation and/or requesting access to personal data held about them (i.e. making an Access Request).

Do you know what personal information is held about you and why it is needed for the council's purposes?

In this booklet we explain your rights, as a user of council services, to see your personal information and be provided with information about the uses to which it is put.

What are your rights?

- to ask us if we hold personal information about you
- to ask what we use the information for
- to be provided with a copy of the information
- to be given details of the purposes for which we use the information
- and other persons/organisations to whom it is disclosed
- to ask for incorrect data to be corrected

Why do we keep personal information?

We keep personal information about you for a variety of reasons, for example, in order that:

- we can provide you with the services you require
- we can collect council tax and rent
- we can assess the correct level of benefit for your needs
- we can provide you with up to date information about these services and the most appropriate service for your needs.

The information about you is also used to maintain a record of any help provided (e.g. Social Care provision of home care services) in order that we can look at it from time to time to see if it is still what you need and to plan for any changes. The personal information you provide may also be shared with other agencies involved in the provision of services to you and between departments of the council where we are legally required to do so.

Who do we share information with?

Depending on the original purpose for which it was obtained and the use to which it is to be put, information may be shared with a variety of services. Examples include Social Care sharing with Health, Housing, and Education and Children's Services; Housing Benefits sharing with the Department of Work and Pensions. It may also be shared, where necessary, with other organisations that provide services on our behalf e.g. providers of residential accommodation, providers of voluntary care and contractors for housing maintenance. In all of these examples the information provided is only the minimum necessary to enable them to provide services to you.

Personal information about you may also be provided to Government departments, or to other local authorities, where we are required to do so by law. An example

would be when you have moved from one local authority to another and the new authority requires confirmation of the services you were receiving. Information about you may also be provided for statistical research.

What sort of information do we hold?

The personal information held will depend on the service being provided. Basic information includes your name and address, age, date of birth, sex, next of kin, plus a note of the service provided. Decisions regarding the provision and any meetings between you and the department of the council providing the service may also appear on records.

Other, more sensitive data may also be held. Depending on the needs of the service being provided such data may include for example: details of a person's physical or mental health, disabilities and racial or ethnic origin. Data relating to specific services include:
- the level of payment and the current state of the account – rents and council tax;
- property details and extent of proposed alterations – planning;
- health and disability information – Social Care after care service.

Personal information we hold may also take the form of images captured by CCTV equipment on council premises for security and prevention and detection of crime purposes.

How do we keep the information and who is responsible?

The information is kept on secure computer systems and in secure manual filing systems. Maintaining the record and keeping it secure is the responsibility of the department providing the services you receive. All our employees are required to comply with our Information Security Policy and Data Protection Policy and are required to undertake Data Protection awareness training.

Are the records confidential?

Our employees have a duty of care when providing services. This includes respecting the right to confidentiality and ensuring that information about you is only used and given to others for the purposes of the service being provided. Care is taken to ensure that third parties cannot access the information without permission and that data about you is not disclosed, to third parties or others, without having a valid legal basis to do so.

How long are records about you held?

Normally, your records will be kept only for as long, after the service provided to you has ceased, as is required by law. If there is no legal requirement to keep the

records they will be destroyed as soon as is practicable. Where there is no legal requirement to retain information it is not normally kept for more than six years.

Examples of records that must be kept for longer include adoption records and those to do with children who have been in care.

How do you ask to see your information?

You must submit a request in writing. An "Access Request" application form is available at Aberdeenshire Council offices or from the address shown at the end of this leaflet. If you have difficulty with the form help will be provided. We may ask you to be more specific in your request in order to cut down on the time and effort we spend in extracting your information.

You have a right of access to your record, regardless of your age, as long as we are satisfied that you understand what it means to exercise your right. In Scotland you are presumed to understand what it means from the age of 12.

What information will you receive?

All of the personal information you have requested on both our computer and structured* manual record systems.
*(*Note: structured manual record systems are those where the information about you is readily accessible by name, reference number etc.)*

What information might we withhold?

There are some occasions where we will refuse to disclose information you have requested. For example:

- if the information on your record identifies other people then we will not disclose their identity without their consent
- if disclosure of the information might lead to serious harm to the physical or mental health of the data subject or any other person
- if it would hinder the prevention and detection of crime or the prosecution or apprehension of offenders to provide it.
- if the information forms part of a court report or a report made by or for a reporter to the children's panel.
- if the information is about adoption records or reports.
- if the information is confidential because it was provided in the context of legal privilege or a lawyer-client relationship
- if there is a legal obligation not to disclose.
- if the information requested refers to someone who is now unable to manage his or her own affairs and we are satisfied that at the time the information was given, he or she would not have wanted it to be disclosed to you.

If we withhold information we will tell you that we have.

Can you see information about members of your family or any other person?

You may not normally see information about other persons, unless they have given their consent. This includes information about members of your family.

You may make a request on behalf of someone who is unable to manage his or her own affairs and you have been appointed by a court to do so. We will normally require to see proof of such entitlement.

If you are a parent of a child still at school you have a right of access to your child's education records.

You may apply to see the social care records of a child aged under 12 who does not have sufficient understanding to make his or her own request and for whom you have parental responsibility.

How will you be given the information?

You will usually be provided with a copy of your information to keep. This may be a PDF file or number of PDF files, a printout of the information from the computer system or a photocopy of your manually held record.

Where we cannot provide you with your own copy of the information e.g. due to the amount of information for example, you will be invited to attend an Aberdeenshire Council office to view the information.

If you have difficulty in understanding any of the contents you may ask a member of staff for assistance.

Will you be charged a fee for information provided?

No.

How long does it take to provide you with the information?

We must respond within one month of receiving your application. The period begins from the date on which we receive the written application and any additional information required by us. If the request is particularly complex and/or involves a significant volume of information, we may write to you to let you know advising that the time to process the request will increase to two months. If after two months, the information is still not ready due to the complexity of the request and volume of information involved, we may write to you one further time advising that the time to process the request will increase to three months.

What should you do when you get the information?

You should check it to ensure that you have received all of the information to which you are entitled and to make sure it is correct.

What do you do if the information provided is incorrect?

You should tell the department that the data are incorrect and ask for corrections to be made. You must do so in writing. If the department does not agree that the information is incorrect you can ask it to record your disagreement on the record itself. If the department does not correct the information you may also appeal to the Information Commission or to the courts. These organisations have the power to orde r the department to correct data which is wrong.

When are data inaccurate?

Data Protection legislation defines inaccurate data as being “data which are incorrect or misleading as to any matter of fact”.

How else can you have inaccurate data about you corrected?

Data Protection legislation provides you with a right to have inaccurate data rectified or erased. This right extends to any other personal data, which contain an opinion about you based on the inaccurate data.

What do you do if you think you have not been given all the information you asked for?

You can appeal to us, through our complaints procedure or to the Information Commission whose staff will look into the matter on your behalf.

What can you complain to the Information Commission about?

You can complain to the Information Commission if you consider that we have breached any of the requirements of Data Protection legislation. These include a breach of any of the data protection principles, processing data without your consent (where consent is necessary) or refusing to provide you with the personal information you have requested. This list is not exhaustive.

What will the Information Commission do?

At your request the Information Commission will carry out an assessment of our processing to establish whether or not we are doing so in compliance with legislation.

Should the Information Commission find we are not then we will be issued with a noti ce requiring us to take steps to ensure compliance.

Do we provide you with help in understanding the information?

If you need help in understanding the information provided or the contents of this booklet, please inform us and we will provide someone to explain the contents of the information.

Address to which Subject Access Request Forms should be sent:

The Information Governance Team
Woodhill House
Westburn Road
Aberdeen
AB16 5GB

You may obtain further information about data protection by contacting the Information Governance Team at the above address or visit our web information page for further information at:

http://aberdeenshire.gov.uk/online/legal-notices/

The Information Commission can be reached through:

http://www.ico.org.uk/