

SUBJECT ACCESS REQUEST PROCEDURE

DRAFT

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Change History

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		Approved by Audit Committee

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1. INTRODUCTION

- 1.1. Under the Data Protection Act (Act) 2018, an individual has the right to access personal information held about them by any organisation. This is known as the data subjects' right of access.
- 1.2. Wyre Council will ensure that individuals have access to their personal information, and are provided with a copy (where appropriate), within the required timescales legislated by the Act and the ICO.
- 1.3. To process a request, the data subject (or approved representatives) will normally need to send acceptable photo identification (e.g. copy of a Photo Driving Licence or Passport), proof of address (e.g. Bank Statement, Council Tax Bill, or Utility Bill) and any other supporting information required in relation to their request. The council are not able to charge a fee, in most cases. However legislation allows in certain circumstances to charge a fee if a request is deemed excessive or for duplicate request(s). If a fee is to be charged, the requester will be informed at the earliest opportunity and their permission will be sought to continue with the request given the fee required.

2. PURPOSE

- 2.1 To provide people receiving a service and/or their representatives with access to their personal records, in accordance with the Act.
- 2.2 To ensure council staff have a consistent approach when dealing with requests for personal information.

3. SCOPE

- 3.1 This procedure outlines how Wyre Council and its staff will provide access to personal records, compliant with the Act.
- 3.2 This procedure applies to living individuals and/or their representatives, wishing to access personal records. Access to records of individuals who are deceased will be dealt initially under the Freedom of Information Act 2000. Depending on the information or record being requested, if the record contains personal information this should be dealt with in the same way as those of individuals who are living. Access to a deceased person's data can be via the Access to Health Records Act (1990) or personal representative (executor or administrator of deceased person's estate or someone who has a claim resulting from the death. However, information can remain confidential even after death.
- 3.3 This procedure applies to all information, regardless of when it was created, in line with the retention periods documented within the council's Information Asset Registers.

4. LEGAL CONTEXT

- 4.1 The following legislation applies to this protocol:-

- The Data Protection Act 2018
- The Freedom of Information Act 2000
- Human Rights Act 2004
- Mental Capacity Act 2005

- 4.2 Related council documents:-

- Subject Access Request Form (Appendix A)
- Subject Access Request Online Form
- Subject Access Request (SAR) - Process flow chart (Appendix B)

5. RIGHTS OF ACCESS

- 5.1 Under the terms of the Act, every living individual has the right of access to personal information held about them unless an exemption applies. This applies to open and closed files. There are two notions of assistance whether information is personal data: whether it is significantly biographical, and whether it has the data subject as its focus, rather than some other transaction or event in which the data subject may have figured.
- 5.2 Whilst the council's preferred method for receiving an SAR is via the council's on-line form (see Appendix A), applications do not have to be in writing and can be received in different ways, such as email or verbally. Standard forms can make it easier for the council to recognise a subject access request and make it easier for the individual to include all the details that might be required to locate the information they are requesting. The form can be located using the following link <https://www.wyre.gov.uk/site-search/results/?q=subject+access>. Any member of staff could receive a request for access to records under the Act and employees can advise individuals how they can access their information by directing them to the on-line form. However employees **must not** make any attempt to respond to a subject access request and all requests should be forwarded to the Council's Information Governance Manager (IGM); Joanne Porter.
- 5.3 In the majority of cases, the council can no longer charge a fee for the processing of a data request. However, there are certain circumstances in which a fee can be charged. For example, if a request is deemed excessive or if a number of duplicate requests have already been received. This should be assessed by the individual service or team once a search for the relevant information or records has been completed, and if we hold what is required. If a fee is to be charged, the requester will be notified immediately. No information or records will be released until the fee has been received.
- 5.4 In most cases, the data subject will be required to provide a copy of photo identification and proof of current address which will need to be provided with their SAR application. However, if the requester is known to the council, ID may not always be required. In some instances, the requester may be asked a question that only they will know the answer to in order to validate their identity. The decision on what ID is deemed appropriate is made by the IGM. Any requests for information or records made by a current council employee will not require them to provide the relevant ID. However the requests must all still be logged and processed in the usual way.
- 5.5 If a request for a council member of staff's employee records is received, then this should be forwarded to the IMG and processed in the usual way.
- 5.6 A representative (e.g. a parent, carer, solicitor or advocate) can apply for access to records on behalf of the data subject. The representative must provide consent from the data subject (if applicable). They may also need to provide a copy of their photo identification, proof of current address and further evidence of their right to access the records.
- 5.7 The month timescale will begin the day after receipt of a request and only when all the necessary ID checks have been made. Where a disproportionate effort would be needed to provide a copy of the records required, the requestor may be asked to provide further details to identify the specific information being requested. In both of these circumstances the month timescale will be suspended until this has been provided by them.
- 5.8 Under data protection legislation, there are certain circumstances where the one month timescale can be extended for up to a further two months. An extension may be applied if the

request is complex or we have received a number of requests from the individual. The requester will be notified within the first month if an extension is to be applied and the reasons why. If a Service feels they may wish to exercise this extension they must inform the IGM as soon as possible and must not wait until the first timescale has expired. In the limited situation where a fee can be charged for processing a request for right of access, a suspension will only be lifted once the payment has been provided by the applicant.

- 5.9 Where it is thought that a disproportionate effort is needed to provide a copy of the records required, the requestor may be asked to provide further details to identify the specific information being requested. On occasion, it may be necessary to allow access to a record (if possible) without providing a permanent copy of the record. This may not be possible where third party information is present.
- 5.10 Where the record contains information about another individual, consent to release the information may be required from that individual (known as the third party). However, in most cases this will just be redacted.
- 5.11 Where a record contains information supplied by another organisation, the decision to release this data lies with each individual organisation. If the decision is not to release, then the requestor will be directed to apply to the relevant organisation to gain access to the required information.
- 5.12 On receipt of the information, the data subject has the right to have any inaccuracies or in-factual information corrected, or to have comments or views added to the record. If the council refuses to act on this request, the individual may apply to the council to appeal this decision in the first instance. If they are still unhappy with the decision they may appeal to the Information Commissioner's Office (www.ico.gov.uk).

6. INFORMATION GOVERNANCE MANAGER'S (IGM) ROLE AND RESPONSIBILITIES

- 6.1 Applications to access information will be completed within the month timescale. The IGM is responsible for providing reminders to Heads of Service in respect of approaching deadlines. Performance indicators (numbers received to numbers outstanding and past deadlines) are reported to the Corporate Management Team on a quarterly basis.
- 6.2 Where there are large volumes of records, the IGM will liaise on a regular basis with the requestor to discuss any timescales and methods of delivery (electronic, hard copies or both). If the requester has not specified their preferred method, the requested data will be sent via encrypted email.
- 6.3 The IGM is responsible for identifying the appropriate service / manager who will coordinate the task of locating all of the appropriate records to obtain these for processing. This is normally the Head of Service or Service Manager.
- 6.4 The IGM will maintain a detailed log of all requests for information. This will include details of date received, details of any action taken, discussions which have taken place with the requester or the relevant service, and decisions which have been made regarding the processing of the request along with information in respect of compliance to the processing timescales.
- 6.5 Documentation relating to the applications will be retained in compliance with the relevant retention schedules. This will include the SAR logs, all correspondence and an archive copy of the information provided to the applicant.

7. REQUESTS MADE BY AN AGENT

7.1 Where a person with the capacity to make his/her own decisions has appointed an agent, such as a solicitor, the agent can make the request to access personal records. The request must be treated as if it had been made by the data subject.

7.2 The following information must accompany the request:

- A letter on company headed paper, which states the agent is acting on behalf of the data subject.
- Written consent for the agent to access information on the data subject's behalf. This must be signed by the data subject with the date of signature being within the last 3 months.

7.3 Each request will be considered in its own rights with the best interests of the data subject being considered in every instance (see section 11).

8. REQUESTS FROM OTHER ORGANISATIONS INCLUDING CHILDREN

8.1 All such requests to disclose or share information must be referred to the IGM. Information may be required in connection with safeguarding vulnerable individuals or the prevention and detection of crime and each request will be carefully considered before any information is disclosed. Only SAR's received from children 12+ will be considered. However in each instance, the IGM will carry out an assessment on the maturity and ability of the child to make a valid request.

9. INFORMATION PROVIDED BY OTHER ORGANISATIONS

9.1 There may be information within the documentation we hold about individuals that is being requested, that has been supplied by other organisations. If this is the case, it is the Head of Service / Service Manager's responsibility to seek authorisation from this organisation prior to it being provided to the IGM for release to the applicant.

10. REQUESTS FROM THE COURTS

10.1 All requests received from the Courts, by means of a sealed court order, must be complied with. Information must be supplied within the specified timescale and where no timescale is specified the request should be responded to promptly and within the one month timescale.

11. REQUESTS FROM THE POLICE

11.1 All general requests for personal information received from the Police, should be sent to the IGM who will coordinate the response to such requests.

12. REQUESTS FROM CONSUMER PORTAL SITES

12.1 All requests received from consumer portal sites e.g. **Rightly.co.uk** should be referred to the IGM. The council is not expected to register or pay to access a request for information. If a response is received in this format the IGM will make contact with the requester to ask them to supply the information in another format. If no response is received within 14 days of the original request, the request will be cancelled.

13. REDACTION

- 13.1 The removal of certain information (e.g. third party references) may be required from the data subject's information or records. Further support on redaction can be provided by the IGM.

14. FURTHER INFORMATION AND CONTACT DETAILS

- 14.1 If you have any questions in relation to this procedure, please contact the council's Information Governance Manager or email the council's dedicated information governance email address. InformationGovernance@wyre.gov.uk

Wyre Council
Information Governance
Civic Centre, Breck Road
Poulton-le-Fylde. FY6 7PU



Tel: (01253) 891000
 Email: informationgovernance@wyre.gov.uk

SUBJECT ACCESS REQUEST FORM
Data Protection Act 2018

Case Ref	(Office use only)
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This form is to be used when an individual (The Data Subject) wishes to access personal data held by Wyre Council. There is currently no fee payable for this service. Please send the completed form and appropriate identification to the address at the end of the form (section 9).

1	<p>Applicant (to be completed in all cases)</p> <p>Please select one of the following:</p> <p>I am the Data Subject. I am requesting access to my personal information. <input type="checkbox"/></p> <p>I am not the Data Subject. I am requesting information on behalf of the data subject. <input type="checkbox"/></p>
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2	<p>The Data Subject (to be completed in all cases)</p> <p>Surname: _____ Forename (s): _____</p> <p>Title: Mr, Mrs, Ms or Other (please specify): _____ Date of Birth: _____</p> <p>Previous name (s): _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p> <p>Previous Address: _____</p> <p>_____</p> <p>_____</p> <p>Telephone number: _____ Email address: _____</p> <p>_____</p> <p>_____</p> <p>Please use below to provide details of any specific information you require, together with any relevant dates:</p> <p>_____</p> <p>_____</p> <p>_____</p>
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3 **Representatives Information** (to be completed if you are applying as the data subjects representative)

Surname: Forename (s):

Title: Mr, Mrs, Ms or Other (please specify): Date of Birth:

Previous name (s):

Address:

Telephone number: Email address:

Please use below to state your relationship to the Data Subject:

Please use below to explain your entitlement to receive the Data Subject's personal data (for example, Data Subject's signed authority, Lasting Power of Attorney or Parental Responsibility):

What authorisation have you enclosed?

Identification

You must provide two forms of identification to confirm the identity of the Data Subject, one which confirms their identity and one which confirms their current address. Please send one document from each list below. **Please do not send original documents**, good quality photocopies are acceptable.

Note: if you are a representative applying on behalf of the Data Subject, you must also provide two forms of identification which confirm your identity and current address.

Acceptable proof of identify:

- Current Passport
- Birth certificate
- Unexpired photo card driving licence (full or provisional)

Acceptable proof of current address:

- Utility bill dated within the last 3 months
- Council Tax bill for current year
- Unexpired old style paper driving licence
- Bank statement dated within the last 3 months
- Benefits Agency/State Pension correspondence (on letter header paper) dated within the last 3 months

Format (to be completed in all cases)

Your file(s) will be sent to you via encrypted email unless you tell us otherwise.

If you do not have access to a computer or would prefer to receive a paper copy.

Please provide an email address for sending encrypted emails:

When the encrypted email is sent it will be followed by a further email containing the password to open the file(s).

Should you experience problems opening the file(s) and in order to assist you please provide an answer to the following security questions. These will be asked when assistance is provided.

What is your mother's maiden name?

Which primary school did you attend?

What is your favourite colour?

Data Subject's declaration

Please select one of the following statements:

I confirm I am the Data Subject. I wish to receive a copy of my personal records.

I confirm I am the Data Subject. I have read and understood section 3 (*Representatives Information*) of this form, and I give my consent for my representative to receive a copy of my personal records on my behalf.

Signed:

Date:

7 **WARNING – it is a criminal offence to obtain another person’s information by deception**

I confirm I am the appointed representative of the Data Subject. I wish to receive a copy of the Data Subjects personal records.

I confirm I am the Data Subject. I wish to receive a copy of my personal records.

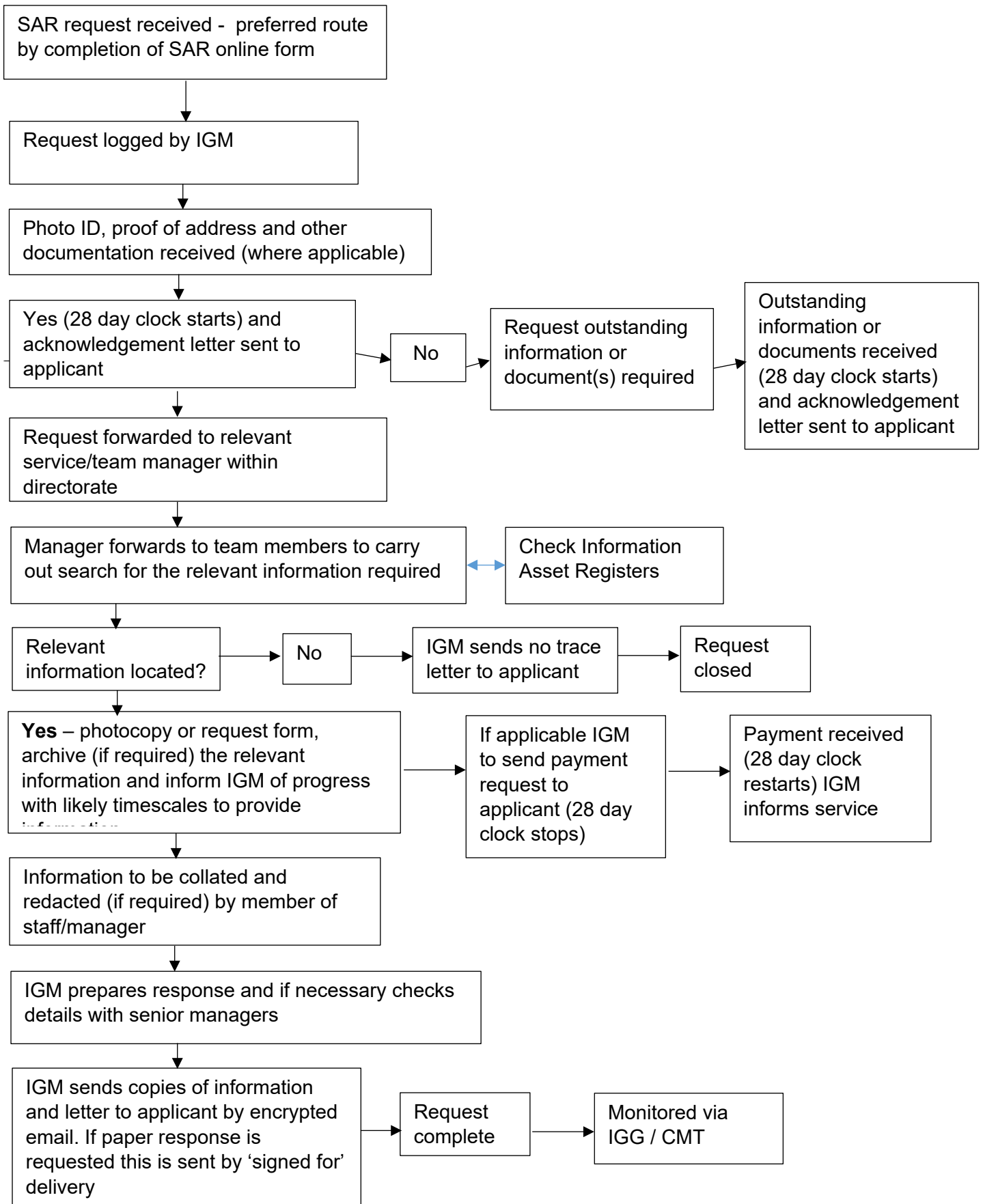
Signed:

Date:

8 **Please send the completed form and appropriate identification and authorisation (if applicable) to the address below:**

Wyre Council
Information Governance Manager
Civic Centre
Breck Road
Poulton-le-Fylde
FY6 7PU

If you have any queries regarding this form please contact the Information Governance Manager on 01253 887503.



Key
 IGM – Information Governance Manager
 IGG – Information Governance Group
 CMT – Corporate Management Team