

Payhembury Parish Council

GDPR Subject Access Request Procedure

Contents

1. Introduction	1
2. Submitting a Subject Access Request (SAR).....	1
3. What the Parish Council must do	2
4. Processing a Subject Access Request (SAR)	2
5. What will be included in the SAR response	4
6. Sample SAR response letters	4
7. Next steps if dissatisfied with the management of the SAR.....	5

1. Introduction

- 1.1. Under the General Data Protection Regulation 2018 any person for whom the Parish Council hold personal data has the right to submit a written request for information about the personal data held. The person is referred to as the 'Data Subject'.
- 1.2. This procedure sets out how to make a Subject Access Request (SAR) and how Payhembury Parish Council will process such a request. The procedure is based on the template provided by NALC in their GDPR Toolkit (August 2018, v3).
- 1.3. This procedure should be read in conjunction with the following Parish Council documents:
 - GDPR Subject Access Request form
 - GDPR Data Protection Policy
 - GDPR Privacy Notice (General)
 - GDPR Privacy Notice (Staff, Councillors & role holders)
 - GDPR Data Breach Notification Policy
 - Data Retention and Disposal Policy

2. Submitting a Subject Access Request (SAR)

- 2.1. A written request should be sent by email or letter to the Parish Council and should include the following information:
 - Name and contact details for the person making the Subject Access Request;
 - Whether the request is on behalf of some-one else and, if so, the authority under which the request is being made;
 - A description of the information being requested.
- 2.2. Emails should be sent to payhemburypc@payhemburyparishcouncil.org.uk. For the Parish Council's postal address either email the Clerk or see the Parish Council website 'Contact Us' page.
- 2.3. A GDPR Subject Access Request form is available which details the information the Parish Council require to be able process the request. The information can be submitted in an alternative format if required.

Payhembury Parish Council

GDPR Subject Access Request Procedure

3. What the Parish Council must do

- 3.1. The Parish Council must comply with the following:
 - a. On receipt of a subject access request this must be forwarded to the Clerk.
 - b. Correctly identify whether a request has been made under the Data Protection legislation.
 - c. A member of staff, and as appropriate, Councillor, who receives a request to locate and supply personal data relating to an SAR must make a full exhaustive search of the records to which they have access.
 - d. All the personal data that has been requested must be provided unless an exemption can be applied.
 - e. Respond within one calendar month after accepting the request as valid.
 - f. Subject Access Requests must be undertaken free of charge to the data subject unless the legislation permits reasonable fees to be charged.
 - g. Councillors and managers must ensure that the staff they manage are aware of and follow this guidance.
 - h. Where a data subject is not satisfied with a response to an SAR, the Parish Council must manage this as a complaint.

4. Processing a Subject Access Request (SAR)

- 4.1. On receiving an SAR the Clerk will respond confirming that they have received the request and confirming with the data subject that they are aware of this policy and of the next steps that will be taken. The Clerk will also inform the Chair of the Parish Council that an SAR has been received.
- 4.2. After acknowledging receipt of the request, the Clerk will then do the following:
 - a. Verify whether the Parish Council is the controller of the data subject's personal data. If they are not a controller, but merely a processor, the Clerk will inform the data subject and refer them to the actual controller.
 - b. Verify the identity of the data subject; the data subject must supply their address and valid evidence to prove their identity. If further evidence on the identity of the data subject is needed, the Parish Council accepts the following forms of identification (* These documents must be dated in the past 12 months, + These documents must be dated in the past 3 months):
 - Current UK/EEA Passport
 - UK Photocard Driving Licence (Full or Provisional)
 - Firearms Licence / Shotgun Certificate
 - EEA National Identity Card
 - Full UK Paper Driving Licence
 - State Benefits Entitlement Document*
 - State Pension Entitlement Document*
 - HMRC Tax Credit Document*
 - Local Authority Benefit Document*
 - State/Local Authority Educational Grant Document*
 - HMRC Tax Notification Document
 - Disabled Driver's Pass

Payhembury Parish Council

GDPR Subject Access Request Procedure

- Financial Statement issued by bank, building society or credit card company+
 - Judiciary Document such as a Notice of Hearing, Summons or Court Order
 - Utility bill for supply of gas, electric, water or telephone landline+
 - Most recent Mortgage Statement
 - Most recent Council Tax Bill/Demand or Statement
 - Tenancy Agreement
 - Building Society Passbook which shows a transaction in the last 3 months and the address
- c. Verify the access request; is it sufficiently substantiated? Is it clear what personal data is requested? If not, additional information may be requested to clarify the SAR.
- d. Verify whether requests are unfounded or excessive (in particular because of their repetitive character); if so, the Parish Council may refuse to act on the SAR or charge a reasonable fee.
- e. Promptly acknowledge the validity of the SAR and inform the data subject of any costs involved in the processing of the SAR and the expected date by which they should receive the requested information. The Clerk will ensure that a response to the SAR will be provided within one month of accepting the SAR as valid.
- f. Verify whether the Parish Council process the data requested by carrying out a full and exhaustive search. Depending on the degree to which personal data is organised and structured, emails will need to be searched (including archived emails and those that have been deleted but are still recoverable), Word documents, spreadsheets, databases, systems, removable media (for example, memory sticks, floppy disks, CDs), tape recordings, paper records in relevant filing systems etc. If the Parish Council do not process any data, inform the data subject accordingly.
- g. Ensure data will not be changed as a result of the SAR. Routine changes as part of the processing activities concerned are permitted.
- h. Verify whether the data requested may not be disclosable due to exemptions. Legal advice should be sought before applying exemptions; examples of exemptions include:
- References you have given
 - Publicly available information
 - Crime and taxation
 - Management information (restructuring/redundancies)
 - Negotiations with the data subject
 - Regulatory activities (planning enforcement, noise nuisance)
 - Legal advice and proceedings
 - Personal data of third parties
- i. Verify whether the data requested also involves data on other data subjects; in some cases, emails and documents may contain the personal information of other individuals. Ensure the other individual's personal data is redacted before the SAR is sent out.
- 4.3. The Clerk will aim to provide a response to an SAR within one month after the request is acknowledged as valid. However, if more time is needed to respond to complex requests, an extension of another two months is permissible, provided this is communicated to the data subject in a timely manner within the first month. If the Parish Council cannot provide the information requested, it should inform the data subject on this decision without delay and at the latest within one month of receipt of the SAR.

Payhembury Parish Council

GDPR Subject Access Request Procedure

- 4.4. A record is maintained allowing the Parish Council to report on the volume of SARs received and compliance against the statutory timescale.

5. What will be included in the SAR response

- 5.1. If data on the data subject is processed, the Clerk will ensure that the following information is included as a minimum in the SAR response:
- the purposes of the processing;
 - the categories of personal data concerned;
 - the recipients or categories of recipients to whom personal data has been or will be disclosed, in particular in third countries or international organisations, including any appropriate safeguards for transfer of data, such as Binding Corporate Rules or EU model clauses;
 - where possible, the envisaged period for which personal data will be stored, or, if not possible, the criteria used to determine that period;
 - the existence of the right to request rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;
 - the right to lodge a complaint with the Information Commissioners Office ('ICO');
 - if the data has not been collected from the data subject: the source of such data;
 - the existence of any automated decision-making, including profiling and any meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject;
 - a copy of the personal data undergoing processing.
- 5.2. The Parish Council must not withhold personal data because they believe it will be misunderstood; instead, the Parish Council should provide an explanation with the personal data. The personal data must be provided in an 'intelligible form', which includes giving an explanation of any codes, acronyms and complex terms. The personal data must be supplied in a permanent form except where the data subject agrees or where it is impossible or would involve undue effort. The Parish Council may be able to agree with the requester that they will view the personal data on screen or inspect files at an agreed location. The Parish Council must redact any exempt personal data from the released documents and explain why that personal data is being withheld.

6. Sample SAR response letters

- 6.1. Replying to a subject access request providing the requested personal data:

Dear [Name of data subject]

Data Protection subject access request

Thank you for your letter of [date] making a data subject access request for [subject]. We are pleased to enclose the personal data you requested.

Include 5.1 (a) to (i) above.

Copyright in the personal data you have been given belongs to the council or to another party. Copyright material must not be copied, distributed, modified, reproduced, transmitted, published or otherwise made available in whole or in part without the prior written consent of the copyright holder.

Payhembury Parish Council

GDPR Subject Access Request Procedure

Yours sincerely

- 6.2. Release of part of the personal data, when the remainder is covered by an exemption:

Dear [Name of data subject]

Data Protection subject access request

Thank you for your letter of *[date]* making a data subject access request for *[subject]*. To answer your request we asked the following areas to search their records for personal data relating to you:

[List the areas]

I am pleased to enclose *[some/most]* of the personal data you requested. *[If any personal data has been removed]* We have removed any obvious duplicate personal data that we noticed as we processed your request, as well as any personal data that is not about you. You will notice that *[if there are gaps in the document]* parts of the document(s) have been blacked out. *[OR if there are fewer documents enclose]* I have not enclosed all of the personal data you requested. This is because *[explain why it is exempt]*.

Include 5.1 (a) to (i) above.

Copyright in the personal data you have been given belongs to the council or to another party. Copyright material must not be copied, distributed, modified, reproduced, transmitted, published, or otherwise made available in whole or in part without the prior written consent of the copyright holder.

Yours sincerely

- 6.3. Replying to a subject access request explaining why you cannot provide any of the requested personal data:

Dear [Name of data subject]

Data Protection subject access request

Thank you for your letter of *[date]* making a data subject access request for *[subject]*.

I regret that we cannot provide the personal data you requested. This is because *[explanation where appropriate]*.

[Examples include where one of the exemptions under the data protection legislation applies. For example the personal data might include personal data that is 'legally privileged' because it is contained within legal advice provided to the council or relevant to on-going or preparation for litigation. Other exemptions include where the personal data identifies another living individual or relates to negotiations with the data subject. The ICO will be able to advise if a relevant exemption applies and if the council is going to rely on the exemption to withhold or redact the data disclosed to the individual, then in this section of the letter the council should set out the reason why some of the data has been excluded.]

Yours sincerely

7. Next steps if dissatisfied with the management of the SAR

- 7.1. If the data subject is not happy with the management of the SAR this will be managed as a complaint against the Parish Council and referred to the Information Commissioner for their consideration.