



## **Data Subject Rights Procedures**

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## Introduction

The General Data Protection Regulation (GDPR) provides all individuals (data subjects) with certain rights over their personal data. Not all rights are absolute, and some can be subject to exemptions.

This Procedure should be read in conjunction with the Data Protection Policy.

## Purpose

The purpose of this procedure is to explain how a data subject can make a rights request in relation to their personal data, as defined in Article 15 to 21 of the GDPR, and how Drumchapel Housing Co-operative (The Co-operative) will handle requests to ensure compliance with the GDPR and any other relevant legislation.

Where personal data is being processed by The Co-operative and the identity of the data subject has been verified, The Co-operative will respond to the request and provide the data subject with a response within the obligated timeframe.

## Scope

This procedure applies to staff, including temporary staff.

The following rights involving personal data are covered:

Data Subject Right	GDPR Article
Right of Access (Subject Access Request)	Article 15
Right of Rectification	Article 16
Right of Erasure (Right to be forgotten)	Article 17
Right to restrict processing	Article 18
Right of transfer data (Data Portability)	Article 20
Right to object to processing	Article 21

## Responsibilities

**All staff**, including temporary staff, are responsible for adhering to this procedure.

**Customer Service Advisor** is responsible for maintaining a register of all rights requests and assisting the Data Protection Officer in coordinating the retrieval of information and responses required.

**Data Protection Officer** (DPO) has direct responsibility for maintaining this procedure and providing advice on implementation with assistance of the Customer Service Advisor as required.

Anyone who is unsure whether they have received a request or not should contact the Customer Service Advisor or the DPO as soon as possible.

## Definition of Personal Data

Personal data is for the purposes of this procedure defined as, any information relating to an identified or identifiable living individual who can be identified, directly or indirectly. Personal data includes facts, opinions or intentions relating to the data subject.

The GDPR applies to personal data which;

- is processed wholly or partly by automated means e.g. IT system, CCTV, voicemail, etc.

- forms or is intended to form part of a filing system e.g. categorised file that enables personal data to be readily accessible

## Receiving a Valid Request

A data subject can make a request via any method and staff should always be aware of requests via the following:

Verbal Requests	Email	Fax
Written (letter)	Social Media	Website Contact Forms

We have a Data Subject Rights Request Form available on the website or on request by contacting [DPO@drumchapelhc.org.uk](mailto:DPO@drumchapelhc.org.uk).

A request cannot be progressed if you do not have enough information to clearly locate and identify the personal data within the request. The data subject can be asked for further information in order to help locate the information.

## Verifying the Identity of the Data Subject

Where there are any reasonable doubts concerning the identity of the data subject, additional information will be requested to confirm the identity of the data subject.

Once The Co-operative is satisfied, a note will be made that this requirement has been met and any copies of identification documents will be shredded (there is no requirement to retain copies of any ID verification). Any originals will be sent back via recorded delivery.

If The Co-operative can demonstrate that it is not able to identify the data subject, even after additional information is provided, a refusal notice to act upon the request will be issued.

## Requests from parties other than the data subject

There are occasions where a data subject may agree to a third party making a request on their behalf, such as a solicitor or family member.

To protect a data subject's personal data, The Co-operative will make all the necessary checks to be satisfied that the individual making the request on behalf of the data subject is entitled to do so. This may include requesting a written authority to make the request (e.g. evidence of consent from the individual) or a more general power of attorney.

No information will be released until The Co-operative is satisfied. The Co-operative may feel it appropriate to contact an individual directly to discuss the request, for example, if asked to release special category data.

In the event of this, the data subject will be given an overview of the type of information that will be released and the option to:

- view their personal data first and upon consent it will be released to the third party
- grant permission for it to be sent directly to the third party
- withdraw consent and no information will be sent to the third party.

## Requests on behalf of a child

Requests can be made, but it has to be recognised that the personal data is that of the child's, and that they have exactly the same rights as anyone else.

The Co-operative will take into consideration whether it's in the best interest of the child to release the data or take action on the request. In most cases, where The Co-operative

considers the child to understand their rights, the child will be contacted directly. The Co-operative will take the approach that a child aged 12 years has the capacity to make a rights request.

Prior to any action The Co-operative will request proof of parental responsibility, for example, birth certificate or passport.

## Charges

In most cases there will be no fee charged for responding to a request, however where The Co-operative can demonstrate that the request is manifestly unfounded or excessive in nature it can either:

- charge a reasonable fee, reflective of the administrative costs of dealing with the request; or
- Refuse to act on the request.

A data subject will be informed of such decision, the reason why and how a complaint can be raised with the Information Commissioner's Office (ICO) if they wish to appeal.

If the request relates to access to personal data, where The Co-operative has provided one copy of the personal data free of charge, for further copies of the same data, The Co-operative shall charge a reasonable fee to the data subject based on administrative costs.

## Timescales

The Co-operative shall provide a response to the data subject without undue delay and in any event within one month of receipt of a valid request.

This period may be extended by two further months where necessary, considering the complexity and number of the requests.

The Data Protection Officer shall inform the data subject of any extension within one month of receipt of the request, together with the reasons for the delay.

Where further information is required to progress the request, such as verifying the identity of the requestor, the authority of a third party representative of the data subject, or further clarification on the request itself the clock is stopped until the required information has been received.

If it is not possible to action the request of the data subject, the Data Protection Officer shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not progressing and on the possibility of complaining to the ICO.

## Responding to Requests

The data in any response shall be presented in a concise, transparent, intelligible and easily accessible form, using clear and plain language.

Where an email or online request for copy data is received, the data shall be provided by email, unless the data subject has requested that it be provided in another form. Any such personal data which is emailed shall be encrypted and subject to appropriate security measures.

## Access Requests (Subject Access Requests)

This right enables a data subject to verify that The Co-operative is lawfully processing their personal data and to check its accuracy. Where data is being processed by The Co-operative and the data subject makes a request to access the data, The Co-operative shall provide the data subject with access to the personal data and provide:

- a) the purpose of the processing;

- b) the categories of personal data being processed;
- c) the recipients or categories of recipients to whom we have disclosed or will disclose personal data;
- d) the retention period for the data (or how we determine that);
- e) the existence of the right to have us rectify, erase or restrict processing of that data;
- f) the right to lodge a complaint with the ICO;
- g) the source of the information if we have not collected the data directly from the data subject; and
- h) the existence of any automated decision making.

Additionally, where personal data is transferred to a third country or to an international organisation, the appropriate safeguards relating to the transfer.

The Co-operative has a duty to ensure other individual's information is treated fairly or protected accordingly. Therefore, before The Co-operative releases anything to the data subject or representative it has to ensure that it's not inappropriately releasing information about another individual who can be identified from that information.

On occasions where somebody else can be identified from that information, The Co-operative will not release data relating to the data subject unless the other individual has consented to the release of the information or it is reasonable in all circumstances to release the information without consent.

The Co-operative will take the below approach;

- Seek documented consent from other individuals
- Where appropriate redact information so other individuals cannot be identified, such as names / addresses / identification
- Where appropriate provide a summary of the personal data
- Review whether it would be reasonable to release the information without consent. Considering; is the information already known by the data subject? Is the individual acting in their professional capacity and had dealings with the data subject? Is there a duty of confidentiality owed to the other individual?

The data subject's interests and that of the other individual will be reviewed and considered.

All decisions will be made on a case by case basis, taking into consideration other legislation that may force the release of information to the data subject.

The Data Protection Act 2018 makes it an offence to intentionally alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of all or part of the information that the person making the request would have been entitled to receive.

## **Rectification Requests**

Where the request is for the rectification of inaccurate personal data, The Co-operative will restrict further processing of personal data whilst verifying the accuracy.

Where the rectification request is upheld, The Co-operative shall inform any third parties who have been sent personal data that the data subject has made a rectification request and instruct all parties what rectification is required.

The exception to notifying third parties is if this proves impossible or involves disproportionate effort.

## **Erasure Requests**

When requested to do so by the data subject, The Co-operative will erase personal data without undue delay where the request does not conflict with any legal, regulatory or other such constraints.

This right can only be exercised by data subjects where:

- a) the personal data is no longer necessary in relation to the purpose for which it was collected or processed;
- b) where the data subject's consent to processing is withdrawn;
- c) where the data subject objects to the processing and there are no overriding legitimate grounds for processing;
- d) where there is no legal basis for the processing; or
- e) where there is a legal obligation to delete data.

Where personal data is to be deleted data held in different locations and in different formats will be reviewed to ensure that all relevant personal data is erased.

Where we have made any personal data public, we shall take reasonable steps (taking into account technology and cost) to notify other controllers processing the data of the data subject's request for erasure.

The Co-operative is not required to and will not delete personal data where the processing carried out is necessary for:

- a) exercising the right of freedom of expression;
- b) complying with a legal obligation in the public interest or in the exercise of an official authority;
- c) for public health reasons;
- d) for archiving purposes; or
- e) for the establishment, exercise or defense of legal claims.

Once the relevant personal data has been deleted the data subject shall be advised that the data has been erased unless doing so is impossible or involves disproportionate effort.

## **Restriction Requests**

The data subject shall have the right to restrict 'block' processing of their personal data.

This is not an absolute right and the data subject will only be entitled to restriction where:

- a) the accuracy of personal data is contested by the data subject for a period to enable us to verify the accuracy;
- b) the processing is unlawful, and the data subject does not want it to be erased but requests restriction instead;
- c) we no longer need the data for the purpose of the processing, but the data is required by the data subject for the establishment, exercise or defence of legal claims; or
- d) the processing has been objected to and verification of that objection is pending.

Where the data subject exercises their right to restriction, personal data can then only be processed with their consent or for the establishment, exercise or defence of legal claims or for the protection of rights in the public interest for the protection for the right of another data subject or legal entity.

Where we have restricted any form of processing and that restriction is subsequently to be lifted, we shall advise the data subject accordingly unless doing so is impossible or involves disproportionate effort.

### **Transfer Requests (Data Portability)**

This right allows a data subject to obtain and reuse personal data for their own purposes across different services.

Where a data subject requests a copy of their personal data for the purposes of transferring it from The Co-operative to another data controller we shall do so provided:

- a) the legal basis for processing is based on consent or a contract with the data subject; and
- b) the processing is carried out by automated means.

The data subject shall only be provided with the personal data they have provided to The Co-operative and the personal data gathered by us the course of our dealings with the individual or which has been generated from our monitoring of the data subject's activity. This will only be data held electronically.

The data subject is entitled to be provided with their personal data in a structured, commonly used and machine-readable format for transfer to another controller; or where possible to have The Co-operative transfer the data direct to another controller.

### **Objection Requests**

A data subject can object to the processing of their personal data, including profiling, on grounds relating to their particular situation. Where a request is received, The Co-operative is under an obligation to act upon a request where one of the following conditions applies:

- where their personal data is processed based on the public interest or in the exercise of official authority; or
- where we are processing their personal data based on legitimate interests.

If we can demonstrate that The Co-operative has legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims, it is not necessary to cease processing.

This does not apply to direct marketing. Data subjects are entitled to object to direct marketing (in any form) which is sent to them. This is an absolute right and where such a request is received, The Co-operative must comply with the request.

### **Applying Exemptions**

The UK Data Protection Act 2018 provides exemptions which enable organisations not to respond to data subject rights in certain circumstances.

The Co-operative may be exempt from compliance with the data subject rights if certain exemptions apply. Careful consideration should be given to these exemptions and whether they apply before responding to any request by a data subject. The exemptions for compliance with the request are set out in schedule 2 parts 1, 2 and 3 of the Data Protection Act 2018.

In summary these are:

**Crime and taxation** – for the prevention or detection of crime; the apprehension or prosecution of offenders or the assessment or collection of tax or duty or an imposition of a similar nature to the extent that those provisions would prejudice the activity.

**Immigration** – for the maintenance of effective immigration control or the investigation or detection of activities that would undermine the maintenance of effective immigration control.

**Information required to be disclosed by law etc. or in connection with legal proceedings** – to the extent that the application of the provisions would prevent same including disclosure which is necessary for the purpose of or in connection with legal proceedings (including prospective legal proceedings) or for obtaining legal advice or otherwise establishing, exercising or defending legal rights.

**Functions designed to protect the public** – certain functions carried out to protect the public from financial loss through fraud etc.; to protect charities; for health and safety reasons; to prevent malpractice in a public office; or to protect business interests.

**Regulatory activity** – relating to certain bodies where the application of the provisions would prejudice the discharge of their function.

**Legal professional privilege/confidentiality of communications** – some solicitor/client communications or information prepared for the purpose of litigation

**Self-incrimination** – to the extent that complying would reveal evidence of an offence

**Corporate finance** – in certain circumstances

**Management forecasts** - to the extent that the application of the provisions would prejudice the conduct of the business or activity concerned

**Negotiations** - with the data subject to the extent that the application of the provisions would prejudice those negotiations

**Confidential references** - given to or provided by The Co-operative

**Health, social work, education and child abuse** data to the extent that the application of the provisions would cause prejudice.

## **Register of Requests**

The Customer Service Advisor is responsible for maintaining a register of requests, to allow monitoring of the progress of requests and the volume of requests received.

## **Records Retention**

A copy of all the data retrieved must be taken for reference should the data be challenged by the data subject. These will be maintained in line with the records retention schedule and retained for 1 year.

## **Complaints / Right to appeal**

If the data subject or their representative is not satisfied with the outcome of their rights request, in the first instance, the individual will be encouraged to contact the Data Protection Officer. If they are still not satisfied they can contact the Information Commissioner's Office directly at:

Information Commissioner's Office

45 Melville Street  
Edinburgh  
EH3 7HL  
Tel: 0303 123 1115  
E-mail: [caserwork@ico.org.uk](mailto:caserwork@ico.org.uk)  
Website: [www.ico.org.uk](http://www.ico.org.uk)