

Your Data Protection Rights

The General Data Protection Regulation (GDPR) comes into force on 25th May 2018. From that date your rights in relation to the personal data that Highland Council holds on you will change.

This guide gives you a summary of these rights, how you access your rights and any restrictions which exist.

i Definitions

The GDPR covers '**personal data**'. Personal data means any information relating to an individual (data subject is the term used by the legislation) who can be identified, directly or indirectly, from that information. Individuals can usually be identified because the personal data contains or is linked to an identifier such as a name, an identification number, location data, an online identifier (e.g the IP number of your computer or a social media account name). However, other characteristics which can lead to the identity of an individual are also personal data.

This guide refers to '**processing**'. Processing means any operation or set of operations which is performed on personal data or on sets of personal data including collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing can be automated or manual.

An organisation such as the Council which decides how personal data should be processed is known as a '**data controller**'. The Council is obliged by the GDPR to publish information about the processing of personal data that it carries out (Articles 13, 14 and 30). This information is published on our web site (link to privacy notices).

i General Approach to Rights

Each of the rights described below has a common set of standards which the Council must adhere to:

- Requests must be in writing but the Council must accept requests submitted by email or other electronic means.
- The Council may request identification to ensure that the information is provided to the right person.
- All requests must be responded to in one month.

Project No.1

- Where the Council fails to respond in one month it must provide an explanation and inform you of your right to contact the Information Commissioner's Office to complain.
- The response time can be extended to two months if the request is complex. The Council must inform you of the extension within the first month and provide an explanation.
- Information must be provided free of charge unless the request has already been answered.
- The information provided in a response must be clear, concise and in plain English.
- The Council doesn't have to respond to requests that are considered "manifestly unfounded or excessive" or the Council can charge a reasonable fee to cover the costs of complying with these requests. In these cases the Council must provide an explanation which demonstrates that the request is unreasonable.



Right of Access

You have the right to access the personal data that the Council holds about you.

To request your data, write to or email the Data Protection Officer at the email address below. Alternatively, click on this link to fill out a [request form](#). Please provide a form of photographic identification which can be linked to your home address as we need to be sure that we don't provide your personal data to the wrong person.

As well as providing a copy of the personal data held, the Council must inform you of the purpose(s) for which your data is used and the categories of information which are being processed. If the information is shared with other organisations, the Council must tell you which organisations and, if the data is transferred out with the European Economic Area (the EU plus Iceland, Liechtenstein and Norway) or provided to an international organisation, we must provide details of the safeguards in place to protect your personal data.



Restrictions affecting the Right of Access

As with the previous Data Protection Act, restrictions, or exemptions, to the right of access are likely to be included in the new legislation. The GDPR gives member states such as the UK, some freedom to decide what these restrictions will be. The restrictions may relate to national security, defence, public security, crime prevention and detection, and investigations by public organisations,

Project No.1

among other things. The Government has announced a new Data Protection Bill which will specify these restrictions and what they can be applied to.

If the Council refuses to provide you with information because of a restriction, we will usually explain the reasons for this to you, unless the circumstances prevent this.

The Council also has to protect the privacy of other people's personal data when providing you with access to yours. This means that data relating to other people may have to be redacted (removed or blacked out) in order to comply with your subject access request.

You don't have a right to access anyone else's personal data unless you are their parent or guardian, have full power of attorney or they have explicitly given you permission and you can provide evidence of this to the Council.



Right to Rectification

You have the right to ensure that the personal data held about you is accurate and up to date. Where there is a disagreement about the accuracy of the information held, you have the right to request that a statement is added to your information explaining this and including the information you believe to be accurate.

Where reasonable and appropriate, the Council must inform other organisations that it has disclosed the relevant data to, that the data wasn't accurate to enable them to correct their records too.

Requests for rectification can be put in writing to the Council's Data Protection Officer (contact details below), describing the data that is inaccurate and providing the required corrections.



Right to Erasure

Known as the right to be forgotten, you have the right to have information held about you deleted in the following circumstances:

- The data is no longer necessary for the purposes for which it was collected
- The data was being processed on the basis of your consent and you withdraw your consent
- You object to the Council processing your data on the basis that it doesn't have legal grounds to do so
- The data has been processed unlawfully
- There is a legal obligation on the Council to erase the data
- The information was processed online, e.g. in a schools discussion forum, with your parent's consent

Project No.1

Requests for erasure can be put in writing to the Council's Data Protection Officer (contact details below), describing the data that you wish to be erased.

Where the Council has published data or disclosed it to other organisations, and agrees to its erasure, we are also obliged to take reasonable steps to make the other data controllers who have received that data aware of the erasure request.

x Exemptions from the Right to Erasure

There are some situations where the Council may refuse to comply with your request for erasure:

- If the Council is obliged by legislation to continue processing.
- If the processing is in the public interest and the Council has the Legal Authority to continue processing.
- If the data relates to public health and it is in the public interest to continue processing.
- If the information is being used for archiving in the public interest, for research or for statistical analysis. In these cases, the Council must ensure appropriate safeguards are in place to protect the personal data concerned. E.g. by keeping the minimum amount of information required or by removing personal identifiers.
- If the information is required for the establishment, exercise of defence of legal claims.

Where an exemption to the right of erasure applies, the Council must inform you and provide an explanation.

Project No.1

✓ **Right to Restrict Processing**

You have the right to request that the processing of your data is restricted. This means that the Council is unable to use your data, change it or delete it for a period of time. Restriction may be requested under the following circumstances:

- You consider that the information is inaccurate and have informed the Council. Processing may be restricted for a period of time to give the Council the opportunity to verify the accuracy of the data.
- You believe that the processing is unlawful but you don't want the data erased, for example until such time as you have raised a complaint.
- You want the Council to retain data that it would otherwise intend to delete in order that you can use it for the establishment, exercise or defence of legal claims. E.g. CCTV footage that is deleted after a set period.
- You have objected to the processing of the data (see below). The processing may be restricted while your objection is considered.

Requests for restriction can be put in writing to the Council's Data Protection Officer (contact details below), describing the data that you wish to be restricted.

When processing is restricted, no processing may take place (other than storage) without your permission unless the data is required for the defence of legal claims or the protection of the rights and freedoms of other people or businesses. The data may also be processed where there is an important public interest in doing so.

The Council must inform you before it lifts the restriction on processing.

Where reasonable, the Council must inform other organisations that it has disclosed the relevant data to, that the processing of that data has been restricted.

✓ **Right to Data Portability**

You have the right to request a copy of your personal data in a common electronic format. This right only applies where:

- 1) you have provided the information to the Council; and
- 2) the Council is processing the data on the basis of your consent or to fulfil a contract; and
- 3) the information is processed automatically.

Therefore, this right applies to the information held on your Library Card and to information which is recorded about your use of your card.

If you have a Council house, this right would apply to information about you held on the Housing Information System and details of your rent account which are

Project No.1

automatically processed. The right doesn't apply to paper records in your tenancy file.

Data Portability also gives you the right to ask the Council to transfer your data to another organisation e.g. another Council or a Registered Social Landlord.

Requests for portable data can be put in writing to the Council's Data Protection Officer (contact details below), describing the data that you wish to receive and giving details of any other organisation you would like the Council to transfer your data to.

The Right to Data Portability doesn't apply to all personal data

The right to data portability doesn't apply to paper records although there is a duty under the right to access for this information to be provided to you in a common electronic format (e.g. pdf).

This right does not apply where the Council is under a legal obligation to process your personal data, where it carries out tasks under official authority or in the public interest. Therefore, this right doesn't extend to receiving portable versions of Council Tax records, Social Care records or education records for example.

If a set of electronic data contains information about more than one data subject the Council will have to consider if it is possible to provide the data requested without breaching the privacy of other people. If this is not the case then the Council may have to refuse your request.

Right to Object to Processing

You have the right to object to some forms of processing carried out by the Council. This depends on the reason for processing the data that the Council relies on.

You have the right to object to direct marketing and if you object to this then the Council must stop processing your data for that purpose. You also have the right to object to your data being used for research or statistical analysis. If you object to this use of your data the Council would have to consider your objection in light of the reasons for carrying out the research or analysis. This would involve considering the safeguards in place, the public interest in carrying out the research and the impact of not including your data.

If the Council processes your data in the exercise of its official authority or in the public interest you may object to this processing. In this case, the Council would either have to stop processing the relevant data or explain to you the reasons why it believes it has compelling legitimate grounds to continue processing despite your objection.

An example of a situation where the Council processes personal data under its

Project No.1

official authority is where it shares limited personal data on vulnerable people with the Police and the Fire Service under its Community Safety Partnership. The Local Government in Scotland Act 2003 gives the Council the power to advance wellbeing. The Council believes that, in certain circumstances, it is appropriate to use this power to share information within the Community Safety Partnership. A data subject would have the right to object to this processing of their data (sharing their data with partners) if they believe that it represents an invasion of privacy.

The Council must inform you of your right to object to this type of processing no later than the first time it communicates with you regarding an activity which involves the processing of your data for marketing purposes or under legal authority.

If you wish to object to processing being carried out by the Council under the circumstances provided above, please write to the Council's Data Protection Officer (contact details below), describing the processing that you object to and your reasons for objecting.



Right to Object to Automated Decisions and Profiling

You have the right to object to processing which involves automated decision making and profiling. However, you can't object if the processing is necessary for entering into a contract with the Council, if the processing is required by UK legislation or if you have given your explicit consent.

If you are dissatisfied by the outcome of automated decision making, you must be given a means to express your opinion, you must be able to contest a decision and you can also request that automated decisions are carried out by a person instead.

Examples of where the Council automatically processes your data are benefit claims and applications for Council housing. The Council processes benefits claims as a result of a legal obligation. The processing of personal data for Council Housing applications is necessary in order that the Council can assess whether you qualify for a tenancy and a tenancy agreement is a contract between a tenant and the Council (full details of these processing activities are available on the Council's [Transparency and Accountability pages](#))

Therefore, the GDPR doesn't enable you to object to the automated processing of your data in either of these examples.

However, as indicated above, you can still complain to the Council if you are dissatisfied with the outcome of decisions about your benefits or housing application. Council staff will be happy to take you through how the calculations are made and explain the process to you. They will also carry out the calculations for you by hand.

i Contact the Data Protection Officer

The Council's Data Protection Officer is available to assist you with any enquiries you have about your rights under the GDPR. If you have any difficulty understanding the information above, please contact the Data Protection Officer (see below) for further assistance. If you have contacted the Council about your personal data and are dissatisfied with the response received, the Data Protection Officer will be able to look into these matters for you.

You can contact the Data Protection Officer in writing:

Data Protection Officer,
Highland Council,
Headquarters
Glenurquhart Road
IV3 5NX

By email: dpo@highland.gov.uk

By telephone: 01463 702029

i Contact the Information Commissioner's Office

If you are dissatisfied with the way in which the Council responds to your requests or if you are unhappy with the way your personal data is being managed by the Council, you have the right to complain to the Information Commissioner who is the Supervisory Authority for the UK.

You can contact the Information Commissioner's Office in writing:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

By email: casework@ico.org.uk

By telephone: 0303 123 1113