

**CYNGOR CYMUNED
MANORDEIFI
COMMUNITY COUNCIL**

SUBJECT ACCESS REQUEST POLICY AND PROCEDURES

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1. Overview and scope

The UK General Data Protection Regulation (“UK GDPR”) and the Data Protection Act 2018 (“the 2018 Act”) provide data subjects with a variety of rights in relation to the personal data held about them by Manordeifi Community Council. A summary of these rights are set out below.

It is important to note that data subjects have the right to appeal any decision made by the Council in response to any data subject request to the Information Commissioner’s Office (“ICO”).

The following definitions are applicable to this policy:

Personal Data: means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Special Category of Data: means personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation.

For the purpose of this policy, when we are referring to ‘personal data’, we are referring to Personal Data and Special Category of Data collectively.

2. Overview of Rights of Data Subjects

Data Subject Rights include:

Right to be informed – data subjects have the right (subject to a few exceptions) to be provided with information on how their personal data will be handled by Manordeifi Community Council. Arts 12 – 14 of GDPR set out the information that must be provided and typically this information is provided by way of a privacy notice.

Right of access to their personal data – the purpose of a subject access request is to allow individuals to confirm the accuracy of personal data and check the legality of processing to allow them to exercise rights of correction or objection if necessary. However, individuals can request to see any personal data that the Council holds about them which includes copies of email correspondence referring to them or opinions expressed about them.

Right to Rectification - the right of individuals to require the Council to rectify inaccuracies in personal data held about them. In some circumstances, if personal data is not complete, an individual can require the controller to complete the data, or to record a supplementary statement.

Right to be forgotten (erasure) – Individuals have the right to have their data erased in certain situations such as where the data is no longer required for the purpose for which it was collected, the individual withdraws consent, the individual has objected to processing based on legitimate interests, public task or official authority or the information is being processed unlawfully. There are certain exemptions to this right and there is no absolute obligation on the Council to erase the relevant data – it is important to identify whether any exemptions apply.

Right to Restriction - Individuals can ask the Council to ‘restrict’ processing of the personal data whilst complaints (for example, about accuracy) are resolved. Individuals can also ask the Council to restrict processing where the processing is unlawful, the Council no longer needs the personal data but the individual does not want it erased and/or the individual has objected to the processing and while the objection is being considered, the individual wishes their data restricted.

Right to Portability – the data subject has the right to request that personal data concerning them and held by the Council is provided to the individual (or a third party) in a structured, commonly used and machine-readable form. This right only applies to personal data that is processed by automated means (not paper records) and the processing is based either on consent or contract.

Right to Object – data subjects have the right to object to specific types of processing based on (i) public interest/official authority; or (ii) legitimate interests; or where it involves processing for direct marketing. Manordeifi Community Council does not process data for direct marketing. The data subject needs to demonstrate grounds for objecting to the processing relating to their particular situation. The Council is entitled to consider whether there is legitimate grounds for the processing which overrides the interests, rights and freedoms of the data subject or whether it needs to process the personal data for the establishment, exercise or defence of legal claims; in both cases the Council can override the objection.

Rights in relation to automated decision making and profiling – Manordeifi Community Council does not use automated decision making and profiling.

3. Response Procedure

General:

a) Communication - any communication with the data subject when responding to any request must be in a concise, transparent, intelligible and easily accessible form, using clear and plain language. Communication should be in writing or by other means if appropriate e.g. electronic means. It can also be provided orally if requested by the data subject, provided that the Council is satisfied of the identity of the data subject and this is proven by other means. Where the request is by electronic means, the information should be provided electronically where possible, unless otherwise requested by the data subject;

b) Timing - any requests made to invoke any of the rights above must be dealt with promptly and in any case within one month of receiving the request. There may be some circumstances where the Council can take longer than one month to fulfil the

request (up to a maximum two further months where the request is complex or high number of requests being dealt with) however these are limited and the Council should always strive to meet the one month timeframe wherever possible. If the Council needs to extend the response deadline, it must inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay;

c) Costs - in most circumstances the Council will not be able to charge a fee for responding to any data subject request, unless the requests are manifestly unfounded or excessive in particular because of their repetitive character. In this case, the Council will have to demonstrate how the request is manifestly unfounded or excessive in character and can either charge a reasonable fee taking into account the administrative costs of providing the information or communication, taking the action required or refuse to act on the request.

Step One – the Council should acknowledge receipt of a data subject request and confirm that it is looking into the request and will respond within the statutory timeframe. Our letter acknowledgment template can be found at Appendix 1 of this Policy and must be used in response to each data subject request.

If the Council has concerns over the identity of the natural person making the request, it may request the provision of additional information necessary to confirm the identity of the data subject, which has the effect of ‘stopping the clock’. The Council would not be obliged to respond to the request until it is satisfied of the identity of the person (acting reasonably).

It is possible that the Council may receive requests from a third party on behalf of a data subject e.g. a solicitor or a power of attorney or a friend. In these cases, the Council needs to be satisfied that the third party making the request is entitled to act on behalf of the individual, but it is the third party’s responsibility to provide evidence of this entitlement. This might be a written authority to make the request or it might be a more general power of attorney. If the Council is of the view that the data subject may not understand what information would be disclosed to a third party who has made a subject access request on their behalf, the Council may send the response directly to the individual rather than to the third party. The individual may then choose to share the information with the third party after having had a chance to review it.

Step Two - assess whether the Council requires to extend the deadline to respond to the request and/or whether it needs additional information before responding and communicate this to the data subject as soon as possible and no later than one month following receipt of the request.

Step Three - identify relevant personal data. This can take some time to accumulate therefore it is recommended to start the process as soon as possible following Step Two.

Step Four - identify whether any exemption applies. It is important to remember that there are circumstances where the Council would not be required to comply with the data subject’s request as referred to above in the explanation of the rights. There are

also further exemptions set out in section 15 of the 2018 Act. Each request should be considered on its own merit and in relation to the facts and circumstances at the time. Basic information on the exceptions to the above data subject rights can be found at <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/> The 2018 Act is a complex piece of legislation and provision of detailed explanation of exemptions is out side the scope of this policy.

The Clerk should consider the detail of exemptions carefully. Please also see section 5 of this policy for guidance.

Step Five:

Scenario A - if, having considered the data subject request, the Council decides not to comply in full because an exemption applies, an explanation must be provided to the individual within the deadline, informing them of their right to complain to the ICO and their right to seek a judicial remedy;

Scenario B - if, having considered the data subject request, the Council decides that an exemption does not apply at all, it must comply with the request and confirm compliance/disclose the relevant information within the statutory timeframe as above;

Scenario C - if, having considered the data subject request, the Council decides that an exemption applies in part, it should communicate to the data subject within the statutory timeframe its response and where the request is a data subject access request provide the necessary information with the non-disclosable information redacted where appropriate. The data subject should be informed of their right to complain to the ICO and their right to seek a judicial remedy.

Step Six: Tracking Requests and Responses - data subject requests must be tracked and recorded by the Council for accountability purposes.

4. Subject Access Request Procedure

All Subject Access Requests received by the Council will be processed by the Clerk. Any requests received by Councillors should be e-mailed to the Clerk without delay in order that a response can be issued within the statutory deadline of one month.

The right to access their personal data is one of the most likely forms of subject requests the Council will receive. The above information applies equally to data subject access requests. However it should be noted that when responding to data subject access requests, data subjects are also entitled (unless an exemption applies) to be informed of the following:

- a) Confirmation that personal data about them is being processed.
- b) A copy of that personal data.
- c) Details of the purpose of the processing.
- d) Categories of the personal data concerned e.g. does it include any special categories or sensitive personal information.

- e) Any recipients or categories of recipients the personal information has been shared with, particularly if these are situated or domiciled outside the EU.
- f) What safeguards are in place for transfers out with the EU.
- g) The period the personal information will be stored for or what the criteria are for determining the period of storage.
- h) The existence of the right to request from the data controller the correction or deletion of personal data or to restrict or object to the processing of personal data concerning them.
- i) The right to lodge a complaint with the Information Commissioner's Office.
- j) The source of the personal data if it has not been collected directly from the data subject.
- k) Details of any automated decision-making, including profiling, and meaningful information about the logic involved and the envisaged consequences of such processing for the data subject.

As above, each data subject access request should be reviewed on its own merit and each time, the Council should consider whether an exemption to disclosure applies. Section 15 of the 2018 Act sets out when organisations may refuse in whole or in part a data subject access request and information can be found here: <https://ico.org.uk/for-organisations/guide-to-the-general-dataprotection-regulation-gdpr/individual-rights/right-of-access/>

As a general rule however, personal data relating to other individuals should not be disclosed (unless their permission has been obtained to release it or it is reasonable to comply without consent), therefore if this is within the requested information, the Council should generally redact such information.

5. Exceptions to the Data Subject Rights

Section 15 of the 2018 Act sets out the exceptions to the rights vested in data subjects. The applicability of these should be reviewed on a case by case basis and it can be a complex area of law. Where appropriate, legal advice ought to be obtained.

In summary, the main exceptions likely to be applicable include for reasons related to:-

- a) Protecting the personal data of third parties;
- b) Legal professional privilege;
- c) Prevention or detection of crime;
- d) Apprehension or prosecution of offenders;
- e) Assessment or collection of tax or duty;
- f) Immigration;
- g) Information required to be disclosed by law or in relation to legal proceedings.

Appendix 1: Acknowledgment of Data Subject Request Letter Template

[DATA SUBJECT NAME/REQUESTER NAME]
[ADDRESS LINE 1]
[ADDRESS LINE 2]
[POSTCODE/CITY]
[COUNTRY]
[DATE]

Dear [DATA SUBJECT NAME/REQUESTER NAME]
Reference: [DATA SUBJECT REQUEST TYPE/REFERENCE NUMBER]

We write to acknowledge receipt of your request dated [DATE] made under the UK General Data Protection Regulation.

We received your request on [DATE]. The GDPR requires us to respond to requests within one month of receipt. We expect to provide a response by [DATE]. However, in certain circumstances, the GDPR or other applicable law allows us to extend that deadline by two months depending on the complexity of your request. We will advise you within one month if we need to extend the response deadline.

Our initial response letter may also advise you that:

We require more information to verify [your identity/your legal authority to make the request on another individual's behalf].

We need more information to respond to the request.

We require you to pay a fee before we respond to the request.

If we cannot honour the request, we will inform you of the reasons why, subject to any legal or regulatory restrictions by [DATE].

If you have any questions on the status of the request, please contact [NAME AND TITLE] at [TELEPHONE NUMBER] or [EMAIL ADDRESS]

Sincerely, _____ [SENDER NAME]

For and on behalf of Manordeifi Community Council

Appendix 2: Data Subject Access Request Form

Manordeifi Community Council Data Subject Access Request Form

Article 15 of the UK General Data Protection Regulation grants you the right to access your personal data held by Manordeifi Community Council, including the right to obtain confirmation that we process your personal data, receive certain information about the processing of your personal data, and obtain a copy of the personal data we process. We request that you submit this electronically via email to the Clerk at manordeificc@gmail.com. Please note use of this form is not mandatory and you may submit your request in other formats e.g. plain email if that is preferable.

We expect to respond to your request within one month of receipt of a fully completed form and proof of identity.

I. Requester Name (Data Subject) and Contact Information

Please provide the data subject's information in the space provided below. If you are making this request on the data subject's behalf, you should provide your name and contact information in Section III. We will only use the information you provide on this form to identify you and the personal data you are requesting access to, and to respond to your request.

First and last name:	
Any other names that you have been known by (including nick names):	
Home address:	
Date of birth:	
Telephone number:	
Email address:	
If you are a current or former employee or Councillor of Manordeifi Community Council, please provide approximate dates of employment or term of office:	
Please provide other related information to help us locate your personal data (for example, previous or alternative email addresses):	

II. Proof of Data Subject's Identity

We require proof of your identity before we can respond to your access request. To help us establish your identity, you must provide identification that clearly shows your name, date of birth, and current address.

We accept a photocopy or a scanned image of one of the following as proof of identity: passport or photo identification such as a driver's licence, or birth or adoption certificate. If you have changed your name, please provide the relevant documents evidencing the change.

If you do not have any of these forms of identification available, please contact the Clerk for advice on other acceptable forms of identification.

We may request additional information from you to help confirm your identity and your right to access, and to provide you with the personal data we hold about you.

III. Requests Made on a Data Subject's Behalf

Please complete this section of the form with your name and contact details if you are acting on the data subject's behalf.

First and last name:	
Home address:	
Date of birth:	
Telephone number:	
Email address:	

We accept a photocopy or a scanned image of one of the following as proof of your identity: passport or photo identification such as a driver's licence, or birth or adoption certificate. If you do not have any of these forms of identification available, please contact the Clerk for advice on other acceptable forms of identification. We may request additional information from you to help confirm your identity if necessary.

We also require proof of the data subject's identity before we can respond to the request. To help us establish the data subject's identity, you must provide identification that clearly shows the data subject's name, date of birth, and current address. We accept a photocopy or a scanned image of one of the following as proof of identity: passport or photo identification such as a driver's licence, or birth or

adoption certificate. If the data subject has changed their name, please provide the relevant documents evidencing the change.

We accept a copy of the following as proof of your legal authority to act on the data subject's behalf: a written consent signed by the data subject, a certified copy of a Power of Attorney, or evidence of parental responsibility.

We may request additional information from you to help confirm the data subject's identity. We reserve the right to refuse to act on your request if we are unable to verify your legal authority to act on the data subject's behalf.

IV. Information Requested

To help us process your request quickly and efficiently, please provide as much detail as possible about the personal data you are requesting access to. Please include time frames, dates, names, types of documents, or any other information to help us locate your personal data.

For example, you may specify that you are seeking:

Employment records or personnel records.

E-mail or other electronic communications (specify the approximate dates and times).

Photographs.

Video footage.

Transaction histories

Correspondence between [NAME] and [NAME] between [DATE] and [DATE].

We will contact you for additional information if the scope of your request is unclear or does not provide sufficient information for us to conduct a search (for example, if you request "all information about me"). We will begin processing your access request as soon as we have verified your identity and have all of the information we need to locate your personal data.

Description of data requested:

If the information you request reveals personal data about a third party, we will either seek that individual's consent before responding to your request, disclose it, or we will redact third parties' personal data before responding. If we are unable to provide you with access to your personal data because disclosure would violate the rights and freedoms of third parties, we will notify you of this decision.

Applicable law may allow or require us to refuse to provide you with access to some or all of the personal data that we hold about you, or we may have destroyed, erased, or made your personal data anonymous in accordance with our record retention obligations and practices. If we cannot provide you with access to your personal data, we will inform you of the reasons why, subject to any legal or regulatory restrictions.

V. Signature and Acknowledgment

I, _____, confirm that the information provided on this form is correct and that I am the person whose name appears on this form. I understand that: (1) the Council must confirm proof of identity and may need to contact me again for further information; (2) my request will not be valid until the Council receives all of the required information to process the request; and (3) I am entitled to one free copy of the personal data I have requested, and acknowledge that for any further copies I request, the Council may charge a reasonable fee based on administrative costs.

If you would like to receive a copy of the personal data you are requesting access to, please indicate below whether you would like a hard copy or an electronic copy:

Hard copy. Electronic copy.

Signature

Date

VI. Authorized Person Signature

I, _____, confirm that I am authorised to act on behalf of the data subject. I understand that the Council must confirm my identity and my legal authority to act on the data subject's behalf, and may need to request additional verifying information.

Signature

Date