

Mid Sussex District Council

Data Protection Complaints Procedure

Accessibility note: this document uses plain language, heading styles and short sections to support screen readers and accessible conversion to HTML.

1. Purpose

This procedure explains how Mid Sussex District Council will receive, record, investigate, respond to and learn from data protection complaints.

2. Principles

- We will make it easy for people to raise data protection complaints.
- We will accept data protection complaints however they are made.
- People do not need to use legal terms or quote data protection legislation.
- We will acknowledge complaints within 30 days of receiving them, unless we have already completed our investigation and provided the outcome within that period.
- We will start considering and investigating complaints without undue delay. We will not wait until the end of the 30-day acknowledgment period before acting.
- We will make reasonable adjustments where needed.
- We will record complaints, outcomes and learning so we can improve how we handle personal information.

3. What is a data protection complaint?

A data protection complaint is a complaint that the Council may have infringed data protection legislation because of the way it has handled a person's personal information, or the personal information of someone they are authorised to act for.

Examples may include complaints about:

- how the Council responded to a subject access request or another information rights request;
- how the Council collected, used, shared, stored, retained or deleted personal information;
- whether personal information is accurate;
- security measures used to protect personal information;
- the handling of a personal data breach, regardless of whether it is reportable to the Information Commissioner.

If it is not clear whether a person is making a data protection complaint, the Council will ask for clarification as soon as possible.

4. What this procedure does not cover

This procedure does not replace other statutory or corporate processes. The Council will consider each case on its facts and will explain if another route is more appropriate.

This procedure does not cover:

- general service complaints, which will usually be handled under the Council's main Complaints Procedure;
- requests for information under the Freedom of Information Act or Environmental Information Regulations, which will be handled under the relevant information access process;
- new subject access requests or other information rights requests, unless the person is complaining about how the request has been handled;
- employee grievances, employment matters or disciplinary issues;
- matters where legal proceedings have started or where a court, tribunal or other statutory route can reasonably provide the remedy being sought.

A complaint may contain both data protection issues and wider service issues. Where this happens, the Council may handle the data protection issues under this procedure and the wider service issues under the main Complaints Procedure. The Council will explain this to the person and will avoid unnecessary duplication where possible.

5. How to make a data protection complaint

A data protection complaint can be made in any reasonable way and to any member of staff. This includes online form or web contact, email, letter, telephone, face to face contact, through a Councillor, or through a representative where they have authority to act.

The Council may provide a preferred route for data protection complaints, but people do not have to use it. However the Council receives the complaint, it will be accepted and passed to the appropriate officer or team.

If a complaint is made through social media, the Council will normally ask the person to provide a more secure contact method before discussing personal information.

6. Representatives, identity and support

A person may complain on behalf of themselves or through a representative, such as a family member, advocate, solicitor or other authorised person.

Where a complaint is made on behalf of someone else, the Council must be satisfied that the representative has authority to act. This may include a signed authority, power of attorney or other evidence appropriate to the circumstances.

If the Council has doubts about the complainant's identity, it may ask for proof of identity before disclosing information or providing a substantive response. The Council will only ask for information that is necessary and proportionate. If the Council already has enough information to be satisfied about identity, it will not ask for more.

The Council will make reasonable adjustments to help people use this procedure. This may include accessible formats, telephone contact, interpretation or translation support, extra time where reasonable, or help to set out the complaint.

7. Roles and responsibilities

All staff must be able to recognise a possible data protection complaint and pass it promptly to the Data Protection Officer, Information Governance team, Complaints Officer or other agreed route.

The Data Protection Officer or nominated officer will oversee handling of data protection complaints, advise on scope and legal issues, monitor timeliness, ensure appropriate records are kept, and identify learning or improvement actions.

Service managers and officers must provide relevant information promptly, support enquiries, and complete agreed actions. Senior managers must make sure learning and improvement actions are completed where required.

8. What happens when the Council receives a complaint

The Council will record the complaint, identify whether it is a data protection complaint, and consider whether any urgent action is needed to prevent ongoing harm or risk.

The Council must acknowledge the complaint within 30 days of receiving it. The 30 days start on the day after the complaint is received. If the last day falls on a weekend or public holiday, the acknowledgment may be provided on the next working day.

The acknowledgment may be given using the same method the person used to complain, unless they have asked for a different method or a reasonable adjustment applies. For verbal complaints, the Council may acknowledge the complaint verbally and follow this up in writing where appropriate.

A separate acknowledgment is not needed where the Council has already investigated the complaint and provided the outcome within the 30 day acknowledgment period.

The Council will not wait until the end of the 30 day acknowledgment period before acting. Enquiries must begin without undue delay once the complaint has been received.

9. Investigating the complaint

The Council will take a proportionate approach. The level of enquiry will depend on the circumstances, including the complexity of the issue, the scale of the issue, the potential or actual harm, and the information needed to reach a fair outcome.

When investigating, the Council may:

- look at relevant facts, records, correspondence and systems;
- compare the complaint with the information the Council holds;
- speak to relevant staff or contractors where needed;
- check relevant policies, privacy notices, procedures and legal requirements;
- ask the complainant for clarification or further information where needed;
- consider what outcome the person is seeking.

The Council is not required to take steps that would be unreasonable or disproportionate, but it must be able to justify how it handled the complaint.

The Council will keep the person informed without undue delay. Where the investigation is likely to take longer, the Council will explain the reason, provide an expected timescale where possible, and give a point of contact for questions.

10. Outcome

Once the investigation is complete, the Council will tell the person the outcome without undue delay.

The outcome will usually explain:

- the Council's understanding of the data protection complaint;
- the enquiries made;
- the decision reached and the reasons for it;
- whether the Council considers it complied with data protection law;
- what action has been, or will be, taken where something has gone wrong;
- any learning or improvement action where appropriate;
- the person's right to complain to the Information Commissioner's Office.

Straightforward complaints may be resolved quickly, including by telephone, where identity has been verified and this is appropriate. The Council will keep a clear record of the outcome.

If the person remains unhappy, the Council may provide clarification or further explanation. The Council may also consider whether a senior officer review would help resolve the matter. There is no requirement for a person to wait for any further Council review before complaining to the Information Commissioner's Office. A person may complain to the ICO at any point.

11. Putting things right

Where something has gone wrong, the Council will explain what happened and what it will do to put things right. Action may include:

- an apology;
- correcting inaccurate personal information;
- completing or revisiting an information rights response;
- changing how information is used, shared, retained or deleted;
- improving privacy information, procedures, training or system controls;
- taking action to reduce the risk of recurrence;
- another action that is lawful, fair and proportionate in the circumstances.

Any action agreed should be clear, realistic and time limited. If an agreed action cannot be delivered, the Council will explain why and consider any suitable alternative.

12. Recording, learning and retention

The Council will keep records to show how it handled data protection complaints. Records should include the date received, acknowledgment, relevant conversations and documents, outcome, actions taken, and any learning or improvement action.

The Council may also record themes, trends and numbers of data protection complaints to help identify compliance risks and areas for improvement.

Personal information connected to complaints will not be kept for longer than needed and will be managed in line with the Council's retention requirements and data protection obligations.

13. Unacceptable behaviour and unreasonable contact

The Council will be patient and respectful when dealing with complaints. We recognise that people may be upset, anxious or distressed. However, we may need to manage contact where behaviour becomes abusive, threatening, discriminatory, unreasonably persistent, or places a disproportionate demand on Council resources.

Any restriction on contact must be proportionate, evidence-based and approved by the Corporate Solicitor in consultation with the relevant senior manager. Restrictions must consider equalities legislation, safeguarding concerns, and any reasonable adjustments.

Contact restrictions must not prevent the Council from considering a genuine data protection complaint. Where restrictions affect how the Council communicates with a person, this will be explained in writing, including the reason, duration, review arrangements and how the person can challenge the decision.

Examples of possible restrictions include using one named contact, limiting contact to one channel, setting reasonable response intervals, or declining to respond to repeated correspondence that has already been answered. The Council will normally keep at least one reasonable route of contact open.

The Council will explain any restriction in writing, including the reason, duration, review date and how the person can challenge the decision. Restrictions will be kept under regular review and will normally be reviewed at least annually.

14. Relationship with the main Complaints Procedure

This procedure is separate from the Council's main Complaints Procedure because data protection complaints follow different legal requirements and are considered by the Information Commissioner's Office rather than the Local Government and Social Care Ombudsman.

Where a complaint raises both data protection and wider service issues, the Council will explain which procedure applies to each issue. The Council may send one coordinated response where this is practical and does not delay the data protection outcome. If the wider service complaint would delay the data protection response, the Council may respond to the data protection complaint separately.

15. Information Commissioner's Office

A person can complain to the Information Commissioner's Office if they are unhappy with how the Council has handled their personal information or how the Council has responded to their data protection complaint.

A person does not have to wait for the Council to carry out any further internal review before complaining to the ICO. The Council will provide ICO contact details when giving the outcome of a data protection complaint and may provide them earlier where appropriate.