

# Information Governance and Data Protection Complaints Policy and Procedure

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This is a live document effective from the issue date. It supersedes any previous versions of this document, which are now withdrawn.

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# 1. Introduction

Bury Council is committed to promoting and supporting a culture of awareness of data security and privacy law throughout Bury Council and across Greater Manchester. Listening to members of the public and learning from feedback enables Bury Council to improve its services and meet the needs of the public more effectively.

The purpose of this policy and procedure is to explain how Bury Council's Data Protection Officer and Policy and Compliance Team acknowledges, acts upon, and implements learning taken from complaints to improve the Council's service.

By agreeing how we manage Information Governance and Data Protection Complaints we can:

- Increase confidence from members of the public that services will improve as a result of their experiences.
- Encourage early and effective and local resolution of complaints.
- Ensure data is handled in line with the relevant legislation and working in line with the Information Commissioner's Office (ICO) recommendations.
- Provide full oversight of complaints and action taken to the Data Protection Officer (DPO) and Bury Council's Corporate Governance Group.

This policy is part of Bury Council's Information Governance Framework and should be read in conjunction with the other policies and procedures within the framework.

## Scope

This policy and procedure outlines how Bury Council manages Information Governance and Data Protection Complaints. It does not deal with reviews requested to Freedom of Information (FOI) responses, which are detailed in the separate FOI policy.

This policy and procedure applies to any member of the public or body acting on behalf of a data subject, who has a complaint about an information governance / data protection-related matter. Where a third party is making the complaint on

behalf of a member of the public, responses must only be provided to that member of the public directly or to the third party with evidenced consent from the member of the public to receive this information.

This may relate to any of the following:

- A member of the public who has contacted Bury Council to report a concern about how personal information has/is being handled, including data breaches.
- A third party acting on behalf of a member of the public, who has raised concerns in relation to the processing of their personal data.
- An absence of information in relation to a request made to the Data Protection Officer, via the Data Protection Act (DPA) 2018, Freedom of Information Act (FOI) 2000, or Environmental Information Regulations (EIR) 2004. (However, requests for reviews on FOI decisions are dealt with through a separate process.)

## 2. Types of information complaints

Bury Council may receive an information governance / data protection complaint in a variety of formats. A complaint may be received by the Data Protection Officer through: the Contact Centre; Policy and Compliance Team or directly to a Service Area. The complaint may be received verbally or in writing (in any format). This may be a separate complaint or included in wider correspondence.

A complaint is an expression of dissatisfaction, which could relate to any of the following:

- Handling of an Environmental Information Regulations request (please note – guidance on dealing with EIR request is available in the Freedom of Information and Environmental Information Regulations Policy) .
- Handling of a Data Subject request under the Data Protection Act 2018 (DPA 2018):
  - The right to be informed.
  - The right of access.
  - The right to rectification.
  - The right to erasure.

- The right to restrict processing.
- The right to data portability.
- The right to object.
- Rights in relation to automated decision making and profiling.
- Incorrect application of a legal exemption under the relevant information and privacy legislation.
- Failure to handle personal information as expected.
- Handling of personal data resulting in a data security breach / incident.

### 3. Confidentiality

Information about complaints must be kept strictly confidential. Information must only be shared to those who can demonstrate a clear need to know and the legal right to access the data held under the DPA 2018 and UK GDPR.

All letters or emails sent regarding the complaint must be marked 'confidential'. Consideration to the use of secure data transfer mechanisms, e.g. Egress, should be given too all correspondence involving personal information sent to an email address outside of the Council (i.e. bury.gov.uk). Any attachments shared externally must be password protected. Failure to do such could result in a data breach of personal information under the DPA 2018 and UK GDPR.

Personal information will be anonymised when producing and sharing information about information complaints with other services and partners. Further guidance on anonymisation can be found in the Pseudonymisation and Anonymisation Policy.

Complaints may be made by the Data Subject or a third party acting on their behalf. Where a complaint is received by a third party on behalf of another, the Data Subject must confirm to us in writing that they have given their authority to do so. This will require a signed authority, coupled with two forms of identification. This must take place prior to the disclosure of any personal data to the third party.

## 4. Roles and Responsibilities

Bury Council's Corporate Governance Group is accountable for ensuring effective oversight of complaints received by the Data Protection Officer on a bi-monthly basis.

The CCG will support the investigation of a complaint by making recommendations to the organisation / service area following a serious information governance incident and will be sighted on any complaints made as a result, to ensure organisational learning is adopted.

Bury Council's Data Protection Officer will provide independent expert advice, will report complaints into the CCG, and will act as point of contact for members of staff, members of the public and the Information Commissioner's Office.

The Data Protection Officer coordinates local investigations alongside service areas.

Directorates/Service Areas are responsible for working with the Data Protection Officer to support investigations and to provide relevant information where necessary. They will also be responsible for responding directly to complaints where they have been made to the service and can be managed locally, following discussion and establishing findings in line with the Information Governance investigation. Service areas will also be responsible for implementing any identified organisational improvements.

## 5. Complaints Procedure

There are two stages for dealing with Information Governance complaints:

Stage 1: Local Resolution

Stage 2: Formal Resolution

Complaints may be made about any matter reasonably connected with the use and processing of personal data and confidential information.

## 6. Informal Complaint / Local Resolution

Where the complaint is of a general nature, received by the service directly, the Council's Business Support Team or into the Data Protection Officer, we will aim to resolve the issue locally and informally in the first instance.

Should the complaint be received by one of Bury Council's services, this must be shared with the Data Protection Officer immediately for information.

The Head of Service will conduct an initial assessment of the complaint with the following outcomes:

### Information rights requests:

Members of the public/requestors may contact the organisation expressing dissatisfaction with their response to an information rights request. They do not need to explicitly state that they are making a formal complaint or that they would like their request reviewed.

Where this applies to a FOI response, the Council must follow the Internal Review Guidance.

Where this applies to a Data Subject Rights request, the Head of Service should consider the possibility of mitigating the need for a full review by:

- Rewording our original response to ensure it is understood;
- Providing advice and assistance to the requestor including further explanation around the uses of exemptions;
- Providing assurances that we have fully responded to their request; and,
- Communicating with the requestor to further understand concerns raised.

The Head of Service will undertake this initial review within seven calendar days.

Further actions to support an informal resolution may be recommended, such as:

- Considering the initial scope of the request;
- Reviewing the information initially collated during the data harvesting process to confirm all appropriate information was disclosed; and,



- Ensuring the team are satisfied with the exemptions relied upon and whether the appropriate information has been withheld/exempt.

Upon completion of an informal investigation, the Head of Service will formulate a final response.

Where the Data Subject responds to express further dissatisfaction, the matter will be referred to the Data Protection Officer for a formal investigation.

## Formal Resolution

Formal investigations will take place under the following circumstances;

- Members of the public have the right to contact the DPO for an independent review of the handling of their personal data. In these circumstances, the request will be dealt with by the DPO as a formal complaint.
- Where attempts at local resolution have not proved successful and the complainant has requested their complaint is escalated to the next stage of the process.
- Where the Information Commissioner has made Bury Council aware of a complaint sent directly to them, this will require coordination and investigation by the Data Protection Officer.
- This will be a one stage review.

## Appealing the outcome of an Information Complaint

Where an informal complaint has been reviewed the individual reserves the right to escalate this for an independent review by the Data Protection Officer.

Where the DPO has internally reviewed a complaint about access to information or the handling of personal information and the complainant is still not satisfied, they may appeal to the Information Commissioner.

FOI and EIR complaints are managed via the Internal Review procedure, and the appeal must be made to the Information Commissioner within six months of the outcome of the internal review.

### Time limits

Although there is no statutory timeframe for complaints, we should aim to complete an investigation within **four weeks** and within **eight weeks** for complex complaints.

Those who wish to complain should be encouraged to do so as soon as possible after an event so that the investigation can be most effective.

## 7. Lessons Learnt

Information Governance complaints raised with Bury Council offer an opportunity to learn and improve. When the investigation of a complaint identifies that changes in practice are required, the Information Asset Owner will work with the Data Protection Officer to ensure these are considered and implemented as soon as is practically possible.

All trends and themes identified will be reported through the Corporate Governance Group on an anonymised level to enable organisational learning.

Bury Council is committed to listening to the views of the public and welcomes feedback to allow for the improvement of its services.

## 8. Compliance and Monitoring

### Legal and professional Obligations

Bury Council will take actions to comply with the relevant legal and professional obligations.

### Training

Bury Council will provide relevant training both online and face to face to ensure that staff understand the legislation and its application to their role.

All staff must complete mandatory training every year and undertake any further training provided by Bury Council to enable them to perform their

duties appropriately.

Completion of training will be monitored by the Policy and Compliance Team and all employees must have regard to the Data Protection Legislation and this policy when collecting, accessing, using, disclosing or destroying personal information. Failure to do so may result in disciplinary action and legal prosecution.

If an employee is in any doubt about how to handle personal or special category data they should speak to their line manager or contact the Policy and Compliance Team by emailing [IG@bury.gov.uk](mailto:IG@bury.gov.uk).

#### Policy review

This policy will be reviewed regularly by the Policy and Compliance Team to ensure that it is updated in line with any change in legislation.

Bury Council will continue to review the effectiveness of this policy to ensure that it is achieving its intended purpose.

Any breaches of the principles in this policy must be reported to the Policy and compliance Team immediately at [ig@bury.gov.uk](mailto:ig@bury.gov.uk).

Where staff fail to follow and comply with this policy it may result in disciplinary action via the HR channels