

The Data Protection Act 1998

Councillor guidance for requesting access to a service user personal information

As a Councillor you may have a 'need to know' information because

- you have been asked to inquire after a matter for one of your constituents
- you are a member of a committee or hold an office such as Cabinet Member and you need the information in that role.

Councillors are not entitled to information for personal, business or political purposes.

Provided you can demonstrate a 'need to know' you should be provided with the information needed subject to certain safeguards.

Firstly, we must check that the person asking for the information is who they say they are.

If you telephone a department/section to ask for access to a service user's personal information, unless they know you, they will have to make sure you are who you say you are.

The officer may well ask to call you back on your official council contact number or if you have attended in person, ask for evidence of your identity or check you against your official photograph.

Secondly, we must establish that you are entitled to receive the information.

- Is the information required by you for one of the above purposes?
- What level of detail do you need for that purpose?

To establish that you have the consent of the service user the steps we can take will vary according to the level and sensitivity of the information requested. For instance...

1. If you are asking about **progress** or an **overview** of an application, case, complaint and so on, on behalf of a service user in your ward, the assumption will be made that the service user has given you their consent to discuss the relevant information at that level. **You must be satisfied as to the identity of the person asking you to act on their behalf and that they have given you consent to receive the information.**
2. If you are asking about **details** of an application, case, complaint and so on, for example:

- financial details
- family circumstances
- health issues, and so on,

we must make sure that you:

- 'need to know' such detailed information, and
- are acting on behalf of, and with the knowledge, of the person the data relates to.

The Council must then take 'due care' to check they have given consent.

This can be done in one of two ways:

- provide the officer with written consent from the service user. This could be clear from any letter they have sent you.
- provide a contact number to the officer so they can speak direct to the service user to establish consent.

Thirdly, remember that you cannot use the information for any other purpose or disclose it to another person without the data subject's consent. This is particularly important for the more detailed and sensitive information about individuals.

Further guidance can be obtained from the Council's Data Protection Officer, Alison Jones, e-mail alison.jones@derby.gov.uk or telephone 01332 256262. There is a published Data Protection Act Policy and Code of Practice in the document library on Derbynet and a Councillor's Guide to Data Protection leaflet, available from your Information Services Officer, Colin Lawrence.

The Information Commissioner has also issued guidance on data protection issues and Councillors. Click on the link below to see the guidance.

[Guidance from the Information Commissioner](#)