

TATSFIELD PARISH COUNCIL

CCTV System Policy Statement

Appendix 1 Processing Data Subject Access Requests

1. Introduction

1.1 The Data Protection Act (DPA) 1998 allows for access to personal data that may have been captured and recorded by Tatsfield Parish Council's CCTV system. A formal request to view recorded images must be made using the Data Subject Access Request form (Appendix 2 to the Policy Statement (DSAR form)), and accompanied by the appropriate fee (£10). Data subjects have no right of instant access to images and the Parish Council may not be able to disclose the information if it is exempt from disclosure either under the Data Protection Act 1998 or the Freedom of Information Act (FOI) 2000 (section 40).

Public authorities may receive requests under the Freedom of Information Act 2000 (FOIA). They must respond within 20 working days from receipt of the request. Section 40 of the FOIA and section 38 of the FOISA contain a two-part exemption relating to information about individuals. If you receive a request for CCTV footage, you should consider:

Are the images those of the requester? If so then that information is exempt from the FOIA. Instead this request should be treated as a data protection subject access request as explained above. Are the images of other people? These can be disclosed only if disclosing the information in question does not breach the data protection principles.

In practical terms, if individuals are capable of being identified from the relevant CCTV images, then it is personal information about the individual concerned. It is unlikely that this information can be disclosed in response to an FOI request as the requester could potentially use the images for any purpose and the individual concerned is unlikely to expect this. This may therefore be unfair processing in contravention of the Data Protection Act (DPA).

Note: Even where footage is exempt from FOIA/FOISA it may be lawful to provide it on a case-by-case basis without breaching the DPA, where the reason for the request is taken into account.

1.2 The above is a significant exemption from the FOI Act and covers any information which constitutes personal data for the purposes of the Data Protection Act 1998. If an individual requests a copy of personal data relating to themselves, then it will be dealt with as a subject access request under the Data Protection Act and will not be treated as a request under the Freedom of Information Act.

1.3 All requests for disclosure of data under the DPA 1998 must be recorded on Appendix 5 "Record of Data Disclosure Requests". NB if a request for disclosure is refused, the reason for the refusal must be documented.

2. Receiving a Subject Data Access Request

2.1 Upon receiving a request, give a copy of Appendix 2 (DSAR form) to the applicant to complete.

2.2 Explain to the applicant the type of information required to process the request, in particular, the need for the individual to provide proof of identity, that the applicant needs to provide sufficient information for the images subject to the request to be identified and that a £10 processing fee is payable.

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2.3 Inform the applicant that the data requested may be exempt from disclosure. This can only be established once the requested images have been viewed and their contents established.

2.4 Once the application form has been returned to the Parish Council, it must be signed, date stamped, checked for completeness and a receipt for the processing fee should be made out and returned to the applicant.

2.5 If the application form is incomplete, or lacks sufficient detail for the request to be processed, the form must be returned to the applicant with a covering letter, explaining to the applicant what additional information is required to process the request. Inform the applicant that the 40 day deadline to respond to a data subject access request under the DPA does not start until a complete and valid request form has been received by the Parish Council.

2.6 Pass the properly completed form to the Parish Clerk for consideration.

3. Processing a Data Subject Access Request

3.1 The data disclosure requests must be recorded on Appendix 5 “Record of Data Disclosure Requests” and be given a unique reference number. The completed form must be signed and dated by the Parish Clerk.

3.2 For the purposes of the Data Protection Act, the Parish Clerk is the Council’s designated “Data Controller”. As such, the Parish Clerk or his/her authorised representative will decide if a data subject access request can be granted. The following factors must be considered.

3.3 The applicant has proven their identity to the satisfaction of the Parish Clerk.

3.4 The applicant has supplied sufficient information for the data access request to be processed.

3.5 The appropriate fee has been paid.

3.6 That the data requested is not exempt information and therefore cannot be disclosed to the applicant. Examples where access to certain data may be declined include:

- A. Where disclosure of the data would unavoidably identify a third party.
- B. Where disclosure of the data would prejudice an ongoing Police inquiry.

3.7 If the data requested is exempt from disclosure, the applicant must be informed in writing that the requested data is exempt from disclosure and given a reason why the data requested cannot be released.

3.8 If the Parish Clerk decides that the requested data can be released, the images must be copied onto a DVD disc and sent by recorded delivery to the applicant with a covering letter, stating the DSAR reference number that the contents of the disc refers to.