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# Data Protection Complaints Policy

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## Where does this Policy sit?

This Policy is part of the Council's suite of complaints policies. Where a customer's behaviour during a data protection complaint is unreasonable or aggressive, the following policies also apply:

- [Unreasonable Customer Behaviour and Persistent Complaints Policy](#)
- [Zero Tolerance Policy – Protecting Employees and Councillors from Harm](#)

This Policy has been prepared in accordance with the Local Government and Social Care Ombudsman's Complaint Handling Code (February 2024) and reflects the requirements of the Data (Use and Access) Act 2025.



**Elmbridge**  
Borough Council

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## Introduction

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This Policy explains how Elmbridge Borough Council handles complaints about the way it collects, uses, stores or shares personal data.

The Council is committed to handling personal data responsibly and in accordance with data protection law. If we have fallen short of that standard, this Policy explains how to raise a concern and what you can expect from us.

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## Legal basis

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The Data (Use and Access) Act 2025 introduced a new legal duty for public bodies to have a formal procedure for handling data protection complaints. This requirement is set out in section 164A of the Data Protection Act 2018. The Council is meeting this duty through this Policy, which took effect on 1 April 2026.

The Council's Data Protection Officer (DPO) is responsible for overseeing compliance with this Policy and with data protection law.

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## What is a data protection complaint?

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A data protection complaint arises when you believe the Council has not handled your personal data correctly. A person does not have to use the words 'data protection complaint' for us to treat their concern as one. Examples include:

- Using your personal data without a lawful basis.
  - Sharing your data without authority or in breach of confidentiality.
  - Retaining your data for longer than necessary.
  - Failing to respond to a Subject Access Request within the required timeframe.
  - Failing to correct inaccurate personal data when asked to do so.
  - Failing to delete personal data when there is a legal duty to do so.
  - Handling your data in a way that has caused you distress.
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## What is not a data protection complaint?

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Some matters fall outside this Policy:

- A [Subject Access Request](#) – a request to access your personal data – is handled under a separate process.
- A general complaint about a Council service should be made under the [General Complaints Policy](#).
- [A complaint about a councillor's conduct should be made to the Monitoring Officer](#).

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## Time limit for making a complaint

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We will accept a data protection complaint made within 12 months of the event occurring, or within 12 months of the date on which you became aware of it. We will consider exercising discretion to accept complaints made outside this period where there is a good reason for the delay. If we decide not to accept a complaint, we will explain why and remind you of your right to complain to the Information Commissioner's Office.

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## How to make a data protection complaint

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You can raise a data protection complaint with any Council employee and they will make sure it reaches the Data Protection Officer. You can also make a complaint directly by:

- Using our online data protection complaint form.
- Emailing the Data Protection Officer at [dataprotection@elbridge.gov.uk](mailto:dataprotection@elbridge.gov.uk).
- Writing to: Data Protection Officer, Elmbridge Borough Council, Civic Centre, High Street, Esher, KT10 9SD.

All complaints are handled confidentially. We cannot investigate anonymous complaints as we need to be able to communicate the outcome to you. We therefore need your contact details.

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## Accessibility and reasonable adjustments

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We want the complaints process to be accessible to everyone. We will make reasonable adjustments for individuals who need them under the Equality Act 2010. If you need us to communicate with you in a different format or need any other adjustment, please let us know when you make your complaint. We will keep any adjustments under review. You also have the right to be represented by a suitable person when making a complaint or attending any meeting with us.

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## How we deal with data protection complaints

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Please tell us what your complaint is about and what outcome you are looking for. The person dealing with your complaint will clarify any aspects they are unclear about, deal with the complaint on its merits with an open mind, and consider all relevant information carefully.

We will always aim to respond within the timeframes set out below. The Data (Use and Access) Act 2025 requires that complaints are acknowledged within 30 days. Our aim is to do better than this statutory minimum.

### Stage 1 – Resolution

Your complaint will initially be handled by the Data Protection Officer or a nominated member of the Legal and Governance team. We will:

- Acknowledge your complaint within 2 working days of receiving it.
- Provide a full response within 10 working days of the date of acknowledgment.

If we need more time, we will let you know before the 10-day period expires. Any extension will be no more than a further 10 working days unless there is a good reason, which we will explain to you. When we notify you of an extension we will also give you the contact details of the Information Commissioner's Office.

Our response will address all the points you have raised and provide clear reasons for any decisions, referencing relevant law or good practice where appropriate.

If you are not satisfied with the Stage 1 outcome, you may ask for a Stage 2 review. You do not have to explain your reasons for requesting a review, but it will help us to deal with your case more quickly and effectively if you can tell us why the Stage 1 response was not acceptable and what you would like us to do. We will contact you when we acknowledge your Stage 2 request to make sure we understand your

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outstanding concerns. You must request a Stage 2 review within 28 days of receiving our Stage 1 response.

### Stage 2 – Review

Stage 2 complaints are reviewed by the Head of Legal and Governance or a Director, who will not be the same person who handled your Stage 1 complaint. The review will focus on your continuing concerns, whether Stage 1 was conducted fairly and whether the conclusions were reasonable.

We will:

- Acknowledge your Stage 2 request within 2 working days, setting out our understanding of your outstanding concerns and the outcome you are seeking.
- Provide a full response within 20 working days of the date of acknowledgment.

If we need more time, we will let you know before the 20-day period expires. Any extension will be no more than a further 20 working days unless there is a good reason, which we will explain to you. When we notify you of an extension we will also give you the contact details of the Information Commissioner's Office.

Stage 2 is the Council's final response. At the conclusion of Stage 2 we will write to you to confirm: the complaint stage; our understanding of the complaint; our decision; the reasons for that decision; details of any remedy we are offering; details of any outstanding actions; and how to escalate the matter to the ICO if you remain dissatisfied.

### The Information Commissioner's Office (ICO)

We hope we can resolve your concern through our internal process. Under the Data (Use and Access) Act 2025, the Information Commissioner's Office will generally expect you to complete the Council's internal complaints process before it will investigate.

If you remain dissatisfied after Stage 2, you have the right to complain to the ICO:

- Website: <https://ico.org.uk/make-a-complaint/>
- Telephone: 0303 123 1113
- Post: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

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## How we respond to a data protection complaint

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When we respond, we will:

- Address all the specific concerns you have raised.
- Explain what personal data is held, how it has been used and on what legal basis.
- Give a clear decision: upheld, not upheld, or partially upheld.
- Where we have fallen short, explain what went wrong and what steps we are taking to put things right.
- Tell you what to do next if you are not satisfied with the outcome.

Any remedy we offer will reflect the impact on you as a result of what went wrong. We will always follow through on any remedy we propose. If a proposed remedy cannot be delivered, we will tell you why, offer any available alternative, and remind you of your right to complain to the ICO.

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## How we learn from data protection complaints

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The Data Protection Officer monitors all complaints to identify trends and systemic issues. Learning is shared with relevant teams and, where appropriate, reported to the Corporate Management Board and to the Councillor Responsible for Complaints. All complaints and the actions taken are documented in accordance with our record management obligations under data protection law.

Data protection complaints will be included in the Council's annual complaints performance and service improvement report.

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## Privacy notice

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In line with the requirements of the Data (Use and Access) Act 2025, the Council's privacy notice confirms that individuals are expected to raise concerns with the Council before contacting the ICO. The [privacy notice](#) is available on the Council's website.

## Training and documentation

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Employees who handle personal data are trained to recognise data protection complaints and to refer them promptly to the Data Protection Officer. All complaints and actions are documented to ensure a clear audit trail in line with our regulatory obligations.

### **Review**

**This policy will be reviewed annually, or sooner in the event of a significant change in data protection legislation or guidance from the ICO.**

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Approved by Cabinet: March 2026 | Effective from: 1 April 2026