



<b>Title:</b>	<b>Constitution of the Council (Part 4Ab: Data Protection Policy)</b>
<b>Owner:</b>	<b>Angela Wakefield</b>
<b>Date of version:</b>	<b>[ ] May 2018</b>
<b>Version:</b>	<b>2.0</b>
<b>Review due:</b>	<b>May 2019</b>
<b>Approved by Monitoring Officer:</b>	<b>Angela Wakefield</b>
<b>Date of Equality Impact Assessment:</b>	<b>29<sup>th</sup> October 2013</b>

<b>Date sent to officer responsible for website:</b>	<b>[ ] May 2018</b>
<b>Date sent to officer responsible for Learning and Development:</b>	<b>[ ] May 2018</b>
<b>Date sent to officer responsible for CMIS:</b>	<b>[ ] May 2018</b>

Adopted by Full Council on [ ] May 2018



# DATA PROTECTION POLICY

## 1 PURPOSE

- 1.1 This policy sets out how the Council will ensure that it complies with all the provisions of the [General Data Protection Regulation](#) ~~Data Protection Act 1998~~ ("~~GDPR~~the Act"). Everyone working for the Council should be aware of this policy.

## 2 INTRODUCTION

- 2.1 The Council is fully committed to protecting the privacy of all individuals including staff, contractors, service users and others, by ensuring lawful use of their personal data in accordance with [GDPR](#)the Act. The Council will take all necessary steps to implement this policy and to ensure that all staff are fully aware of it and abide by it.

## 3 STATUS OF THE POLICY

- 3.1 This policy does not form part of any formal contract of employment, but it is a condition of employment that staff abide by the rules and policies made by the Council. Any failure to follow this policy can therefore result in disciplinary proceedings.
- 3.2 Any staff member who considers that this policy has not been followed in respect of personal information about themselves, should raise the matter with their line manager initially. If the matter is not resolved, it should be raised as a formal grievance.

## 4 WHY PERSONAL INFORMATION IS COLLECTED

- 4.1 In order to operate efficiently, the Council has to collect and use information about people. These may include members of the public, current, past and prospective staff members, clients, service users and suppliers. In addition, the Council may be required by law to collect and use information in order to comply with the Statutory and Governmental requirements.

Constitution: Part 4Ab

- 4.2 The Council regards the lawful and responsible treatment of personal data as very important for successful operation and for maintaining confidence in the Council. The Council will take the following steps.

## 5 ~~THE EIGHT~~ PRINCIPLES RELATING TO PROCESSING OF DATA PROTECTION

- 5.1 The Council will comply with the ~~eight data protection~~ principles set out in Article 5 of the GDPR~~the Act~~. Through appropriate management controls, the Council will:
- 5.1.1 fully observe legal conditions regarding the fair collection and use of personal information.
  - 5.1.2 meet legal obligations to specify the purpose for which information is used and will only use it for those purposes.
  - 5.1.3 collect and process appropriate personal information only to the extent that it is needed to fulfil operational needs or to comply with any legal requirements.
  - 5.1.4 ensure the quality of information used.
  - 5.1.5 apply strict limits to the length of time that information is held.
  - 5.1.6 ensure that the rights of people about whom the information is held can be fully exercised under the GDPR~~Act~~.
  - 5.1.7 take appropriate technical and organisational security measures to safeguard personal information.
  - 5.1.8 ensure that personal information is not transferred abroad without suitable safeguards.

## 6 STAFF AWARENESS AND INVOLVEMENT

- 6.1 Staff are key to ensuring that the Council complies with the GDPR~~Act~~. The Council will ensure that:
- 6.1.1 there is an officer with specific responsibility for data protection in the Council ("the Data Protection Officer").
  - 6.1.2 everyone managing and handling personal information understands they are contractually responsible for following good data protection practice.

- 6.1.3 everyone managing and handling personal information is appropriately trained to do so.
- 6.1.4 everyone managing and handling personal information is appropriately supervised.
- ~~6.1.5~~ anyone wanting access to their personal information knows what to do.
- ~~6.1.5~~~~6.1.6~~ Anyone wanting to exercise their rights under GDPR knows what to do.
- ~~6.1.6~~~~6.1.7~~ queries about handling personal information are promptly and courteously dealt with.
- ~~6.1.7~~~~6.1.8~~ methods of handling personal information are regularly assessed and evaluated.
- ~~6.1.8~~~~6.1.9~~ performance in handling personal information is regularly assessed and evaluated.
- ~~6.1.9~~~~6.1.10~~ data sharing is carried out under a written agreement, setting out the scope and limits of the sharing. Any disclosure of personal information will be in compliance with approved procedures.

## 7 CONTRACTORS AND THIRD PARTIES

- 7.1 All contractors, consultants, partners or other servants or agents of the Council who are users of personal data supplied by the Council will be required to confirm that they will abide by the requirements of the ~~GDPR~~~~Act~~. The Council will require that they enter into a contract which will oblige them to:
  - 7.1.1 ensure that they and all of their staff who have access to personal information held or processed for us or on our behalf, are aware of this policy and are fully trained in and are aware of their duties and responsibilities under the ~~Act~~~~GDPR~~. Any breach of any provision of the ~~Act~~~~GDPR~~ will be deemed as being a breach of any contract between this Council and that individual, company, partner or firm.
  - 7.1.2 ensure that they only act on our instructions with regard to the processing of personal data we supply to them.
  - 7.1.3 ensure that they have adequate security around personal data supplied to them and, in particular, will take appropriate organisational and technical steps to ensure that there is no loss, damage or destruction of such data.

7.1.4 allow data protection audits by the Council, of personal data held on its behalf (if requested).

7.1.5 indemnify the Council against any prosecutions, claims, proceedings, actions or payments of compensation or damages, without limitation arising out of any breach of the ~~Act~~GDPR by them.

## 8 INFORMATION ABOUT THE COLLECTION AND USE OF PERSONAL INFORMATION

Formatted: Heading 1, Indent: Left: 0 cm, First line: 0 cm, Tab stops: Not at 2.75 cm

8.1 Staff, service users and other individuals about whom the Council holds personal information have the right to be informed about the collection and use of their personal data. The Council will comply with all requirements of Articles 13 and 14 of the GDPR and at the time the Council collects personal data from an individual the Council will tell the individual the purpose for which the information is collected; how long the information will be retained; and who it will be shared with ("the privacy information").

8.2 If the Council obtains personal information from third party sources it will provide the privacy information to the individual within a reasonable period of obtaining the personal information and no later than one month.

7.1.5

Formatted: Normal, Indent: Left: 0 cm, First line: 0 cm, Tab stops: Not at 2.75 cm

## 8.9 ACCESS TO PERSONAL INFORMATION

8-19.1 Staff, service users and other individuals about whom the Council holds personal information have the right to access it. Any person may exercise this right by submitting a request in writing to the Council. Ideally this should be sent to the Data Protection Officer but this is not a requirement.

8-29.2 The Council will not make a charge ~~of £10~~ for complying each written request under the ~~Act~~GDPR unless a request is manifestly unfounded or excessive (particularly if it is repetitive) in which case the Council will charge a reasonable fee based on the administrative cost of providing the information.

8-39.3 The Council aims to comply with requests for access to personal data without delay and as quickly as possible, but will ensure that it is provided within one month of receipt~~40 days~~ unless a request is complex~~there is good reason for delay~~. In such cases, the Council will be able to extend the period of compliance by a further two

months and the Council will inform the individual within one month of receipt of the request that an extension is necessary and will give full reasons in support of the need for the extension. reason for the delay will be explained in writing to the person making the request.

9.4 The Council offers advice and assistance to any person wishing to make a request for information.

## 10 RECTIFICATION OF PERSONAL INFORMATION

Formatted: Heading 1

10.1 Staff, service users and other individuals about whom the Council holds personal information have the right to request that inaccurate personal data is rectified, or completed if it is incomplete. Any person may exercise this right by submitting a request orally or in writing to the Council. Ideally this should be sent to the Data Protection Officer but this is not a requirement.

10.2 The Council will respond to the request within one month of receipt. If the Council is satisfied that the data is accurate it will notify the individual that it will not be amending the data, also informing them of their right to make a complaint through the ICO; and their ability to enforce their rights through the courts.

10.3 If a request is complex the Council will be able to extend the period of compliance by a further two months and the Council will inform the individual within one month of receipt of the request that an extension is necessary and will give full reasons in support of the need for the extension.

10.4 The Council can refuse to comply with a request for rectification if the request is manifestly unfounded or excessive. In such cases the Council may request a reasonable fee based on the administrative costs of complying with the request. This will be communicated to the individual within one month of receipt of their request and the individual will also be notified that the Council will not comply with the request until the fee is paid. Alternatively, the Council may refuse the request. In either case the Council will provide full reasons for its decision.

## 11 ERASURE OF PERSONAL INFORMATION

Formatted: Heading 1

11.1 Staff, service users and other individuals about whom the Council holds personal information have the right to have their personal data erased in certain circumstances. Any person may exercise this right by submitting a request orally or in writing to the Council. Ideally this should be sent to the Data Protection Officer but this is not a requirement.

11.2 The Council will not make a charge for complying with a request for erasure of personal information unless the request is manifestly unfounded or excessive (particularly if it is repetitive) in which case the Council will charge a reasonable fee based on the administrative cost of providing the information.

11.3 The Council aims to comply with requests for access to personal data without delay and as quickly as possible, but will ensure that it is provided within one month of receipt unless a request is complex.. In such cases, the Council will be able to extend the period of compliance by a further two months and the Council will inform the individual within one month of receipt of the request that an extension is necessary and will give full reasons in support of the need for the extension.

## **12 RESTRICTING PROCESSING OF PERSONAL INFORMATION**

Formatted: Heading 1

12.1 Staff, service users and other individuals about whom the Council holds personal information have the right to request the restriction or suppression of their personal data in certain circumstances. Any person may exercise this right by submitting a request orally or in writing to the Council. Ideally this should be sent to the Data Protection Officer but this is not a requirement.

12.2 The Council will not make a charge for complying with a request for erasure of personal information unless the request is manifestly unfounded or excessive (particularly if it is repetitive) in which case the Council will charge a reasonable fee based on the administrative cost of providing the information.

12.3 The Council aims to comply with requests for access to personal data without delay and as quickly as possible, but will ensure that it is provided within one month of receipt unless a request is complex.. In such cases, the Council will be able to extend the period of compliance by a further two months and the Council will inform the individual within one month of receipt of the request that an extension is necessary and will give full reasons in support of the need for the extension.

## **13 DATA PORTABILITY**

Formatted: Heading 1

13.1 Staff, service users and other individuals about whom the Council holds personal information have the right to obtain and reuse their personal data for their own purposes across different service.

13.2 The right to data portability only applies to personal information an individual has provided to the Council; where the processing is based on the individual's consent



or the performance of a contract; and when the processing is carried out by automated means. Where all these conditions are met, the Council will respond to a request for portable data by providing the personal information in a structured, commonly used and machine readable form.

13.3 The Council will not make a charge for complying with a request for portable data.

13.4 The Council aims to comply with requests for portable data without delay and as quickly as possible, but will ensure that it is provided within one month of receipt unless a request is complex.. In such cases, the Council will be able to extend the period of compliance by a further two months and the Council will inform the individual within one month of receipt of the request that an extension is necessary and will give full reasons in support of the need for the extension.

## **14 OBJECTING TO PROCESSING OF PERSONAL INFORMTION**

Formatted: Heading 1

14.1 Staff, service users and other individuals about whom the Council holds personal information have the right to the processing of their personal data in certain circumstances. Any person may exercise this right by submitting a request orally or in writing to the Council. Ideally this should be sent to the Data Protection Officer but this is not a requirement.

14.2 The right to object may be exercised when the processing of personal information is based on the performance of a task in the public interest or the exercise of official authority; when the personal information is used for the purposes of direct marketing; and when the processing is for research purposes or for the purposes of statistical analysis.

8.4

Formatted: Normal

## **9.15 NOTIFICATION TO THE INFORMATION COMMISSIONER**

9.15.1 The ~~Act~~GDPR requires the Council to notify our processing of personal information on an annual basis. Failure to do so is a criminal offence. The Information Commissioner maintains a public register of data controllers. This register can be viewed on the Information Commissioner's website. The Data Protection Officer can make arrangements for the register to be viewed for people who do not have access to the website.

Constitution: Part 4Ab

9.215.2 Any changes to the register must be notified to the Information Commissioner within 28 days. Members of staff aware of any change must contact the Data Protection Officer so that the appropriate notification can be made.

## 10.16 CONCLUSION

10.16.1 Compliance with the ~~Act~~GDPR is the responsibility of everyone within the Council. Any questions or concerns about the interpretation or operation of this policy should be addressed to the Data Protection Officer.