Runnymede Borough Council

New Member Induction - Data Protection

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Data protection landscape

To regulate the processing of personal data by a data controller or processor and to give data subjects rights over their information.

- Applies if you use any electronic means such as a computer, a camera, email etc.
- Also applies to written documents if they are structured or intended to be structured such as a filing system so applies to people who are old fashioned and use paper files

Data protection landscape

- The Data Protection Act 2018 sets out the framework for data protection law in the UK.

- Previously we accepted rules that applied across Europe. Since leaving the EU we have developed our own which mirrors a lot of the old EU law.

- The UK GDPR is a term used to describe the rules which apply to data protection in the UK.

Definitions

- **Processing**- doing anything with data e.g. collection, sharing, deletion

- **Personal data-** information relating to an identified or identifiable natural person (data subject)
  - An identifier, e.g. a name, email address, phone number, bank account, national insurance number
  - Location data and online identifiers e.g. mobile device IDs, browser cookies, IP addresses

Definitions (cont)

- Factors specific to an individual's physical, physiological, genetic, mental, economic, cultural or social identity.

- In other words, you may have personal data that identifies someone even if you don't know their name.

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Why does DP apply to Councillors?

As Councillors you process personal data for three reasons;

1. You make use of personal data provided by the Council in the same way as a council officer does. You are still subject to the controls of DP but you will be covered by the Council's registration.

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Why does DP apply to Councillors? (cont)

2. You use personal case work material in your own right when you collect personal data through communications with your residents. For this work you are considered an independent Data Controller.

3. You access, collect and deploy personal data through your political campaigning and activities. You will be covered by your political party's registration.

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6 DP Principles

Personal data should be;

1. **Processed lawfully, fairly and in a transparent manner**

   You must have a lawful basis in order to process personal data. Which is most appropriate will depend on your purpose and the relationship with the individual. These are;

   i. consent - **marketing**
   ii. contract - **theatre tickets**
   iii. legal obligation – **employer has to pay tax on salary**
   iv. vital interests – **disclosure of medical history to A&E dept**
   v. public task – **process planning application**
   vi. legitimate interests – **sharing CCTV images with insurance companies**

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6 DP Principles (cont.)

2. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. (**purpose limitation**)

3. Adequate, relevant, and limited to what is necessary (**data minimisation**)

4. Accurate and, where necessary, kept up-to-date (**accuracy**)

5. Retained only for as long as necessary (**storage limitation**)

6. Kept secure (**integrity and confidentiality**)

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What's is DP about?

The basic principles of data protection are the same as under old legislation. However there is a new emphasis on accountability. As well as existing procedures for dealing with personal data you will need to;

- Keep a record of your processing activities, this is to show your compliance with the legislation (Record Keeping).
- Give a more detailed Privacy Notice when you collect personal data (Privacy Notice).
- Tell data subjects of their rights (Data Subject Rights).
- Report any breaches to the Information Commissioner's Office (ICO) within 72 hours.

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Record Keeping

When acting as a Data Controller you must keep certain records. The ICO can ask to see these to ensure your compliance. You should record the following (e.g. in a word document):

(i) The name and contact details of the Data Controller i.e. yourself;

(ii) The purpose of your processing e.g. to investigate complaints and the legal basis e.g. consent

(iii) The categories of data you hold e.g. name and address, email, medical information and the categories of data subjects' e.g. constituents and complainants;

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Record Keeping (cont.)

(iv) Anyone you share the data with *e.g. other Councillors/Council Officers/other services*.

(v) How long you keep data for *e.g. 6 months after the complaint is closed*

(vi) What security you have in place to protect the data e.g. password protection, only using secure council provided email address, documents locked in a cupboard etc.

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Privacy Notices

- You are required to provide a Privacy Notice to the person you collect personal data from at the time you collect it (or within a month).
- This could be a standard paragraph at the end of an email when you acknowledge receipt of a complaint or if you are contacted verbally, you should follow this up with an email or letter which includes your Privacy Notice.
- You should not use personal data other than for the purpose which you stated when you collected it e.g. using personal data obtained as part of a complaint for the purpose of a political campaign

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Privacy Notices (cont.)

- If you wish to use data for another purpose then you must make the person aware of this and seek their consent if appropriate.

- If you are collecting special categories of data (e.g. medical information) to respond to a request from a constituent it is likely that this can be processed under the lawful basis ‘substantial public interest’. However you should still be clear with the data subject who their information may be shared with and why.

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Privacy Notices (cont.)

- There is specific information which is required from a Privacy Notice.

(i) That you are the Data Controller and your contact details;
(ii) The purpose of processing and legal basis for doing so
(iii) Who you will share it with
(iv) The retention period i.e. how long you will keep it for
(v) Their rights as a data subject
(vii) How to make a complaint to you and the ICO

- We have created a Privacy Notice for you to use

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Rights of the Data Subject

- You must comply with certain rights which the data subjects have.

- This includes allowing them to access all the data you hold on them, usually by way of a copy of emails or letters. You have one month to comply with a request which is called ‘subject access request’. You must remember not to supply them with anyone else’s personal data as they are only entitled to access their own. This means you will have to delete other people’s personal data.

- They can also ask for their data to be corrected, moved, restricted or erased in certain circumstances.

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Security

- Council issued devices and email accounts have the necessary level of protection. You can ensure the security of the personal data you hold by using your official email address and being careful if you work in public areas so that you are not overlooked.
- You should not leave documents or computers/tablets on whilst you are out of the room and should ensure that you have a password to access the necessary files.
- You should ensure the device that you use is stored securely when not in use.
- If you choose to use your own device you are responsible for ensuring the adequate level of protection should it be stolen or lost *e.g. encryption* and for ensuring your email provider uses servers located in the UK or have the necessary contractual safeguards in place.

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Sharing

- When sharing personal data e.g. emailing or sending a letter you should put the minimum amount of personal data necessary in order to make sense and avoid references to other identifiable people where possible

- Always check the email address of the recipient before you send an email containing personal data as this is where the majority of breaches occur.

- If a breach occurs you will need to report it to the ICO within 72 hours via their online reporting tool. You should also report the breach to the Council for our records.

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Old Data

- You should not be routinely keeping all the cases that you have assisted with
- You must decide how long after you have closed a case to keep it for and after this period you should securely delete any files containing that data
- This is the retention period and you should do this regularly to show that you are complying with DP principle 5 ‘storage limitation’
- Your Council email account will delete old emails automatically after 6 years

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What happens if I get it wrong?

- The penalties for not complying with the law can be severe.
- There are a number of tools available to the ICO, they include prosecution, non-criminal enforcement and audits.
- The ICO also has the power to serve a monetary penalty notice on a data controller up to £20 million

Top Tips

- If in doubt on what legal basis is appropriate to process data then ask for the data subject's consent, especially when sharing the information
- Only use the personal data for the purposes that were consented to
- Make sure information is password protected, encrypted and not accessible to anyone else
- Delete information when it is no longer need. Upon ceasing to be a Councillor, delete all the personal data on any device that was used to store personal data

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Data Protection

Any questions?

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