

WEST HILL PARISH COUNCIL DATA PROTECTION POLICY

For approval at WHPC Meeting 3rd February Min 26/040

1. Introduction

The processing of personal data is essential to many of the services and functions we carry out. In so doing we recognise the importance of the need to comply with the requirements of the data protection legislation and other relevant legislation which seeks to protect an individual's fundamental rights and freedoms.

This policy seeks to help ensure compliance with the relevant legislation when we process an individual's personal data in relation to those services and functions and also when an individual seeks to exercise their rights in respect of their personal data. An important part of compliance relates to the retention of documentation, and therein an individual's personal data, and so this policy also covers our approach to document retention and disposal.

This policy sets out how we seek to protect personal data and ensure that Councillors and employees understand the rules governing their use of personal data to which they have access in the course of their work.

2. Definitions

2.1. Data Protection Terminology

- **Data subject** - means the person whose personal data is being processed.
- **Personal data** - means any information relating to a natural person or data subject that can be used directly or indirectly to identify the person. It can be anything from a name, a photo, and an address, date of birth, an email address, bank details, and posts on social networking sites or a computer IP address.
- **Special categories of personal data** - includes information about racial or ethnic origin, political opinions, and religious or other beliefs, trade union membership, medical information, sexual orientation, genetic and biometric data or information related to offences or alleged offences where it is used to uniquely identify an individual.
- **Data controller** - means a person who (either alone or jointly or in common with other persons) (e.g. Parish Council, employer, council) determines the purposes for which and the manner in which any personal data is to be processed.
- **Data processor** - in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller.
- **Processing information or data** - means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including:

3. Scope and Objectives of the Policy

This policy sets out how the council will manage the lawful and fair handling of personal data in line with the current data protection legislation and ensure that all personal data processed by or for the authority is subject to appropriate safeguards.

This policy applies to the collection and processing of all personal data by all services within the Council, the sharing of information between services and other parties and how we will act when using third parties who may process personal data on our behalf. It covers all formats (including paper, electronic, audio and video) and covers both manual and electronic filing systems. The policy applies to all employees (including temporary employees), Councillors and all people or organisations acting on our behalf including contractors who handle and process personal data for the council.

It applies to all personal and special categories of data held by or on behalf of the council and to all individuals or organisations processing this data. This includes but is not limited to employees, councillors, contractors, consultants and other processors. All Councillors and employee(s) must be familiar with this policy.

This policy supplements our other policies relating to IT, Data Retention, Data Breaches.

4. Policy Statement

4.1. Data Protection Principles

- a. We will, by putting in place appropriate policies and procedures, process an individual's personal data in accordance with the following seven data protection principles:
 - processes personal data lawfully, fairly and in a transparent manner
 - collects personal data only for specified, explicit and legitimate purposes
 - processes personal data only where it is adequate, relevant and limited to what is necessary for the purposes of processing
 - keeps accurate personal data and takes all reasonable steps to ensure that inaccurate personal data is rectified or deleted without delay
 - keeps personal data only for the period necessary for processing
 - adopts appropriate measures to make sure that personal data is secure, and protected against unauthorised or unlawful processing, and accidental loss, destruction or damage
- b. In addition, we will, through this policy and other measures, ensure that we are accountable in that we can demonstrate compliance with the responsibilities detailed above.

4.2. Individual's rights

- a. We recognise that an individual has rights in relation to the way we obtain and process their personal data. Accordingly, and as part of our responsibilities detailed above, we will ensure that an individual is able to exercise them where permitted.
- b. Individuals have the right to be provided with information about how we process their personal data. The information to be provided varies depending on whether we obtain the personal data from the individual or from a third party. We will generally satisfy this requirement through the use of privacy notices. We will ensure that the information provided is concise, transparent, intelligible and easily accessible and written in clear and plain language.
- c. In addition we will ensure that individuals are able to exercise the following rights (where permitted):
 - Right of access
 - Right to rectification

- Right to erasure
- Right to restriction of processing
- Right to data portability
- Right to object
- Rights in relation to automated decision-making (including profiling)

d. Detail in relation to each of the above rights and the processes / procedures for exercising them will be clearly detailed on our website and we will treat any request to exercise the rights in accordance with the legal requirements and the specific detail below.

5. Specific Policy Areas

5.1. Purpose and Processing

a. The Council maintains a record of the processing activities we carry out using personal data. It also records:

- the Legal Basis that allows us to use it;
- where/how it is stored/accessible/shared;
- how long we will retain it before securely destroying it;
- security measure in place to protect the data;
- data sharing arrangements such as HMRC, Cloud Storage providers;

This document is reviewed and audited annually (as a minimum).

b. We will only collect information that is necessary for what we do by ensuring that there is a specific, explicit and legitimate purpose to be doing so. We will endeavour to ensure that information about individuals is accurately recorded when we collect it and up to date when we use it and that only the minimum necessary personal information is used to assist in the performance of its functions.

c. The Council must process personal data fairly and lawfully in accordance with individual's rights. This generally means that we should not process personal data unless the individual whose details we are processing has consented to this happening.

d. We will ensure that there is at least one lawful basis for processing an individual's personal data. Given what we do, on the whole this will be because the processing is necessary to comply with a legal obligation or because we are performing a task in the public interest / in the exercise of official authority. However, other lawful basis may apply depending on the circumstances.

e. We will make sure that the purpose for processing and the lawful basis are properly recorded and provided to individuals, generally through our website and in other formats on request.

f. We may carry out further processing provided it is not incompatible with the original purpose for which we collected the personal data. This would include processing for archiving purposes in the public interest, scientific or historical research or statistical purposes.

g. Where staff may have access to systems for more than one purpose, they will be given very clear advice about using data only in connection with the specific and authorised purpose. Just because they may have access to other information about a customer, does not imply that they can use it for more than one purpose.

5.2. Special categories of information

- a. Certain personal data is particularly sensitive (this covers information relating to race, religious belief, political opinion, health information, sexual orientation, trade union membership and (where processed to uniquely identify an individual) genetic and biometric data). We are not permitted to process this type of information unless one of the special conditions are met. By way of examples, the special conditions include situations where an individual gives their consent to the processing or an individual cannot give consent but processing is necessary to protect their vital interests.
- b. We rarely process sensitive personal data. In these circumstances will ensure that we do not process special categories of information without one of the special conditions being met.

5.3. Data Security

- a. In order to ensure the security of personal data, we will ensure we have appropriate physical, technical and organisational security measures in place.
- b. Such measures will include, but not exclusively:
 - If data is stored on printed paper, it should be kept in a secure place where unauthorised individuals cannot access it.
 - Printed data should be shredded when it is no longer needed
 - Data stored on a computer must be protected by strong passwords that are changed regularly. The Council will seek to implement Two Factor authentication where possible.
 - Data should be regularly backed up.
 - Data should never be saved directly to mobile devices such as laptops, tablets or smartphones.
 - Computers containing sensitive data must be approved and protected by security software and a strong firewall.
- c. The Parish Council does not have an official public office. The Parish Clerk works from home where paper documents are held securely in a locked cabinet until transferred to the WHPC document store and archive.
- d. These measures will keep an individual's information secure and will protect it against unauthorised use, damage, loss and theft.

5.4. Data Accuracy

- a. The Council will ensure that any personal data we process is accurate, adequate, relevant and not excessive, given the purpose for which it was obtained.
- b. We will not process personal data obtained for one purpose for any unconnected purpose unless the individual concerned has agreed to this or would otherwise reasonably expect this.

- c. Individuals may ask that we make corrections to any inaccurate personal data relating to them. If you believe that the information is inaccurate you should record the fact that the accuracy of the information is disputed and inform the Council by contacting the Parish Clerk in the first instance.

5.5. Data sharing

- a. We are permitted in appropriate circumstances to share data within the organisation and also with external bodies. This is most likely to occur when we are required to disclose personal data by a court order, to comply with other legal requirements including prevention or detection of crime, preventing fraud / gathering of taxation and carrying out our other regulatory functions. For instance, it would be acceptable to share data between services if we had good reasons to believe that fraudulent activity was taking place or if we had reason to believe that a crime had been (or was going to be) committed.
- b. We will only share personal data internally or externally where we are permitted to do so and individuals will be made aware the circumstances in which this will occur through privacy notices. Any new system access requests from staff or services within the Council will be considered by the DPO.
- c. We will use any relevant codes of practice on data sharing issued by the Information Commissioner to help with implementing these aims. Data matching techniques will only be used for specific lawful purposes and will also comply with any relevant codes of practice.
- d. Where we obtain personal data from a third party rather than directly from an individual, we will, wherever possible, make sure they know that we have done this.

5.6. Third Party processing

- a. We do on occasion ask external agencies or companies to carry out processing of personal data on our behalf. While such bodies are now also subject to detailed requirements regarding those processing activities, we are also under an obligation to ensure that those third parties are able to provide sufficient guarantees that their processing complies with legal requirements and protects the rights of an individual.
- b. We will therefore ensure that there is a contract in place with any third party processors which complies with the legal requirements governing how a third party carries out the processing on our behalf.
- c. We will endeavour to use only those third party processors who have signed up to and adhere to any relevant code of practice or certification scheme relevant to the processing activities they will be carrying out.
- d. All contracts with third parties for the processing of personal data will be reviewed to ensure it meets the relevant requirements.

5.7. Privacy by design and data protection impact assessments

- a. We will ensure that an individual's rights in relation to privacy and data protection are a key consideration in the formulation and early stages of production of any project, process

or policy as well as seeking to integrate them into existing project management and risk management methodologies and policies. Privacy and data protection will remain relevant throughout the lifecycle of any project, process or policy.

- b. Having regard to certain factors, including the nature, scope, context and purposes of processing and related costs, we will implement appropriate technical and organisational measures to ensure we have integrated privacy and data protection into our processing activities.
- c. Carrying out data protection impact assessments (Appendix A Template) can help identify the most effective way to comply with our data protection obligations and meet individuals' expectations of privacy. Again, having regard to the nature, scope, context and purposes of processing, where we are considering introducing a new technology or to carry out processing in either case which is likely to result in a high risk to the rights and freedoms of individuals then we will carry out an impact assessment.

5.8. Transparency

- a. We are under obligations to provide individuals with certain information regarding how we will use their personal data and their rights. The information to be provided varies depending on whether we have obtained the information directly from an individual or from a third party. The information provided should be concise, transparent and intelligible. We will comply with our obligations primarily through the use of Privacy Notices (which are on our website) or by directly contacting the individual concerned, in either case using clear and plain language.
- b. In addition, we are also under an obligation to keep records of our processing activities and information relating to it so that we are able to demonstrate to the Information Commissioner that we are complying with our obligations overall. We will ensure that we maintain the records as required.

5.9. Document retention

- a. We will hold information about individuals for as long as is necessary and, subject to any statutory retention periods, we will ensure that the information is disposed of in a secure and proper manner when it is no longer needed.
- b. Any decision taken in respect of the retention / disposal of documents will be taken in accordance with the Parish Council's Document Retention Policy (available on our website).
- c. Personal or confidential papers will be disposed of by shredding, and never in normal refuse or recycling bins.
- d. Disposal of computer equipment / electronic media are outside the scope of this policy.

5.10. Data Subject's Rights

- a. We recognise the importance of individuals being able to exercise the fundamental rights available to them in respect of their personal data. These rights are identified in section 4.2 above. We will ensure that all requests from individuals to exercise their rights are dealt with as quickly as possible and in any event within one month of receipt unless we consider it necessary, due to the complexity or number of requests, to extend the time period by two months. Any extension of time will be notified to the individual within one month of the receipt of the request.

- b. The exercise of an individual's rights will be provided free of charge unless, in our view, requests are manifestly unfounded or excessive (including where this is due to repeat requests) in which case we may choose to either charge a fee for providing the information / taking the action requested or to refuse to act on the request. Additional copies of information already provided may be subject to a reasonable charge at our discretion.
- c. Where there is an exemption which would permit us not to progress any request or which may limit the application of any right, we will normally apply the exemption unless it is appropriate or reasonable not to do so and, in any event, will always do so in circumstances where it is deemed necessary to the effective operation of our tasks, for the prevention and detection of crime, to protect an individual or is required by law.
- d. Where we are not confident of the identity of an individual making a request we may ask for information (or additional information) in order to confirm the identity before progressing their request to exercise their rights.
- e. The Parish Council will inform individuals of its decisions in respect of any requests and any further rights there may be in terms of lodging a complaint with the Information Commissioner and / or seeking remedy through the Courts.
- f. The Parish Council has an additional policy relating to Vexatious, Unreasonable and Unreasonably Persistent Requests Policy ((available on our website or on request).

5.11. **Breach reporting**

- a. A personal data breach occurs when (whether deliberate or accidental) there is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. In broad terms this means a security incident that has affected the confidentiality, integrity or availability of personal data.
- b. We will implement a process to ensure all staff handling personal data know when and how to report any actual or suspected data breach(es) and we will also provide a process for breach reporting by an individual and any third party processors that we may use.
- c. Appropriately trained staff will deal with the reports of any breaches and where appropriate we will take steps to deal with the breach including measures to mitigate any adverse impacts.
- d. Where a breach results in a risk to an individual's rights and freedoms we will ensure the breach is appropriately reported to the Information Commissioner and / or the individual(s) concerned in accordance with the legal requirements and prescribed timeframes.
- e. Individuals also have the right to progress a complaint under the Council's complaints procedure.

5.12. **Training**

- a. Data protection training is crucial so that all employees understand their responsibilities relating to data protection and the use of personal data. Failure to comply with the data protection principles and our legal obligations could lead to serious problems and result in the rights and freedoms of an individual being adversely affected. This could lead to significant fines or criminal prosecution.

- b. It is therefore our policy that all individuals handling personal data will be trained to an appropriate level in the use and control of personal data. Training will be given to all Councillors and employees on a periodic basis.
- c. Councillors will be furnished with a copy of this Policy and all future elected Members will receive a copy as part of their information pack on beginning their duties along with appropriate training.

6. Who is responsible for delivery?

- 6.1. As a data controller, West Hill Parish Council is required to register with the Information Commissioners Office (ICO). Our registration is renewed annually and details can be found on the ICO website and WHPC website. Councillors although data controllers in their own right are exempt from registration. For further information on how our councillors process your personal data please see the councillors' privacy notice.

- 6.2. Who is responsible for protecting a person's personal data?

- a. West Hill Parish Council as a corporate body has ultimate responsibility for ensuring compliance with the Data Protection legislation. The Council has delegated this responsibility day to day to the Parish Clerk.

Contact details

Email: clerk@westhillparishcouncil.gov.uk

Phone: 07450 388198 / 01404 232100

- b. All Councillors and employees are also responsible for ensuring compliance - the commitment of all Council Members and employees is essential to make this policy work.
 - c. All Councillors and employees are expected to comply with our other policies relating to the management and security of information, including personal data, and to follow any good practice guidance that we issue.

7. Disciplinary action and criminal offences

- 7.1. Where an employee or Councillor breaches this Policy and where caused by deliberate, negligent or reckless behaviour then the normal consequence will be an appropriate detailed investigation.

- 7.2. The person concerned may also become liable for any financial consequences resulting from a breach of the Policy.

8. Policy review

This policy will be reviewed annually.

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