

Drayton Parish Council

Data Protection Policy

Introduction

1. The Data Protection Act 2003 regulates the use of Personal Data and gives effect in UK law to the European Directive on Data Protection. The purpose of this Policy Statement is to formalise the position of the Parish Council and to state its commitment to maintaining the strictest level of confidentiality of personal information within its record system, all in accordance with the provisions of the Act.

Scope

2.1 The obligations contained in this Policy Statement apply equally to both Members and Employees of the Parish Council.

2.2 The Data Controller appointed by the Parish Council (the Clerk to the Parish Council) has the responsibility to administer the Parish Council's compliance with the Act, but the responsibility for the protection of all Personal Data rests with all Members and Employees of the Parish Council.

2.3 The Act applies primarily to records held in and generated by computer. However, it also extends to manual records if they are, or form part of, a 'relevant filing system'. This means a set of information which is structured in such a way that information relating to a particular individual is readily accessible.

Definitions

3.1 'Personal Data' is defined as data that relates to a living individual who can be identified from that data. This includes any expression of opinion about the individual and any indication of the intentions of the Parish Council in respect of the individual. It need not be particularly sensitive information and can be as little as a name and address.

3.2 'Processing' in relation to information or data means obtaining, recording or holding information or data or carrying out any operation or set of operations on the information or data, including disclosure of that information or data.

3.3 'Data Subject' is defined as an individual who is the subject of Personal Data.

3.4 The Act defines eight categories of sensitive personal data consisting of information about the Data Subject relating to:

- a) racial or ethnic origins
- b) political opinions
- c) religious or similar beliefs
- d) membership of a trade union
- e) physical or mental health
- f) sexual life
- g) the commission or alleged commission of any offence
- h) any proceedings relating to any offence or alleged offence, the disposal of such proceedings or the sentence of any court in such proceedings

3.5 'Data Controller' is a person who, either alone or jointly with others, determines the purposes for which, and the manner in which, Personal Data is, or will be, processed.

3.6 'Person' includes a corporate body such as a local council.

Principles

4.1 The Parish Council will design computer and manual systems to comply with the eight principles of the Data Protection Act 1998 and will train staff involved in processing Personal Data in accordance with those principles. It is the duty of a Data Controller to comply with the data protection principles, which are as follows:

(i) Personal Data shall be processed fairly and lawfully, and in accordance with at least one of the conditions set out in Schedule 2 to the Act and, in the case of Sensitive Personal Data, at least one of the conditions set out in Schedule 3 to the Act

(ii) Personal Data shall be obtained and held only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with those purposes

(iii) Personal Data shall be relevant, adequate, the minimum necessary to perform official Parish Council business, and not excessive for those purposes, and, when no longer required, will be erased or destroyed in such a manner that confidentiality is maintained

(iv) Personal Data shall be accurate and, kept up to date, and any inaccuracies will be corrected without undue delay

(v) Personal Data shall not be kept for longer than is necessary for the stated purposes

(vi) Personal Data shall be processed in accordance with the rights of Data Subjects under the Act

(vii) Security precautions shall be put in place to prevent the loss, destruction or unauthorised disclosure of the Personal Data. Appropriate technical and organisational safeguards shall be instituted to prevent unauthorised or unlawful processing of Personal Data and to prevent accidental loss or destruction of, or damage to, Personal Data

(viii) Personal Data shall not be transferred to any country or territory outside of the European Economic Area, unless that country or territory has an adequate level of protection for the rights and freedoms of Data Subjects

The Data Protection Act

The conditions set out in Schedule 2 are, in broad terms:

- The Data Subject has consented to the processing of data about him
- The processing is necessary in accordance with a contract of employment between the Data Controller and the Data Subject
- The processing is required in pursuance of a legal obligation
- The processing is necessary to protect the vital interests of the Data Subject
- The processing is necessary for the carrying out of specified public functions [e.g. the functions of the Houses of Parliament, the administration of justice and the exercise of functions of a public nature in the public interest by any person (which could include a local council)]
- The conditions set out in Schedule 3 are related to Sensitive Personal Data. They include the following which are likely to be relevant to local councils
- The consent of the Data Subject has been explicitly given.

- The processing is required in order to carry out a legal obligation
- The processing is necessary in the interests of justice
- The processing is necessary for the purpose of legal proceedings
- The processing is necessary to protect the interests of the Data Subject or another person and the Data Subject or other person cannot give their consent.

There are a number of exemptions from the data protection principles, or from one or more of them, of which the following are the most important:

- National Security
- Prevention and detection of crime
- Regulatory Activity (e.g., by public bodies such as the Commission for Local Administration)
- Discharging the functions of a monitoring officer or an ethical standards officer in relation to complaints about the conduct of councillors
- Processing of data for purely family, household or personal purposes.

So far as local councils are concerned, personal data may be exempt in certain circumstances, of which the following are examples:

- Disclosures of Information required by law (e.g., under the Freedom of Information Act 2000)
- Maintenance of a public register, such as the register of councillor's interests in accordance with the council's Code of Conduct
- Where the information that is processed does not include personal data
- Information which is confidential as between the council and its legal professional adviser
- Certain administrative procedures e.g., accounts and audit, staff administration, public relations and marketing of the council.

A Data Subject is entitled to be told by the Data Controller whether any personal information about them is being processed. If so, the Data Subject is entitled to:

- A description of the data, the purposes for which the data is being processed and the recipients, or classes of recipients, to whom the data may be disclosed
- A copy of the information in intelligible form
- The right to have any inaccuracies rectified
- The Data Controller is obliged to provide the Data Subject with requested information provided the request is in writing and a fee of £10 is paid. The Parish Council will deal with the request promptly and in any case within 21 days from the date of receipt of the request or fee, whichever is the later
- A Data Subject has the right to give written notice to the Data Controller requiring the controller to cease processing data which causes substantial damage or unwarranted distress. The controller must respond in writing within 21 days, by either stating that the request has been complied with or by giving reasons why he thinks the notice is unjustified

- A Data Subject who alleges failure to comply with a notice can apply to the court for an order requiring the controller's compliance
- A Data Subject who suffers distress or damage as a result of the Data Controller's failure to abide by the provisions of the Act is entitled to compensation from the controller. To secure compensation, action may have to be taken in court. The court has the power to order rectification, blocking, erasure or destruction of inaccurate data if the Data Controller does not do so voluntarily.

Notification

The Parish Council and the Data Controller has provided the necessary particulars to the Information Commissioner's Office (ICO), including the following:

- Name and address of the Council
- A description of the Personal Data being processed or to be processed
- A description of the purposes for which the data is being processed
- A description of the recipients of the data
- A statement to the effect that the Data Controller is Yeovil Without Parish Council
- The fee of £35 has been paid by the Parish Council to the ICO for notification, and the notification is renewed annually
- The information provided by the Data Controller is placed on a register which is open to public inspection. The register can be viewed on the ICO's website (see below for details)
- It is an offence to process data that is not covered by a notification.

This policy is based on the recommendations of the Information Commissioner's Office (ICO)

Web; www.ico.gov.uk

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