



DATA PROTECTION POLICY

1.0 Introduction

This document sets out West Lancashire Borough Council's policy regarding data protection. The Data Protection Act 1998 and the EC Data Protection Directive form the background to the document. The Policy is drafted using the terms of the Data Protection Act 1998. The Freedom of Information Act affects the Council's use of non-personal information and the operation of this policy. The Human Rights Act 1998 enhances the protection and individual rights given under the Data Protection legislation.

The purpose of the data protection legislation is to regulate the way that personal information about individuals, whether held on computer, in a manual filing system or otherwise, is obtained, stored, used and disclosed. The legislation grants rights to individuals, to see the data stored about them and to require modification of the data if it is wrong and, in certain cases, to compensation. The provisions amount to a right of privacy for the individual.

The 1998 Act requires all processing of personal data to be notified to the Data Protection Commissioner and to be kept and used in accordance with the provisions of the Act.

2.0 Definitions

To aid the understanding of this document and the provisions of the Data Protection Act the following definitions are used:-

2.1 **Data** is information that is:

- being processed by means of equipment operating automatically in response to instructions given for that purpose e.g. payroll system
- recorded with the intention that it should be processed by means of such equipment (CD ROM)
- recorded as part of a manual filing system or with the intention that it should form part of a relevant filing system.
- one of a number of records to which public access is allowed e.g. information held by the Council (as a Housing Authority) for the purpose of its tenancies.
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2.2 **Data Controller** means the Council as the organisation who determines how data is processed and for what purpose.

2.3 Data Processor means any person, other than an employee of the Council, who processes data on behalf of the data controller, e.g. someone contracted to the Council to deal with documents containing personal data.

2.4 Data subject is the individual about whom personal data is held.

2.5 Personal Data means data about a living individual who can be identified from that information (or from that and other information in the possession of the data controller). This includes an expression of opinion about the individual, and any indication of the intentions of the data controller or any other in respect of that individual.

2.6 Sensitive Personal Data means personal data consisting of information as to:-

- racial or ethnic origin of the data subject
- his/her political opinion
- his or her religious beliefs or other beliefs of a similar nature
- whether he or she is a member of a trade union
- his or her physical or mental health or condition
- his or her sexual life
- the commission or alleged commission by him or her of an offence
- any proceedings for any offence committed or alleged to have been committed by him or her, the disposal of such proceedings or the sentence of any court in such proceedings

2.7 Processing is very widely drawn and means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data including:-

- organisation, adaptation or alteration
- retrieval, consultation or use of,
- dissemination, disclosure or otherwise making available
- combination, blocking, erasure or destruction of the information or data

2.8 Relevant Filing System means any information held manually in an organised structure either by reference to individuals or other criteria such that specific information about a particular individual is readily accessible.

2.9 Special Purposes means any one or more of the following ie journalistic, artistic or literary.

3.0 Principles

The Data Protection Act 1998 contains 8 governing Principles relating to the collection, use, processing, and disclosure of data, and the rights of data subjects to have access to personal data concerning themselves. These Principles are:-

1 Personal data shall be processed fairly and lawfully and, in particular shall not be processed unless one of the conditions in Schedule 2 of the Act is met. These can be summarised as: where the individual has given consent; where the processing is necessary: for any contract, legal obligation, to protect the vital interests of the individual, or in the interests of justice and in the case of sensitive personal data at least one of the conditions in Schedule 3 of the Act is also met. The Schedule 3 conditions can be summarised as explicit consent, or where necessary for: employment obligations, vital interests, non-profit associations, manifestly made public, legal proceedings, administration of justice, medical purposes, ethnic monitoring

2 Personal data shall be obtained only for one or more specified and lawful purpose and shall not be further processed in any manner incompatible with that purpose or those purposes

3 Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed

4 Personal data shall be accurate and, where necessary, kept up to date

5 Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or purposes

6 Personal data shall be processed in accordance with the rights of the data subject under this act (this includes the rights of subjects to access the data and to correct it)

7 Appropriate technical and organisation measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data (this relates to data security)

8 Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

These principles are regarded as the **minimum standards** of practice for any organisation with respect to personal data. Copies of the "Guidelines to the Data Protection Act", which illustrate these 8 principles are available from Sylvia Smith the Snr. Admin & Electoral Services Officer (extension 5031).

4.0 Policy

The Council Supports the objectives of the Data Protection Act 1998. This policy is intended to maintain the confidentiality of personal data held or processed either on computer, in manual files or otherwise and to increase the access given to individuals to information relating to them.

The Policy links to the other Council policies and documents for example:-

- ICT and Data Security Policy
- Retention and Disposal Schedule
- The Council's Constitution

- Code of Conduct
- Human Resources Policies
- Use of Internet & Email
- HIV and Aids Policy

It also links to the information sharing protocol with the Police Authority and to other initiatives under the Crime and Disorder Act 1998. There are a number of procedures underpinning this policy and guidance notes to supplement this policy for example:-

- Subject Access
- Registration/Notification
- New Systems
- Disclosures

4.1 External and Internal Registration/Notification

The Council will have an external notification (registration) with the Information Commissioner which will be supplemented by an **internal register of sources and disclosures**.

4.2 Amount of data to be held

The Council will hold the minimum personal data necessary to enable it to perform its functions. The data will be erased once the need to hold it has passed. Every effort will be made to ensure that data is accurate and up to date, and that inaccuracies are corrected quickly.

4.3 Subject Access

The Council will provide to any individual who requests it, in a specified manner, a reply stating whether or not the Council holds personal data about that individual. A written copy, in clear language, of the current data held, will be given. A fee of £10 will be charged for this service.

4.4 Public Registers

The Council maintains a number of public registers that contain personal data or data that could be used to identify individuals of these are examples set out in Appendix 1. Strict compliance with the legislation giving rights of access will be used in all cases.

4.5 Disclosures

Disclosures of information must be in accordance with the provisions of the Act, the Council's registration/notification and the internal register of sources and disclosures. The Council has a duty to disclose certain data to public authorities such as the Inland Revenue, Customs and Excise and Benefits agency this will be done in accordance with the statutory and other requirements.

Disclosure within the authority either to Council officers or elected members will be on the basis of a need to know this will be judged when a request for information is made. The minimum of personal data will be made generally available.

4.6 System Design

The Council intends that personal data must be treated as confidential. Computer and other systems will be designed to comply with the Principles of the Data Protection Act so that access to personal data should be restricted to identifiable system users.

4.7 Training

It is the aim of the Council that all appropriate staff will be properly trained, fully informed of their obligations under the Act and aware of their personal liabilities.

4.8 Disciplinary Action

The Council expects all of its staff and members to comply fully with this Policy and the Principles of the Data Protection legislation. Disciplinary action may be taken against any employee who breaches any of the instructions or procedures following from this policy.

5.0 Responsibilities

Overall responsibility for the efficient administration of the Data Protection legislation lies with the **Council** and is exercised by the Cabinet.

5.1 Managing Directors and Heads of Service

Day to day responsibility for administration and compliance with the act is delegated to the Managing Directors and Heads of Service , for compliance with the Act's provisions within their respective areas of authority. Within each Service, Data Protection Link Officers may be appointed to undertake administration of data protection and to assist in compliance with the requirements of the legislation on behalf of the Managing Directors and Heads of Service (the number of Data Protection Link Officers in each Service will be a matter for the Heads of Service to determine).

5.2 Data Protection Officer (Snr. Admin & Electoral Services Officer)

It is the responsibility of the Data Protection Officer to assist the Council to ensure compliance with this policy, to specify the procedures to be adopted and to co-ordinate the activities of the designated Link Officers.

The main duties of the Data Protection Officer are:-

- maintenance of the Council's external registration/notification under the Act, and to act as liaison officer with the Information Commissioner
- development, updating and publication of data protection procedures for the Council.
- maintenance of the internal register of sources and disclosures and in association with the internal Audit Section to audit data protection procedures and practices.
- initial contact point for subject access requests.

- in conjunction with Human Resources , provision of education and training seminars regarding data protection issues

5.3 Head of ICT Service (WLBC)

The main duties of the Head of ICT are to:-

- Develop and enforce the ICT and Data Security Policy

5.4 Data Protection Link Officers

The Data Protection Link Officers are responsible to the Managing Directors and Heads of Service for:-

- liaison with the Data Protection Officer on all matters concerning administration of the Act
- working with the Managing Directors and Heads of Service to ensure compliance with the notification (registration) particulars in respect of systems within the Service;
- working with the Service Managers to ensure awareness of the Act within the Service, and to ensure that the control and handling of personal data within the Service does not contravene the Data Protection Principles or Council procedures.
- assisting the Data Protection Officer in the collation and validation of external and internal registration particulars relevant to the Service, and advising the Data Protection Officer of any planned changes to the registration particulars
- assisting in the response to access requests from data subjects.

5.5 Officers and Members

In addition to the formal responsibilities outlined above, all officers and members have a duty to observe the Principles of the Act and the procedures referred to in this document.

Individuals who do not handle personal data as part of their normal work have a responsibility to ensure that any personal data they see or hear goes no further. This includes personal data and information extracted from such data, thus, for example, unauthorised disclosure of data might occur by passing information over the telephone, communicating information contained on a computer print-out or even inadvertently by reading a computer screen.

Disciplinary action may result if the Data Protection Principles or procedures outlined in this document are breached.

Sources of Reference

Data Protection Act, 1984

Data Protection Act, 1998

European Union Data Protection Directive (95/46/EC)

Appendix 1

Examples of Publicly available information that could be used to identify individuals

Elections

Representation of the Peoples Act 2000

Register of persons who are eligible to vote in elections

Returns or declarations and accompanying documents relating to election expenses sent by a candidate of a parliamentary or local government election to the Council

Members Allowances

The Local Authority (Members' Allowances) Regulations 1991

Records of payments made to elected members are open to inspection by local government electors for the area. Additionally, the authority must publish within its own area details of the total sums paid under the scheme.

Committee Minutes Reports etc

Local Government Act 1972

Allows access to agendas and reports of committees and subcommittees. Minutes are also available

Taxis and Private Hire Vehicles

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) Act 1976

Register containing information about owners and drivers of taxis and drivers of private hire vehicles.