

# **Appendix 16 – General Data Protection Regulations**

## **Privacy Notice**

The General Data Protection Regulation, as supplemented by the Data Protection Act 2018, came into effect in May 2018. The legislation sets out the responsibilities of the Council as data controller and the rights of individual data subjects in relation to which the Council holds personal data.

As it is required to do under the legislation, the Council has adopted a Record of Processing Activity and a Council Data Protection Policy drawing on a comprehensive set of information audits. These can be found on the relevant section of the Council's website.

The Council has effective governance of data protection in place via Cabinet and Audit Committee. The officer roles of Data Protection Officer, SIRO and Caldecott Guardian are allocated to senior officers and day to day information governance is overseen by the Information Governance Group chaired by the Director of Finance.

The Council and individual Members are registered with the Information Commissioner's Office. Both the Council's Privacy Notice and the supplementary Elected Members Privacy Notice are published on the Council's website.

## **Data Protection Act 2018 and the General Data Protection Regulation (GDPR)**

### **Introduction**

Elected Members are elected to represent their community on the Council.

Contact details of Elected Members are included on the Council's website at [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk)

Elected Members are legally speaking data controllers in their own right and must ensure that any personal information they hold / use in their office as an elected members for Council business is treated in line with GDPR and the Data Protection Act 2018.

However, given their close association with the Council, the Council arranges for registration of Elected Members as data controllers with the Information Commissioner and for annual renewal of their registration in accordance with legal requirements. Training on data protection issues is also available to Elected Members

## **Privacy Notices**

The Council has a Privacy Notice in place at;

[www.derbyshire.gov.uk/privacynotices](http://www.derbyshire.gov.uk/privacynotices)

Elected Members are expected to comply with the requirements of the Council's Privacy Notice in processing personal data, in addition to complying with the content of this Notice.

## **What use will Elected Members make of personal data?**

- Elected Members will wish to make use of personal data provided by their constituents and by the Council to enable them to provide their constituents with a response to complaints and enquiries.

The legal basis on which Members rely in order to use the information which they collect about individuals for the purposes set out in this notice is:

- Public Task – Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

## **What type of data will Elected Members hold?**

- Elected Members may hold personal data i.e. names, addresses, email addresses, phone numbers, dates of birth etc.
- Elected Members may also hold sensitive personal information (Special Category data) such as information regarding an individual's race; ethnic origin; political opinions; religious beliefs; trade union membership; health; sex life; or sexual orientation.

There is considered to be a substantial public interest in processing such data within the constraints set out in this notice.

- Elected Members are expected to keep all personal data secure in accordance with the Council's security policies.

<https://www.derbyshire.gov.uk/working-for-us/data/data-security.aspx>

- Elected Members will request personal information that is appropriate to enable them to carry out their functions on a 'need to know' basis. Processing of constituents' personal information will be undertaken in accordance with the principles of the Data Protection legislation.

### **Sharing of personal data by Elected Members**

Elected Members will not normally need the consent of constituents in order to hold or share the personal data with the Council and partner organisations such as the health service with which the Council already has data sharing agreements and which they reasonably could be expected to contact to progress the issue constituents have raised. Constituent's personal data must only be used for the purpose stated in their enquiry. If there is any doubt about sharing personal data then advice should be sought from the Council's Data Protection Officer, details as set out below.

Particular care should be taken to ensure constituent's contact details are current to avoid correspondence being sent to the incorrect address.

If the personal data is to be used or shared in a way that the constituent would not reasonably envisage or with an agency that the Council does not normally deal with then the Elected Member will inform the constituent what they proposing to do with the data before using it or sharing it and seek their consent. If the constituent has any concerns about sharing the data and they tell the Elected Member this then their wishes must be respected and the data must not be shared.

Where Elected Members have relied on constituents' consent to use their data this needs to be carefully documented.

### **Retention of Personal Data**

Elected Members will normally process personal data until such time as they have resolved the issue and store electronic data and paper records for the minimum period that is necessary to do so and for no longer than their period of office. This is to allow them to build up case history and to return to records when further matters arise.

### **Unauthorised disclosure**

In the event of loss or inappropriate disclosure of personal data then Elected Members should follow the process set out here-

<https://www.derbyshire.gov.uk/working-for-us/data/if-something-goes-wrong/report-a-security-incident.aspx>

## **Enquiries/ Complaints**

Constituents are entitled to exercise the full range of their rights in relation to their personal data held by Elected Members as they are in relation to Council data.

<https://www.derbyshire.gov.uk/working-for-us/data/gdpr/request-to-exercise-your-rights-under-gdpr/your-rights-under-gdpr-and-data-protection-act.aspx>

If Elected Members have any concerns or they receive any complaints relating to the use of personal data they should contact the Data Protection Officer for the Council, Jane Lakin ([jane.lakin@derbyshire.gov.uk](mailto:jane.lakin@derbyshire.gov.uk))

If an Elected Member is unable to resolve a complaint to an individual's satisfaction, the constituent can make a complaint to the Information Commissioner's Office at [www.ico.org.uk/concerns](http://www.ico.org.uk/concerns)

