



## DATA PROTECTION & PRIVACY POLICY

Adopted November 2019.

For review July 2021

### 1. **General Data Protection Regulation 2018**

The GDPR (General Data Protection Regulations) came into force on 25th May 2018 with the new Data Protection Act 2018. GDPR allows EU member states to implement some different or additional rules through domestic legislation. The Data Protection Act 2018 is the vehicle which incorporates the vast majority of GDPR rules into UK law, with minor variances. It replaces the previous provisions of the Data Protection Act 1998 and gives individuals more rights and protection regarding how their personal data is used. All organisations, including Parish Councils and Parish meetings must comply with its requirements.

### 2. **The purposes of the GDPR are**

- i To increase the obligations on organisations when acting as data controllers and processors.
- ii To increase the rights of individuals to ensure that their personal data is respected and only used for legitimate purposes.

### 3. **The Data Protection Policy**

Documents the Parish Council's lawful basis for processing personal data.

### 4. **Definitions:**

Under the GDPR, the Parish Council and Clerk are 'Data Controllers' – deciding why and how they process personal data. The Parish Council's administrators and contractors – such as payroll administrator and website provider – are 'Data Processors'. Any person whose data is held is a 'Data Subject'.

'Personal Data' is any information about a living individual which allows them to be identified from that data – eg name, address, email address, photograph.

'Public authorities' are required to appoint a 'Data Protection Officer' responsible for ensuring data protection compliance (and who cannot be a data controller or processor). However Section 7 of the DPA Act 2018 exempts Parish Councils and Parish Meetings from being considered public authorities under the Act. The Parish Council therefore is not required to appoint a Data Protection Officer.

'Consent' is a positive, active, unambiguous confirmation of a Data Subject's agreement to have their data processed for a particular purpose. Consent must be given freely, provided on an opt-in rather than opt-out basis, and must be easy to withdraw.

### 5. **ICO**

The Information Commissioner's Office (ICO) is responsible for enforcing data protection legislation in the UK. Current data protection regulations require Data Controllers to pay ICO a data protection fee (unless they are exempt).

### 6 **Six Data Protection principles**

Personal data:

- i. Must be processed lawfully, fairly and transparently.
- ii. Must only be used for a specific processing purpose that the Data Subject has been made aware of – and no other, without consent.
- iii. Should be adequate, relevant and limited to what is necessary.
- iv. Must be accurate and where necessary kept up to date.
- v. Should not be stored for longer than necessary, and that storage be secure.
- vi. Must be subject to integrity and confidentiality – kept safe and protected.

## **7. Lawful Bases for Processing Personal Data under the GDPR**

- i. Consent – The controller must be able to demonstrate that consent has been given.
- ii. Legitimate interests – This involves a balancing test between the 'legitimate interests' of the Controller and the fundamental rights and freedoms of the Data Subject. Councils can't rely on 'legitimate interests' only as a legal basis for processing personal data.
- iii. Contractual necessity – Personal data may be processed if necessary in order to enter into or perform a contract with the data subject.
- iv. Compliance with legal obligation
- v. Vital interests – Personal data may be processed to protect the vital interests of the data subject.
- vi. Public interest – necessary for the performance of tasks carried out by a public authority acting in the public's interest.
  - The Parish Council has various powers and duties. Most personal data is processed for compliance with a legal obligation which includes carrying out the council's statutory powers and functions; or
  - In the performance of a contract or during steps to enter into a contract; or
  - With consent.

## **8. How/Why Personal Data is used**

- i. To deliver public services
- ii. To confirm identity to provide some services
- iii. To enable the council to meet its legal and statutory obligations and powers including delegated functions
- iv. To contact individuals and organisations
- v. To maintain Parish Council accounts and records
- vi. To process financial transactions
- vii. To protect public funds and facilities
- viii. To recruit and employ staff and contractors.

## **9. Personal Data the Parish Council processes**

The personal data kept or processed includes:

- i. Names and titles
- ii. Photographs – when submitted for an expressed purpose such as for parish news (Newsletter or website publication)
- iii. Contact details – telephone numbers, addresses and email addresses
- iv. Banking details – and VAT registration numbers where applicable – for staff, contractors and suppliers
- v. Employment background of staff and members, qualifications of staff and pecuniary interests of members.

## **10. Individual's Rights in relation to personal data:**

- i. The right to be informed
- ii. The right to access the personal data the council holds on that individual – via a subject access request
- iii. The right to correct and update the personal data
- iv. The right to have the personal data erased
- v. The right to restrict processing
- vi. The right to data portability
- vii. The right to object to processing
- viii. The right not to be subject to automated decision-making including profiling.