

Data Protection Policy



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1 Introduction

The purpose of the data protection legislation is to regulate the way in which personal information about individuals, whether held on computer or in a manual filing system, is obtained, stored, used and disclosed. The legislation grants rights to individuals to see the data stored about them, 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 Data Protection Act requires all processing of personal data to be notified to the Information Commissioner and to be kept and used in accordance with the provisions of the Act.

2 Definitions

To aid the understanding of this document and the provisions of the Data Protection Act, the following definitions are provided for assistance:

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.
- Recorded as part of a manual filing system or with the intention that it should form part of a relevant filing system (see definition below).
- One of a number of records to which public access is allowed.

Data Controller means the Council as the organisation who determines how data is processed.

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 print documents containing personal data).

Data Subject is the individual about whom personal data is held.

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.

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 condition
- his or her sexual life
- the commission or alleged commission by him or her of an offence
- any proceedings for any offence committed by him or her, the disposal of any such proceedings or the sentence of any court in such proceedings.

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
- disclosure
- destruction of the information or data.

Relevant Filing System means any data that is recorded as part of a manual filing system or with the intention that it should form part of a relevant filing system, e.g. 'any set of information relating to individuals to the extent that, although the information is not processed by means of equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular individual is readily accessible'.

3 Principles

The Data Protection Act 1998 contains eight 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:

- Personal data shall be **processed fairly and lawfully** and, in particular, shall not be processed unless one of the conditions in Schedule 2 is met. These can be summarised as consent, contract, legal obligation, vital interests, public interest and balance of interest. In the case of sensitive personal data at least one of the conditions in Schedule 3 must also be met, which can be summarised as explicit consent, employment law, vital interests, non-profit associations, manifestly made public, legal claims, justice / statute Crown, medical purposes, ethnic monitoring.
- 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.

- Personal data shall be **adequate, relevant and not excessive** in relation to the purpose or purposes for which they are processed.
- Personal data shall be **accurate** and, where necessary, kept up to date.
- Personal data processed for any purpose or purposes **shall not be kept for longer than is necessary** for that purpose or purposes.
- 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).
- Appropriate **technical and organisational 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).
- 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 required as the minimum standards of practice for any organisation with respect to personal data.

4 Policy

Rochford District 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 or in manual files, and to increase the access given to individuals to information relating to them.

The Policy links to the other Council policies including:

- Access to Information Procedure Rules.
- Complaints Procedure.
- Data Quality and Records Management Policy .
- [Corporate Information Security Policy and Procedures](#)
- Freedom of Information.
- Information Charter.
- Document Retention and Disposal Guidelines.

Data may also be shared with certain other public authorities in accordance with statutory and other requirements including the Essex Trust Charter (see Disclosures). For further information on the legal framework for data sharing see 'Public Sector Data Sharing – Guidance on the Law' published by the Department of Constitutional Affairs – April 2011 <http://www.dca.gov.uk>.

5 External and Internal Registration/Notification

The Council has an external registration/notification with the Information Commissioner. The register can be searched at <http://www.ico.gov.uk>. The Rochford District Council Registration references are:

- **Z6617133 Rochford District Council** (5 April 2002)
- **Z8532553 Electoral Registrar of Rochford District Council** (2 April 2004).

The Register Entry gives general descriptions of the type of data processing activities carried out by Local Government.

6 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.

7 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. However, there are certain exemptions from the right of subject access, which relate largely to a test of prejudice. For example, personal data that is held for the purpose of the prevention or detection of crime are exempt, to the extent that providing access would be likely to prejudice that purpose. In addition, data may be withheld if it is not possible to release information without disclosure of personal data about other people.

8 Public Registers

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

9 Disclosures

Disclosures of information must be in accordance with the provisions of the Act and the Council's registration/notification. Where the Council has a duty to disclose certain data to public authorities (such as the HMRC or Department of Work and Pensions), this will be done in accordance with statutory and other requirements. Legal and internal rules limit disclosure within the authority either to Council officers or elected members. When a request for information is made, the minimum of personal data will be made available on a need to know basis.

10 Training

All Council staff are fully informed of their obligations under the Data Protection Act and are aware of their personal liabilities. The Information Champions Group is cross-departmental and provides a point of expertise and contact in each Division.

11 Disciplinary Action

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

12 Responsibilities

Overall responsibility for the administration of the data protection legislation lies with the Council and is exercised by the Head of Information and Customer Services.

Day to day responsibility for administration and compliance with the Act is delegated to Heads of Service to ensure compliance with the Act's provisions within their respective areas of authority. In some cases, this may involve a joint responsibility (for example, where one Division carries out work on behalf of another Division).

All Officers and Members (Councillors) have a duty to observe the principles of the Act and the procedures referred to in this document.

Councillors could be regarded as data controllers if they process personal data either manually or by computer, whether on their own equipment or on equipment provided to them by their own local authority. Just as any individual holding and processing personal information about others, Councillors need to comply with the Data Protection Act, and need to notify the Information Commissioner of all purposes for which they hold and process personal data.

However, where holding and processing personal data about individuals in the course of undertaking council business, the elected member will be covered by the authority's notification, and have the same responsibilities in respect of data protection as an employee of the authority.

Further guidance on data protection for Councillors can be found on the Information Commissioner's website. The website can be found at www.ico.gov.uk.

Individuals who do not handle data as part of their normal work should not knowingly access information which they do not have a right to view and they 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 printout, or even inadvertently by reading a computer screen.

13 Breaches

Any breach or potential breach of the Data Protection Act must be reported immediately to the Information Co-ordinator, or to the Information and Support Services Manager, who are in the Information and Customer Services Division to enable a swift and effective response by the Council, in accordance with the requirements of the Information Commissioner.



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