

Data Protection Policy



1 Introduction

- 1.1 Rochford District Council is fully committed to ensure compliance with the objectives and obligations of the General Data Protection Regulation 2016 (GDPR) and the Data Protection Act 2018 (DPA).
- 1.2 The processing of data by the Council is essential to services and functions and will often involve the use of personal and/or 'special category' personal data. Compliance with the data protection legislation will ensure that such processing is carried out fairly and lawfully.
- 1.3 The Council's Data Protection Officer is Andrew Hunkin and can be contacted by email on DPO@Rochford.gov.uk
- 1.4 The legislation regulates 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.
- 1.5 The purpose of this policy is to ensure that the provisions of the GDPR and DPA are adhered to whilst protecting the rights and privacy of living individuals and ensure that their personal data is not processed without their knowledge.

2 Definitions

To aid the understanding of this document and the provisions of the GDPR and DPA, the following definitions are provided for assistance:

"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." Identifiable living individual" who can be identified, directly, indirectly in particular by reference an identifier such as a name, personal identification numbers (eg bank account, national insurance number), location data, an online identifier, factors specific to an individual's physical, physiological, genetic, mental, economic, cultural or social identity.

"Personal Data" Means any information relating to an identified or identifiable living individual

"Special Categories of Personal Data" means personal data consisting of information as to:-

- racial or ethnic origin
- political opinions

- religious or philosophical beliefs
- membership of a trade union
- processing of biometric/genetic data to identify someone
- physical or mental health condition
- sex life or sexual orientation

“**Processing**” means carrying out any operation or set of operations on the information or data including:

- collection, organisation, recording adaptation or alteration
- retrieval, consultation or use
- disclosure
- destruction of the information or data.

“**Relevant Filing System**” means any structured storage of personal data which is accessible according to specific criteria, whether held by automated means or manually and whether centralised, decentralised or dispersed on a functions r geographical basis.

3 Principles

The GDPR and DPA now provides for six governing Principles:.

1. Personal information shall be processed lawfully, fairly and in a transparent manner.
2. Personal information shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.
3. Personal information shall be adequate, relevant, and limited to what is necessary
4. Personal information shall be accurate and, where necessary, kept up-to-date
5. Personal information shall be retained only for as long as necessary.
6. Personal information shall be processed in an appropriate manner to maintain security.

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 GDPR and DPA. 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:

- Guide to Information
- Complaints Procedure
- Information Management
- Subject Access Requests
- Record Disposal Guidelines

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
- Z8532553 Returning Officer & Electoral Registration Officer of Rochford District Council

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 Requests (SAR)

7.1 Requests from data subjects for copies of personal data the Council holds about them (Subject Access Requests) must be made in writing. This includes requests transmitted by electronic means, providing they are received in a legible form and are capable of being used for subsequent reference.

7.2 The request must be made to the Council's Data Protection Officer:

Data Protection Officer
 Rochford District Council
 South Street
 Rochford
 Essex
 SS4 1BW

Email: DPO@rochford.gov.uk

- 7.3 If a person is unable to articulate their request in writing the Council will provide advice to assist them in formulating their request.
- 7.4 If the information sought is not described in a way that would enable the Council to identify and locate the requested material, or the request is ambiguous, the Council will seek additional clarification.
- 7.5 The Council will not provide assistance to an applicant who is not the data subject, unless it is confirmed that the explicit consent of the data subject has been obtained for a third party to request the data subject's personal data.
- 7.6 The Council are committed to dealing with requests for information promptly and no later than the statutory guideline of one calendar month. However, if the Council consider the request to be complex we will notify the applicant in writing that the SAR requires further time and will provide an estimate of a 'reasonable time' by which they expect a response to be made up to a further two months.
- 7.7 Under GDPR there is no fee for this request except when further copies are requested or is manifestly unfounded and excessive, we may charge a reasonable fee based on administrative costs.

8 Exempting Information from non- disclosure

- 8.1 The GDPR is designed to prevent access by third parties to a data subject's personal data. However, under the DPA there are circumstances which allow disclosure of a data subject's personal data to a third party, or for it to be used in a situation that would normally be considered to breach the GDPR.
- 8.2 Exemptions from the non-disclosure of personal data are given below. This list is not exhaustive.
- Crime and taxation:
 - a) the prevention and detection of crime
 - b) the apprehension or prosecution of offenders, or
 - c) the assessment or collection of any tax or duty or of any imposition of a similar nature
 - Crime and taxation: risk assessment systems
 - Immigration
 - Information required to be disclosed by law etc. or in connection with legal proceedings
- 8.3 The Council will only use these exemptions where it is in the public interest to do so, i.e. prevention of crime, or where the functioning of the Council require the processing of personal information to be exempt so that it can provide statutory services to members of the public.

9 Refusal of Subject Access Requests

9.1 The Council will not supply information to a data subject if:

- A Subject Access Request (SAR) is not made in writing
- The Council is not satisfied with the identity of the data subject
- Compliance with the request will inadvertently disclose personal information relating to another individual without their consent
- The applicant has recently requested the same or similar information

9.2 The Council consider that when a valid reason, which is both robust and legally defensible, exists for refusing the disclosure of information to either the data subject or a third party, the information should be withheld.

9.3 When information is withheld, full explanations of the reasoning behind the refusal must be provided to the applicant. This explanation must also include the details of how the applicant can complain about the Council's decision.

9.4 All requests for personal data made by the data subject will be dealt with under Chapter 3 - Rights of the Data Subject section of the GDPR, not the Freedom of Information Act 2000.

10 Data Subject Rights

Under GDPR Data Subjects have 8 specific rights:

1. The right to be informed (by Privacy Notices which must be concise, transparent, intelligible; clear and in plain language and available and easily accessible to data subjects)
2. The right of access; (by a Data Subject Access Request which must be answered by the Council in most cases within one month without charging any fee)
3. The right to rectification; (if the personal data held is inaccurate or incomplete it must be amended)
4. The right to erasure; (this is the right to be forgotten – but is not an absolute right and only applies in certain circumstances)
5. The right to restrict processing; (again, this is not an absolute right and only applies in certain circumstances)
6. The right to data portability; (The right to data portability allows individuals to obtain and reuse their personal data for their own purposes across different services and to move, copy or transfer personal data easily from one IT environment to another in a safe and secure way, without hindrance to usability)
7. The right to object; (as with (4) and (5) this is not an absolute right and only applies in certain circumstances)
8. Rights in relation to automated decision making and profiling (this is the right not to be subject to a potentially damaging decision taken without human intervention)

11 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.

12 Training

All Council staff are fully informed of their obligations under the GDPR and DPA and are aware of their personal liabilities.

13 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.

14 Responsibilities

The Council's Corporate Leadership Team is responsible for managing compliance with GDPR and DPA.

Overall responsibility lies with the Chief Executive in consultation with the Data Protection Officer.

The Council's Data Protection Officer is responsible for the provision of advice, guidance and training regarding data protection legislation and will be responsible for keeping this document up to date.

Day to day responsibility for administration and compliance with the Act is delegated to Directors to ensure compliance with the Act's provisions within their respective areas of authority. Internal Audit will undertake reviews to assess the procedures and policies in place that relate to data protection.

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 GDPR and DPA, 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.

15 Breaches

Any breach or potential breach of the GDPR and DPA must be reported immediately to the Data Protection Officer or their Director immediately to be able to assess the situation and enable a swift and effective response by the Council, in accordance with the requirements of the legislation.



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