

# **Mid Devon District Council**

## **Data Protection Policy**

Policy Number: ICT 0003

**January 2016**

## Version Control Sheet

*Title:* **Data Protection Policy and Guidance**

*Purpose:* **To detail the commitment of Mid Devon District Council to the protection of personal data, and to advise Officers, and Members, on the standards to be implemented regarding personal data processing.**

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*Consultation* **This document was sent out for consultation to the following:**  
Management Team

### **Document History**

This document obtained the following approvals.

<b>Title</b>	<b>Date</b>	<b>Version Approved</b>
Head of BIS	2 <sup>nd</sup> Feb 2016	4.0
Management Team	2 <sup>nd</sup> Feb 2016	4.0
Cabinet		4.0

# **Mid Devon District Council**

## **Data Protection Policy**

### **1. Introduction**

Mid Devon District Council is required to control and process personal data by virtue of its provision of services to the residents of the district and the legislative framework governing those services. This requirement to collect and process personal information is critical to the work carried out by Officers and Members.

Many of our citizens, partners and suppliers have an expectation that they can deal with us in the knowledge that the Council will process their data properly.

The Data Protection Act 1998 provides the legislative framework and this policy provides the specific guidance for processing personal data within the Council.

### **2. Related Documents**

- ICT 0001 Information Security Policy
- ICT 0014 Information Security Incident Policy

### **3. Scope**

This policy applies to everybody who has access to any personal data held by, or on behalf of, Mid Devon District Council.

In order to operate efficiently, Mid Devon District Council has to collect and use information about people with whom it works and for whom it provides services. These may include members of the public, current, past and prospective employees, clients and customers, and suppliers.

In addition, the Council may be required to collect and process information in order to comply with specific legislative requirements.

The Data Protection Act requires that this personal information must be fairly collected and properly handled, however it is collected, recorded and used, and whether it be on paper, in computer files or recorded by any other means.

The Council must ensure that all Employees, Elected Members, Contractors, Agents, Consultants, Partners or other servants of the council who have access to any personal data held by, or on behalf of the Council, are fully aware of and abide by their duties and responsibilities under the Act.

#### 4. Policy Statement

The Council regards the lawful and correct treatment of personal information as very important to its successful operations and to maintaining confidence between the council and those with whom it carries out business. The Council will ensure that it treats personal information lawfully and correctly.

To this end the council fully endorses and adheres to the eight Principles of Data Protection as set out in the Data Protection Act 1998.

#### The principles of data protection

The Act stipulates that anyone processing personal data must comply with **Eight Principles** of good practice. These Principles are legally enforceable.

The Principles require that personal information:

1. Shall be processed fairly and lawfully and in particular, shall not be processed unless specific conditions are met;
2. Shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes;
3. Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which it is processed;
4. Shall be accurate and where necessary, kept up to date;
5. Shall not be kept for longer than is necessary for that purpose or those purposes;
6. Shall be processed in accordance with the rights of data subjects under the Act;
7. Shall be kept secure i.e. protected by an appropriate degree of security;
8. Shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.

The Act provides conditions for the processing of any personal data. It also makes a distinction between **personal data** and **“sensitive” personal data**.

Personal data is defined as, data relating to a living individual who can be identified from:

- That data or
- That data and other information which is in the possession of, or is likely to come into the possession of the data controller and includes an expression of opinion about the individual and any indication of the intentions of the data controller, or any other person in respect of the individual.

Sensitive personal data is defined as personal data consisting of information as to:

- Racial or ethnic origin;

- Political opinion;
- Religious or other beliefs;
- Trade union membership;
- Physical or mental health or condition;
- Sexual life;
- Criminal proceedings or convictions.

The aim of the policy is to ensure a legal framework for managing the District Council's processing of Personal Data and to ensure that the Council:

- creates and captures authentic and reliable records to demonstrate evidence, accountability and information about its decisions and activities
- facilitates auditing and protects its legal and other rights by
  - maintaining personal records securely and preserving access to them
  - disposing appropriately of personal records that are no longer required
  - maintaining the accuracy of personal records
  - conforming to legal and statutory requirements relating to personal record keeping

## **5. Identification of roles and responsibilities**

- The Chief Executive of Mid Devon District Council is ultimately responsible for ensuring proper application of Data Protection within Mid Devon District Council with the Head of BIS responsible for overseeing the day to day implementation of the Data Protection principles by Services in relation to personal data management as set out in this policy.
- The Head of BIS will provide the link between Management Team, Data Protection, Freedom of Information and Records Management practices. Where appropriate, this post will co-ordinate activities, such as maintaining the Corporate Document Retention Schedule and Publication Scheme.
- Heads of Service are responsible for the management of personal data processed by their services, in accordance with this policy, and ensuring that all staff are aware of Data Protection requirements.
- All Councillors and Employees of Mid Devon District Council will be responsible for ensuring that the personal data they control in relation to their work that is maintained in accordance with the data protection principles.
- All Staff have the responsibility of ensuring compliance with the requirement of Data Protection legislation and this is included in their job descriptions

## **6. Training and Awareness**

Since any Mid Devon District Council employee may be involved in creating, maintaining and using personal information/records, it is vital that everyone understands their responsibilities as set out in this policy. All Officers and Councillors are required to have read and accepted the Data Protection Policy and in

so doing agree to act in accordance with it and the data protection principles referred to above. This will be renewed annually. Heads of Service will ensure that staff responsible for managing personal data are appropriately trained or experienced and that all staff understand the need for proper management of personal data.

A training programme will be established to ensure that all staff are aware of their obligations concerning Data Protection, as well as Freedom of Information and Information/Records Management.

## **7. Handling of personal/sensitive information**

Mid Devon District Council will apply, through this policy, appropriate management and the use of controls:-

- Observe fully conditions regarding the fair collection and use of personal information;
- Meet its legal obligations to specify the purpose for which information is used;
- Collect and process appropriate information - only to the extent that it is needed to fulfil operational needs or to comply with any legal requirements;
- Ensure the quality of information used;
- Apply checks to determine the length of time information is held and ensure it is appropriately disposed of after use;
- Take appropriate technical and organisational security measures to safeguard personal information held;
- Ensure that personal information is not transferred abroad without suitable safeguards;
- Ensure that the rights of people about whom the information is held can be fully exercised under the Act.

These include:

- The right to be informed that processing is being undertaken;
- The right of access to their personal information within the statutory 40 days;
- The right to prevent processing in certain circumstances;
- The right to correct, rectify, block or erase information found to be wrong.
- The right to erasure (also known as 'right to be forgotten')

In addition, the Council will ensure that:

- There is an officer with specific responsibility for data protection in the Council;
- Everyone managing and handling personal information understands that they are contractually responsible for following good data protection practice;

- Everyone managing and handling personal information is appropriately trained to do so;
- Everyone managing and handling personal information is appropriately supervised;
- Anyone wanting to make enquiries about handling personal information, whether a member of staff or a member of the public, knows what to do;
- Queries about handling personal information are promptly and courteously dealt with;
- Methods of handling personal information are regularly assessed and evaluated;
- Data sharing is carried out under a written agreement, setting out the scope and limits of the sharing. Any disclosure of personal data will be in compliance with approved procedures.

All Elected Members are to be made fully aware of this policy and of their duties and responsibilities under the Act.

All managers and staff will take steps to ensure that personal data is kept secure at all times against unauthorised or unlawful loss or disclosure and in particular will ensure that:

- Paper files and other records or documents containing personal/sensitive data are kept in a secure environment;
- Personal data held on computers, mobile devices and computer systems is protected by the use of secure passwords, which have forced changes periodically;
- Individual passwords should be such that they are not easily compromised.

All contractors, consultants, partners or other servants or agents of the Council must:

- Ensure that they and all of their staff who have access to personal data held or processed for or on behalf of the council, are aware of this policy and are fully trained in and are aware of their duties and responsibilities under the Act. Any breach of any provision of the Act will be deemed as being a breach of any contract between the council and that individual, company, partner or firm;
- Allow data protection audits by the council of data held on its behalf (if requested);
- Indemnify the council against any prosecutions, claims, proceedings, actions or payments of compensation or damages, without limitation.

All contractors who are users of personal information supplied by the council will be required to confirm that they will abide by the requirements of the Act with regard to information supplied by the council.

## **8. Disclosure of Personal Data**

Personal Data will only be disclosed in accordance with the provisions of the DPA

Any member of the public is entitled to request copies of all personal information that the Council holds about them. This is called a Subject Access Request (SAR).

Subject Access Request forms should be completed by the person requesting their information and submitted to the Data Protection Officer, with the appropriate fee and proof of identification. When the Subject Access Request has been received, along with the relevant fee, the information should be provided within 40 calendar days.

Please note that where certain documents or files contain the personal information of several different people, this will be redacted in accordance with the DPA before releasing the information.

## **9. Violations of Rules and Procedures**

- It is the responsibility of all employees to report any suspected breaches of the DPA or of this policy to their Head of Service using the Information Security Incident form at the end of that policy (ICT 00014)
- It is the responsibility of all Members to report any suspected breaches of the DPA, or this policy, to the Chief Executive.
- Disciplinary action in accordance with procedures approved by the Council, may be taken against any employee or Member who deliberately breaches the DPA, or the requirements of this policy. Failure to comply by partners, agents or contractors may constitute a breach of their agreements.

## **10. Implementation**

The Head of BIS has been appointed with overall responsibility for coordinating consistent Data protection implementation across the Council. Heads of Service will be responsible for ensuring that the Policy is implemented within their services. Implementation will be led and monitored by the Head of BIS who will also have overall corporate responsibility for:

- The provision of cascade data protection training, for staff within the council.
- For the development of best practice guidelines.
- For carrying out compliance checks to ensure adherence, throughout the authority, with the Data Protection Act.

## **11. Notification to the Information Commissioner**

The Data Protection Act 1998 requires every data controller, who is processing personal data, to notify the Information Commissioner, and to renew their notification



on an annual basis. Any changes to the register must be notified to the Information Commissioner, within 28 days. Failure to notify is a criminal offence.

Mid Devon District Council is registered and appears on the public register of data controllers maintained by the Information Commissioners Office.

The Head of BIS is responsible for notifying and updating the Information Commissioners Office of the processing of personal data.

Any changes made to the processing of personal data between annual notifications must be brought to the attention of the Head of BIS immediately.

## **12. Review of Policy**

This policy will be reviewed in 2019 or sooner if legislation changes and then in accordance with the publication scheme review.