



**Data Protection Policy**  
and associated framework

MAY 2004

## **A : Policy Statement**

The Council will:

- 1.1 Support and uphold the eight principles of the Data Protection Act 1998.
- 1.2 Seek to protect the rights of individuals, to ensure fair treatment of their information and recognise their right to privacy.
- 1.3 Only process, use and store various types of information regarding employees and residents when it is necessary to provide services and to formulate decisions and plans.
- 1.4 Operate all processing of personal information under the Data Protection guidelines as set by the Information Commissioner.
- 1.5 Register a notification of processing with the Information Commissioner.

## **B : Background to the Policy Statement**

### **1. The 8 Data Protection Principles**

1.	Personal data shall be processed fairly and lawfully.
2.	Personal data shall be obtained for specific and lawful purposes and not processed in a manner incompatible with those purposes.
3.	Personal data shall be adequate, relevant and not excessive in relation to the purpose for which it is held.
4.	Personal data shall be kept accurate.
5.	Personal data shall be kept only for as long as is necessary.
6.	Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act.
7.	Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of data.
8.	Personal data shall not be transferred to a country or a 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.

## **2 Procedures will be based on the following:-**

### **2.1 Disclosures**

The Council will normally only disclose information to third parties, other authorities or bodies with the data subject's approval.

The Council recognises that simply because information regarding services or residents is held within one department, it does not give a general or automatic right of access to other departments. Information may only be reused if it is compatible with the reason for which it was originally gathered.

Data may only be disclosed for legitimate or legal reasons or where explicit consent has been sought.

Data may be disclosed without the consent of the Data Subject only in specific and limited circumstances. These are as follows:-

- On production of court order.
- Where the purpose of disclosure is to enable the authority to assess or collect taxes and duties.
- Where the disclosure would lead to the prevention or detection of a crime, the apprehension or prosecution of offenders.
- Where the Council is obliged by law.
- By order of the Secretary of State.
- For matters of national security.
- To provide generalised or anonymised information for research purposes.
- To Elected Members –
  - as part of their role as a committee member,
  - whilst acting at the request of a constituent (in respect of information about that constituent and not others)
- Where the disclosure is in the legitimate interests of the Council (e.g. disclosure to staff - personal information can be disclosed to other Council employees if it is clear that those members of staff require the information to enable them to perform their jobs or statutory duties.)
- For the performance of a contract.

### **2.2 Disclosures by Officers to Elected Members**

For the purpose of Data Protection, elected members will in certain circumstances be covered by the Council's notification to the Information Commissioner, and therefore during the course of their term of office in these circumstances be viewed in Data Protection terms as an employee of the Council.

Where an elected member processes information in their own right they will need to have their own separate notification.

If the elected member represents the ward in which the data subject lives and states that they are acting on the data subject's behalf in the capacity of Councillor, consent of the data subject will not normally be needed to be presented, subject to the following exception -

- if the data is of a sensitive personal nature, then written consent should be sought by the Councillor from the data subject, even when the member represents the ward the data subject resides in.

The disclosure of information by officers to members should be done with care and only limited, specific information should be released. Such information should normally be disclosed in writing rather than verbally, wherever information is disclosed, Heads of Service should maintain a register of who received the information and for what purpose. The information should be handled in line with the Data Protection regulations, and the Elected Member must ensure that any personal/sensitive information they hold is used only for the purpose it was gathered for, and securely (shredded) disposed of once the use has been completed.

### **2.3 The Rights of Data Subjects**

Individuals (known as Data Subjects) have the right to request sight of all the information the Council holds relating to them (subject to certain exemptions).

They have the right to:-

- be able to prevent any processing which is likely to cause them damage or distress
- prevent processing for purposes of direct marketing
- be informed about any automated decision making processes used
- have information that is inaccurate or wrong corrected, blocked, erased or destroyed
- be given details of any internal complaints procedures and where else to seek advice if they are not satisfied with the outcome
- take complaints to the Information Commissioner if they feel the Council has not dealt with the matter satisfactorily

### **2.4 Enquiries from other public bodies**

The Council receives enquiries about residents from various bodies. Often these enquiries have a legitimate basis, for example to ensure that services for residents are given in a timely manner.

However when members of staff receive enquiries about named individuals, the enquirer should always be asked why the information is required, and on what grounds it is being requested.

All enquiries should be written, and state who is making the enquiry and for what purpose. Consent must be given by the data subject unless the requester is relying on a statutory or legal exception which must be adequately specified.

If the enquirer does not have a legitimate or legal reason to request the information, the Council must not give the information.

The Council may however act as an intermediary between the parties in these circumstances in order to either a) gain consent to disclose or b) to ask the data subject to contact the enquirer themselves.

### **2.5 Retention and Storage**

The Council will not store data for any longer than a) it is necessary and b) it is legally required.

Regular audits of the information the Council holds will be undertaken. A retention

schedule will be put in place giving the statutory maximum limits for all documents the Council holds.

All information is held in areas that are only accessible to staff. All IT based systems are password protected. Personal information is shredded and disposed of as confidential waste. When PC's are disposed the hard drive is wiped clean.

### **Appendix 1 - Definition of terms**

#### **Data Protection applies to:-**

- a. Information which is recorded as part of a relevant filing system, or which is gathered in order to form part of relevant filing system
- b. Information which forms part of an accessible record e.g. human resources file.
- c. Information which is processed by electronic means, or which is gathered in order to be processed by electronic means e.g. databases.

#### **Personal Information**

Relates to a living individual who could be identified from that information. This can include name, address, benefits applications or expressions of opinion about an individual i.e. file notes.

#### **Sensitive Information**

Is information that relates to an individual's:-

religious belief

racial or ethnic origin

political opinions

sexual life

membership of a trade union

mental or physical health

the commission or alleged commission of any offences or court proceedings.

#### **Data Subject**

The individual to whom the information relates

#### **Subject Access Request**

The means by which a data subject can request access to the information the Council holds on him/her.