Elected Members and Data Protection
Guidance for Borough and Parish and Town Councillors

Introduction

The Data Protection Act 2018 (or the DPA) and the General Data Protection Regulation (or the GDPR) are based around six Principles of good information handling. These Principles give citizens strong rights in relation to their personal information or data, and oblige organisations - such as councils - that are responsible for handling personal data, to do so in specific ways that protect those citizen rights, and also require those organisations to be able to demonstrate compliance with the legislation.

The role of a Councillor

Councillors are likely to have three roles in relation to information handling:

- As a member of the Council, for example as a member of a committee;
- As a representative of residents of their ward, for example, in dealing with complaints or concerns;
- As a member of a political party, particularly at election time.

'Dos and Don'ts'

The attached list of 'Dos and Don'ts' for elected members has been prepared to support councillors in complying with the law. This is being distributed to all Borough Councillors through the members newsletter and Parish and Town Councils.

Further information

The last page also has some more general background information, including definitions (for example explaining what is meant by the term 'personal data').
We hope that you find this guidance helpful, but if you have any questions or concerns, please contact your Council's Data Protection Officer.

Data Protection Dos and Don'ts

Do

- Look after personal data that is entrusted to you, whether given to you by a resident or constituent, or by a Council officer.

- If you receive personal data from a Council officer, you may only use it for the purpose that it has been given to you and for no other purpose.

- If travelling, keep information secure and do not leave it on view, in unattended vehicles, or overnight in a vehicle (even in the locked boot).

- If a RMBC Councillor - only use the Council's IT equipment, (and authority secured personal devices) and email address for handling personal data, as this keeps it secure.

- Treat in confidence any information that constituents give to you (they will reasonably expect you to do this) unless it is clear that you will be taking up their case with the Council (this is called 'implied consent').

- In multi-member wards, if you need to pass on an individual's personal data to another member you can only do so to:
    - address the resident's concerns, or,
    - where the issue concerns another member(s) in the same ward, or,
    - where the resident has been made aware that this will happen and why it is necessary.

- If a resident objects to the use or disclosure of information about them, this request should be honoured.

- When campaigning for election only use personal data controlled by the party if party rules allow this.

- Only use personal data from mailing lists given to you as a candidate for election, for example by your political party.

- If you lose personal data, or share it accidentally with a third party, please tell the Council's Data Protection Officer straightaway. They will decide what action to take and whether anyone else needs to be advised.

- Understand the council officers are bound by confidentiality rules, and must not give councillors personal data without proper authority - to do so may be in breach of Data Protection legislation

Further to this:

- if you do not understand the rules relating to the Code of Conduct speak to the Monitoring officer, or (if a Parish or Town Councillor) your clerk.
- If you want more information about the handling of information, please speak to the Council's Data Protection Officer (in a Parish or Town Council, via your clerk).

Don't

- Share information given to you by the Council or resident with any third party <u>unless</u> the individual or the Council expects you to, for example to take up an issue with Council officers on a resident's behalf.

- Ask for, or expect Council officers to give you information about an individual that you have no right have access to (for example a resident who has not asked you to act on their behalf).
    - Cases where you obtain, or attempt to obtain such data and you have *no right* to obtain it could be regarded as in breach of Data Protection legislation.

- Use information that you have been given for political purposes unless you have the agreement of a senior officer of the Council. You must not use a list of users of a particular local authority service without their consent.

- Pass on to other ward members personal information that is not connected to the resident's case.

- Allow another person, such as a family member, to access the information on your computer that is used for processing personal data for your work as a Councillor.

- Expect the Council to disclose personal data to you for political purposes, unless the Council has the explicit consent of the person(s) involved.

Further information:

What is personal data?

Definition of personal data (GDPR Article 4)

> *"any information relating to an identified or identifiable natural person ("data subject") who can be identified directly or indirectly by reference to an identifier, such as name, identification number location data, online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person".*

"Special categories of personal data (GDPR Article 9)
Special rules relating to the processing of personal data revealing any of the following:

> *"racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life, or sexual orientation".*

(Organisations are not permitted to process any of the above special category data without the individuals explicit consent, or in very restricted circumstances)

What is not personal data?
'Legal and "non--natural persons or entities (GDPR Recital 14). Any information relating to the:

> *"processing of personal data which concerns legal persons and in particular undertakings established as legal persons, including the name in the form of the legal person and the contact details of the legal person".*