

Data Protection Policy

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1.1	08/06/2010	Changes required to reflect revised requirements and legislation
1.2	14/09/2010	Document controls applied
1.3	15/01/2014	3.5 amended to reflect change in process

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Contents

1. Introduction	4
2. Scope	5
3. Principles	5
3.1 Fair Obtaining and Processing	5
3.2 Information Uses and Processes	5
3.3 Information Quality and Integrity	5
3.4 Technical & Organisational Security	6
3.5 Subject Access & Subject Information Requests	6
4. Objectives	6
5. Supporting Policies & Guidance	8
6. Investigation of Violations and Corrective Action	8
Appendix A	10

1. Introduction

- 1.1 This is a Data Protection Policy adopted by Warrington Borough Council.
- 1.2 It is the duty of the council to comply with the Data Protection Act 1998 in relation to all personal data with respect to which it is the Data Controller. Warrington Borough Council fully endorses and adheres to the principles of the Act.
- 1.3 The Act is legislation designed to protect the privacy of individuals with regard to how others use their personal information, including, obtaining, holding, using or disclosing such information.

The main features of the Act are:

- The Act gives individuals certain rights regarding information held about them;
- It places obligations on those who **process** personal information (data controllers) while giving rights to those who are the subject of that information (data subjects);
- **Processing** means any activity whatsoever that involves personal information — such as obtaining, recording, holding, disseminating, organising, adapting, amending, retrieval, disclosure, erasure or destruction of the information. It is difficult to envisage any activity which does not amount to processing;
- Personal information relates to any information held electronically or manually which relates to a living individual who can be identified:
 - i. from the information or;
 - ii. from the information combined with other information which is in the possession of the council or is likely to come into the possession of the council, and;
 - iii. includes both facts and opinions.
- Anyone processing personal information under the Act must notify the Information Commissioner's Office that they are doing so, unless their processing is exempt;
- Anyone processing personal information must comply with eight enforceable principles of good information handling practice.

These say that personal information must be:

- i. fairly and lawfully processed;
- ii. processed for limited purposes;
- iii. adequate, relevant and not excessive;
- iv. accurate and up to date;
- v. not kept longer than necessary;

- vi. processed in accordance with the individual's rights;
- vii. secure;
- viii. not transferred to countries outside European Economic area unless country has adequate protection for the individual.

2. Scope

- 2.1 It is imperative that anyone processing personal information on behalf of the council complies with the Data Protection Act. This policy therefore applies to all such employees, councillors, contractors, partner organisations and agents regardless of whether they are full-time, part-time or under other contractual arrangements.
- 2.2 Each school is a data controller in their own right and so are not covered by this policy.
- 2.3 Failure to comply with this policy may result in disciplinary action being taken under the Council's disciplinary procedures where appropriate. Any questions or concerns relating to anything in this policy should be discussed with the appropriate line manager.

3. Principles

3.1 Fair Obtaining and Processing

The processing of all personal information within the council will be fair and lawful. Individuals will not be misled as to how the council will use their personal information. It is recommended that forms requiring personal information contain a "Privacy Statement" explaining who is collecting the information, how the information will be used, whom it may be shared with, and any other information necessary to make the processing lawful.

Where information is collected in person or by telephone, this information must be made equally clear.

3.2 Information Uses and Processes

The council will not process personal information in any way that contravenes its notified purposes or in any way that would constitute a breach of data protection law. The council will ensure that its Data Protection Notification is maintained by keeping it accurate and by renewing its registration annually.

3.3 Information Quality and Integrity

- 3.3.1 The council will take care not to collect information from individuals where that information is excessive or irrelevant. Details collected should be adequate for the business purpose and no more.

3.3.2 Information will only be held for as long as is necessary. Unless there is a business or statutory need to retain the information, it will be either destroyed or, in limited cases, offered to permanent archive for historical purposes.

3.3.3 The council will ensure, as far as is practicable, that the information held is accurate and up to date. Information received from third parties should be validated to ensure its accuracy.

3.4 Technical & Organisational Security

The council will implement appropriate security measures that are proportionate to the sensitivity of the personal information in question.

These measures will include:

- unauthorised staff and other individuals should be prevented from gaining access to personal information;
- appropriate physical security should be in place with visitors being received and supervised at all times within the council's buildings;
- computer systems are installed with user-type profile type password controls and, where necessary, audit and access trails to establish that each user is fully authorised;
- manual filing systems should be held in secure locations and only accessed on a need-to-know basis.

3.5 Subject Access & Subject Information Requests

Any person whose details are held/processed by the council has a general right to receive a copy of their own information subject to the payment of a statutory fee. There are a few exceptions to this rule, such as *information held for child protection or crime detection/prevention purposes*, but most individuals will be able to have a copy of the information held on them. Any codes used in the record should be fully explained. The council will attempt to reply to subject access requests as quickly as possible and, in all cases, within the 40-day timeframe allowed by the DPA 1998. Repeat requests will be fulfilled unless the period between requests is such that it is unlikely there has been any material change in the personal information required.

A subject access/information request must be submitted in writing, providing details of the information required; including the subject, applicable dates and known service areas. This will ensure that the council has sufficient information to be able to conduct a search and to fulfil the request. In some cases further information may be required from the individual. This may extend the timeframe. The payment of the statutory fee may be required at the Council's discretion.

4. Objectives

4.1 The Council will, through appropriate management and strict application of criteria and controls:

- observe fully the conditions regarding the fair collection and use of personal data and shall not process it unless specific conditions are met;
- meet its legal obligations to specify the purposes for which information is used;
- shall ensure personal information is 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;
- collect and process information only to the extent that it is needed to fulfil operational needs or to comply with any legal requirements. The information shall be relevant and not excessive in relation to the purpose or purposes for which it is processed;
- ensure the accuracy of information used;
- ensuring that data is not kept any longer than it is needed;
- the creation and maintenance of a data retention policy to determine the length of time certain types of information should be kept;
- ensure that the rights of people about whom 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 one's personal information; the right to prevent processing in certain circumstances; the right to correct, rectify, block or erase information which is regarded as wrong information);
- take appropriate technical and organisational security measures to safeguard personal information;
- ensure that personal information is not transferred outside the European Economic Area (EEA) without suitable safeguards being in place (information available on Warrington's internet pages is equal to making it available worldwide and thus outside of the EEA).

4.2 Achieved by

The Council's objectives will be achieved by ensuring that:

- there is someone with specific responsibility for data protection in the authority responsible for gathering and disseminating information and issues relating to information security, the Data Protection Act and other related legislation;
- ensure that a senior level "data protection compliance steering group" exists to ensure that the council complies with the DPA in a structured manner;
- ensure that line managers are responsible or, where necessary, delegate responsibility to a nominated "DPA divisional representative" for communications and issues relating to information security, the DPA, and other related legislation within their departments;
- everyone managing and handling personal information understands that they are contractually responsible for following good data protection practice and are only given access to personal information that is appropriate to the duties they undertake;

- everyone managing and handling personal information is appropriately trained to do so and that they are appropriately supervised;
- ensure that all activities that relate to the processing of personal data have appropriate safeguards and controls in place to ensure information security and compliance with the Act;
- ensure that all third parties acting on Warrington Borough Council's behalf and processing personal information (referred to as data processors) provide sufficient guarantees in respect of the technical and organisational security measures they take and that they can evidence the fact that they take reasonable steps to ensure compliance with those measures;
- ensure that all data processors are given access to personal information that is appropriate to the duties they undertake and no more;
- ensure that the processing by the data processor is carried out under a contract, which is made or evidenced in writing, under which the data processor is to act only on instructions from the council. The contract must require the data processor to comply with obligations equivalent to those imposed on the data controller by the Seventh Principle of the DPA;
- ensure that any requests for access to personal data are handled courteously, promptly and appropriately, ensuring that either the data subject or their authorised representative have a legitimate right to access under the Act, that their request is valid, and that information provided is clear and unambiguous;
- a regular review and audit is made of the way personal information is managed;
- methods of handling personal information are regularly assessed and evaluated;
- work towards adopting, as best working practice, the key principles of BS7799 — the British Standard on Information Security Management;
- ensure that all staff are aware of the Data Protection Code of Practice document and Subject Access Procedures document that accompanies this policy;
- review this policy and the safeguards and controls that relate to it annually to ensure that they are still relevant, efficient and effective.

5. Supporting Policies & Guidance

You should refer to the associated guidance detailed in Appendix A for further direction and specific examples. This information can be found on the Council's Intranet.

6. Investigation of Violations and Corrective Action

Compliance with the Data Protection Act 1998 is the responsibility of all employees and elected members of Warrington Borough Council.

Any breach of the Data Protection Policy may lead to disciplinary action being taken or even a criminal prosecution. Any questions or concerns about the interpretation or operation of this policy should be taken up with the authority's nominated data protection officer.

Appendix A

- Web Guidelines
- ICT Equipment Disposal
- Corporate ICT Policy
- Internet Code of Practice
- e-Mail Code of Practice
- Remote use of Personal Computers Policy
- ICT Security Policy
- Data Protection Code of Practice
- Data Retention Policy
- Subject Access Request Procedure