Woodbury Parish Council
(serving Exton, Woodbury and Woodbury Salterton)

Woodbury Parish Council Councillor / Representative General Data Protection Regulation (GDPR) Policy

ICO Advice for elected and prospective councillors

Data Protection Act
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Introduction

Woodbury Parish Council is the Data Controller and Data Processor, we are responsible for the compliance with the principles and must be able to demonstrate this to data subjects and the regulator. We are registered with the Information Commissioners Office – Individual Councillors do not have to be registered separately.

1. The Data Protection Act 1998 (DPA) is based around six principles of good information handling. These give people specific rights in relation to their personal information and place certain obligations on those organisations that are responsible for processing it

2. An overview of the main provisions of the DPA can be found in The Guide to Data Protection.

3. This is part of a series of guidance, which goes into more detail than the Guide, to help data controllers to fully understand their obligations and promote good practice.

4. This guidance aims to provide elected and prospective councillors with advice on how the DPA applies to them.

The role of the councillor

5. Councillors are likely to have three different roles:

☐ **As a member of the council**, for example, as a Full Council member or a member of a committee.

☐ A representative of residents of their ward, for example, in dealing with complaints.

☐ They may represent a political party, particularly at election time.

Use of personal information

6. When councillors consider using personal information, they should take into account the context in which that information was collected to decide whether their use of the information will be fair and lawful, as required by principle 1 of the DPA:

☐ Where a councillor is representing an individual resident who has made a complaint, the councillor will usually have the implied consent of the resident to retain relevant personal data provided and to disclose it as appropriate. The resident will also expect that the organisations (including the local authority) who are the subject of the complaint will disclose personal data to the councillor. If there is any uncertainty regarding the resident's wishes, it would be appropriate to make direct contact with the resident to confirm the position.

☐ Sensitive personal information is treated differently; for example, where consent is being relied on this should be explicit in nature. However, in the context of a complaint, councillors – and organisations making disclosures to them - will usually be able to rely on the Data Protection (Processing of Sensitive Personal Data)(Elected Representatives) Order 2002 as a condition for processing.

☐ Personal information held by the local authority should not be used for political purposes unless both the local authority and the individuals concerned agree. It would not be possible to use a list of the users of a particular local authority service for electioneering purposes without their consent. An example would be using a local authority list of library users to canvass for re-election on the grounds that the councillor had previously opposed the closure of local libraries.

☐ When campaigning for election as the representative of a political party, candidates can use personal information, such as mailing lists, legitimately held by their parties. However, personal information they hold in their role as representative of local residents, such as complaints casework, should not be used without the consent of the individual.

☐ When campaigning for election to an office in a political party, councillors should only use personal information controlled by the party if its rules allow this. It would be wrong, for instance, to use personal information which the candidate might have in their capacity as the local membership secretary, unless the party itself had sanctioned this.

☐ Candidates for election should be aware that political campaigning falls within the definition of direct marketing. Consequently, they should have regard to the requirements of the DPA (in particular section 11) and the Privacy and Electronic Communication (EC Directive) Regulations 2003 which set out specific rules that must be complied with for each type of marketing communication. For further information on this, the Information Commissioner has produced Guidance on Political Campaigning which is available on our website.

Multi-member wards

7. In some types of local authority, councillors are elected under a multi-member system where more than one councillor represents a particular ward.

8. As a result, there may be situations where a councillor who represents a resident may need to pass on that particular individual's personal information to another councillor in the same ward. The councillor will only be allowed to disclose to the other ward councillor the personal information that is necessary:

☐ to address the resident's concerns;

☐ where the particular issue raises a matter which concerns other elected members in the same ward; or

☐ where the resident has been made aware that this is going to take place and why it is necessary.

☐ If a resident objects to a use or disclosure of their information, their objection should normally be honoured.

9. The councillor should not pass on personal information which is not connected to the resident's case.

Example
A resident asks one of the councillors in a multi-member ward for help about teenagers acting in an intimidating way in the area. The councillor wishes to share the resident's complaint with the other ward councillors because it is an issue of general concern.
The councillor lets the resident know that he wants to give the details of their complaint to the other ward councillors and why he wants to do that, rather than giving a general description of the complaint to other ward councillors.
If the resident objects, then their wishes are respected and only the general nature of the complaint is shared.

Using Personal or Public Computers for Council business

Councillors must make sure that the use of a Personal or Public computer or other device for Parish Council business is for their own eyes only and used securely – password protected and have antivirus software.

All Parish documents and information must be used for the purpose it was meant and stored and disposed of properly and securely this includes the use of emails, Outlook, Facebook etc.

Disposal, any paper documents with individual data must be shredded and documents accessed via your computer be deleted including off your "deleted items". On deleted items right click and go into "properties then auto archive" and make sure documents are not being stored elsewhere.

A Councillor should use the given .gov.uk email for Council business; if a Councillor retains a personal email account, they could be subject to having to disclose private details in the event of a Freedom of Information request.

Principals of the GDPR

All Data must be processed:-

- processed lawfully, fairly and in a transparent manner
- collected for specified, explicit and legitimate purposes
- adequate, relevant and limited to what is necessary
- accurate and where necessary kept up to date
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which those data are processed
- processed in a manner that ensures appropriate security of the personal data.

Privacy Notice

Councillor Privacy Notice is attached for your referral.

Policy date of adoption:

I, Councillor/Representative _____

confirm that I have read the Councillor General Data Protection Policy, also received the Councillor Privacy Notice.

DATE: _____