Rackheath Community Council

General Data Protection Regulation Policy

Adopted: 19 March 2018

To be reviewed every 2 years

Last Reviewed: December 2023

Purpose of the policy and background to the General Data Protection Regulation

This policy explains to councillors, staff and the public about GDPR. Personal data must be processed lawfully, fairly and transparently; collected for specified, explicit and legitimate purposes; be adequate, relevant and limited to what is necessary for processing; be accurate and kept up to date; be kept only for as long as is necessary for processing and be processed in a manner that ensures its security. This policy updates any previous data protection policy and procedures to include the additional requirements of GDPR which apply in the UK from May 2018. The Government have confirmed that despite the UK leaving the EU, GDPR will still be a legal requirement. This policy explains the duties and responsibilities of the council and it identifies the means by which the council will meet its obligations.

Identifying the roles and minimising risk

The General Data Protection Regulations and the Data Protection Act 2018 require that everyone within the council must understand the implications of data protection and that roles and duties must be assigned. The Council is the data controller and the clerk is the data processor. It is the Clerk's duty to undertake an information audit and to manage the information collected by the council, the issuing of privacy statements, dealing with requests and complaints raised and also the safe disposal of information.

Data protection regulations require continued care by everyone within the council, councillors and staff, in the sharing of information about individuals, whether as a hard copy or electronically. A breach of the regulations could result in the council facing a fine from the Information Commissioner's Office (ICO) for the breach itself and also to compensate the individual(s) who could be adversely affected. Therefore, the handling of information is seen as medium risk to the council (both financially and reputationally) and one which is included in the Risk Management Policy of the council. Such risk can be minimised by undertaking an information audit, issuing privacy statements, maintaining privacy impact assessments (an audit of potential data protection risks with new projects), minimising who holds data protected information and the council undertaking training in data protection awareness.

Data Breaches

The Clerk as Data Protection Officer (DPO), with the support of the Data Protection Committee, will investigate any breaches. Personal data breaches should be reported to the DPO for investigation. The DPO will conduct this with the support of the Personnel / DP Committee. Investigations must be undertaken within one month of the report of a breach. Procedures are in place to detect, report and investigate a personal data breach. The ICO will be advised of a breach (within 3 days) where it is likely to result in a risk to the rights and freedoms of individuals – if, for example, it could result in discrimination, damage to reputation, financial loss, loss of confidentiality, or any other significant economic or social disadvantage. Where a breach is likely to result in a high risk to the rights and freedoms of individuals, the DPO will also have to notify those concerned directly.

It is unacceptable for non-authorised users to access IT using employees' log-in passwords or to use equipment while logged on. It is unacceptable for employees, volunteers and members to use IT in any way that may cause problems for the Council, for example the discussion of internal council matters on social media sites could result in reputational damage for the Council and to individuals.

Privacy Notices

Being transparent and providing accessible information to individuals about how the Council uses personal data is a key element of the Data Protection Act 1998 (DPA) and the EU General Data Protection Regulation (GDPR). The most common way to provide this information is in a privacy notice. This is a notice to inform individuals about what a council does with their personal information. A privacy notice

will contain the name and contact details of the data controller and Data Protection Officer, the purpose for which the information is to be used and the length of time for its use. It should be written clearly and should advise the individual that they can, at any time, withdraw their agreement for the use of this information. The issuing of a privacy notice must be detailed on the Information Audit kept by the council. The council will adopt a privacy notice to use, although some changes could be needed depending on the situation, for example, where children are involved. All privacy notices must be verifiable.

Information Audit

The DPO must undertake an information audit which details the personal data held, where it came from, the purpose for holding that information and with whom the council will share that information. This will include information held electronically or as a hard copy. Information held could change from year to year with different activities, and so the information audit will be reviewed at least annually or when the council undertakes a new activity. The information audit review should be conducted ahead of the review of this policy and the reviews should be minuted.

Individuals' Rights

- GDPR gives individuals rights with some enhancements to those rights already in place:
- the right to be informed.
- the right of access the right to rectification
- the right to erasure
- the right to restrict processing.
- right to data portability
- the right to object
- the right not to be subject to automated decision-making including profiling.

The two enhancements of GDPR are that individuals now have a right to have their personal data erased (sometime known as the 'right to be forgotten') where their personal data is no longer necessary in relation to the purpose for which it was originally collected and data portability must be done free of charge. Data portability refers to the ability to move, copy or transfer data easily between different computers.

If a request is received to delete information, then the DPO must respond to this request within a month. The DPO has the delegated authority from the Council to delete information.

If a request is considered to be manifestly unfounded then the request could be refused, or a charge may apply. The charge will be as detailed in the Council's Freedom of Information Publication Scheme. The Personnel /DP Committee will be informed of such requests.

Children

There is special protection for the personal data of a child. The age when a child can give their own consent is 13. If the council requires consent from young people under 13, the council must obtain a parent or guardian's consent in order to process the personal data lawfully. Consent forms for children age 13 plus, must be written in language that they will understand.

How will we use your data?

The council will process some or all of the following personal data where necessary to perform its tasks:

- Names, titles, and aliases, photographs;
- Contact details such as telephone numbers, addresses, and email addresses;
- Where they are relevant to the services provided by a council, or where you provide them to us, we may process information such as gender, age, marital status, nationality, education/work history, academic/professional qualifications, hobbies, family composition, and dependents;
- Where you pay for activities such as use of a council facility/service, financial identifiers such as bank account numbers, payment card numbers, payment/transaction identifiers, policy numbers, and claim numbers;

The council will comply with data protection law. This says that the personal data we hold about you must be:

- Used lawfully, fairly and in a transparent way.
- Collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes.
- Relevant to the purposes we have told you about and limited only to those purposes.
- Accurate and kept up to date.
- Kept only as long as necessary for the purposes we have told you about.
- Kept and destroyed securely including ensuring that appropriate technical and security measures are in place to protect personal data and to protect personal data from loss, misuse, unauthorised access and disclosure.

We use your personal data for some or all of the following purposes:

- To deliver public services including to understand your needs to provide the services that you request and to understand what we can do for you and inform you of other relevant services;
- To confirm your identity to provide some services;
- To contact you by post, email, telephone or using social media (e.g., Facebook, Twitter, WhatsApp);
- To help us to build up a picture of how we are performing;
- To prevent and detect fraud and corruption in the use of public funds and where necessary for the law enforcement functions;
- To enable us to meet all legal and statutory obligations and powers including any delegated functions;
- To promote the interests of the council;
- To maintain our own accounts and records;
- To seek your views, opinions or comments;
- To notify you of changes to our facilities and services.
- To send you communications which you have requested and that may be of interest to you. These may include information about campaigns, appeals, other new projects or initiatives;
- To process relevant financial transactions including grants and payments for goods and services supplied to the council
- To allow the statistical analysis of data to enable us to plan the provision of services.
- Our processing may also include the use of CCTV systems for the prevention and prosecution crime.

Summary

The main actions arising from this policy are:

- The Council must be registered with the ICO.
- A copy of this policy will be available on the Council's website. The policy will be considered as a core policy for the Council.
- The Clerk's Contract and Job Description *(if appointed as DPO)* will be amended to include additional responsibilities relating to data protection.
- An information audit will be conducted and reviewed at least annually or when projects and services change.
- Privacy notices must be issued.
- Data Protection will be included on the Council's Risk Management Policy.
- A Committee, with Terms of Reference, will be set up to manage the process.

This policy document is written with current information and advice. It will be reviewed at least every 2 years annually or when further advice is issued by the ICO.

All employees, volunteers and councillors are expected to comply with this policy at all times to protect privacy, confidentiality and the interests of the Council.

This Policy is supported by the Terms of Reference for the Data Protection Committee