

# PRUDHOE TOWN COUNCIL

## DATA PROTECTION POLICY

Adopted August 2018

## **1. Aims**

- 1.1 This policy sets out Prudhoe Town Council's commitment to the lawful and fair handling of personal data and sensitive personal data in accordance with the Data Protection Act 1998.

## **2. Background**

- 2.1 The Data Protection Act 1998 ("the Act") regulates the holding and processing of personal data about employees and people in the community, which is held either on the computer or in some cases in manual form. The Act also gives rights to individuals whose personal information is held by organisations. Compliance with the Data Protection Act 1998 will ensure that this processing is carried out fairly and lawfully.
- 2.2 The Council needs to collect and use personal information in order to carry out its functions effectively. Information can be held concerning its current, past and prospective employees, suppliers, service users, residents and others with whom the Council communicates.
- 2.3 Prudhoe Town Council has a number of procedures in place to ensure that it complies with the Act when holding personal information. The Town Council has also notified the Information Commissioner that it holds personal data about individuals.
- 2.4 The implementation and enforcement of this policy in association with the terms and conditions of employment is intended to protect the employee, colleagues, members of the public and the Council. This policy applies to all employees and those acting on the Council's behalf.

## **3. Data Protection Principles**

- 3.1 The Act stipulates that anyone processing personal data must comply with the **Eight Principles** of good practice. These Principles are legally enforceable.
- 3.2 The Principles require that personal information:
  - (i) Shall be processed fairly and lawfully and in particular, shall not be processed unless specific conditions are met;
  - (ii) Shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or purposes;
  - (iii) Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed;
  - (iv) Shall be accurate and, where necessary, kept up to date;
  - (v) Shall not be kept for longer than is necessary for that purpose or those purposes;

- (vi) Shall be processed in accordance with the rights of data subjects under this Act;
- (vii) Shall be kept secure, i.e. protected by an appropriate degree of security. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, damage to, personal data.
- (viii) Shall not be transferred to a country or 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.

### **3. Access and Use of Personal Data**

- 3.1 Access and use of personal data held by Prudhoe Town Council is only permitted by employees, members, contractors, agents and anyone else processing information on behalf of the Council for the purpose of carrying out their official duties. Use for any other purpose is prohibited.
- 3.2 Members require individual registration with the Information Commissioners' Office due to the type and nature of the queries and information they may process.
- 3.3 Deliberate unauthorised access to, copying, disclosure, destruction or alteration of or interference with any computer equipment or data is strictly forbidden and may constitute a criminal offence and/or disciplinary offence.
- 3.4 It is an offence under Section 55 (1) of the Act for any person to knowingly or recklessly obtain, procure or disclose personal data without the permission of Prudhoe Town Council subject to certain exceptions.
- 3.5 It is also an offence for someone to sell or offer to sell personal data which has been obtained in contravention of Section 55 (1).
- 3.6 Personal data must not be disclosed to anyone internally or externally unless the person disclosing the information is fully satisfied that the enquirer or recipient is authorised in all respects and is legally entitled to the information. Access to personal data must be requested and approved by the Chair of Council.

### **4. Collecting Personal Data**

- 4.1 Personal Data must be collected and handled in a way that complies with the Act and meets the eight principles above. This imposes a duty on Prudhoe Town Council to ensure that individuals are made aware of the uses that will be made of the information that they supply and give their consent to this.
- 4.2 Errors in personal data that could or does cause data subjects damage or distress could lead to Prudhoe Town Council being prosecuted. It is

important therefore that all appropriate measures are put in place to verify the accuracy of data when it is collected, especially when any significant decisions or processes depend upon the data.

## **5. Processing Personal Data**

- 5.1 When Prudhoe Town Council processes personal data, it must have a lawful basis for doing so. The Act provides a list of “conditions” when personal or sensitive personal data may be processed (Schedule 2 and 3 of the Act).
- 5.2 The Act defines personal data as information which concerns a living and identifiable individual, for example, emails about an employee but not necessarily an email from an employee concerning a business matter. Personal data could also be a name accompanied by other information about the individual such as address, age or telephone number.
- 5.3 The Act defines “sensitive” personal data as information relating to a person’s racial or ethnic origin; political opinion; religious or other beliefs; trade union membership; physical or mental health condition; sexual life; criminal offences (alleged or committed).
- 5.4 The Act does not cover information which is anonymous or aggregated data provided that the anonymization or aggregation is not reversible.
- 5.5 The Council must be able to satisfy at least one of the conditions in Schedule 2 of the Act when it processes personal data and at least one of the conditions in Schedule 3 when processing sensitive personal data.
- 5.6 The definition of processing in relation to data protection is very wide. Obtaining, holding, filing, organising, transmitting, retrieving, disseminating, disclosing and destroying of data are all deemed to be processing in addition to any other process that is carried out on the data.
- 5.7 Employees, members and others acting on behalf of Prudhoe Town Council must only have access to personal data that is necessary in order to carry out their duties and responsibilities.
- 5.8 All forms used to obtain personal data, such as booking forms, must:
  - 5.8.1 State the purpose/s for which the information is required;
  - 5.8.2 Be reviewed regularly to check that all of the information asked for is still required and necessary;
  - 5.8.3 Be checked for the accuracy of all data before it is used for any processing. If in doubt about the accuracy of the data, it must be referred back to the data subject for confirmation.
- 5.7 There is a requirement to ensure that data is kept up to date throughout the lifecycle of the data.

## **6. Retention and Disposal of Data**

- 6.1 The Act requires that Prudhoe Town Council does not keep any personal data for any longer than is necessary.
- 6.2 Personal data should be checked at regular intervals and deleted or destroyed when it is no longer needed, provided there is no legal reason for holding it.
- 6.3 Statutory obligations must be checked before records are disposed of to see whether there is prescribed retention period for that type of record.

## **7. Subject Rights**

- 7.1 The Act states that an individual (subject) who has their data processed by Prudhoe Town Council has a number of rights in relation to the data which is held about them. The individual can do the following:
  - 7.1.1 View the data which is held for a maximum fee of £10;
  - 7.1.2 Request that information which is incorrect be corrected;
  - 7.1.3 Require that data is not used in a way which may cause damage or distress;
  - 7.1.4 Request that their data is not used for direct marketing.

## **8. Subject Access Requests**

- 8.1 Under Section 7 of the Act, an individual may make a subject access request in relation to information held about them.
- 8.2 An individual who makes a request and pays a maximum £10 fee is entitled to the following information:
  - 8.2.1 To be told whether any personal data is being processed;
  - 8.2.2 A description of the personal data which is held, why the data is being processed and whether this data will be given to any other organisations or people;
  - 8.2.3 A copy of the information comprising the data; and
  - 8.2.4 The source of the data
- 8.3 Once Prudhoe Town Council receives such a request, should the data be disclosable, the request must be dealt with within 40 calendar days of receiving the request.
- 8.4 If the personal data which is the subject of the request is normally held for less than 40 days, then the request may be legitimately refused.

- 8.5 The Town Clerk will process all subject access requests and verify the identity of any individual making a request before releasing the information.

## **9. Subject Access Request (Other people's information)**

- 9.1 An individual may request access to data about them which also carries information regarding a third party.
- 9.2 In such circumstances, Prudhoe Town Council will assess whether the request can be complied with, without infringing the third party's privacy.
- 9.3 There is an obligation upon the Council to comply with as much of the request as possible and it may be the case that if consent cannot be gained from the third party and compliance with the request is reasonable, and then the Council should consider whether it can separate the disclosable information from the non-disclosable information.
- 9.4 The Town Clerk will process all subject access requests of this nature.

## **10. Disclosing Data for Other Reasons**

- 10.1 In certain circumstances, the Act allows personal data to be disclosed to law enforcement agencies without the consent of the data subject.
- 10.2 Under these circumstances, Prudhoe Town Council will disclose the requested data however; the Clerk will ensure that the request is legitimate, seeking advice from members and from legal advisers where necessary.

## **11. Monitoring and Review**

- 11.1 This policy will be monitored by the Town Clerk and will be reviewed annually or where there are changes to legislation.