

**MELTON BOROUGH COUNCIL**

**DATA PROTECTION POLICY**

**1. INTRODUCTION**

- 1.1 The Data Protection Act 1998 is derived from the European Union's Data Protection Directive 95/46/EC, which aims to maintain a just balance between the different rights and interests of individuals and in particular between the freedom to process information on the one hand, and the rights to privacy on the other. The Act also gives further effect to the right to family life, privacy and security of correspondence in the European Convention on Human Rights' Article 8, which is one of the Convention Rights in the Human Rights Act 1998.
- 1.2 The Act gives rights to individuals whose personal or sensitive personal information is processed or held by organisations. Protecting an individual, whether a member of the public or a member of staff is a universal legal responsibility and compliance is legally enforceable.

**2. PURPOSE AND SCOPE**

- 2.1 The Data Protection Act 1998 applies to the Council, as it is what is known under the Act as a Data Controller, in that it holds and processes personal information.
- 2.2 The Data Protection Act 1998 applies to:
  - All the Council's employees, elected Members and agents
  - Employees of other organisations who directly or indirectly support and/or use the Council's services

**3. RESPONSIBILITY FOR SECURITY**

- 3.1 Line managers are responsible for ensuring that all staff under their control are made aware of the requirements of and compliance with the Act.
- 3.2 Failure of a Contractor to adhere to the policy may also be regarded as a breach of contract.
- 3.3 All those new or amended systems that process personal data are notified to the appropriate Officer.

#### **4. LEGAL DEFINITIONS**

##### **Personal Data**

Information recorded about living, identifiable individuals. This can be held on computer or in manual files which are readily accessible.

##### **Data Subject**

An individual about whom data is held.

##### **Data Controller**

The Organisation or individual who controls the contents and the use of personal data. (In this case, Melton Borough Council.)

##### **Data Processor**

An organisation which processes data on behalf of someone else.

##### **Processing**

Obtaining, recording, holding, carrying out any set of operations on the information or data, including organising, adapting, altering, retrieving, consulting, using, transmitting, disseminating, making available, aligning, combining, erasing or destroying.

##### **Source**

Where data is taken from for entry into a computer system or filing system.

##### **Disclosure/Recipient**

Organisations or individuals to whom data can be given or disclosed.

##### **Subject Access**

Anyone who thinks the Council is holding data about them is entitled to receive a copy of the information or to be told that no data is held about them. Applicants must identify themselves and specify which data they wish to see. They are entitled to receive a copy of the information held on computer and manual files.

Data Subject Access Requests should be made in writing to the Council, and requesters may be asked to complete a standard form to help identify the areas of the Council's work where the data they wish to access is held. One request will be sufficient in that data held across departmental boundaries will be included in the response. A response must be provided within 40 calendar days. On no account must information about a data subject be made available to a third party, except in accordance with the Act.

An individual data subject shall be entitled to be informed when making a formal written request to the Council, whether personal data is being held about them and have the right -

- to be informed about the purpose for which information is being kept, and to have access to it, and
- where appropriate, to have such data corrected or erased.

## **5. THE EIGHT DATA PROTECTION PRINCIPLES**

- All information which is of a personal nature shall be obtained and processed fairly and lawfully.
- Personal data 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.
- Personal data held shall be adequate, relevant and not excessive.
- Personal data shall be accurate and kept up to date.
- Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
- Personal data shall be processed in accordance with the rights of data subjects under this Act.
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- Personal data 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.

## **6. DATA PROTECTION POLICY STATEMENT**

Melton Borough Council complies with the Data Protection Act 1998. All categories of personal data have been notified to the Information Commissioner's Office.

- The Council will hold the minimum personal data necessary to enable it to perform its functions. Every effort will be made to ensure that information is accurate and up to date and that inaccuracies are corrected without unnecessary delay.
- Personal data will be accurate and up to date in respect of matters of fact. Opinions will be carefully and professionally expressed.
- The Council will respond to and assist every request for access to data from employees or citizens of the borough.
- The Council reserves the right to charge for access to personal data, but currently waives the fee for Data Subject Access requests, as the fee does not even cover the cost of administering the levying of the charge. Requests for access should be directed to Customer Services.

- Council employees working from home should only access personal data through the secure electronic gateway to server-based computer applications, and should not use memory sticks, or store personal data on the hard drive of a laptop.
- Council employees should be mindful of good practice, and some key points are given in Section 7 of this Policy.
- Personal data will not be kept any longer than necessary.
- Personal data will be destroyed when it is no longer required.
- Paper files containing personal data will be clearly identified, and kept securely.
- Personal data will be kept in an appropriately controlled and secure environment.
- Data sharing with external agencies will be the subject of a written agreement setting out the powers that permit the exercise, its scope and controls and will be agreed at the highest level.
- This Data Protection Policy has been produced for elected Members and Employees to provide guidance on compliance with the 1998 Act, and to promote good practice on the part of the Council in its use of personal data.
- Any member of Staff knowingly or recklessly breaching the Council's Data Protection Policy will be subject to established disciplinary procedure.

## **7. GOOD PRACTICE - DOs, DON'Ts and ONLYs**

**Do** treat personal data with great care

**Do** check identities before disclosing

**Do** secure all personal data and dispose of confidential waste by shredding

**Do** ensure that no-one else, especially members of the public, can read information from your computer's screen

**Don't** use unauthorised software on your computer

**Don't** leave computers logged on while you are away from them, even if for a short time

**Don't** tell anyone your password, or share passwords

**Only** use personal data for the purpose for which it was collected

**Only** disclose to those people with a need and right to know

**Only** disclose to those authorised in the notification or in a valid information sharing agreement

## **8. FAIR PROCESSING**

### **Definition of Fair Processing**

8.1 All forms and documents in use should be reviewed on a regular basis to ensure that they comply with the 'fair processing' principles of the Act, which include the following:

- That the Council is named as the data controller, that is, the organization that holds and is responsible for the processing of the data
- The purposes for which the data are collected and processed
- Any other likely recipients of the data, such as may be involved in data sharing
- A consent-to-process option, particularly where sensitive personal data are involved, which may be about:
  - Racial or ethnic origin
  - Political opinions
  - Religious or similar beliefs
  - Membership of a trade union
  - Physical or mental health conditions
  - Sexuality
  - Alleged offences
  - Criminal proceedings
- An opt-out opportunity

### **Procedure**

8.2 To meet the requirements of a subject access request, it will be necessary to carry out information audits on records and files held across the Council from time to time, to ensure that all personal data held are identified.

8.3 The monitoring of record holding systems will ensure that personal and sensitive personal data held are accurate, relevant, not excessive, and up to date

8.4 Data subjects must be informed correctly as to the reasons for data being held.

8.5 All records held should be held securely, in lockable cabinets if in hard copy, and password protected if in electronic format (and encrypted if necessary).

## **9. BREACHES OF THE ACT**

9.1 Where data subjects believe that there has been a breach of data protection by the Council, they should, in the first instance, contact the Council to inform the data controller organisation.

- 9.2 The Council will then instigate an investigation of the incident to ascertain the facts of the matter.
- 9.3 If the incident is of the appropriate level of seriousness, the Council will notify the incident to the Information Commissioner's Office.

## **10. COMPLAINTS AND THE INFORMATION COMMISSIONER'S OFFICE**

- 10.1 The operation of the Data Protection Act 1998 is overseen by the Information Commissioner's Office, to whom data subjects have the right to complain if data controllers, including the Council, do not process their data lawfully, or do not deal with data subjects' complaints to them satisfactorily.
- 10.2 In the first instance, data subjects experiencing problems with the processing of their data by the Council should use the Council's Complaints Procedure (which can be accessed via the Council's website, or engaged by written correspondence).
- 10.3 If the data subject is not satisfied, having exhausted the Complaints Procedure, they then can contact the Information Commissioner's Office in writing, at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF, or via the telephone helpline on 0303 123 1113. The Information Commissioner's Office can also be contacted via email, and the website should be accessed to obtain the relevant email addresses for different options.