

## Councillors Briefing Note

### No. 354

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### **General Data Protection Regulations – Information for Town and Parish Councils**

We have been contacted by several local town and parish councils requesting us to repeat the information provided concerning details relating to the new data protection legislation General Data Protection Regulations (GDPR) which replaces the current Data Protection Act 1998. That information is provided again below. Also attached to this briefing is a copy of the presentation that was provided by Wiltshire Council at the GDPR briefing session for Town and Parish Councils on the 20<sup>th</sup> April.

#### **BACKGROUND**

The GDPR will apply to all local town and parish councils and you will be required to take certain steps to ensure you are compliant with the new law, when it comes into force on May 25<sup>th</sup>, 2018.

It sets out obligations and accountabilities on organisations when acting as data controllers and increases the rights of individuals to ensure their personal data is respected and used only for legitimate purposes. All town and parish councils should already be registered as data controllers, but the new regulations require a greater understanding of and accountability for the information you hold. It is also important to ensure you meet the required compliance standards.

#### **USEFUL LINKS**

GDPR is about how organisations both large and small must understand their own information, what they do with it, how they store it, share it and destroy it. To assist with your preparations and what actions need to be taken, we have provided links in the table below to several, relevant resources, including the contact details of the Information Commissioner's Office helpline.

Organisation	Description	Link	Comments
National Association of Local Councils (NALC)	GDPR Toolkit	<a href="#">NALC</a>	A comprehensive toolkit has been produced to assist all local town and parish councils. You will need to be a member to login. If you are not, please contact your local county association.
Wiltshire Association of Local Councils (WALC)	Training	<a href="#">Information</a>	Your local association offers a number of courses for members of WALC. It is understood that one event has taken place and a second event is currently being organised. Member Councils are due to be notified, Any enquiries should be directed to Katie Fielding. Telephone number 01380 722475. Email address is <a href="mailto:kfielding@communityfirst.org.uk">kfielding@communityfirst.org.uk</a>
Society for Local Council Clerks (SLCC)	Training	<a href="#">Event</a>	Available to members and non-members at cost. This webinar provides information on how you can ensure your council is compliant
Local Government Association	Recorded event	<a href="#">Event</a>	A recorded session titled 'Data Protection reform in the local government'. The whole event or sessions can be viewed
Information Commissioner's Office	Guidance document	<a href="#">Document</a>	Preparing for the General Data Protection Regulation – 12 Steps to take now
Information Commissioner's Office	Guidance	<a href="#">Information</a>	Getting ready for the GDPR
Information Commissioner's Office	Guidance	<a href="#">Information</a>	Local government page
Information Commissioner's Office	Helpline	<a href="#">Number</a>	Helpline at the ICO for small organisations including town and parish councils
Information Commissioner's Office	Guidance	<a href="#">Information</a>	Advice on how to register as a data controller
Act Now	Training	<a href="#">Information</a>	Training provider offers various resource and courses of a more general understanding around GDPR

The following guidance has also been provided by the Information Commissioner's Office. *Please note:* the requirement for town and parish councils to have their own Data Protection Officer has been the subject of a proposed amendment to the Data Protection Bill 2018, which is currently going through Parliament. It is not yet known if this amendment will be accepted and therefore organisations should still consider arrangements that may be required to appoint such an officer.

## Preparing for the GDPR

### 12 steps to take now

#### Awareness

You should make sure that decision makers and key people in your organisation are aware that the law is changing to the GDPR. They need to appreciate the impact this is likely to have.

#### Information you hold

You should document what personal data you hold, where it came from and who you share it with. You may need to organise an information audit.

#### Communicating privacy information

You should review your current privacy notices and put a plan in place for making any necessary changes in time for GDPR implementation.

#### Individuals' rights

You should check your procedures to ensure they cover all the rights individuals have, including how you would delete personal data or provide data electronically and in a commonly used format.



#### Subject access requests

You should update your procedures and plan how you will handle requests within the new timescales and provide any additional information.

#### Legal basis for processing personal data

You should look at the various types of data processing you carry out, identify your legal basis for carrying it out and document it.

#### Consent

You should review how you are seeking, obtaining and recording consent and whether you need to make any changes.

#### Children

You should start thinking now about putting systems in place to verify individuals' ages and to gather parental or guardian consent for the data processing activity.

#### Data breaches

You should make sure you have the right procedures in place to detect, report and investigate a personal data breach.

#### Data Protection by Design and Data Protection Impact Assessments

You should familiarise yourself now with the guidance the ICO has produced on Privacy Impact Assessments and work out how and when to implement them in your organisation.

#### Data Protection Officers

You should designate a Data Protection Officer, if required, or someone to take responsibility for data protection compliance and assess where this role will sit within your organisation's structure and governance arrangements.

#### International

If your organisation operates internationally, you should determine which data protection supervisory authority you come under.

[ico.org.uk](https://ico.org.uk)

# General Data Protection Regulation 2016

Andy Holyoake  
Data Protection Officer

# What's it all about?

It's not about 'NO!'

It IS about protecting people's privacy

It IS for the first time making working with people's information a **REGULATED** activity.

And

It is **YOUR** responsibility as an authority

# What does this apply to?

Information that relates to an  
identified or identifiable individual

# Current rules:

## 8 data protection principles

1. Personal information must be fairly and lawfully processed

2. Personal information must be processed for limited purposes

3. Personal information must be adequate, relevant and not excessive

4. Personal information must be accurate and up to date

5. Personal information must not be kept for longer than is necessary

6. Personal information must be processed in line with the data subjects' rights

7. Personal information must be secure

8. Personal information must not be transferred to other countries without adequate protection

**ico.**

Information Commissioner's Office

How do the new regulations differ?



# Your Obligations

Your council should already be notified to process personal information as a Data Controller

Under new regs notification not required but reinstated by UK secondary legislation and Digital Economy Act 2017 - so you still need to pay annual fee.

Only 16 of 42 councils represented today are notified!

Individually - the ICO consider each of your councillors should consider notifying as individuals

# Your Obligations

Data Controllers must be able to DEMONSTRATE compliance with the Article 5 data protection principles.

As a data controller and public authority you need to consider the appointment of a Data Protection Officer but this responsibility can be federated

**NOTE:** *This is the subject of a proposed amendment to the Data Protection Bill 2018, which is currently going through Parliament but it is not yet known if this amendment will be accepted*



**YOUR DATA MATTERS**



Personal data matters a lot today.  
Take control of yours and make it work for you.

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YOUR DATA MATTERS

# Significant Articles

Article 4 – Definitions - data, data controller, data processor, data breach, consent, and 20 more you need to understand

Article 5 – The principles – not much change from preceding 8 Data Protection Act principles but two appear in different guise: Subject right and overseas transfers move to separate articles (next slide)

Article 6 – Legal Basis for processing – CRITICAL for compliance (later slide)

Article 7 – Conditions for consent to be valid

Article 8 – Consent for children (UK rule is 13yrs not 16 for this)

The Principles: You still have to

1. Process lawfully, fairly and transparently
2. Collect and process for specific purpose
3. Maintain data that is adequate, relevant, and limited to what is necessary
4. Keep accurate and up to date data, and correct inaccuracies
5. Keep data no longer than necessary for your purposes
6. Protect data against unauthorised or unlawful processing, accidental loss, destruction or damage by use of technical or organisational measures

So nothing new there really?

# Significant Articles

Article 9 – Processing Special Category data – conditions that must apply

Article 10 – Criminal convictions and offences – now outside of GDPR  
Will fall into remit of UK Data Protection Act 2018 when passed

# Significant Articles – Data Subject Rights

Article 12 – Duty of transparency and clarity of communication

Article 13&14 – Data Subject Information Notices

<https://ico.org.uk/media/for-organisations/guide-to-data-protection/privacy-notice-transparency-and-control-1-0.pdf>

Article 15 – Subject Access – Now 30 days, and free

Article 16 – Right to rectification (as now)

Article 17 – Right to erasure ('right to be forgotten')



# Significant Articles – Data Subject Rights

Article 18 - Right to restrict processing (to stop you)

Article 20 – Right to portability

Article 21 – Right to object to processing (based on your public task)

Article 22 - Right to object to automated decision-making and profiling

# Other Significant Articles

Article 25 – Data Protection by Design

Article 28/29 - Data Processors

Article 30 – Records of processing activities

Article 33/34 – Data breach notification

Article 35 – Data Privacy Impact Assessments

Article 37/38/39 (if required): Data Protection Officers – Designation, position and tasks

# Other Significant Articles

Article 44/45/46 Overseas transfers

Articles 77-84 – Remedies and sanctions – fines up to 2% or 4% worldwide turnover depending on circumstances

# Other Significant Articles

Legal Basis for processing any personal data

- a) Data subject's consent
- b) Necessary for performance of contract with data subject
- c) Necessary for compliance with legal obligation
- d) To protect vital interests of data subject or another
- e) Necessary for performance of task in the public interest or in exercise of official authority vested in the controller
- f) Legitimate interests of data controller (does not apply to public authorities tasks)

Special Category Data is:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade Union membership
- Genetic or biometric data
- Health
- Sex life or sexual orientation

# Other Significant Articles

Processing Special Category Data prohibited except when

- a) Explicit consent of data subject
- b) Carrying out obligations and rights in field of employment and social security and social protection law
- c) Protection of vital interests
- d) Legitimate interests of not-for-profit body
- e) Data made public by data subject
- f) Establishment exercise or defence of legal claims
- g) Substantial public interest
- h) Preventative or occupational medicine, assessment of working capacity, medical diagnosis, health or social care or treatment or the management of such
- i) In public interest re public health
- j) Archiving in public interest

# Where can I find out more?

[www.ico.org.uk](http://www.ico.org.uk)

<https://ico.org.uk/media/1624219/preparing-for-the-gdpr-12-steps.pdf>

<https://ico.org.uk/for-organisations/resources-and-support/data-protection-self-assessment/>

## UK Data Protection Bill

<https://ico.org.uk/for-organisations/data-protection-bill/>

<https://ico.org.uk/media/for-organisations/documents/2014918/dp-bill-12-steps-infographic.pdf>