

Briefing Paper on the General Data Protection Regulations, requirement for Data Controllers – Data Protection Officers (DPO's)

The Parish Council must be able to DEMONSTRATE compliance with the Article 5* data protection principles. Those obligations mean that as a data controller and public authority we need to consider the appointment of a Data Protection Officer.

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.*

The amendment tabled is to remove the need for Town and Parish Council's to appoint an external DPO.

Under the GDPR, the data protection principles set out the main responsibilities for organisations.

Article 5* of the GDPR requires that personal data shall be:

- "a) processed lawfully, fairly and in a transparent manner in relation to individuals;
- b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
- c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals; and
- f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures."

Article 5(2) requires that:

"the controller shall be responsible for, and be able to demonstrate, compliance with the principles."

The Information Commissioners Website states:

- The GDPR introduces a duty for you to appoint a data protection officer (DPO) if you are a public authority, or if you carry out certain types of processing activities.
- DPOs assist you to monitor internal compliance, inform and advise on your data protection obligations, provide advice regarding Data Protection Impact Assessments (DPIAs) and act as a contact point for data subjects and the supervisory authority.
- The DPO must be independent, an expert in data protection, adequately resourced, and report to the highest management level.
- A DPO can be an existing employee or externally appointed.
- In some cases several organisations can appoint a single DPO between them.
- DPOs can help you demonstrate compliance and are part of the enhanced focus on accountability.

Recommendation

In view of the uncertainty over whether the Parish Council needs to appoint an external professional DPO or it can appoint one internally it is suggested that the Parish Council appoints a temporary DPO from within the Parish Council. The council can then review its position when the legislation has been confirmed.

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