

Data Protection Policy- Appropriate Policy Document

1. Introduction

Gedling Borough Council recognises its obligations to comply with the requirements laid down in the General Data Protection Regulation (GDPR) ((EU) 2016/679 and any national implementing laws, including the Data Protection Act 2018 (DPA 2018).

This Appropriate policy document should be read in conjunction with the Data Protection Policy, associated templates, procedures and Information Commissioner's Office guidance notes.

The Data Protection Act 2018, creates further safeguards when processing special personal data under Article 9 and 10.

The APD will cover all processing carried out by Gedling Borough Council for which all of the following **conditions** are met:

- The data controller is processing personal data falling within the General Data Protection Regulation Articles 9 and 10
- The Data Controller is doing so in reliance on one of the conditions set out in Parts 1, 2 or 3 of Schedule 1 of the Data Protection Act 2018; and
- The condition(s) in question include a requirement for there to be an APD.

2. Definitions

Personal Data

Means any information relating to an identified or identifiable natural person (data subject) an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

Special Categories of Personal Data

Is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purposes of uniquely identifying a natural person, data concerning health or data concerning a natural person, data concerning health or data concerning a natural persons sex life or sexual orientation.

Processing

Includes any operation or set of operations, whether or not by automated means such as collection, recording, organisation, structuring, storage, adaption or alteration,

Data Subject

This will be the person that we collect the data from. This will include citizens, and members of staff.

3. APD Conditions that Gedling Borough Council will rely on when processing

This Appropriate policy Document will cover all processing carried out by Gedling Borough Council in relation to:

- Schedule 1, Part 1, paragraph 1: Employment, social security, and social protection.
- Schedule 1, Part 2, paragraph 6: Statutory etc. and government purposes.
- Schedule 1, Part 2, paragraph 8: Equality of opportunity or treatment.
- Schedule 1, Part 2, paragraph 10: Preventing or detecting unlawful acts.
- Schedule 1, Part 2, paragraph 11: Protecting the public against dishonesty
- Schedule 1, Part 2, paragraph 12: Regulatory requirements relating to unlawful acts and dishonesty etc.
- Schedule 1, Part 2, paragraph 13: Journalism etc. in connection with unlawful acts and dishonesty etc.
- Schedule 1, Part 2, paragraph 14: Preventing fraud.
- Schedule 1, Part 2, paragraph 18: Safeguarding children and of individuals at risk.
- Schedule 1, Part 2, paragraph 19: Safeguarding of economic well-being of certain individuals
- Schedule 1, Part 2, paragraph 21: Occupational pensions
- Schedule 1, Part 2, paragraph 24: Disclosure to elected representatives.
- Schedule 1, Part 3, paragraph 36: extension of Part 2 conditions to cover criminal conviction/offence data.

4. The main types of personal data being processed in reliance of each of the APD conditions

a) Schedule 1, Part 1, paragraph 1: Employment, social security, and social protection

Employment

- This will include data about employees health, when processed for the purposes of the local Authorities rights or obligations under employment law
- Special category data or Article 10 data relating to criminal convictions and offences, when processed for the purposes of the Local Authorities rights or obligations under employment law in connection with employee discipline or dismissal
- Providing human resources and occupational health function for staff

b) Schedule 1, Part 2 Paragraph 6: Statutory etc. and government purposes

- The exercise of a function conferred on a person by an enactment. Examples of processing will be data about a citizen's potential prosecution, when processed for enforcement functions by the Local Authority under various statutes.
- Safeguarding and promoting the welfare of children
- Where otherwise permitted under the GDPR and the Data Protection Act 2018, e.g. disclosure to comply with legal obligations
- To process financial transactions including grants, payments and benefits involving Gedling Borough Council, or where Gedling Borough Council is acting on behalf of other government bodies, e.g. Department for Works and Pensions
- Where Gedling Borough Council is legally obliged to undertake such processing for the purpose for which the data subject provided the information, e.g. processing information given on a benefit claim form for the purpose of processing a benefit claim, and to monitor the Council's performance in responding to the citizen's request

For a detailed consideration of all the duties placed on Gedling Borough Council and the relevant legislation and guidance please follow this:

www.gedling.gov.uk/council/aboutus/policies/privacypolicies/

c) Schedule 1, Part 2, paragraph 8: Equality of opportunity or treatment.

- This will include data about citizens and employees gender, ethnicity, health, when processed for the purposes of the local Authorities obligations under the Equality Act 2010, the sex discrimination Act 1970 and other such legislation

d) Schedule 1, Part 2, paragraph 10: Preventing or detecting unlawful acts

- This will include data about citizens and employees criminal record, ethnicity, health data when processed for the purposes of the local Authorities obligations under the various criminal legislation for enforcement functions
- Where necessary for the Council's Law Enforcement functions, e.g. licensing, public protection, planning enforcement, food safety, etc.

e) Schedule 1, Part 2, paragraph 11: Protecting the public against dishonesty.

- This will include data about citizens and employees criminal record, ethnicity, health data when processed for the purposes of the local Authorities obligations under the various criminal legislation for enforcement functions
- Where necessary for the Council's Enforcement functions Licensing, food safety etc.

f) Schedule 1, Part 2, paragraph 12: Regulatory requirements relating to unlawful acts and dishonesty etc.

- This will include data about citizens and employees criminal record, ethnicity, health data when processed for the purposes of the local Authorities obligations under the various criminal legislation for enforcement functions

- Where necessary for the Council's Law Enforcement functions, e.g. licensing, public protection, planning enforcement, food safety, etc.

g) Schedule 1, Part 2, paragraph 13: Journalism etc. in connection with unlawful acts and dishonesty.

- This will include data about citizens and employees involved in unlawful acts, criminal record, ethnicity, health data when processed for the purposes of journalism by Gedling Borough Council.
- Press releases and articles published through communications.

h) Schedule 1, Part 2, paragraph 14: Preventing fraud.

- This will include data about citizens and employees criminal record, ethnicity, health data when processed for the purposes of the local Authorities obligations under the various criminal/ fraud legislation for enforcement functions

i) Schedule 1, Part 2, paragraph 18: Safeguarding children and of individuals at risk.

- This will include data about citizens and employees criminal record, ethnicity, health, religious beliefs, sex life data when processed for the purposes of the local Authorities obligations relating to safeguarding children and vulnerable adults and modern day slavery.

j) Schedule 1, Part 2, paragraph 19: Safeguarding of economic well-being of certain individuals.

- This will include data about citizens and employees criminal record, ethnicity, health, religious beliefs, sex life data when processed for the purposes of the local Authorities obligations relating to safeguarding children and vulnerable adults and modern day slavery with a view of safeguarding the individuals economic well-being.

k) Schedule 1, Part 2, paragraph 21: Occupational pensions

- This will include data about employees health, when processed for the purposes of the local Authorities obligations to provide a pension scheme

l) Schedule 1, Part 2, paragraph 21: Disclosure to elected representatives

- This will include data about citizens data which may include criminal record, ethnicity, health data, political opinions, philosophical or religious beliefs when processed for the purposes of the elected representative, including Councillors and members of Parliament, duties when acting on behalf of their constituents

m) Schedule 1, Part 3, paragraph 36: Extension of Part 2 conditions to cover criminal conviction/offence data

- This will include data about citizens criminal record when processed for the purposes of the local Authorities obligations under the various criminal legislation for enforcement functions

5. How does the Council secure compliance with Article 5 of the GDPR?

The Council recognises that it must comply with the six Data Protection Principles as set out in Paragraph 3 of the Data Protection Policy. Gedling Borough Council applies the same Data Protection Policy principles to the processing of Special Categories of Person Data as it would apply to personal data processing generally set out in the Data Protection Policy. (Please see the Data Protection policy for more detail)

6. Processing of special categories of personal Information

The Council, through appropriate management controls will, when processing Special Categories of Personal Data ensure that all processing is in accordance with the GDPR and the DPA 2018.

The Council shall observe fully the conditions regarding the processing of Special Categories of Personal Data as outlined in Article 9 and meet the Council's legal obligations under the GDPR and the Data protection Act 2018. In particular, Schedule 1 Part 4 of the DPA 2018 states that the Council must have this policy document in place which explains the procedures for securing compliance with the principles in Article 5 as outlined above.

7. Retention and Erasure of Special Data

Information must be held only for so long as is necessary for the notified purposes, after which it should be deleted or destroyed in accordance with the Council's Records Retention and Disposal Policy. Retention periods where possible shall be found in the Records Retention and Disposal Policy, privacy notices and the Information Asset Register. The Council must ensure that these are kept up to date and that the retention periods are acted upon unless there is a reason not to do so.

Whenever information is processed, reasonable steps should be taken to ensure that it is up to date and accurate.

[Records Retention and Disposal Policy](#)

8. Records of processing activities to include special category Data

In order to be able to properly and effectively comply with our obligations under the GDPR and the DPA 2018, the Council needs to fully understand what information it holds and where this information is kept. We also need to consider how we keep this information up-to-date and how we know when to dispose of it. The Council shall maintain an Information Asset Register which include the following information:

- The name of the Council and the details of the Data Protection Officer
- The purposes of processing as outlined above in this policy document

- Which condition is relied on and in particular, how the processing satisfies Article 5 and 6
- Set out the ownership, governance and maintenance of Information Assets
- Set out retention and disposal schedule for Information
- Sets out whether the personal data is retained and erased in accordance with the policy and if it is not the reason for not following the policy
- Sets out who the information is shared with

9. Data Security in relation to Special category data

The Council is obliged to ensure that all appropriate technical and organisational measures are taken to safeguard against unauthorised or unlawful processing of personal information and against the accidental disclosure, loss, damage or destruction of personal information.

- 14.1. All personal information must be kept secure, in a manner appropriate to its sensitivity and the likely harm or distress that would be caused if it was disclosed unlawfully. To ensure that an appropriate level of security is afforded to all information the Councils' Information Security policy will be adhered to at all times.
- 14.2. Everyone managing and handling personal information will be appropriately trained to do so and this will include appropriate refresher training every two years with updates and reminders every year.
- 14.3. All members of staff have a duty to follow this Policy and associated procedures and to co-operate with the Council to ensure that the aim of this Policy is achieved.
- 14.4. Disciplinary action may be taken against any member of staff who fails to comply with or commits a breach of this Policy.
- 14.5. It is the duty of individual members of staff to ensure that personal information held by them is dealt with in accordance with the GDPR and the Act.
- 14.6. Suitable measures should be taken to ensure that any processing of personal data carried out by a third party on behalf of the Council complies with the principles of the GDPR and this Policy. Similarly, when the Council is processing personal information on behalf of a third party it will need to demonstrate that the information is subject to the same standard of care.

10. This APD to be read in conjunction with the Data Protection policy

The Appropriate Policy Document should be read in conjunction with the following:

- Data Protection Policy
- Records Retention and Disposal Policy
- Records Management Policy
- Information Security Policy
- Information Asset Register
- Any Information Sharing or Data Processing Agreements
- IT Acceptable Use policy
- Data Breach Guidance
- Guidance on Access to Information
- Privacy Notices

- Use of Criminal Checks and Independent Safeguarding Policy
- Sickness Absence Management Policy
- Absence Management Policy