



Hinckley & Bosworth
Borough Council

A Borough to be proud of

Hinckley & Bosworth Borough Council

Data Protection Policy 2015 – DRAFT

Contents

A. Introduction	2
B. Definition of roles/terms under the Data Protection Act 1998	2
Data controller.....	2
Data processor.....	2
Data subject.....	2
Personal data.....	2
Processing	2
C. Statement of intent	2
The Data Protection Act 1998	3
D. Fair obtaining/processing	4
E. Data uses and processes	4
F. Data quality and integrity	4
G. Technical and organisational security	5
H. Subject access requests	6
I. Training and responsibilities	6
J. Other legislation	6
K. Further information and enquiries.....	7

A. Introduction

The Data Protection Act 1998 came into force 1 March 2000. The Act implemented the European Directive 95/46/EC and repealed the Data Protection Act 1984 along with certain other legislation that gave rights of access to information held by organisations.

The act extends the rights given to individuals and requires data controllers like Hinckley & Bosworth Borough Council to comply with eight Principles (rules governing the use of personal data).

This policy outlines how we will meet the legal requirements of the Data Protection Act 1998.

B. Definition of roles/terms under the Data Protection Act 1998

Data controller

A person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed.

Data processor

Any person (other than an employee of the data controller) who processes the data on behalf of the data controller.

Data subject

An individual who is the subject of personal data.

Personal data

Data which relate to a living individual who can be identified from those data, or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

Processing

In relation to information or data means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data.

C. Statement of intent

We take our obligations seriously under the Data Protection Act 1998 (the 'Act'). This council will take all necessary steps to ensure it, its elected Members, officers and agents operate within the law, associated professional codes of practice and corporate policies and procedures at all times.

It is the responsibility of each employee and Member to adhere to the policy and comply with the eight enforceable principles.

This council will ensure that all registerable processing is appropriately notified and will conduct a periodic review and update of the register entries. It is the aim of this council that all appropriate staff and Members are properly trained, fully informed of their obligations under the Data Protection Act 1998 and are aware of their personal liabilities.

Any employee deliberately acting outside their recognised authority will be subject to this council's disciplinary procedures. This includes dismissal, where appropriate, and possibly legal action.

Individuals whose information is held and processed by this council can be assured that we will treat their personal data with all due care. It is possible that other legislation may (at times and under certain conditions) override data protection law - individuals should note that the council intends to fulfil all of its legal responsibilities.

This policy should be read in conjunction with the policies which exist within this council in respect of the following types of data processing:

- Internet and e-mail usage
- IT security
- CCTV
- Freedom of Information
- Records management policy
- RIPA policy

The Data Protection Act 1998

The DPA states eight principles to be observed to ensure that the requirements of the act are complied with. They state that personal data must:

- Be fairly and lawfully obtained and processed
- Be processed for specified purposes and not in any manner incompatible with those purposes
- Be adequate, relevant and not excessive
- Be accurate

- Not be kept for longer than is necessary
- Be processed in accordance with individuals' rights
- Be secure
- Not be transferred to non-European Economic Area Countries without adequate protection

D. Fair obtaining / processing

We will, as far as is practicable, ensure that all individuals whose details we hold are aware of the way in which that information will be held, used and disclosed. Individuals will, where possible, be informed of the likely recipients of the information - whether the recipients are internal or external to the council. Processing within the council will be fair and lawful, individuals will not be misled as to the uses to which the council will put the information given. If a person feels they have been deceived or misled as to the reason for which their information was collected, they should use the council complaints procedure.

Collection forms requiring personal information will contain a 'fair obtaining' statement giving details of the likely uses of the information and, where information is collected in person or by telephone, the employee asking for the details will tell the individual how those details will be used. People are free to ask the person collecting the information why they want the details and what they will be used for.

If a person's details are going to be used for 'auto-decision' processing (where a computer decides something based on a score or other information) the person will be told about how the system works and whether the decision can be challenged.

If a person's details are to be processed for a purpose that does not appear on the council's register entry (for example, some manual and/or non-contentious core processing) the individual will be given the information that would be necessary to make the processing fair and lawful.

E. Data uses and processes

This council will not use or process personal information in any way that contravenes its notified purposes or in any way that would constitute a breach of Data Protection law. Any new purposes introduced will, where appropriate, be notified to the individual and - if required by law - their consent will be sought. A copy of the appropriate notification document can be viewed on the Information Commissioner's website at www.informationcommissioner.org.uk

All staff and Members using personal data within the council will be told the limits of their authority to use and disclose such information. The Chief Officer for each service area will ensure that all purposes and disclosures are coordinated and consistent and that all new purposes are documented and notified to the Information

Commissioner's Office, as required.

F. Data quality and integrity

We will not collect personal data from individuals where that information is excessive or irrelevant in relation to the notified purpose(s). Details collected will be adequate for the purpose and no more. Information collected which becomes (over time or by virtue of changed purposes) irrelevant or excessive will be deleted.

Information will only be held for as long as is necessary for the notified purpose(s) - after which the details will be deleted. Where details of individuals are stored for long-term archive or historical reasons and where it is necessary to retain the personal detail within the records it will always be done within the requirements of the Act. In many cases personal details will be removed from the record so that individuals cannot be identified.

The council will ensure, as far as is practicable, that the information held is accurate and up to date.

G. Technical and organisational security

Hinckley & Bosworth Borough Council will implement appropriate security measures as required under the Act. In particular, unauthorised staff and Members and other individuals will be prevented from gaining access to personal information. Appropriate physical security will be in place with visitors being received and supervised at all times within council building areas where information about individuals is stored.

Computer systems are installed with password controls and, where necessary, audit and access trails to establish that each user is fully authorised. In addition, employees and Members are fully informed about overall security procedures and the importance of their role within those procedures. Manual filing systems are held in secure locations and are accessed on a need-to-know basis only.

Security arrangements will be reviewed regularly and all reported breaches or potential weaknesses will be investigated and, where necessary, further or alternative measures will be introduced to secure personal data.

All staff and Members will be informed and reminded about the limits of their authority on disclosing information both inside and outside the council. Details will only be disclosed on a need to know basis within the council. Where details need to be passed outside the council this will take place in accordance with the Act taking into account any exemptions such as crime prevention and detection. Any unauthorised disclosure may be dealt with under the council's disciplinary procedures.

Redundant personal data will be destroyed using the council's procedures for disposal of confidential waste. In general, paper waste is shredded and magnetic media (disks, tapes) are either electronically 'wiped' or physically destroyed beyond recovery.

The council will require its partners and agents through contractual terms and partnership agreements to comply with the act when providing services to the council and when sharing data with the council.

H. Subject access requests

Any person whose details are held/processed by Hinckley & Bosworth Borough Council has a general right to receive a copy of his or her own information. A request for information must in writing with the fee of £10 made payable to Hinckley & Bosworth Borough Council.

There are a few exceptions to this rule such as data held for child protection, or crime detection and prevention purposes, but in most case individuals will be entitled to a copy of the data held on them. Any codes used in the record will be fully explained, any inaccurate, out of date, irrelevant or excessive data will be dealt with under the procedures outlined in section F of this policy, data quality and integrity.

We will attempt to reply to subject access requests as quickly as possible and in all cases within the 40 days allowed by the act. In some cases, further information may be required from the requester which may delay the start of the 40-day time period.

I. Training and responsibilities

The council will ensure that adequate training in the Data Protection Act 1998 is made available to all elected Members and officers to enable them to perform their roles confidently and effectively. In addition, relevant guidelines and procedures will be accessible on the intranet as they become available.

All managers are directly responsible for:

- Implementing the policy and practices within their business areas
- Ensuring their staff are aware of the policy and adhere to it
- Identifying and delivering all appropriate staff and Members training as require

J. Other legislation

Other legislation which interacts closely with the Data Protection Act 1998, includes:

- Freedom of Information Act 2000
- Regulation of Investigatory Powers Act 2000
- Telecommunications (Lawful Business Practice Regulations) 2000
- Telecommunication Regulations 1998 (Data Protection & Privacy)

- Human Rights Act 1998
- Crime and Disorder Act 1998
- Public Interest Disclosure Act 1998
- Environmental Information (Amendment) Regulations 1998
- Environmental Information Regulations 1992 (EIR)
- Computer Misuse Act 1990
- Common Law Duty of Confidentiality
- Privacy and Electronic Communications Directive 2002/58/EC
- Data Protection Directive 95/46/EC
- European Convention on Human Rights and Fundamental Freedoms

K. Further information and enquiries

Hinckley & Bosworth Borough Council's strategic Data Protection Officer is Julie Kenny, Chief Officer, Corporate Governance & Housing Repairs (01455 255985). The Information Governance Officer is Helen Rishworth (01455 255745).

This policy document will be updated as necessary to reflect changes in legislation and best practice.