

Briefing Note

The General Data Protection Regulations

1.0 BACKGROUND

1.1 The General Data Protection Regulations (GDPR) are expected to receive royal assent later this spring and take effect on 25 May 2018. The Regulations give individuals more rights and protection regarding how their personal data is used by councils. Parish councils must comply with its requirements in the same way as any other organisation.

1.2 The Data Protection Officer

One of the key requirements of the GDPR is that the parish council must appoint a Data Protection Officer (DPO). The function of the DPO is to monitor internal compliance with the Regulations and is typically the kind of work that a clerk will usually undertake. However, at the time of writing, it is not certain if the parish clerk can hold that position or if it will have to be outsourced. Cornwall Council is of the opinion that the clerk can be the DPO. The National Association of Local Councils takes the opposite view. Until the legal position is clear, most parish councils are proceeding and making preparations as though the clerk will be the DPO.

1.3 The Data Controller

The new regulations require that a 'data controller' be appointed who will determine the how and what of data processing. CALC recommends that this is delegated to a group of councillors. The group will set council policy on data management, audit the security of council held data, maintain the registers of information held and audit the security of personal data held by the council. CALC is in process of producing policy templates and reporting sheets.

1.4 Training

The amount of training available in Cornwall so far has been limited: Cornwall Council has organised a small number of high level courses which speak from the perspective of a large unitary authority that has an income of many millions of pounds, employs thousands of staff and processes complex and sensitive information about its residents. There is currently no training available specifically for councillors or councillors acting as data controllers.

1.5 Impact on Botus Fleming Parish Council

Your parish council's operations are much simpler, and so the application of the GDPR should be proportionate. Sarah Mason, Chief Officer at CALC has written to me to say that she is working with Cornwall Council on a number of light touch options which resemble internal audit. She is clear that the ICO (Information Commissioners Office) officer will not be looking for instant compliance in May and that it is more important to get the management of data both historic and current, along with the good practice in place

She is working with Cornwall Council's DPO on a simple model for local councils which will assist in managing the new requirements and give councils a straightforward process for managing their new responsibilities under GDPR.

2.0 WHAT IS THE GDPR?

2.2 What is the difference between the GDPR and the Data Protection Act 1998?

- Greater clarity over the use of personal data.
- Proof of consent required for data sharing.
- Enhances rights of access for data subjects.
- Mandatory breach disclosure within 72 hours.
- A need to appoint a Data Protection Officer.

2.3 What are the responsibilities of the parish council?

- Data to be processed fairly and lawfully.
- Data to be collected and processed for specified, explicit and legitimate purposes.
- Data to be adequate, relevant and limited to what is necessary (data minimisation).
- Data is to be accurate and kept up to date.
- Data should be kept in a form that permits the identification of the data subject and must not be kept longer than necessary.
- Data should be processed in a manner that uses technical and organisational measures to ensure the appropriate security.

2.4 What is Sensitive & Personal Data?

Where an individual can be identified by name (including by email address), and linked to other information about their:

- Racial or ethnic origin
- Political Opinions
- Religious or similar beliefs
- Trade Union membership
- Physical and mental health conditions
- Sexual life and sexual orientation
- Genetic data
- Biometric data (when processed to identify a person), then extra precautions must be taken in the way that this information is collected, stored and managed.

This parish council does not hold any Sensitive & Personal Data on its staff, contractors, councillors or residents. Councillors Registers of Interest are a statutory obligation which can be held for processing terms (they now contain details of your trade union membership).

3.0 NEXT STEPS

Preparations are in progress to assess the ways that this parish council currently manages data and personal information. There are three steps now underway:

3.1 Assessing physical protections for data collection and storage

- How personal information is collected, stored, protected and used.
- This may involve the purchase of a lockable cabinet to secure paperwork in.
- All computers that are now used are password protected, virus protected and backed up weekly.

3.2 Ensuring that current processes are compliant with the new regulations

- Auditing individual pieces of information to track its collection, storage and management. This includes access, retention and disposals of data.
- We will need to introduce a privacy notice and agree a privacy statement.
- Put in place suitable policies and procedures. (Cornwall Council have offered to supply these to Town and Parish Councils once the Policies and Procedures have been written. See 1.3 above).
- Ensure that staff are trained. Training has commenced but may be updated as changes in legal positions or what is considered good practice are agreed. May be necessary for Councillors.
- Appoint a Data Protection Officer (DPO). Council should appoint before 25 May 2018 (subject to clarification from CALC)
- Consent. Where the parish council holds individual information it must have a lawful reason to do so and obtain clear and unambiguous consent for holding personal data.
- Update forms, notices, websites and e-mail addresses etc. to reflect the legislation.

3.3 Preparing for new requirements

- Undertake Data Protection Impact Assessments when appropriate. (Cornwall Council have supplied a template)
- Record our processing activities. Have obtained a template and coordinating consideration of which data should be included.
- Subject Access Requests (SAR). Currently public bodies have 40 days to process a SAR. This could be changed to 30 days.
- Document Retention Policy. Cornwall Council's Legal Service advise not to retain any personal data beyond the guidance given in the Batchelors Guide.
- Privacy Impact Assessment. After 25 May 2018, for new activities that use personal data, a Privacy Impact Assessment will need to be completed (but we are unlikely to be acquiring or using personal data)

4.0 IMPACTS ON OUR WORK

This parish council does not collect or manage sensitive personal information, and the likely impact on our day to day work is expected to be low. However, councillors should be advised that we may need to introduce an Acceptable Use Policy to regulate the way in which they manage parish council information, contacts and their working relationships with residents. This would cover authority to pass on other peoples' contact details, use of home computers for council work and the use of email addresses.

Author	John Hesketh, Parish Clerk & Responsible Financial Officer
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