

Introduction to Data Protection and Freedom of Information for Councillors



**BREAKTHROUGH
COMMUNICATIONS**
SPECIALISTS IN CONNECTING COUNCILS WITH THEIR COMMUNITIES

What we're going to cover this evening

1. Explore the **fundamentals of data protection** and what it means for councillors
2. Explore the **fundamentals of freedom of information** and what it means for councillors
3. Explore **practical approaches to dealing with personal data** you come into contact with as a councillor
4. Explore **IT security** and **cyber security issues** and how these relate to data protection and keeping yourself and your council safe



Data Protection and Freedom of Information legislation

- **Data Protection and related legislation:**

- General Data Protection Regulations (UK GDPR)
- UK Data Protection Act 2018 (DPA 2018)
- Privacy and Electronic Communications Regulations (PECR)

- **Freedom of Information legislation:**

- Freedom of Information Act 2000
- Environmental Information Regulations 2004



Changes coming to UK GDPR and PECR (*Data Protection and Digital Information (No. 2) Bill is currently at Committee Stage*)



Fundamentals of data protection and what it means for councils and councillors



Demystifying data protection jargon

- **Personal data** is information about a living person, which can identify them or make them identifiable **and** which relates to them
- **Processing** is anything done with or to personal data, including collecting, using, storing and deleting it
- A **data subject** is a living person about whom personal data is processed
- A **data controller** is the person or organisation who determines the 'how and what' of processing
- **Data processors** are organisations/people/suppliers who process data on behalf of the data controller
- The **Information Commissioner's Office (ICO)** is responsible for the supervision of GDPR and can issue enforcement notices and fines



When we talk about 'personal data', we're not just talking about information on computers...

- Personal data can exist in **printed and digital formats**
- The golden rule: If it relates to a **living person who can be identified or it makes them identifiable**, it is personal data...
- ...whether centralised, decentralised or dispersed on a functional or geographical basis



Group exercise: What personal data do you think you process as a councillor?

Thinking about personal data you use and come into contact with as a town councillor:

- What sorts of personal data do you come across and how do you use it?
- How long do you keep it?
- Do you ever share it with anyone? If so, when and why?



GDPR has seven principles that set out how data controllers must process data

Personal data councils and councillors 'process' must be:

1. Processed lawfully and in a fair way
2. Collected for specified, explicit and legitimate purposes
3. Adequate, relevant and limited to what is necessary
4. Accurate and, where necessary, kept up to date
5. Retained only for as long as necessary
6. Processed securely
7. Data controllers must demonstrate accountability



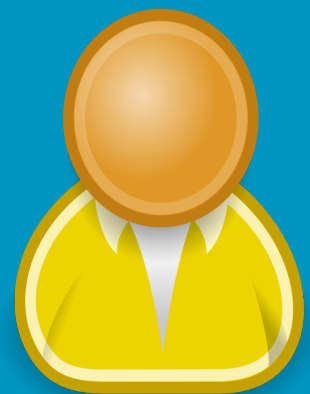
How we can 'process' personal data as councils and councillors

- There are six available 'lawful bases' for processing:
 - 1) **Consent**
 - 2) **Public Task**
 - 3) **Vital interests**
 - 4) Contract
 - 5) Legal obligation
 - 6) Legitimate interests



'Special Category Data': sensitive personal data that requires additional safeguards

- Health data
- Race
- Ethnic origin
- Religion
- Political opinions
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Data concerning a person's sex life
- Sexual orientation



Permission to process special category data

- In order to process special category data you must identify **both** a **lawful basis** and an **additional condition** for processing, which for councillors commonly include:
 - **Explicit consent**
 - **Reasons of substantial public interest (with a basis in law), including by elected representatives responding to requests**
 - **Vital interests**
- Other special category conditions include:
 - Made public by the data subject
 - Employment, social security and social protection (if authorised by law)
 - Legal claims or judicial acts
 - Health or social care (with a basis in law)
 - Public health (with a basis in law)
 - Archiving, research and statistics (with a basis in law)



'Data subjects' have rights enshrined in law

Rights you will most likely come across as a councillor:

- **Right to be informed**
- **Right of access**
- **Right to erasure**

Other rights under UK GDPR:

- Right to rectification
- Right to restrict processing
- Right to data portability
- Right to object
- Rights related to automated decision making including profiling



Multiple data protection worlds

Littlehampton TC as the data controller

E.g. Making use of data provided by the council or in your role as a committee member

Data Controller as an Individual Councillor

E.g. Acting as a ward member, helping residents with casework

Political party as the data controller

E.g. Campaigning as a member of a political party, if applicable

Other councils as data controllers

E.g. If you are a dual or tripple-hatted member across multiple councils



Littlehampton Town Council as a data controller

- Your council is a **data controller**:
 - All data sent to you by your council remains the council's property and therefore subject to the council's data protection policies and procedures
 - As a councillor, you are responsible for complying with your council's policies and procedures (and for complying with the council's Code of Conduct)
 - **IMPORTANT: Your council's data may be subject to disclosure in full or in part through Freedom of Information and / or Subject Access Requests**



As an individual councillor, you can also be a data controller:

- There will be occasions where people have given data to you directly, in your capacity as councillor and their representative. In such circumstances, you will control that data and therefore are data controller for this data:
 - You are a 'data controller' for any data you control (*whether or not you or your council have registered you with the ICO*)
 - You are responsible for the data you control and must take care with you use, store and delete that data
- This is in addition to, and separate from, data you process where local council is the data controller
- **IMPORTANT:** as an individual councillor, you are NOT subject to Freedom of Information requests. However, as an individual data controller you may be subject to a data protection request.



Fundamentals of freedom of information and what it means for councils and councillors



What's the difference between FOI and data protection?

Both data protection and freedom of information concern information and its governance, but they are fundamentally different concepts:

- Freedom of Information:
 - FOI (and EIR) obligate the public sector
 - It is about general access to information
- Data Protection:
 - The UK GDPR obligates all data controllers, not just the public sector
 - The UK GDPR is all about the protection of personal data and the rights and freedoms of the individual, not information generally
- **FOI and SARs (Subject Access Requests) are commonly confused**



Freedom of Information at LTC

- As an individual councillor, you are not personally subject to FOI requests - but Littlehampton Town Council is
- Bear in mind that things you have put in writing and information about you as a councillor may be subject to disclosure by an FOI request
- FOI (and EIR) requests are processed by council officers, not by councillors
- FOI (and EIR) are overseen by the Information Commissioner under a civil enforcement regime, however it is a **criminal offence** to destroy or alter information in order to prevent disclosure.



Practical approaches to dealing with personal data as a councillor



Ensure you adhere to Littlehampton Town Council's policies and procedures

- A principle of the UK GDPR is that you process securely by means of 'appropriate technical and organisational measures'
- LTC has provided councillors with using laptops and emails safely and securely
- From an IT-perspective, the weakest link in any IT system is the human who uses that system, rather than the technology itself
- **Top tip: there should be (almost) no reason to download any document to a computer. Documents and data can now almost always live in the 'cloud'.**



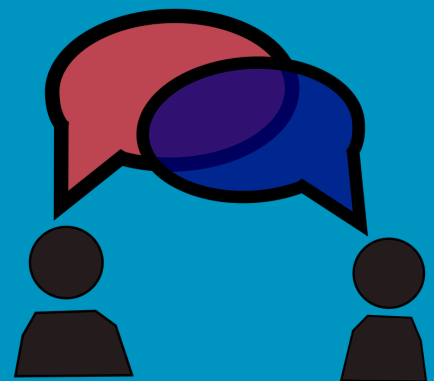
Ensure you adhere to Littlehampton Town Council's policies and procedures

- As well as abiding by LTC's IT policies, it's important to adhere to LTC's data protection and freedom of information policies and procedures
- Consider how you use email. For example, do not use personal emails for council business and only use your LTC email for LTC business
- If you sit on multiple councils, do not share data between different email accounts from other councils unless there is a genuine need (and lawful basis) to do so
- Consider confidentiality of data you are given access to. For example, direct phone numbers for LTC staff



Be transparent on how you process data (in line with the accountability principle)

- For example, when a resident contacts you, clearly explain how you intend to process their data and who it may be shared with, etc
- Ensure you comply with the **GDPR principles** and the **lawful bases** we've talked about already (*e.g. gain consent to take follow-up actions where applicable, store it as safely and securely as possible, delete when appropriate, etc.*)



IT and cyber security issues to be aware of



Data Mining

- Facebook and other social media platforms are alive with seemingly innocent 'engagement posts', which appear in your news feed as your facebook friends engage with them
- Their main purpose is to harvest data about you in order to guess your password or answer your security questions



Data Mining

Enter your secret answer *

Choose a second secret question *

Enter your secret answer *

Choose a third secret question *

Enter your secret answer *

Please choose secret question 1

Please select a secret question

Please choose secret question 2

Please select a secret question

Please select a secret question

- Where did you go on your first holiday?
- What was your first job?
- What was the name of your first pet?
- What was your first car?
- What is the name of the first company you worked for?
- What was the first book you ever read?
- What was the first album that you purchased?
- What was the first thing you learned to cook?

Cancel Done

That ain't right

Use App Like Message

**800 seats in heaven,
your last three digit of
your phone number
determines your seat.
No cheating**

7K 27K comments 867 shares

**FIRST TIME ON A PLANE,
WHERE DID YOU GO?**

**The song that was number 1
on your 18th birthday is how
your 2022 is going to play out**





Thinkarete lifestyle ✓

31 Aug at 14:45 · 🌐

👍 Like Page

Marriages last for 8 years. How long have you been with your spouse?

👍❤️ 1.5M

10M comments · 161K shares

HONOR A PET WHO IS NO LONGER WITH YOU, WHO YOU MISS DEARLY.



WHAT WAS THEIR NAME?

👍❤️😭 2M

9.7M comments · 419K shares



Phishing

- Be aware of phishing emails and text messages
- Phishing is the fraudulent practice of sending emails purporting to be from reputable companies in order to induce individuals to reveal personal information, such as passwords

Home Photos Videos Community Posts



FB Social Network Community Policy

Just now · ⚙️

Your page has been detected for activity violating Facebook Page Policy regarding copyright infringement.

For security reasons, check your account by clicking the link below:

[tinyurl.com/](https://tinyurl.com/...)

If you don't confirm, you won't be able to manage your pages and your account will be deactivated.

Thank you for helping us improve the way we keep Facebook safe.

Facebook Security Team

... See more



👍 Like

💬 Comment

➦ Share

Complying with data protection when using email and when sharing data

- Before sending an email, check that it is going to the right person
- Never forward an email to another person without checking the information or attachment first
- When sending an email to a group of people outside the council, enter the email addresses in 'BCC' and don't use 'To', unless the individuals know each other's email address
- **Be careful about sharing personal data with other people and even more careful when sharing externally to LTC**



Data Breaches

- A personal data breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data
- This includes breaches that are the result of both accidental and deliberate causes. It also means that a breach is more than just about losing personal data



Scenarios



Scenario 1: request for data

"A councillor receives a request from a constituent asking for access to their personal data held by the council. The councillor is unsure about the correct procedure for handling such requests. What should the councillor do?"



Scenario 2: request for data

"At the end of a council meeting, a councillor has a chat with someone in the public gallery. The councillor inadvertently leaves a confidential document containing personal data on a chair. A member of the public takes it away, thinking it was a public document. What should the councillor do?"



Scenario 3: request for data

"A councillor receives an email from a constituent, asking for help with some casework. After a few email exchanges, it turns out it's an Arun DC-related issue, but the member of the public still wants your help. What approach might the councillor take?"



**What questions
do we have?**



**Thanks so much for attending!
Please share feedback before you go?**

