DATA PROTECTION POLICY

Document Retention and Destruction

This Data Protection Policy was adopted by the Council at its meeting held on:
15 March 2018 – Minute 1490
GOVERNING BODY: FOLKESTONE TOWN COUNCIL
Town Hall, 1-2 Guildhall Street, Folkestone, CT20 1DY

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INTRODUCTION

The Town Council recognises it must at times, keep and process sensitive and personal information concerning employees, councillors and the public. It has adopted this policy to not only meet the legal obligations of the General Data Protection Act, but to ensure high standards of practice are followed.

The Town Council is open and transparent about its operations and works closely with the community. In the case of information that is not personal or confidential, the Town Council is prepared to make information available to the public. Details of information which is readily available is contained in the Council's Publication Scheme which is based on the statutory model publication scheme for local councils.

DEFINITIONS

1.0 For the purposes of this policy, "record" shall be interpreted to mean any papers, files, books, photographs, tapes, films, recordings or other documentary materials or any copies thereof, regardless of physical form, made, produced, executed or received by any employee in connection with the transaction of Folkestone Town Council's business.

1.1 The term "electronic record" means any record which is created, received, maintained or stored on local workstations or central servers. Examples include, but are not limited to: email, word documents, spreadsheets and databases – including but not limited to file records, investigation reports, financial accounting records and payroll records.

1.2 "Official Records" are records maintained but not limited to Accounts (all financial records, VAT records, payroll records, bank accounts etc), electronic records, HR records (personnel records, insurance records etc) and Council Operation records (agendas, minutes, correspondence etc).

DATA RETENTION

2.0 The purposes of this policy is to ensure that necessary records are adequately protected and to ensure that records which are no longer needed or are of no value are discarded at the appropriate time. ***Data must only be used for the purpose it was gathered for*** and should be deleted when it is no longer needed for that purpose.

2.1 Records and Documents that are no longer required under the Retention policy, may be required to be kept under the Archive policy, and before destruction this should be checked.

2.2 This policy relates to electronic records as well as physical “hard copies”.

2.3 Individuals responsible for the retention of records are also responsible for their destruction following the retention period.

2.4 Sensitive or confidential documents must be disposed of by shredding or other means to ensure that the material can no longer be read or interpreted.

2.5 Appendix 1 sets out the Town Council’s data retention requirements and the justification for the periods specified.

2.6 Record retention periods may be increased by government regulation, judicial or administrative constraint order, private or government contract, pending litigation or audit requirements. Such modifications supersede the requirements in appendix 1.

2.7 The Town Clerk will maintain a listing of major documents used in line with the requirements in appendix 1.

2.8 In the event of a government audit, investigation or pending litigation, record disposition may be suspended at the direction of the Town Clerk or Town Mayor and subsequently ratified by Council.

2.9 When litigation, complaints or investigations against the Town Council or its employees are filed or threatened, the law imposes a duty upon the Council to preserve all documents and records pertaining to the issues. In this instance the Town Clerk or Town Mayor will notify appropriate employees of a 'hold' directive.

2.10 The hold under 2.9 supersedes the retention schedule in appendix 1, and the Town Clerk will inform employees when holds are cleared.

2.11 Electronic records such as emails and computer accounts will be immediately maintained by the Town Clerk until the hold is released. No employee who has been notified of a hold may alter or delete any electronic records that fall within the scope of that hold.

2.12 Violation of the hold may subject the individual to disciplinary action, up to and including dismissal as well as personal liability for civil and criminal sanctions by the courts or enforcement agencies.

2.13 No document list can be exhaustive. Questions regarding the retention period for any specific document or class of documents not included in the below table should be addressed to the Town Clerk who will consult with the Town Mayor or relevant committee chairman.

MAKING INFORMATION AVAILABLE

3.0 The Town Council Publication Scheme is a means by which the Town Council can make a significant amount of information routinely available without waiting for someone to specifically request it. The scheme is intended to encourage local people to take an interest in the work of the Council and its role within the community.

3.1 In accordance with the Freedom of Information Act 2000, this scheme specifies the classes of information which the Council publishes or intends to publish, as well as an information guide giving greater detail of what the

Council will make available. This aims to make it easier for the public to access information.

3.2 All formal meetings of the Town Council and its committees are subject to statutory notice given on the Council's noticeboards. The agendas are also published excluding exempt information on the Town Council website and circulated by e-mail to members and the media.

3.3 The Town Council welcomes public participation and allocates time for public speaking time at Full Council meetings.

3.4 Occasionally the Council or committees may need to consider matters in private. This may include matters involving personal details of employees or where details of commercial sensitivity are to be discussed. This can only happen after a formal resolution to exclude the public and press has been passed and will specify the reasons for the decision.

3.5 Minutes from all formal meetings are public documents.

GENERAL DATA PROTECTION REGULATIONS

4.0 The General Data Protection Regulations seek to strike a balance between the rights of individuals and the sometimes-competing interests of those with legitimate reasons for using personal information. The policy is based on six core principles; however, a new principle of accountability puts the compliance burden on council, requiring council to produce and maintain documents that demonstrate what actions have been taken to achieve compliance such as using privacy notices and consent forms clearly showing for what purpose data is being used; to demonstrate that data subjects have explicitly 'opted in'.

4.1 The Town Clerk as appointed Data Protection Officer will ensure all members and staff are aware of the law and how to handle data breaches that must be reported to the Information Commissioner's Office within a statutory 72 hours.

4.2 Conducting **Data Protection Impact Assessments** (DPIAs) to design data privacy into any new systems and processes will often be mandatory e.g. if new technology is deployed.

4.3 Sanctions over ***sharing data outside the European Economic Area ("EEA")*** are strengthened. This requires councils to ensure appropriate privacy safeguards are in place when using cloud-based services. Council's data is backed up at a Microsoft Trust Centre in the UK.

4.4 The underlying principles which Council will comply with, about personal data include:

a) Must be processed lawfully, fairly and transparently

b) Is only used for a ***specific processing purpose*** that the data subject has been made aware of and no other, without further consent.

c) Should be ***adequate, relevant and limited*** i.e. only the minimum amount of data should be kept for specific processing.

d) Must be ***accurate*** and where necessary ***kept up to date***.

e) Should ***not be stored for longer than is necessary***, and that storage is safe and secure.

f) Should be processed in a manner that ensures ***appropriate security and protection.***

4.5 The Council will ensure that at least one of the following six lawful bases for processing personal data are met:

a) Consent

- A controller must be able to demonstrate that consent was given. Transparency is key: consents given in written declarations which also cover other matters must be clearly distinguishable, and must be intelligible, easily accessible and in clear and plain language.

- Consent is defined as any freely given, specific, informed and unambiguous indication of the data subject's wishes – either by a statement or by a clear affirmative action.

b) Legitimate interests

- This involves a balancing test between the controller (or a third party's) legitimate interests and the interests or fundamental rights of and freedoms of the data subject – particularly where the data subject is a child. The privacy policy of a controller must inform data subjects about the legitimate interests that are the basis for the balancing of interests.

c) Contractual necessity

- Personal data may be processed if the processing is necessary in order to enter into or perform a contract with the data subject (or to take steps prior to entering into a contract).

d) Compliance with legal obligation

- Personal data may be processed if the controller is legally required to perform such processing e.g. complying with the requirements of legislation.

e) Vital Interests

- Personal data may be processed to protect the 'vital interests' of the data subject e.g. in a life or death situation it is permissible to use a person's medical or emergency contact information without their consent.

f) Public Interest

- Personal data may be processed if the processing is necessary for the performance of tasks carried out by a public authority or private organisation acting in the public interest.

4.6 Attention is paid to the processing of any sensitive personal information and the Council will ensure that at least one of the following conditions is met:

a) ***Explicit consent*** of the data subject has been obtained (which can be withdrawn).

b) ***Employment Law*** – if necessary for employment law or social security or social protection.

c) ***Vital Interests*** – e.g. in a life or death situation where the data subject is incapable of giving consent.

d) ***Charities, religious organisations and not for profit organisations*** – to further the interests of the organisation on behalf of members, former members or persons with whom it has regular contact such as donors.

e) ***Data made public by the data subject*** – the data must have been made public 'manifestly'.

f) ***Legal Claims*** – where necessary for the establishment, exercise or defence of legal claims or for the courts acting in this judicial capacity.

g) ***Reasons of substantial public interest*** – where proportionate to the aim pursued and the rights of individuals are protected.

h) ***Medical Diagnosis or treatment*** – where necessary for medical treatment by health professionals including assessing work capacity or the management of health or social care systems.

i) ***Public Health*** – where necessary for reasons of public health e.g. safety of medical products.

j) ***Historical, Statistical or scientific purposes*** – where necessary for statistical purposes in the public interest for historical, scientific research or statistical purposes.

4.7 The Council will ensure that individuals on whom personal information is kept are aware of their rights and have access to that information on request.

1. ***The right to access personal data we hold on you***

At any point you can contact us to request the personal data we hold on you as well as why we have that personal data, who has access to the personal data and where we obtained the personal data from. Once we have received your request we will respond within one month. There are no fees or charges for the

first request but additional requests for the same personal data or requests which are manifestly unfounded or excessive may be subject to an administrative fee.

2. ***The right to correct and update the personal data we hold on you***
   If the data we hold on you is out of date, incomplete or incorrect, you can inform us, and your data will be updated.

3. ***The right to have your personal data erased***
   If you feel that we should no longer be using your personal data or that we are unlawfully using your personal data, you can request that we erase the personal data we hold. When we receive your request, we will confirm whether the personal data has been deleted or the reason why it cannot be deleted.

4. ***The right to object to processing of your personal data or to restrict it to certain purposes only***
   You have the right to request that we stop processing your personal data or ask us to restrict processing. Upon receiving the request, we will contact you and let you know if we are able to comply or if we have a legal obligation to continue to process your data.

5. ***The right to data portability***
   You have the right to request that we transfer some of your data to another controller. We will comply with your request, where it is feasible to do so, within one month of receiving your request.

6. ***The right to withdraw your consent to the processing at any time for any processing of data to which consent was obtained***
   You can withdraw your consent easily by telephone, email, or by post (see Contact Details below).

7. ***The right to lodge a complaint with the Information Commissioner's Office.***
   You can contact the Information Commissioners Office via email https://ico.org.uk/global/contact-us/email/ or at the Information Commissioner's

Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or telephone 0303 123 1113

DISCLOSURE INFORMATION

5.0 The Council will undertake checks with the Disclosure and Barring Service as necessary and will comply with their Code of Conduct relating to the secure storage, handling, use, retention and disposal of Disclosure Information.

APPENDIX 1 – DOCUMENT RETENTION AND DESTRUCTION

Document	Minimum Period of Retention	Reason
Signed Council & Committee Minutes	Permanent archive after administrative use	Archive / Public Inspection
Articles of Incorporation	Permanent archive after administrative use	Archive / Public Inspection
Charter	Permanent archive after administrative use	Archive / Public Inspection
By-Laws	Permanent archive after administrative use	Archive / Public Inspection
Corporate plans, strategies, policies, business plans, annual reports, asset registers, Employee Handbook	Permanent archive after superseded	Common Practice
Operating Procedures	2 years after superseded	Local Choice
Title Deeds, leases, agreements and contracts	Indefinite	Management
Market Licences	Destroy 6 years after expiry	Management

Market Licence Holder Records	Destroy 6 years after leaving market	Management
Other licenses	Destroy 6 years after expiry	Management
Record of Complaints against the Council	Destroy after 6 years	Common Practice
Funding Documents	As required by individual funders	Funding requirements Documents will be kept as required by individual funders.
Press Releases	Destroy after 3 years	Local Choice
Receipt and Payment Accounts	Indefinite	Archive
Receipt books of all kinds	6 years	VAT
Bank Statements, including deposit/savings accounts	Last completed audit year	Audit
Cheque book stubs + Paying in books	Last completed audit year	Audit
Quotations and Tenders	12 Years	Limitations Act

Paid Invoices	6 years	VAT
VAT Records	6 years	VAT
Budget and estimates	Permanent archive after 3 years	Statutory
Accounts & Audits	Permanent archive after administrative use	Common Practice
Building Contracts	Life of building + 15 years	Statutory
Insurance Policies	40 years	Statutory
Insurance Claims	Destroy after 7 years	Management
Loans	Destroy 7 years after loan repaid	Common Practice
Investments	Indefinite	Audit / Management
Salary/Wage/tax Documents (Inland Revenue)	12 years	Superannuation

E-mail	2 years	Local Choice
Scanned Documents	2 years	Local Choice
Timesheets	Last completed audit year	Audit
Recruitment Documents – including Job announcements, Person Specifications, Job Descriptions	5 year Equal Opportunities claims	Local Choice
Documents on Persons not hired – to include application forms, letters, CV's and interview notes	1 year Equal Opportunities claims	Local Choice
Statutory Maternity/Paternity pay and leave records	Current tax year plus 3 years	Local choice
Accident or injury at work	7 years	Local choice
Personnel Administration – including CV's annual appraisals, disciplinary records, sickness, leave, training records, contracts, redundancy, promotion/pay awards/pay levels etc.	Destroy 6 years after person leaves the Council, except staff working with Children (25yrs)	Local Choice & Statutory
Prior to the destruction of the files, a summary of service record must be created. This will include Name, Position(s), dates of employment, pay levels etc. This will indicate references given to third parties.		
Summary of Service	Permanent	Local Choice

References	Destroy 5 years after person leaves the Council	Insurance
Register of Members Interests and Allowances	6 years, Income Tax,	Limitation act
Commercial Debt Recovery	Matters Active + 2 years	Local Choice
Investigation Services	Active + 2 years	Local Choice
Legal / Litigation Files	Active + 7 years	Local Choice