

Data Protection – A Quick Guide for Community Councils

You must only process personal data in a way which is lawful, fair and transparent. This means that you must:

- have a lawful basis for processing personal data
- not process personal data in a way that is unduly detrimental, unexpected or misleading to the individual concerned
- be clear, open and honest with people from the start about how you will use their personal data

Personal Data is any information relating to an identified or identifiable living individual. It must do more than simply identify the individual; it must concern them in some way. For example, someone's work contact details, or their position in the Community Council, are not usually considered to be personal data. Otherwise, you should assume that any information from which someone can be identified will be personal data relating to them.

Personal data relating to someone's race, political opinions, religious beliefs, health or sexual life is considered to be particularly sensitive. Additional safeguards apply to processing this type of personal data. **Do not process this type of personal data at all if you can avoid it.**

Processing is a wide definition and covers everything that you do with personal data: collecting, recording, storing, using, analysing, combining, sharing, or deleting.

Lawful Basis for Processing Personal Data

The two most likely to apply to the work of Community Councils are:

Public task	performance of a task carried out in the public interest or in the exercise of official authority (in other words, carrying out Community Councils' functions set out in Part IV of the Local Government (Scotland) Act 1973)
Legal obligation	complying with a legal obligation (e.g. providing governance information to the local authority or to the tax authorities)

In each case, the processing of the personal data must be **necessary** for you to carry out that function or obligation. If there is any other reasonable and less intrusive way in which to achieve the same result then the processing is not necessary and will not be lawful.

Consent is a lawful basis for processing personal data, but you do not generally need a person's consent in order to process their personal data; one of the lawful bases referred to above will almost always suffice. In general, do not seek or rely on consent unless you are processing "sensitive" personal data.

Transparency

You must provide sufficient information to people about how and why you are processing their personal data, and what their rights are. This is done in the form of a "privacy notice". A generic form of notice placed on your website is likely to be sufficient, but if you don't have a website then you could include a notice as a footer to your standard email or say that it is available on request. In

any case, you should draw the person's attention to the notice whenever you start processing their personal data. A suggested generic privacy notice appears at the end of this Guide.

Security

Ensure that you observe all good practice and directions concerning the security, confidentiality and integrity of the personal data, particularly in respect of IT equipment.

Registration

The Community Council must register with the Information Commissioner's Office and pay an annual fee (£40, or £35 if paid by Direct Debit). The registration process is simple and can be done online. Processing information without being registered is an offence.

Remember

There is a lot of misleading information and scaremongering about data protection, but the basic principles are fairly simple. Do not be afraid to use personal data when you need to; in general, any use of personal data which is necessary for genuine Community Council activity will be lawful. If you comply with this Guide then you will be compliant, but if are in doubt or need advice, contact the Comhairle's Data Protection Officer, Tim Langley (tim.langley@cne-siar.gov.uk).

Specimen Privacy Notice

Data Protection Privacy Notice

We, [insert name of Community Council] Community Council [insert address and contact details] are registered as a data controller with the Information Commissioner's Office. We will use your personal data to the extent necessary to enable us to carry out our duties in our official authority as a Community Council to ascertain, co-ordinate and express to the local authority the views of the local community, and take appropriate action in the interests of that community. We will hold your data securely and will share it only with those people or organisations who need to have it as part of carrying out those duties, or if we are required by law to do so (for example for the prevention and detection of crime). Your personal data will be kept securely and for as long as we have a genuine need to keep it. You have the right to request a copy of your personal data that we hold; to request rectification, erasure or restriction of it; and to object to our processing of it. You also have the right to lodge a complaint with the Information Commissioner's Office if you feel that we have not processed your data properly.