

BRAUNTON PARISH COUNCIL



Data Protection Policy

Scope

This Policy must be complied with fully by all Members, Staff, Agents Partners and Contractors of Braunton Parish Council who collect, hold, process or deal with Personal Data for or on behalf of Braunton Parish Council.

Braunton Parish Council supports the objectives of the Data Protection Act 1998 (the DPA) and intends to conform to the requirements of the Act at all times.

1. Processing Personal Data

(For further information please consult the Support to the Data Protection Policy, Clause 1.)

- 1.1 Personal Data must be processed fairly and lawfully in accordance with the Provisions of the DPA.
- 1.2 Personal Data may only be processed for notified purposes as stated with the DPA.
- 1.3 Anyone with responsibility for holding or collecting data must ensure that data kept and processed about any Data Subject is accurate and up to date. All due skill and care must be taken. Data must not be excessive to need and superfluous data must be destroyed or removed from the system.
- 1.4 Braunton Parish Council is responsible for ensuring compliance with this policy and nominates The Clerk to the Council to ensure compliance with the Act and ensure that members of staff are aware of the provisions of the Act. In this role, The Clerk will be known as the Data Protection Act Representative. The nomination of such a person shall not release other members of staff from compliance with this Act and this Policy.
- 1.5 Any processing of sensitive data must comply with the special and more stringent rules set out in the DPA.

2. Security and Registration

(For further information please consult the Support to the Data Protection Policy, Clause 2.)

- 2.1** Each Member, member of staff and Data Holder are responsible for ensuring that data cannot be accessed by unauthorised personnel and to ensure that data cannot be tampered with, lost or damaged. All superfluous data must be disposed of in a secure
- 2.2** The Information Commissioner enforces and oversees the DPA and the Freedom of Information Act 2000 (FOI). The Commissioner is a UK independent supervisory authority reporting directly to the UK Parliament and has an international role as well as a national one. The Information Commissioner keeps a register of all organisations, which process data. The Council shall submit a Notification to the Information Commissioner and pay the requisite fee at least once a year, which will be dealt with by The Clerk. Members and staff of Council must furnish The Clerk with any information requested for this purpose. Members and staff of Council must notify The Clerk if, during the course of any years, this information changes, and The Clerk must up date the Register entry accordingly. Members may have to register personally with the Information Commissioner with respect to constituency or party records.

3. Agents, Partner Organisations and Contractors

If a Contractor, Partner Organisation or Agent of Council is appointed or engaged to collect, hold, process or deal with Personal Data for or on behalf of Council or if they will do so as part of the services they are providing to Council, The Clerk must as part of evaluation obtain confirmation that the Agent, Partner Organisation or Contractor is able, willing and does comply with the DPA. There must be specific obligations in every such partnership agreement *and* contract requiring the Partner/Contractor to comply with the DPA.

4. Disclosure of Personal Data

Personal Data will only be disclosed in accordance with the provisions of the DPA.

5. Access Rights by Individuals

(For further information please consult the Support to the Data Protection Policy, Clause 5).

- 5.1 An individual may request a copy of any data held about them, or information about the reason it is kept and processed and the people to whom it is disclosed. The information must be provided, in clearly understandable terms within 40 days of a valid written request and the payment of the required fee.
- 5.2 A person seeking information shall be required to prove their identity in accordance with the DPA. The 40 days will run from the date the date the person provides this information, and pays any required fee.
- 5.3 Information may be withheld where Council is not satisfied that the person requesting information about themselves are who they say they are, or when the requester is an organisation or body holding itself out as requesting information on behalf of a named individual and the Council is not satisfied that they have the authority to receive that information.

6. Disclosure to and about Third Parties

(For further information please consult the Support to the Data Protection Policy, Clause 6.)

Personal Data must not be disclosed about a Third Party except in accordance with the DPA. If it appears absolutely necessary to disclose information about a Third Party to a person requesting data about themselves advice must be sought from The Clerk.

7. Inaccurate Data

(For further information please consult the Support to the Data Protection Policy, Clause 7.)

If an individual complains that the data held about them is wrong, incomplete or inaccurate, the position should be investigated thoroughly including checking with the source of the information. In the meantime a caution should be marked on the person's file that there is a question mark over the accuracy. An individual is entitled to apply to the court for a correcting order and it is obviously preferable to avoid legal proceedings by working with the person to correct the data or allay their concerns.

8. Requests by Individuals to Stop Processing Information

(For further information please consult the Support to the Data Protection Policy, Clause 8.)

- 8.1 If data is properly held for marketing purposes, an individual is entitled to require that this is ceased as soon as possible. Requests must be made in writing but generally all written or oral requests should be heeded as soon as they are made. The cessation must be confirmed in writing.
- 8.2 If data is held for any other purposes, an individual may request that processing ceases if it is causing them unwarranted harm or distress. This does not apply if they have given their consent, if the data is held in connection with a contract with the person, if the Council is fulfilling a legal requirement or if the person's vital interests are being protected. Valid written requests must be heeded within 21 days. The cessation must be confirmed in writing.

9. Complaints

Any complaint or concern expressed by an individual in connection with the DPA must be reported to The Clerk immediately in case legal action is taken. The Clerk will ensure that there has been no breach of the DPA and, if there has, what action needs to be taken to remedy it.

10. Exemptions

(For further information please consult the Support to the Data Protection Policy, Clause 10.)

There are a number of purposes, which are exempt from certain provisions of the DPA. These purposes are listed in Clause 13 of the Data Protection Guidance. If you are in doubt about which purposes are exempt and the scope of the exemption please contact The Clerk.

11. Violations of Rules and Procedures

- 11.1 It is the responsibility of all members of staff to report any suspected breaches of the DPA, or of this Policy, to The Clerk.
- 11.2 It is the It is the responsibility of all Members to report any suspected breaches of the DPA, or this Policy, to The Clerk or her assistant.
- 11.3 Failure to comply with this Policy by employees of Council may result in disciplinary action being taken. Failure to comply by Members of Council may constitute a breach of The Members' Code of Conduct. Failure to comply by partners, agents or contractors may constitute a breach of their agreements.

12. Further Information and Other Related Policies

12.1 If in doubt about any aspect of this Policy, The Clerk should be consulted.

12.2 Other related Policies include the Conduct and Performance Procedure, Equal Opportunities Policy and Grievance Procedure.

This Policy will be reviewed annually.

Chairman
(On behalf of Braunton Parish Council)

Date

Support to The Data Protection Policy

1. Processing Personal Data

- 1.1 **'Personal Data'** is defined in s(1) of the DPA as, 'data which relates to a living individual who can be identified from that data, or from that data and other information which is in the possession of, or is likely to come into the possession of, the data controller (Council is a data controller) and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other in respect of the individual.

'Processing' covers a broad range of activities such that virtually any use of personal information or data will amount to processing (please refer to paragraph 8 of the main Policy).

'Processed fairly and lawfully' means that the data must be processed in accordance with the 3 provisions of the DPA. These are the Data Protection Principles, the Rights of the Individual and Notification and Registration. (Please refer to paragraph 6 – 12 of the main Policy.)

- 1.2 **'Notified Purposes'** are the purposes for which Council is entitled to process that data under its Registration with the Office of the Information Commissioner.
- 1.3 **'Data Subject'** is the individual who the data or information is about.
- 1.4 **'Data must be accurate and not be excessive to need'** which is in accordance with 3rd and 4th Data Protection Principles. (Please refer to paragraph 7 of the main Policy.)
- 1.5 **'Sensitive Data'** concerns information as to racial or ethnic origin, sexual life, religious beliefs (or similar), physical or mental health/condition, membership of a trade union, political opinions or beliefs, details of proceedings in connection with an offence or an alleged offence.

2. Security and Registration

2.1 **'The Information Commissioner'** has responsibility to see that the DP is complied with. The Office of the Information Commissioner is a Government Department based in Wilmslow in Cheshire. They can give advice on data protection issues and can enforce measures against individuals or organisations that do not comply with the DPA.

'Notification' Council's Notification is sent each year by The Clerk to the Office of the Information Commissioner. It sets out the categories of data subject, the type of information held, the source from which it is obtained, the purpose for which it is held and the people or classes of people to whom it may be disclosed.

3. Access Rights by Individuals

When an individual requests a copy of any data that we hold about them, or information about the reasons why information about them is kept and processed etc then we must provide that information within 40 days of a valid written request and the payment of any required fee. The individual should be directed to make their request to the following address:-

The Clerk to the Council
Braunton Parish Council
Chaloners Road
Braunton
North Devon EX33 2ES

The Clerk will forward the Subject Access request Form for the individual to complete and return with any required fee.

3.1 **'Circumstances in which information may be withheld'** include where Council is not satisfied that the person requesting information about themselves are who they say they are, or when the requester is an organisation or body where Council is not satisfied that they have authority to receive that information.

4. Disclosure to and about Third parties

All references to Third Parties must be removed from the information that is given to the Data Subject, unless the third party gives their consent, or Council considers it reasonable to provide the information without the other individuals consent.

5. Inaccurate Data

It is important that all information that Council hold about individuals complies with the 4th Data Protection Principle (ie that it is accurate and up to date).

6. Requests by Individuals to Stop Processing Information

6.1 Where Council receives such a request then we must respond to it within 21 days of receipt, stating whether we have ceased or intend to cease processing the data of stating on what basis we consider the request to be unjustified.

7. Exemptions

There are a number of purposes, which are exempt from certain provisions of the DPA. (Please see the Guidance Section, Point 13).