



Eden

District Council

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Responsible Officer: Director of Corporate Services

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Data Protection Policy

Accessibility Information

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1.0	Information Governance Manager	22 November 2018	Final version
1.1	Information Governance Manager	11 March 2019	Change of Data Protection Officer and other designations following restructure

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1. Statement

- 1.1 As Data Controller, Eden District Council is committed to protecting individuals' personal data and privacy and will seek to comply with the requirements of the General Data Protection Regulation (GDPR), the Data Protection Act 2018 and other privacy laws.
- 1.2 We only process personal information for specific purposes, for the efficient and effective delivery of our services and seek to do so fully in accordance with the data protection principles.

2. Purpose

- 2.1 The purpose of this policy is to expand on aspects of our Privacy Policy and to set out in greater detail our approach to protecting the personal information we hold and process, in order to ensure a consistent approach to data protection across the Council and to inform members of the public of that approach. It is also to assist our staff, elected Members, contractors, agents and partners in ensuring they comply fully with data protection law, whilst fulfilling the business needs of the Council.

3. Scope

- 3.1 This policy applies to all employees of the Council, including temporary and contract staff (including agency staff), elected Members, contractors, agents and partners.
- 3.2 This policy applies throughout the lifecycle of personal information held by the Council, on all types of media, from its receipt of creation, storage and use, to disposal.
- 3.3 This policy should not be read in isolation and regard should also be given to our; Access to Information Policy, Personal Data Breach Policy, Privacy Policy and Redaction Policy.

4. Definitions

- 4.1 To aid the understanding of GDPR, the Data Protection Act 2018 and of this policy, the following definitions are provided:

Term	Definition
Data Controller	A body that determines the purposes and means of processing personal data. In our case, this is the Council.
Processing	Any operation performed on personal data, whether or not by automated means, including (but not restricted to) collection, use, storage, disclosure and deletion of information.
Personal Data	Any information relating to an identified or identifiable living individual.

Term	Definition
Special Categories (sensitive personal data)	Personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic, biometric and health data, sex life or sexual orientation.

5. Roles and Responsibilities

- 5.1 The overall responsibility for the administration of Data Protection legislation lies with the Council. It is within the Resources Portfolio Holder's area of responsibility. The Data Protection Officer has day to day responsibility for ensuring that administration and compliance with data protection law is undertaken by the Directors, Assistant Directors, Heads of Service and their staff.
- 5.2 The Data Protection Officer (DPO) is a position required in law to ensure the Council complies with data protection legislation. Our DPO is responsible for advising the Council, its contractors and partners on their data protection responsibilities, for assigning responsibilities, monitoring compliance, ensuring appropriate awareness and training and for undertaking and complying with data protection audits.

Our Data Protection Officer is:

Lisa Tremble
Assistant Director Governance (Monitoring Officer)
Eden District Council
Town Hall
Penrith
Cumbria CA11 7QF

Telephone: 01768 212249

Email: dcls@eden.gov.uk

- 5.3 The Information Governance Manager will provide advice and guidance to staff and Members on data protection matters and will take a leading role in reviewing and updating relevant policies and procedures.

6. The Data Protection Principles

- 6.1 GDPR is based around six fundamental principles relating to the processing of personal data. The data protection principles are the minimum standard the Council will strive to meet. GDPR also requires us to demonstrate our compliance with these principles, under the accountability principle. The data protection principles require that personal data shall be:
- a) Processed lawfully, fairly and in a transparent manner in relation to individuals **(lawful, fair and transparent)**;
 - b) Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes

or statistical purposes shall not be considered to be incompatible with the initial purposes (**purpose limitation**);

- c) Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (**data minimisation**);
- d) Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (**accuracy**);
- e) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals (**storage limitation**); and
- f) Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (**integrity and confidentiality**).

7. The Lawful Bases for Processing

7.1 The first data protection principle requires that whenever we process personal data, we do so lawfully. To ensure that our processing is lawful, at least one of the following Article 6 lawful bases need to apply:

- a) an individual has given their **consent** for the processing of their personal data;
- b) the Council has a **contract** with an individual or the Council and individual are in the process of setting up a contract between them and the personal data is needed to satisfy the terms of that arrangement;
- c) the Council is obliged to process personal data to comply with a **legal obligation** which the Council is subject to;
- d) the processing of personal data is necessary to protect the **vital interests** of an individual (to protect their life);
- e) the processing is necessary to carry out a task in the public interest (**public task**), or in performing the official authority vested in the Council; and
- f) the processing is in the **legitimate interests** of the Council, where we use personal data in ways that people would reasonably expect and have minimal privacy impact. However, public authorities are limited in their ability to rely on this basis for processing.

- 7.2 As a local authority, most of our processing falls under ‘public task,’ ‘contract’ and ‘legal obligation.’ This means that in most circumstances, we do not require the consent of individuals to process and share their personal data within our organisation or with our contractors and partners.
- 7.3 There are a limited number of situations where we require consent, such as emailing newsletters to residents and businesses. Occasionally we may require consent when additional information (which is not essential to deliver a service) may provide further assistance in supporting an application an individual may make to the Council. Where this is the case, we will make it clear that consent is needed and that individuals will have the right to withdraw consent at any time.
- 7.4 GDPR also requires when processing special categories (sensitive personal data), that not only a lawful basis under Article 6 applies, but also a lawful basis under Article 9. The Article 9 lawful bases are not repeated here, for the sake of brevity (there are 10 of them).
- 7.5 Whenever we collect personal and special categories data, we will aim to determine the appropriate lawful bases for processing and to provide information about the particular lawful bases that apply, in a privacy notice. We will also aim to record all the circumstances where we process personal data and the lawful bases (under Article 6 and Article 9), for processing in each case, in a Record of Processing Activities.

8. Individuals’ Rights

- 8.1 Individuals have certain rights under GDPR to their data. We will seek to comply with these rights, which are:
- **The right to be informed** - using privacy policies and notices;
 - **The right of access** - to any personal information the Council holds about an individual. To request a copy of this information, you will need to make a right of access request. Under GDPR there is no charge for making a right of access request, unless they are repeat requests or manifestly excessive. Please see our Access to Information Policy for more information;
 - **The right to rectification** - we must correct inaccurate or incomplete data within one month;
 - **The right to erasure** - you have the right to have your personal data erased and to prevent processing under certain circumstances (see table at section 8.2);
 - **The right to restrict processing** - you have the right to restrict our processing of your personal information if you believe it to be inaccurate, unlawful, or it is the case that we no longer require it, but you do for legal purposes;
 - **The right to data portability** - in situations where we require your consent to process your information and where that processing is carried out by automated means, we will provide you with your personal data in a structured, commonly used, machine readable form, when asked (see table at section 8.2);

- **The right to object** - you can object to your personal data being used to make decisions about you based solely on automated processes (including profiling), for direct marketing or research purposes (see table at section 8.2); and
- **The right to withdraw consent** - in circumstances where we require your consent to process your personal data, you will have the right to withdraw consent at any time.

8.2 Not all rights are available to all individuals in all circumstances. The lawful bases for processing under GDPR determine which rights are available. The table below sets out how the rights are applied:

Lawful Basis	Right to Erasure	Right to Portability	Right to Object
Consent	Yes	Yes	No
Contract	Yes	Yes	No
Legal obligation	No	No	No
Vital interests	Yes	No	No
Public task	No	No	Yes
Legitimate interests	Yes	No	Yes

9. Information Sharing and Disclosure

- 9.1 To ensure we can provide efficient and effective services, we will sometimes share personal information within the Council. If somebody chooses the option of setting up an online 'My Eden Account' (under our Contact Eden scheme), we will match their personal data held by our different services, so that an individual can access as much of it for themselves. Their online account will record any changes (such as change of address), so that they don't have to change their details for each of the different services we provide.
- 9.2 We will ensure that only the minimum and relevant information is shared both within the Council and with relevant external bodies. We will only ever share personal information where it is lawful to do so and where we are satisfied that our contractors and partners have the necessary measures in place to protect it.
- 9.3 Any disclosure of information or sharing of information will be made in accordance with the provisions of GDPR and other privacy laws. Disclosures of data to the National Fraud Initiative and to other public authorities (such as the Inland Revenue, Customs and Excise, the Benefits Agency, the Department of Works and Pensions) will be made in accordance with statutory and any other requirements.
- 9.4 The Data Protection Act 2018 provides an exemption to data processing rules under Schedule 2, Part 1, for the purposes of the prevention or detection of crime. Therefore, there may be occasions when we will share personal information externally for law enforcement purposes.

- 9.5 The Data Protection Act 2018 also allows personal data to be made public, under Schedule 2, paragraph 5, where disclosure of the data is required by an enactment.
- 9.6 When sharing information externally, we will use encryption and access controls, Information Sharing Agreements and Data Protection Impact Assessments where appropriate, to keep personal data secure.
- 9.7 We will never share personal information for marketing purposes without an individual's express consent.

10. Information Security and Personal Data Breaches

- 10.1 We will process all personal information we hold in accordance with our Information Security Policy, Personal Data Breach Policy and Redaction Policy.
- 10.2 We will seek to use appropriate technical and organisational measures wherever possible, to protect the personal information we hold and process. In the event of a breach or potential breach involving personal information, we will follow our Personal Data Breach Policy.

11. Country of Processing

- 11.1 Normally, personal data held and processed by the Council will be stored and processed on servers based in the UK. However, it may sometimes be necessary to transfer personal information overseas. When this is needed, information may be transferred to countries or territories around the world. Any transfers made will be in full compliance with the GDPR and other privacy laws.

12. Complaints about the way we process personal data

- 12.1 If you wish to make a complaint about the way we process your personal information, you can have your complaint considered under the Council's Complaints Procedure. To do this you will need to contact the Assistant Director Governance (Monitoring Officer) in writing or by email:

Assistant Director Governance (Monitoring Officer)
Eden District Council
Town Hall
Corney Square
Penrith
Cumbria CA11 7QF

Email: dcls@eden.gov.uk

13. The Information Commissioner's Office

- 13.1 If you are dissatisfied with the way we have handled your complaint, you may contact the Information Commissioner's Office. The Information Commissioner's Office maintains a public register of data controllers and provides advice and guidance to organisations and individuals on data protection issues.

Eden District Council is registered as a Data Controller with the Information Commissioner's Office. Our registration reference: **Z6208207**

Information Commissioner's Office
Wycliffe House
Wilmslow
Cheshire SK9 5AF

Telephone: 0303 123 1113 (local rate) or 01625 545 745 if you prefer to use a national rate number.

Website: ico.org.uk

Email: casework@ico.org.uk

14. Compliance

- 14.1 The Council expects all of its employees and elected Members to comply fully with this policy and the data protection principles. All individuals in the Council have a responsibility to ensure that personal data is treated confidentially and in compliance with data protection law and this policy. Regular data protection training is provided to all employees and elected Members of the Council.
- 14.2 Any breach of this Policy by staff may lead to disciplinary action. Any breach of this Policy by a Member may lead to them being referred to the Accounts and Governance Committee.

15. Review

- 15.1 This Data Protection Policy will be reviewed in April 2020 by the Information Governance Manager and Assistant Director Governance (Monitoring Officer) and updated as required. This policy is available to all staff and Members and is published on the Council's website.