

# Data Protection Policy

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## 1. Policy summary

This policy defines South Gloucestershire Council's approach and standards which must be applied and maintained with regards to complying with the UK Data Protection Act 2018 (DPA) and the United Kingdom General Data Protection Regulation (UK GDPR).

This document will be available to and is applicable to: **all South Gloucestershire Council Employees, Partners, Contractors, Temporary Staff, Agents and Elected Members.**

### Key messages

- South Gloucestershire Council (SGC) is defined as a data controller and as such all council employees, contractors and members have a responsibility for data protection.
- You must read, understand and comply with the SGC Information Governance Framework and guidance to be found on the intranet. Data protection applies to all personal data and sensitive "special category" data held by, and on behalf of the council. This information must be processed lawfully, fairly, and in a transparent manner.
- You must only access personal data, client records, files and folders which you. "need to know" in order to do your job and data should not be shared with any party that does not require access in line with our privacy policy. Deliberate unauthorised access to, or misuse of, personal data can constitute a criminal offence.
- Processing or disclosing personal data in order to safeguard people at risk of harm does not breach data protection legislation.
- All members of the public, employees and members, as data subjects, have statutory rights including the right to know what personal information we hold about them and to have a copy of that information (unless an exemption applies).
- You must complete the Annual Data Protection and Security refresher training.
- You must report any suspected data breach of personal data or special category personal data to your Department's IG team immediately and without undue delay. As an organisation we need to report a breach within 72 hours of becoming aware of the breach and therefore it is important you complete the online breach form or the word copy of the breach form immediately so we can investigate and evaluate in line with the ICO timescales.

Make yourself aware of the additional statutory responsibilities on the council, including the need for Privacy Notices, Data Processing Contracts, Records Management, Data Protection Impact Assessments, the SGC Data Protection Officer, RIPA (Covert Surveillance) and PCI DSS (Payment Card regulations).

**This is a summary of the detailed policy document. Please ensure you read, understand and comply with the full policy.**

## 2. Policy statement

South Gloucestershire Council (SGC) is fully committed to compliance with the requirements of the UK Data Protection Act 2018 (DPA), the United Kingdom General Data Protection Regulation (UK GDPR), statutory guidance and other associated legislation ("the DP legislation").

The council will therefore aim to ensure that all employees, elected members, contractors, agents, consultants, or partners of the council who have access to any personal data held by

or on behalf of the council, are fully aware of and abide by their duties and responsibilities under the DP legislation. Specifically in respect of:

- their responsibilities under data protection law for the protection of personal data
- the benefits of *appropriate and lawful* data sharing
- the necessity for good records management
- the technical and organisational security controls operating in the council.

### 3. Purpose

South Gloucestershire Council needs to collect and use certain types of information about people with whom it deals to perform its functions. This includes information on current, past and prospective employees, suppliers, clients, customers, adults and children who use our services and others with whom it communicates. The council is required by law to collect and use certain types of information to fulfil its statutory duties. In addition, it may occasionally be specifically required by law to collect and use certain types of personal information to comply with the requirements of government departments such as the Police, the NHS, DWP, MoJ and other 3rd parties.

This personal information must be dealt with properly whether it is collected, recorded and used on paper, computer, or other medium. There are safeguards to ensure this in the DP legislation.

The council regards the lawful treatment of personal information as critical to successful operations, and to maintaining confidence between residents, partners and ourselves. It is essential that it treats personal information lawfully and responsibly.

The purpose of this policy is to explain how the council will ensure compliance with the DP legislation. It includes organisational measures and individual responsibilities which aim to ensure that the council complies with the Data Protection principles and respects the rights of individuals regarding their personal data. This policy provides outline measures and defines a structure for monitoring compliance.

Detailed procedures and guidance do not form part of this overarching policy document. The detailed guidance can be accessed via the intranet site and links to relevant documents are included within this Policy document. Other related policies are listed under Section 17.

### 4. The legal framework

#### Data Protection Act 2018 and the UK GDPR

The UK Data Protection Act 2018 (DPA) and United Kingdom General Data Protection Regulation (UK GDPR) sets out the legal framework for how organisations should deal with a (living) individual's personal information. This legislation is enforced by the Information Commissioner's Office (ICO).

The DP legislation makes a distinction between personal data and special category personal data (sometimes described as "sensitive" personal data). Special category personal data is subject to additional stricter conditions of "processing".

## Key definitions

**Personal data** means any information relating to an identified or identifiable living individual who can be identified, directly or indirectly, in particular by reference to:

- (a) an identifier such as a name, an identification number, location data or an online identifier, or
- (b) one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

**Special Category personal data** is defined as personal data revealing:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Sex life or sexual orientation
- Criminal proceedings or convictions (technically not “special category” data but must be afforded similar additional protections by the DP legislation)

A **Data Subject** is the identified or identifiable living individual to whom personal data relates.

A **Data Controller** is a natural or legal person, public authority, agency or body, which alone, or jointly with others, determines the purposes and means of the processing of personal data.

A **Data Processor** is any natural or legal person who processes personal data on behalf of the controller (other than a person who is an employee of the controller).

**Processing** in relation to personal data, means any operation or set of operations which is performed on personal data, or on sets of personal data, such as:

- (a) collection, recording, organisation, structuring or storage
- (b) adaptation or alteration
- (c) retrieval, consultation or use
- (d) disclosure by transmission, dissemination or otherwise making available.
- (e) alignment or combination, or
- (f) restriction, erasure or destruction

The UK GDPR (Article 5) defines *principles for processing* personal data with which organisations must comply.

The **data protection principles** require that personal data shall be:

- a. processed *lawfully, fairly and in a transparent* manner in relation to the data subject (*'lawfulness, fairness and transparency'*);
- b. Fairly, lawfully and transparently means that the data subject has been provided with, or had the following information made available to them: the identity of the data controller, the purposes for which the data is to be processed, the legal basis that enables the

council to process the data, who we may share the data with and/or receive the data from, how long we will keep the data, the rights of the data subject and any further information which is necessary in the circumstances to allow the processing to be fair, lawful and transparent, collected for *specified, explicit and legitimate* purposes and not further processed in a manner that is incompatible with those purposes unless further processing is for archiving purposes in the public interest, scientific or historical research purposes or statistical 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, with due regard to the rights and freedoms of the data subject (*'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'*).

As the controller we are responsible for and must be able to evidence and demonstrate compliance with, the above data protection principles (*'accountability principle'*).

### Key data subject rights

Data subjects have the right to:

- Be informed that processing is being undertaken (privacy information) – This is information that must be provided in a clear and transparent form to the data subject, and it should be easily accessible. This information is provided in the council's [general privacy notice](#) and [additional privacy notices](#) for specific services.
- Access to their personal information – Subject Access Request (SAR)
- Request rectification – the correction of incorrect information.
- Request erasure / deletion of their records (right to be forgotten)
- Restriction – restricting the processing of personal data.
- Portability
- Object to processing
- Object to automated decision making & profiling.
- Complain to the Information Commissioner's Office

### Key abbreviations

- **DIG** – Data & Information Group
- **DP** – Data Protection
- **DPA** – Data Protection Act 2018
- **UK GDPR** – UK General Data Protection Regulation
- **FOI** – Freedom of information
- **DPO** - Data Protection Officer
- **IGCO** – Information Governance Compliance Officer

### Other related legislation

There is significant legislation across the public sector in relation to data and information governance, including (but not limited to):

- Human Rights Act 1998
- Freedom of Information Act 2000
- Environmental Information Regulations 2004
- Computer Misuse Act 1990
- Privacy and Electronic Communications Regulations 2003
- Education (Pupil Information) Regulations 2005
- Children Act 2004
- Digital Economy Act 2017

In addition to statutory provisions the common law duty of confidence may also apply in certain circumstances.

### The Caldicott Principles

Where the council processes NHS patient data it must appoint a Caldicott Guardian and adhere to the Caldicott Principles.

The following are derived from the UK Caldicott Guardian Council's 'A Manual for Caldicott Guardians' as published December 2020:

**Principle 1:** Justify the purpose(s) for using confidential information.

Every proposed use or transfer of confidential information should be clearly defined, scrutinised and documented, with continuing uses regularly reviewed by an appropriate guardian.

**Principle 2:** Use confidential information only when it is necessary.

Confidential information should not be included unless it is necessary for the specified purpose(s) for which the information is used or accessed. The need to identify individuals should be considered at each stage of satisfying the purpose(s) and alternatives used where possible.

**Principle 3:** Use the minimum necessary confidential information.

Where use of confidential information is considered to be necessary, each item of information must be justified so that only the minimum amount of confidential information is included as necessary for a given function.

**Principle 4:** Access to confidential information should be on a strict need-to-know basis.

Only those who need access to confidential information should have access to it, and then only to the items that they need to see. This may mean introducing access controls or splitting information flows where one flow is used for several purposes.

**Principle 5:** Everyone with access to confidential information should be aware of their responsibilities.

Action should be taken to ensure that all those handling confidential information understand their responsibilities and obligations to respect the confidentiality of patient and service users.



**Principle 6:** Comply with the law. Every use of confidential information must be lawful. All those handling confidential information are responsible for ensuring that their use of and access to that information complies with legal requirements set out in statute and under the common law.

**Principle 7:** The duty to share information for individual care is as important as the duty to protect patient confidentiality. Health and social care professionals should have the confidence to share confidential information in the best interests of patients and service users within the framework set out by these principles. They should be supported by the policies of their employers, regulators and professional bodies.

**Principle 8:** Inform patients and service users about how their confidential information is used.

A range of steps should be taken to ensure no surprises for patients and service users, so they can have clear expectations about how and why their confidential information is used, and what choices they have about this. These steps will vary depending on the use: as a minimum, this should include providing accessible, relevant and appropriate information - in some cases, greater engagement will be required

## 5. Scope

### Context of this policy

This policy applies to all councillors, committees, services, partners, employees of the council, contractual third parties and agents of the council who has access to information held or processed by or on behalf of SGC.

The policy describes the requirements for handling of personal data and special category data in order to comply with the current data protection legislation and related statutes.

The policy should be read in conjunction with the Employee Code of Conduct and Members' Code of Conduct and codes of conduct (e.g. Health and Care Professions Council) governing the professional conduct and standards of staff in certain occupations.

The policy is supported by other corporate policies including Freedom of Information and Environmental Information Requests, Subject Access Requests, Corporate Records Management, ITD Security and Acceptable Use, Email best practice and various Human Resources Policies including Criminal Records Bureau Staff checks (Disclosure and Barring Service) Policy and Procedures.

This policy may be supported by Departmental policies and agreements and information sharing protocols for specific areas of work.

This policy may be supported by procedures and guidance for specific areas of work or specific data protection issues, which can be obtained from the [Information Governance Framework](#).

### Personal data held

This policy applies to all processing of personal data controlled by the council. This includes:

- Personal data processed directly by the council.
- Personal data controlled by the council but processed by another organisation, on the council's behalf (for example private sector contractors; cloud computing providers, and Service Level Agreements with voluntary sector organisations).

- Personal data processed and controlled jointly by the council and its partners.

The policy does not cover personal data held by schools or Parish Councils which are data controllers.

This policy applies to personal data processed by Elected Members in their capacity as councillors of South Gloucestershire Council. For political activities and campaigning for elections each Elected Member should be covered by their political party or are individually responsible. For their constituency responsibilities, including individual casework, Elected Members are individually responsible and will need to continue to register with the ICO annually as a Controller for these limited purposes.

Personal data held by the council may be held in many forms including:

- Database records
- Computer files
- Emails
- Paper files
- CCTV and video recordings
- Sound recordings
- Photographs
- Microfiche and film
- Website
- Mobile phones

Data subjects may include:

- current, past and prospective employees
- suppliers
- clients
- customers
- adults and children who use the council's services.
- others with whom the council communicates.

Deceased individuals are not classified as data subjects under the DPA and therefore processing of this type of data is outside the scope of this policy. Deceased individuals would fall under the Freedom of Information Act and under the UK's [Freedom of Information Act 2000 \(FOIA\)](#), deceased individuals are not excluded from requests for information.

## 6. Responsibilities and penalties

### Organisational responsibilities

South Gloucestershire Council is a data controller under the Data Protection Act 2018 & the UK GDPR.

The council as an organisation is responsible for compliance with the DP legislation and therefore ultimate responsibility rests with the Chief Executive of SGC.

The Senior Information Risk Owner (SIRO) for Data Protection is the Director of Resources & Business Change.

The statutory role of Data Protection Officer (DPO) has been assigned to the Head of Legal, Governance and Democratic Services.

The Information Governance Compliance Officers will support the DPO and, together with the members of the Data & Information Group (DIG), also be responsible for the day-to-day compliance with the DP legislation and will give advice and legal assistance where necessary in the implementation of this policy.

The Caldicott Guardian is the Director of Public Health.

### **Individual responsibilities**

Every employee must comply with this policy. Failure to comply with the policy may result in disciplinary action which could include dismissal.

Each Elected Member must comply with this policy when using personal data controlled by the council.

All contractors/ service providers must comply with the policy when using personal data supplied to / held by the council to facilitate the Commissioned Service being provided.

It is a criminal offence to:

- Unlawfully obtain personal data, which includes accessing personal data held by the council for anything other than specific council business, or to procure the disclosure of personal data to a third party. It is a further offence to sell such data.
- Re-identify de-identified personal data without the consent of the data controller that originally de-identified the data.
- Alter personal data (alter, deface, block, erase, destroy or conceal) to prevent disclosure.

Employees who access or use personal data held by the council for their own purposes will be in breach of relevant policies of the council, including but not limited to the Employee Code of Conduct, Social Media Policy, ITD Security Policy and subject to disciplinary action, which could include dismissal, and may also face criminal proceedings.

## **7. Purposes of processing personal data and privacy information**

The council will collect and process personal data only to the extent that it is needed to fulfil operational needs or to comply with any legal requirements.

The council will also establish the lawful conditions for processing the individual's personal data (Article 6), such as in association with:

- A contract
- A legal obligation
- The vital interest of the individual or another person
- For the fulfilment of a public task or an authority vested in the council
- The legitimate interests of the council, providing the task involved is not directly related to the provision of a service to the public.

If none of the above conditions apply and the processing is required the council will obtain the consent, which must not be implied, from the individual before processing their personal data. The consent must be freely given, specific, informed and an unambiguous indication of the individual's wishes by which the individual can say to be valid, by a statement or by a clear affirmative action, signifies agreement to the processing of the personal data relating to him or her.

When special category 'sensitive' data is collected, the council will also need to ensure a secondary condition is also met from within Article 9 (2) of the UK GDPR (processing of special categories of personal data) in addition to a lawful basis under Article 6.

Processing must be in line with the council's Policy for the processing of special category or criminal offence data. Again, if none of the conditions apply and the processing is required the council will obtain the explicit written consent from the individual before processing their special category personal data. If in doubt, please consult with the Data Protection Officer.

The council will ensure that all individuals, whose personal details are processed, are provided with, or have the following information made available to them: the identity of the data controller, the purposes for which the data is to be processed, the legal basis that enables the council to process the data, who we may share the data with or receive data from, including the likely recipients of the information - whether the recipients are internal or external to the council, how long we will keep the data, the rights of the individual and any further information which is necessary in the circumstances to allow the processing to be fair, lawful and transparent.

Whenever possible this information will be provided when personal data is first collected, whether written or verbal, or if circumstances don't allow this within one month of the council obtaining the personal data.

Individuals are free to ask for more details about how their personal data is being used at any time, they may also elect to exercise their other data subject rights, but granting these rights will always be subject to our scrutiny. If unhappy about how their data is used individuals may also make a complaint to the council and to the ICO.

Any person whose details (including photographs) are to be included on the council's public website will be asked to give explicit written consent.

The council will use exemptions under the DPA /UK GDPR where necessary, for example where sharing information with the police when it is necessary for a police investigation. The council will respond to properly submitted applications under Schedule 2, sections 2 and 3 of the DPA from other organisations for information that will assist in the prevention and detection of crime and for the collection of taxes, duties, levies and other charges. The council will also respond to requests relating to Annex 6 from the police and Annex E request via legal for sharing. Such applications must be considered by the relevant departmental IG team and the council reserves the right to refuse such applications. Council employees will not access own records on databases, or that of friends or family.

In accordance with good practice the council will share information where appropriate in accordance with formal data sharing arrangements and in accordance with the DP principles.

## 8. Data quality, integrity and retention

- Personal data held will be relevant to the stated purpose and adequate but not excessive.
- The council will ensure, as far as is practicable, that the information held is accurate and up to date. The data must be limited to what is necessary for the

purpose(s) you are processing it.

- If personal data is found to be inaccurate, this will be remedied as soon as possible. This involves not only initial accuracy but also ongoing efforts to keep information current, with processes in place to address inaccuracies and updates. In addition, as far as possible we will distinguish between personal data that is based on factual data and that which is based on a matter of opinion or assessment, such as a witness statement.
- Personal information, such as contact details, may be shared within the council where it is necessary to keep records accurate and up-to-date, and in order to provide individuals with a better service. This type of sharing will be carried out in a fair, lawful and transparent way and the data will be processed in accordance with the principles of the UK GDPR
- Records may include professional opinions about individuals, but employees will not record any personal opinions about individuals. This is because personal opinions are subjective and not intended to record information.
- The council's use of personal data will comply with the Corporate Records Management Policy and Retention Schedules covering every type of council record.
- Information will only be held for as long as is necessary after which the details will normally be deleted or fully anonymised so that the individual cannot be identified. Where details of individuals are stored for long-term archive or historical reasons, and where it is necessary to retain the personal detail within the records, it will be done within the requirements of the legislation.
- Redundant personal data will be destroyed using the council's procedure for disposal of confidential waste and in accordance with departmental retention schedules.

## 9. Security

Any inappropriate, unauthorised access of data, use or misuse of data or failure to comply with ITD security arrangements and policies may result in disciplinary action, including dismissal.

The council will implement appropriate technical and organisational security measures so that unauthorised staff and other individuals are prevented from gaining access to sensitive personal information.

An employee must only access personal data they need to use as part of their job in line with the data minimisation principle.

Inappropriate or unauthorised access will not be tolerated.

The council has an ITD Security Policy which applies to electronic systems containing personal data. The Security Policy is owned by the Head of ITD. All ITD security incidents should be reported to the ITD Helpdesk.

All other information security incidents (including data breaches), however minor, should be reported via the process detailed on the Information Governance intranet site immediately

after becoming aware of the incident.

All managers and staff within the council's departments will take steps to ensure that personal data is always kept secure against unauthorised or unlawful loss or disclosure in line with or adhering to the principles of data security and confidentiality.

Manual files and other records or documents containing personal/sensitive data will be kept in a secure environment and accessed on a need-to-know basis only.

Personal data held on computers and computer systems will be installed with user-profile type password controls, encryption which is aligned with recognised industry standards like FIPS 140-3 or FIPS 197 and where necessary, audit and access trails to establish that each user is fully authorised. Personal data should not be held on unencrypted electronic devices or media.

Security arrangements will be reviewed regularly along with carrying out regular security assessments, any reported breaches or potential weaknesses will be investigated and, where necessary, further or alternative measures will be introduced to secure the data.

Employees who process personal data out of the office (e.g. off site, on client premises, at home) must adhere to the council's Information Security Policy and remote working guidance. Access to personal data outside of the council should not be attempted using unsecured access systems (this includes via mobile networks outside of UK unless the network has been checked in advance to be compliant under data protection law).

Wherever reasonably practicable, system testing should not use live personal data. Where this isn't possible advice must be sought from the Data Protection Officer and testing will only be carried out using personal data where sufficient safeguards are in place.

Personal data will not be transferred outside the UK /EEA or other territories deemed to provide adequate data protection safeguards by the DP Legislation without the approval of the Head of ITD and Data Protection Officer.

### Data breaches

The council will make all reasonable endeavours to prevent personal data breaches. Staff must follow the Data Breach (Information Security) Policy and procedure if they become aware of a potential data breach. If it is determined by the council that a data breach has occurred, after initial containment and depending upon the seriousness and complexity of the incident, the risks associated with the breach will be assessed in order to identify an appropriate response. All data security breaches must be managed according to the severity of the risk they pose. When appropriate, and upon taking advice from the Data Protection Officer, the council will report the data breach to the ICO and/or inform affected data subjects.

## 10. Data subjects rights

- The council will ensure that the rights of people about whom personal information is held can be fully exercised under the DP legislation. The council manages rights requests according to its Data Subject Rights Requests Procedures.
- **The right to access records – Subject Access Request (SAR)**
  - An individual can request to see all the personal data that the council holds about them or in some circumstances someone they have a legal responsibility for through a subject access request. Please note that our response times to these

requests, and the other types of requests below, is **one calendar month**, so employee response to such requests must be actioned with the appropriate priority. This time limit begins when we receive the request or, if we need to verify the requester's identity, when we receive the necessary information to do so. In certain complex situations, the response time can be extended by up to two months, but the requestor must be informed of the extension within the initial month. Servicing these requests continue to be free.

- Some requests may result in a combination of personal and non-personal information. In such cases the Freedom of Information Act 2000 will also need to be applied, as the legislation governs the disclosure of nonpersonal information held by the council.
- If in any doubt, or a request is considered particularly sensitive/complex please ensure legal advice and support is sought from the Data Protection Officer before coming to a decision and disclosing the requested information.
- **The right to request rectification – the correction of incorrect information.**
  - If an individual identifies that information, we hold about them is incorrect SGC must investigate and, if the law allows, correct the inaccuracy. However, in many cases SGC will be required to keep the old record by law and will instead append a note to the record advising of the suggested correction.
- **The right to request erasure / deletion of their records (right to be forgotten)**
  - An individual can request that we delete records we hold about them. However, in many cases SGC will be required to keep the record by law and will instead append a note to the record advising that the request was made but declined.
- **The right to restriction – restricting the processing of personal data.**
  - When an individual requests that we rectify or delete records we hold about them we are obliged to cease processing the record. However, in many cases SGC will be required to continue processing the record by law and will instead append a note to the record advising that the request was made but declined.
- **The right to portability**
  - An individual can request that we transfer their personal data records to another data controller in a machine-readable form. This is highly unlikely to occur in normal council business, but in reality, will take the form of a SAR provided in electronic format such as a pdf, word or excel file.
- **The right to object to processing**
  - An individual can object to SGC processing their personal data and we could be obliged to do this. However, in many cases SGC will be required to continue processing the record by law and will instead append a note to the record advising that the request was made but declined.
- **The right to object to automated decision making & profiling.**
  - An individual should not be subject to automated decision making unless authorised by UK law or SGC has explicit consent. Advice should be sought from the Data Protection Officer for any new project or initiative that may involve profiling of individuals. Any project that involves profiling and/or fully automated decision making must complete a Data Protection Impact Assessment (DPIA) to be reviewed by the Data Protection Officer.
- **The right to complain to the Information Commissioner's Office**
  - If an individual has cause for complaint about how their personal data has been processed by the council or one of our partners / contractors, they must be advised of their right to complain to the Information.
  - Commissioner's Office (ICO). SGC provides the full contact details for the ICO via our Privacy Notice.



## 11. Disclosure and sharing

### Third party access to information

1. Where a request for personal data is made by a third party on behalf of the data subject it shall be treated as a subject access request. Evidence is required that the third party is entitled to act in this way, such as a written statement from the data subject or an enduring power of attorney. Appropriate professionals may need to be consulted before a decision to release the personal data is made.
2. Third party personal information may form part of the data extracted in response to a subject access request. In deciding whether to release this information, the council will consider the following:
  - 2.1. any duty of confidentiality owed to the third party.
  - 2.2. attempts to get consent from the third party.
  - 2.3. any express refusal of consent from the third party
  - 2.4. the third party's expectations with respect to that data
3. When a request for personal data is made by a third party and not on behalf of the data subject, the council shall consider the request under Freedom of Information as well as DP legislation. It shall consider whether releasing the personal data would breach any of the DP principles and in particular whether any exemptions under DP legislation apply. Employees should consult with their departmental representative as per the Information Governance Intranet site. Personal information will not be shared with third parties unless specifically allowed for in law and justified in the specific situation.
4. The Freedom of Information policy deals with requests for information about third parties, and information will be withheld where disclosing it would breach any of the DP principles. Where a requester does not state a specific reason for requesting the information then the FOI policy should be followed. A response to an FOI request must not consider the reasons behind the request.
5. When there is a specific reason for requesting the information, an exemption under DP legislation may apply. Examples are where information is required for the prevention or detection of crime, apprehension or prosecution of offenders or assessment or collection of tax.
6. If an appropriate exemption under DP legislation does apply so that the DP principles will not be breached, the council will usually comply with the request. If the council determines that it cannot comply with the request the legal reasons for doing so, including the considerations and outcomes of any legal 'tests', will be advised to the requestor (unless doing so would disclose exempt information) and documented within the case management system.

## 12. Information sharing

- 1.1. The council recognises the need to share personal data and sensitive special category data with other partner organisations in order to safeguard the vulnerable and provide effective and efficient services. The ICO provides extensive guidance on this subject – [ICO Code of Practice](#).
- 1.2. The council has produced Information Sharing guidance and within that document under



appendix 2 an Information Sharing Agreement (ISA) template is provided. The council has signed protocols on information sharing across Gloucestershire, Avon and Wiltshire authorities, with the NHS, the Police, with public and private organisations. The sharing of personal data will comply with the standards set out in these protocols, which where relevant, includes the Caldicott Principles.

- 1.3. Guidance on Research Governance can be found on the Information Governance intranet site which should be used where people are requesting access to information as part of a research exercise.
- 1.4. The council promotes information sharing where it is in the best interests of the data subject and particularly when failing to share could pose risks to vulnerable individuals or groups. However, personal data and sensitive special category data will not be shared unless it is in connection/compatible with the primary purpose for which the information was collected, or the data subject has explicitly given their permission for the information to be shared for this purpose, or another legal provision exists to allow the sharing of such information.
- 1.5. The council will ensure that supporting processes and documentation are made available to professionals so that they understand how to share information safely and lawfully.
- 1.6. Where an employee acting in good faith has shared information in accordance with these supporting processes and documentation, they shall not normally be subject to disciplinary action under section 6.2.4 hereof.
- 1.7. Sharing large sets of information, or recurrent regular sharing shall be carried out under written agreement to ensure the continued compliance with the DP legislation and that additional safeguards can be considered and put in place.

### **Contractual and partnership arrangements**

1. When the council enters contractual or partnership arrangements which involve the processing of personal data, a written agreement will specify which party is data controller or whether there are joint data controller arrangements. Where a third party is processing personal data and information on behalf of the council (data processor), a written contract/data processing agreement which meets the requirements under Article 28 of UK GDPR must be put in place including services provided online and via 'the cloud'.
2. Where the council remains as data controller, it will take steps to ensure that the processing by its contractors and sub-contractors will comply with the DP legislation. Contractors will not be able to sub-contract Data.
3. Processing without the explicit written permission of the council. Officers will take reasonable steps to ensure that data processing by third parties is regularly monitored to ensure the DP legislation requirements are being met.
4. Where two or more controllers jointly determine the purposes and means of processing personal data, they will be known as 'joint controllers. They shall, via a transparent documented arrangement, determine their respective responsibilities to ensure the partnership complies with the Data Protection legislation, regarding how the rights of their data subjects will be met and managed (unless their respective responsibilities are determined by UK law). The arrangement should also include a single point of contact for data subjects. However, individuals must remain able to exercise their rights against

each controller.

5. All contractors who are users of personal information supplied by the council will be required to confirm that they will abide by the requirements of the DP legislation to the same standard as the council with regard to information supplied by the council. Staff should obtain advice from the Data Protection Officer as necessary.
6. All contractors, consultants, partners or agents of the council must ensure that they and all of their staff who have access to personal data held or processed for or on behalf of the council, are aware of this policy and are fully trained in and are aware of their duties and responsibilities under the DP legislation. Any breach of any provision of the DP legislation will be deemed as being a breach of the contract between the council and that individual, company, partner or firm. The council shall take reasonable steps to ensure regular monitoring of contracts and specifically the security of data being processed on its behalf.
7. Any observed or suspected security incidents or security concerns must be reported to the council without undue delay.
8. All contractors, consultants, partners or agents of the council must allow data protection audits by the council of data held on its behalf if requested in line with these contractual arrangements.

## 13. ICO data protection fee

The council, as a Data Controller, is registered as such with the Information Commissioner under registration number Z5077191.

The Data Protection Officer is responsible for submitting this data protection registration to the Information Commissioner's Office on an annual basis following a review by the Data & Information Group (DIG).

The information we need to provide is:

- The organisation name and address as a controller
- The number of people that make up our organisation (i.e. greater than 250)
- Name and contact details of the following people:
- The person completing the registration process
- Our Data Protection Officer (DPO)

The council also supports three further data protection registrations for the Electoral Registration Officer for South Gloucestershire (Z4854602), Superintendent Registrar of Births, Deaths and Marriages for South Gloucestershire (Z6929484) and South Gloucestershire Youth Offending Team (Z4879326).

Processing of personal data by Elected Members is covered by the council's main corporate data protection registration in respect of information held by the council.

Elected Members who process personal data obtained by them for constituency or political purposes are exempt from paying a fee to the Information Commissioner's Office.

If we fail to register and pay the appropriate Data Protection fee, we will be receiving a reminder explaining when we need to pay. If we don't then pay, or explain why we are no longer required to pay a fee, we will issue a notice of intent 14 days after expiry. We then

have 21 days to pay or make representations. If we do not pay or fail to notify the ICO that we no longer need to pay, we may be issued with a fine of up to £4,350 (150% of the top tier fee.)

## 14. Records of processing activities

The council maintains a record of processing activities of each service under our responsibility. This is an enhanced version of our Information Asset Register and contains the following information that enables us to comply with this requirement:

- (a) Our name and corporate contact details, together with the contact details of our Data Protection Officer.
- (b) The purposes of processing the personal data
- (c) A description of the categories of data subjects and of the categories of personal data
- (d) The categories of recipients to whom the personal data have been or will be disclosed including, where applicable, recipients in third countries or international organisations
- (e) Details of suitable safeguards if the data is transferred outside the UK.
- (f) Via our Records Retention Schedules the envisaged time limits for erasure of the different categories of data
- (g) A general description of the technical and organisational security measures in place to protect this data – it should be noted that access for security reasons to such data will be extremely limited.

Similarly, our data processors are expected to maintain a record of all categories of processing activities carried out on our behalf. This record contains:

- (a) the name and contact details of the processor or processors and of each controller on behalf of which the processor is acting, and, where applicable the data protection officer.
- (b) the categories of processing carried out on behalf of each controller;
- (c) Details of suitable safeguards if the data is transferred outside the UK.
- (d) A general description of the technical and organisational security measures in place to protect this data – it should be noted that access for security reasons to such data will be extremely limited.

The council or our data processors may be requested to make the records available to the ICO for inspection upon request. Therefore, it is essential that the DIG departmental representatives and the Information Asset Owners and Administrators review and update at least annually. However, when the council plans to carry out new processing the relevant records must be kept up to date. Therefore, the manager responsible will inform the Data Protection Officer in good time to ensure the relevant records are amend (if necessary) within 28 days of processing beginning.

Please note elected members are not required to maintain records of their processing activities unless the processing is likely to:

- (a) result in a risk to the rights and freedoms of data subjects
- (b) regular rather than occasional
- (c) include special categories of data, including personal data relating to criminal convictions and offences.

## 15. Subject access requests and data protection complaints

The first point of contact for data subjects (applicants) should be the relevant IG team. Service areas should not be resolving matters, such as complaints or data requests for example directly without Information Governance involvement.

Subject access requests and data protection complaints should be addressed to the following places:

- **Feedback and Information Governance Team**  
Department for People  
PO Box 1955  
Bristol BS37 0DE  
e-mail: [CAHdataprotection@southglos.gov.uk](mailto:CAHdataprotection@southglos.gov.uk)
- **Complaints and FOI Team**  
Departments for Place and Resources & Business Change  
PO Box 1954  
Bristol BS15 0DD  
e-mail: [ECSFeedback@southglos.gov.uk](mailto:ECSFeedback@southglos.gov.uk)

Complaints about the council's processing of personal data and rights under the Data Protection Act 2018, the UK GDPR and associated legislation will be dealt with by the ICO.

Under DP legislation the data subject has a specific right to complain to the ICO if they feel the council is not processing their data lawfully. Data subjects are informed how to contact the ICO within the Privacy Notice through the following channels:

- "For independent advice about data protection, privacy and data sharing issues, you can contact the Information Commissioner's Office (ICO) via their [contact page](#) or call them on 0303 123 1113"

The council will respond promptly and fully to any request for information about data protection compliance made by the Information Commissioner's Office. The council will comply with any Information Commissioner Information Notice (to provide answers and information to the Commissioner) or Enforcement Notice (for failure to provide answers or information or for a breach of the Act) sent to the council by the Information Commissioner. The Commissioner can also carry out audits, prosecute individuals and organisations and report concerns to parliament. The original copies of Notices should be sent to The Data Protection Officer, Legal Services at the following email, [DPO@southglos.gov.uk](mailto:DPO@southglos.gov.uk), for advice and support.

## 16. ICO enforcement

The Information Commissioner has various enforcement powers at their disposal ranging from inquiries into data breaches, reprimands, Information Notices, Assessment Notices, Enforcement Notices, powers of physical entry and inspection and, ultimately, Penalty notices and prosecution.

Penalty notices or monetary penalties (fines) may be served for non-compliance with the Data Protection Act 2018 and or serious data breaches. There are two levels as follows:

- The “higher maximum amount” is £17.5 million
- The “standard maximum amount” is £8.2 million

The maximum amount of a penalty in sterling will be determined by applying the spot rate of exchange set by the Bank of England on the day on which the penalty notice is given.

The “higher maximum” will apply to very serious and or damaging data breaches and fundamental failure to comply with the fundamentals of the DPA ideals.

All fines are made public by the Commissioner, and the Chief Executive of the offending organisation is usually asked to make a formal undertaking to put in place effective measures and remedies.

If the organisation disputes the fine, it can appeal to the First-Tier Tribunal within 28 days of being informed of the Monetary Penalty Notice.

## 17. Implementation

The responsibility for implementation of this policy rests with the Chief Executive, the Senior Leadership Team (SLT), the Senior Information Risk Officer, the Data & Information Group (DIG) and the Data Protection Officer.

The council will ensure that:

- Everyone managing and/or handling personal information understands that they are contractually responsible for following good data protection practice and abide by their duties and responsibilities under the GDPR.'
- Everyone managing and/or handling personal information is appropriately trained to do so.
- Everyone managing and/or handling personal information is appropriately supervised.
- Anyone wanting to make enquiries about handling personal information, whether a member of staff or a member of the public, is given advice as necessary.
- Queries about handling personal information are promptly and courteously dealt with
- Methods of handling personal information are regularly assessed and evaluated.
- Performance with handling personal information is regularly assessed and evaluated.
- Employees are aware of the action required in the event of a Data Breach.

On joining the council, employees are required to undertake training on Data Protection and ITD Security as part of their induction. They will not be allowed to use SGC's network until successfully completing the training and achieving at least 80% in the assessment. The Data & Information Group (DIG) works with the departments to maintain the on-going programme of annual training and awareness to maintain a high level of understanding of Data Protection and security among all staff and to communicate any legal or policy changes that occur.

Supporting procedures for this policy have been created and are maintained within the Information Governance Framework, Policy and Guidance pages that are available to all users. Appropriate levels of consultation take place at review time before DIG approve the changes for implementation.

Data Protection audits are regularly carried out by internal audit (external audits may be commissioned if required) to monitor compliance with the DP legislation and this policy.

## 18. Other related policies

This policy should be interpreted and applied in relation to other related policies. Breach of these policies will automatically breach this policy, and this is likely to contravene the DPA and other legislation. These related policies include, but are not limited to, the following and such other policies as are adopted by the council from time to time:

1. ITD Security Policy
2. Email Best Practice Guidelines
3. Subject Access Policy and Procedures
4. Corporate Records Management Policy
5. Record Retention Schedules
6. Information Asset Owners and Administrators Guidance
7. Information Asset Register
8. Use of Images Policy
9. CCTV Protocols
10. Freedom of Information and Information Access Policy and Procedures
11. RIPA Surveillance Policy
12. Social Media Policy
13. Data Sharing Agreements, Protocols and Contracts (various)
14. National, Regional, Corporate and Departmental Policies and Procedures

For further information please see our policies and guidance pages.

## 19. Monitoring and review

The implementation and effectiveness of this policy will be monitored and reviewed by the Data & Information Group.

Reports on data protection and the operation of this policy will be made to Senior Leadership Team as required.

This policy will be reviewed at no more than biannual intervals.

Any comments about this policy should be addressed to the Information Governance Compliance Officer (Policy) or departmental members of the Data & Information Group (DIG).