

## MONMOUTH TOWN COUNCIL

### GENERAL DATA PROTECTION REGULATION POLICY

1. In order to conduct its business, services and duties, the Council processes a wide range of data, relating to its own operations and some which it handles on behalf of partners. In broad terms, this data can be classified as:
2. Data shared in the public arena about the services it offers, its mode of operations and other information it is required to make available to the public.
3. Confidential information and data not yet in the public arena such as ideas or policies that are being worked up.
4. Confidential information about other organisations because of commercial sensitivity.
5. Personal data concerning its current, past and potential employees, Councillors, and volunteers.
6. Personal data concerning individuals who contact it for information, to access its services or facilities or to make a complaint.
7. The Council will adopt procedures and manage responsibly, all data which it handles and will respect the confidentiality of both its own data and that belonging to partner organisations it works with and members of the public. In some cases, it will have contractual obligations towards confidential data, but in addition will have specific legal responsibilities for personal and sensitive information under data protection legislation.
8. The Council will periodically review and revise this policy in the light of experience, comments from data subjects and guidance from the Information Commissioners Office.
9. The Council will be as transparent as possible about its operations and will work closely with public, community and voluntary organisations. Therefore, in the case of all information which is not personal or confidential, it will be prepared to make it available to partners and members of the community. Details of information which is routinely available is contained in the Council's Publication Scheme which is based on the statutory model publication scheme for local councils.
10. The Council recognises it must at times, keep and process sensitive and personal information about both employees and the public, it has therefore

adopted this policy not only to meet its legal obligations but to ensure high standards.

11. This policy updates any previous data protection policy and procedures to include the additional requirements of GDPR which apply in the UK from 25th May 2018.
12. GDPR gives individuals rights with some enhancements to those rights already in place:
  - 12.1.1. the right to be informed
  - 12.1.2. the right of access
  - 12.1.3. the right to rectification
  - 12.1.4. the right to erasure
  - 12.1.5. the right to restrict processing
  - 12.1.6. the right to data portability
  - 12.1.7. the right to object
  - 12.1.8. the right not to be subject to automated decision-making including profiling.
13. The two enhancements of GDPR are that individuals now have a right to have their personal data erased (sometimes known as the 'right to be forgotten') where their personal data is no longer necessary in relation to the purpose for which it was originally collected, and data portability must be done free of charge. Data portability refers to the ability to move, copy or transfer data easily between different computers.
14. If a request is received to delete information, then the DPO must respond to this request within a month. The DPO has the delegated authority from the Council to delete information.
15. If a request is considered to be manifestly unfounded then the request could be refused, or a charge may apply. The charge will be as detailed in the Council's Freedom of Information Publication Scheme. The Mayor will be informed of such requests
16. **The policy is based on the premise that Personal Data must be:**
  - 16.1. Processed fairly, lawfully and in a transparent manner in relation to the data subject.
  - 16.2. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.
  - 16.3. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

- 16.4. Accurate and, where necessary, kept up to date.
- 16.5. Kept in a form that permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed.
- 16.6. 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.

## 17. Data Protection Terminology

**Data subject** - means the person whose personal data is being processed.

That may be an employee, prospective employee, associate or prospective associate of LCC or someone transacting with it in some way, or an employee, Member or volunteer with one of our clients, or persons transacting or contracting with one of our clients when we process data for them.

**Personal data** - means any information relating to a natural person or data subject that can be used directly or indirectly to identify the person.

It can be anything from a name, a photo, and an address, date of birth, an email address, bank details, and posts on social networking sites or a computer IP address.

**Sensitive personal data** - includes information about racial or ethnic origin, political opinions, and religious or other beliefs, trade union membership, medical information, sexual orientation, genetic and biometric data or information related to offences or alleged offences where it is used to uniquely identify an individual.

**Data controller** - means a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data is to be processed.

**Data processor** - in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller.

**Processing information or data** - means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including:

organising, adapting or altering it

retrieving, consulting or using the information or data

disclosing the information or data by transmission, dissemination or otherwise

making it available

aligning, combining, blocking, erasing or destroying the information or data regardless of the technology used.

18. The Council processes **personal data** in order to:

- 18.1. fulfil its duties as an employer by complying with the terms of contracts of employment, safeguarding the employee and maintaining information required by law.
- 18.2. pursue the legitimate interests of its business and its duties as a public body, by fulfilling contractual terms with other organisations, and maintaining information required by law.
- 18.3. monitor its activities including the equality and diversity of its activities
- 18.4. fulfil its duties in operating the business premises including security
- 18.5. assist regulatory and law enforcement agencies
- 18.6. process information including the recording and updating details about its Councillors, employees, partners and volunteers.
- 18.7. process information including the recording and updating details about individuals who contact it for information, or to access a service, or make a complaint.
- 18.8. undertake surveys, censuses and questionnaires to fulfil the objectives and purposes of the Council.
- 18.9. undertake research, audit and quality improvement work to fulfil its objects and purposes.
- 18.10. carry out Council administration.

Where appropriate and governed by necessary safeguards we will carry out the above processing jointly with other appropriate bodies from time to time.

19. **The Council will ensure that at least one of the following conditions is met for personal information to be considered fairly processed:**

- 19.1. The individual has consented to the processing
- 19.2. Processing is necessary for the performance of a contract or agreement with the individual
- 19.3. Processing is required under a legal obligation
- 19.4. Processing is necessary to protect the vital interests of the individual
- 19.5. Processing is necessary to carry out public functions
- 19.6. Processing is necessary in order to pursue the legitimate interests of the data controller or third parties.
- 19.7. Particular 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:
  - 19.8. Explicit consent of the individual
  - 19.9. Required by law to process the data for employment purposes

19.10. A requirement in order to protect the vital interests of the individual or another person

**20. Who is responsible for protecting a person's personal data?**

The Council as a corporate body has ultimate responsibility for ensuring compliance with the GDPR. The Council has delegated this responsibility to the Clerk who is the Data Protection Officer.

(Town Clerk)

Monmouth Town Council

Shire Hall, Monmouth, NP25 3DY

Tel: 01600 715662

Email: [townclerk@monmouth.gov.uk](mailto:townclerk@monmouth.gov.uk)

**21. Diversity Monitoring**

21.1. The Council monitors the diversity of its employees, and Councillors, in order to ensure that there is no inappropriate or unlawful discrimination in the way it conducts its activities. It undertakes similar data handling in respect of prospective employees. This data will always be treated as confidential. It will only be accessed by authorised individuals within the Council and will not be disclosed to any other bodies or individuals. Diversity information will never be used as selection criteria and will not be made available to others involved in the recruitment process. Anonymised data derived from diversity monitoring will be used for monitoring purposes and may be published and passed to other bodies.

21.2. The Council will always give guidance on personal data to employees, councillors, partners and volunteers through a Privacy Notice and ensure that individuals on whom personal information is kept are aware of their rights and have easy access to that information on request.

21.3. Appropriate technical and organisational measures will be taken against Unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

**22. Information provided to us**

22.1. The information provided (personal information such as name, address, email address, phone number) will be processed and stored so that it is possible for us to contact, respond to or conduct the transaction requested by the individual. By transacting with the Council, individuals are deemed to be giving consent for their personal data provided to be used and transferred in accordance with this policy, however where ever possible specific written consent will be sought. It is the responsibility of those individuals to ensure that the Council is able to keep their personal data

accurate and up-to-date. The personal information will be not shared or provided to any other third party or be used for any purpose other than that for which it was provided.

## 23. **The Councils Right to Process Information**

- 23.1. General Data Protection Regulations (and Data Protection Act) Article 6 (1) (a) (b) and (e)
- 23.2. Processing is with consent of the data subject, or
- 23.3. Processing is necessary for compliance with a legal obligation.
- 23.4. Processing is necessary for the legitimate interests of the Council.

## 24. **Information Security**

25. The Council cares to ensure the security of personal data. We make sure that your information is protected from unauthorised access, loss, manipulation, falsification, destruction or unauthorised disclosure. This is done through appropriate technical measures and appropriate policies.
26. We will only keep your data for the purpose it was collected for and only for as long as is necessary, after which it will be deleted.

## 27. **Rights of a Data Subject**

- 27.1. **Access to Information:** an individual has the right to request access to the information we have on them. They can do this by contacting the Clerk.
  - 27.2. **Information Correction:** If they believe that the information we have about them is incorrect, they may contact us so that we can update it and keep their data accurate. Please contact the Clerk.
  - 27.3. **Information Deletion:** If the individual wishes the Council to delete the information about them, they can do so by contacting the Clerk.
  - 27.4. **Right to Object:** If an individual believes their data is not being processed for the purpose it has been collected for, they may object by contacting the Clerk.
  - 27.5. The Council does not use automated decision making or profiling of individual personal data.
28. **Complaints:** If an individual has a complaint regarding the way their personal data has been processed, they may make a complaint to the Clerk or the Information Commissioners Office [casework@ico.org.uk](mailto:casework@ico.org.uk) Tel: 0303 123 1113.

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

## **29. Making Information Available**

The Publication Scheme is a means by which the Council can make a significant amount of information available routinely, 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.

30. In accordance with the provisions of the Freedom of Information Act 2000, this Scheme specifies the classes of information which the Council publishes or intends to publish. It is supplemented with an Information Guide which will give greater detail of what the Council will make available and hopefully make it easier for people to access it.

31. All formal meetings of Council and its committees are subject to statutory notice being given on notice boards and the Website. All formal meetings are open to the public and press and reports to those meetings and relevant background papers are available for the public to see.

32. Occasionally, the Council or committees may need to consider matters in private. Examples of this are matters involving personal details of staff, or a particular member of the public, or where details of commercial/contractual sensitivity are to be discussed. This will only happen after a formal resolution has been passed to exclude the press and public and reasons for the decision are stated. Minutes from all formal meetings, including the confidential parts are public documents.

## **33. Data breaches**

33.1. One of the duties assigned to the DPO is the investigation of any breaches.

33.2. Personal data breaches should be reported to the DPO for investigation. The DPO will conduct this with the support of Full Council.

33.3. Investigations must be undertaken within one month of the report of a breach.

33.4. Procedures are in place to detect, report and investigate a personal data breach.

33.5. The ICO will be advised of a breach (within 3 days) where it is likely to result in a risk to the rights and freedoms of individuals – if, for example, it

could result in discrimination, damage to reputation, financial loss, loss of confidentiality, or any other significant economic or social disadvantage.

33.6. Where a breach is likely to result in a high risk to the rights and freedoms of individuals, the DPO will also have to notify those concerned directly.

33.7. It is unacceptable for non-authorized users to access IT using employees' log-in passwords or to use equipment while logged on.

33.8. It is unacceptable for employees, volunteers and members to use IT in any way that may cause problems for the Council, for example the discussion of internal Council matters on social media sites could result in reputational damage for the Council and to individuals.

## 34. Privacy Notices

34.1. Being transparent and providing accessible information to individuals about how the Council uses personal data is a key element of the Data Protection Act 1998 (DPA) and the EU General Data Protection Regulation (GDPR).

34.2. The most common way to provide this information is in a privacy notice. This is a notice to inform individuals about what a Council does with their personal information.

34.3. A privacy notice will contain the name and contact details of the data controller and Data Protection Officer, the purpose for which the information is to be used and the length of time for its use. It should be written clearly and should advise the individual that they can, at any time, withdraw their agreement for the use of this information.

34.4. Issuing of a privacy notice must be detailed on the Information Audit kept by the Council. The Council will adopt a privacy notice to use, although some changes could be needed depending on the situation, for example where children are involved.

## 35. Information Audit

35.1 The DPO must undertake an information audit which details the personal data held, where it came from, the purpose for holding that information and with whom the Council will share that information.



- 35.2 This will include information held electronically or as a hard copy. Information held could change from year to year with different activities, and so the information audit will be reviewed at least annually or when the Council undertakes a new activity.
- 35.3 The information audit review should be conducted ahead of the review of this policy and the reviews should be minuted. Individuals' Rights 78
- 35.4 GDPR gives individuals rights with some enhancements to those rights already in place: a. the right to be informed b. the right of access c. the right to rectification d. the right to erasure e. the right to restrict processing f. right to data portability g. the right to object h. the right not to be subject to automated decision-making including profiling.
- 35.5 The two enhancements of GDPR are that individuals now have a right to have their personal data erased (sometimes known as the 'right to be forgotten') where their personal data is no longer necessary in relation to the purpose for which it was originally collected, and data portability must be done free of charge. Data portability refers to the ability to move, copy or transfer data easily between different computers.
- 35.6 If a request is received to delete information, then the DPO must respond to this request within a month. The DPO has the delegated authority from the Council to delete information.
- 35.7 If a request is considered to be manifestly unfounded then the request could be refused, or a charge may apply. The charge will be as detailed in the Council's Freedom of Information Publication Scheme. The Executive Committee will be informed of such requests.

## 36 Children

36.1 There is special protection for the personal data of a child.

36.2 The age when a child can give their own consent is 13. Consent forms for children age 13 plus, must be written in language that they will understand.

36.3 If the Council requires consent from young people under 13, the Council must obtain a parent or guardian's consent in order to process the personal data lawfully.

## 37 Summary

- 38 The main actions arising from this policy are:
- 38.5 The Council must be registered with the ICO.
  - 38.6 A copy of this policy will be available on the Council's website. The policy will be considered as a core policy for the Council.
  - 38.7 The Clerk's Contract and Job Description (if appointed as DPO) will be amended to include additional responsibilities relating to data protection.
  - 38.8 An information audit will be conducted and reviewed at least annually or when projects and services change.
  - 38.9 Privacy notices must be issued.
  - 38.10 Data Protection will be included on the Council's Risk Register.
  - 38.11 The Mayor, with Terms of Reference, will manage the process.
  - 38.12 This policy document is written with current information and advice. It will be reviewed at least annually or when further advice is issued by the ICO.
  - 38.13 All employees, volunteers and Councillors are always expected to comply with this policy to protect privacy, confidentiality and the interests of the Council.
  - 38.14 This Policy is supported by the Terms of Reference for the Mayor responsible

## Version Control

<b>Version Number</b>	<b>Description of Changes</b>	<b>By Whom</b>	<b>Adopted at</b>
1	Rewritten version	DL	FC 27/01/2020
2	Review & rewrite	PH	-
3	Reviewed, approved & adopted (no changes)	PH	F&P 06/03/2023
4	Reviewed – no changes	PH	FC 15/05/2023