



Data Protection Policy

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Introduction

The Data Protection Act 1998 came into force on 1st March 2000 after receiving Royal Assent on 16th July 1998. The Act implemented the European Directive 95/46/EC and repealed the Data Protection Act 1984 along with certain other legislation that gave rights of access to information held by organisations.

The Act extends the rights given to individuals in previous legislation and requires Data Controllers (people or organisations that hold and process details of living individuals) like Charnwood Borough Council, to comply with eight rules governing the use of personal data, known as the Data Protection Principles. The Human Rights Act (1998) also sets out the right of individuals to respect for their private and family life, home and correspondence.

This policy outlines how Charnwood Borough Council will meet the legal requirements of the Data Protection Act 1998 and the relevant parts of the Human Rights Act 1998 and Common Law.

I. Statement of Intent

Charnwood Borough Council understands the value placed on personal information by people and takes seriously its obligations under the Data Protection Act 1998 (the 'Act') and other relevant legislation. The Council will take all necessary steps to ensure it, its elected Members, employees and agents operate within the law, associated professional codes of practice and corporate policies and procedures at all times. It is the responsibility of each employee and Member to adhere to the policy and comply with the eight Principles (below) set out in the Act.

- 1) Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless –
 - a) *at least one of the conditions in Schedule 2 of the Act is met and,*
 - b) *in the case of sensitive personal data, at least one of the conditions in Schedule 3 of the Act is also met.*
- 2) Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
- 3) Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- 4) Personal data shall be accurate and, where necessary, kept up to date.
- 5) Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

- 6) Personal data shall be processed in accordance with the rights of data subjects under the Act.
- 7) Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- 8) Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

The Council will ensure that all registrable processing is appropriately notified to the Information Commissioner and will conduct a periodic review and update of the register entries.

It is the aim of Charnwood Borough Council that all appropriate staff and Members are properly trained, fully informed of their obligations under the Data Protection Act 1998 and are aware of their personal liabilities. Any employee deliberately acting outside their recognised authority will be subject to the Charnwood Borough Council's disciplinary procedures, including dismissal where appropriate, and possibly legal action.

Individuals whose information is held and processed by Charnwood Borough Council can be assured that the Council will treat their personal data with all due care. It is possible that other legislation and the exemptions contained in the Act may affect how personal data will be processed and individuals should note that the Council will fulfil all of its legal responsibilities.

This policy should be read in conjunction with the Policies and Codes of Practice which exist within Charnwood Borough Council in respect of the following types of data processing:

- *Internet and e-mail usage*
- *IT Security*
- *CCTV*
- *Freedom of Information*

2. Fair Processing or Privacy Statement

Charnwood Borough Council will, as far as is practicable, ensure that all individuals whose details it holds are aware of the way in which that information will be held, used and disclosed. Individuals will, where possible, be informed of the likely recipients of the information - whether the recipients are internal or external to the Council. Processing within the Council will be fair and lawful, individuals will not be misled as to the uses to which the Council will put the information given. If a person feels they have been deceived or misled as to the reason for which their information was collected, they should use the Council complaints procedure.

Collection forms requiring personal information will contain a fair processing or privacy statement giving details of the likely uses of the information and, where information is collected in person or by telephone, the employee asking for the details will tell the individual how those details will be used. People are free to ask the person collecting the information why they want the details and what they will be used for.

If a person's details are going to be used for "auto-decision" processing (where a computer decides something based on a score or other information) the person will be told about how the system works and whether the decision can be challenged.

If a person's details are to be processed for a purpose that does not appear on the Council's register entry (e.g. some manual and/or non-contentious core processing) the individual will be given the information that would be necessary to make the processing fair and lawful.

3. Data Uses and Processes

Charnwood Borough Council will not use or process personal information in any way that is incompatible with its notified purposes or in any other way that would constitute a breach of Data Protection law. Any new purposes introduced will, where appropriate, be notified to the individual and - if required - their consent will be sought. A copy of the appropriate notification document can be viewed on the Information Commissioner's website at www.ico.gov.uk.

All staff and Members using personal data within the Council will be told the limits of their authority to use and disclose such information. The Head of Service for each service area will ensure that all purposes and disclosures are coordinated and consistent and that all new purposes are documented and notified to the Information Commissioner's Office, as required.

4. Data Quality and Integrity

Charnwood Borough Council will not collect personal data from individuals where that information is excessive or irrelevant in relation to the notified purpose(s). Details collected will be adequate for the purpose and no more. Information collected which becomes (over time or by virtue of changed purposes) irrelevant or excessive will be deleted.

Information will only be held for as long as is necessary for the notified purpose(s) - after which the details will be deleted. 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 always be done within the requirements of the Act. In many cases personal details will be removed from the record so that individuals cannot be identified.

The Council will ensure, as far as is practicable, that the information held is accurate and up to date. It is the intention of the Council to check wherever possible the details given. Information received from third parties (i.e. neither the individual concerned nor the Council) will carry a marker indicating the source. Where a person informs the Council of a change of their own circumstances, such as home address or non-contentious data, their record(s) will be updated as soon as possible. Where the individual requests that information be changed and it is not possible to update it immediately, or where the new information needs to be checked for its accuracy or validity, a marker will be placed on the disputed record indicating the nature of the problem, until the issue is resolved.

5. Technical and Organisational Security

Charnwood Borough Council will implement appropriate security measures as required under the Act. The Council has nominated the Director of Governance and Procurement as Information Security Manager with responsibility for these issues.

In particular, unauthorised staff and Members and other individuals will be prevented from gaining access to personal information. Appropriate physical security will be in place with visitors being received and supervised at all times within Council building areas where information about individuals is stored.

Computer systems are installed with password controls and, where necessary, audit and access trails to establish that each user is fully authorised. In addition, employees and Members are fully informed about overall security procedures and the importance of their role within those procedures. Manual filing systems are held in secure locations and are accessed on a need-to-know basis only.

Security arrangements will be reviewed regularly and all reported breaches or potential weaknesses will be investigated and, where necessary, further or alternative measures will be introduced to secure personal data. Such reports will be received by the Information Security Manager who will liaise with the Standards and Monitoring Support Officer, ICS and/or building security staff as necessary.

All staff and Members will be informed and frequently reminded about the limits of their authority on disclosing information both inside and outside the Council. Details will only be disclosed on a need to know basis within the Council. Where details need to be passed outside the Council this will take place in accordance with the Act taking into account any exemptions such as that relating to processing for the purpose of the prevention or detection of crime. Any unauthorised disclosure will be dealt with under the Council's disciplinary procedures.

Redundant personal data will be destroyed using the Council's procedures for disposal of confidential waste. In general, paper waste is shredded and

magnetic media (disks, tapes, etc) are either electronically “wiped” or physically destroyed beyond recovery.

The Council will require its partners and agents through contractual terms and partnership agreements to comply with the Act when providing services to the Council and when sharing data with the Council.

6. Subject Access Requests and other Rights under the Act

Any person whose details are held/processed by Charnwood Borough Council has a general right to receive a copy of his or her own information and a explanation of the purposes for which it is processed. A request for information must in writing with the fee of £10 made payable to Charnwood Borough Council.

There are a few exceptions to this rule such as data held for child protection, or crime detection and prevention purposes, but in most case individuals will be entitled to a copy of the data held on them. Any codes used in the record will be fully explained, any inaccurate, out of date, irrelevant or excessive data will be dealt with under the procedures outlined in Section 4 of this policy, Data Quality and Integrity.

Charnwood Borough Council will attempt to reply to subject access requests as quickly as possible and in all cases within the 40 days allowed by the Act. In some cases, further information may be required from the requester which may delay the start of the 40-day time period.

The Act also provides individuals with the following additional rights:

- The right to ask the Council to stop processing personal data if it is causing substantial unwarranted damage or distress
- The right to require the Council to stop processing personal data for direct marketing purposes
- The right to ask the Council to stop making significant decisions about them by automated means.

7. Responsibilities and Training

All Heads of Service are directly responsible for:

- the personal information that is processed within their service area;
- implementing this policy and associated guidance within their service area;
- ensuring their staff are aware of this policy and associated guidance and adhere to it;
- identifying the training required by their staff and arranging for this training to be provided in consultation with the Standards and Monitoring Support Officer.

The Council will ensure that adequate training on the requirements of the Act is provided to all elected Members and employees as is necessary to enable them to perform their roles confidently and effectively. In addition, relevant guidance and procedures will be produced when they are required.

8. Other Legislation

Other legislation which interacts closely with the Data Protection Act 1998, includes:

- Freedom of Information Act 2000
- Regulation of Investigatory Powers Act 2000
- Telecommunications (Lawful Business Practice Regulations) 2000
- Telecommunication Regulations 1998 (Data Protection & Privacy)
- Human Rights Act 1998
- Crime and Disorder Act 1998
- Public Interest Disclosure Act 1998
- Environmental Information Regulations 1998
- Computer Misuse Act 1990
- Common Law Duty of Confidentiality
- Privacy and Electronic Communications Directive 2002/58/EC
- Data Protection Directive 95/46/EC
- European Convention on Human Rights and Fundamental Freedoms

9. Further Information and Enquiries

Charnwood Borough Council's Standards Monitoring and Support Officer is responsible for dealing with all internal and external enquiries and can be contacted at the address below.

This policy document will be updated/amended as necessary to reflect changes in legislation and best practice.

Standards Monitoring and Support Officer
Charnwood Borough Council
Southfield Road
Loughborough
LE11 2TR
Tel: 01509 634785
foi@charnwood.gov.uk

10. Glossary of Terms

Data Controller

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 are, or are to be, processed.

Data Processor

Any person (other than an employee of the Data Controller) who processes the data on behalf of the Data Controller.

Data Subject

An individual who is the subject of personal data.

Personal Data

Data which relate to a living individual who can be identified from those data, or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.

Processing

In relation to 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.

Sensitive Personal Data

- a) The racial or ethnic origin of the data subject
- b) His/her political opinions
- c) His/her religious beliefs or other beliefs of a similar nature
- d) Whether he/she is a member of a trade union
- e) His/her physical or mental health or condition
- f) His/her sexual life
- g) The commission or alleged commission by him/her of any offence, or
- h) Any proceedings for any offence committed or alleged to have been committed by him/her, the disposal of such proceedings or the sentence of any court in such proceedings.