

## HONITON TOWN COUNCIL

### DATA PROTECTION PRIVACY NOTICE

Last updated 5<sup>th</sup> May 2022

#### 1. Introduction

UK Data Protection Law which includes The Data Protection Act 2018, the UK General Data Protection Regulation (UK GDPR) and the Privacy and Electronic Communications Regulation (PECR) establishes a framework of rights and duties which safeguard personal data. Personal data is information about a living individual who can be identified from the data. This framework balances the legitimate needs of organisations to collect and use personal data for business and other purposes against the right of individuals to respect for the privacy of their personal details.

Honiton Town Council is committed to protecting the privacy of individuals and handles all personal data in a manner that complies with UK Data Protection Law. The Council has published the following notice to support this commitment. It is the personal responsibility of all employees, Members, contractors, agents and anyone else processing information on behalf of the Town Council to comply with its policy. This notice continues to apply to employees and individuals even after their relationship with the Council ends. For the avoidance of doubt, Honiton Town Council is the Data Controller of the personal data it processes the definition of which is taken from the UK GDPR.

Any deliberate breach of the council's policy could amount to a criminal offence under one or more pieces of legislation. All incidents will be investigated, and action may be taken by the Council's formal disciplinary procedure. A serious breach of the policy could be regarded as gross misconduct and may lead to dismissal and/or criminal action being taken.

Specific regulations relating to the Town Council's role with regards to CCTV are available separately and should be read in conjunction with this notice.

#### 2. Data Protection Principles

UK Data Protection Law is underpinned by a set of seven common-sense principles, which must be adhered to whenever personal data is processed. Processing includes obtaining, recording, using, holding, disclosing and deleting personal data.

Personal data must be

- processed fairly and lawfully
- processed for specified and lawful purposes
- adequate, relevant and not excessive
- accurate and, where necessary, kept up to date
- not kept longer than is necessary
- kept Safe with adequate security measures
- the Data Controller must be accountable for its processing activities.

#### 3. Access and Use of Personal Data

Access and use of personal data held by the Council is only permitted by employees, Members, contractors, agents and anyone else processing information on behalf of the Town Council for the purpose of carrying out their official duties. Use for any other purpose is prohibited.

Deliberate unauthorized access to, copying, disclosure, destruction or alteration of or interference with any computer equipment or data is strictly forbidden and may constitute a criminal and/or disciplinary offence.

It is an offence under Section 55(1) of the Data Protection Act 2018 for any person to knowingly or recklessly obtain, procure or disclose personal data without the permission of the data controller (Honiton Town Council) subject to certain exceptions.

It is also an offence for someone to sell or offer to sell personal data which has been obtained in contravention of Section 55(1).

#### **4. Collecting Personal Data**

When personal data is collected, for example on a questionnaire, survey or form, the data subject (that is to say the person who the information is about) must be told, unless this is obvious to them, which organisation(s) they are giving their information to; what their information will be used for; who it may be shared with and anything else that might be relevant e.g. the consequences of that use. This is known as a Privacy Notice.

Personal data collected must be adequate, relevant and not excessive for the purpose of the collection. A person's name and other identifying information should not be collected where depersonalised (anonymous) information would suffice.

If the information is collected for one purpose, it cannot subsequently be used for a different and unconnected purpose without the data subject's consent (unless there is another lawful basis for using the information – see section 5 below). It must be made clear to the data subject at the time the information is collected what other purposes their information may be used for.

#### **5. Lawful Basis for Processing**

When Honiton Town Council processes personal data, it must have a lawful basis for doing so. UK Data Protection Law provides a list of "conditions" when personal or sensitive personal data may be processed. Honiton Town Council will rely upon Public Task as its main condition for processing data. Where it processes data for purposes that are not its statutory function, it may rely upon Legitimate Interest. In such cases the individuals identified by such processing may object to the processing.

UK Data Protection Law defines "sensitive" personal data (Special Categories of personal data) as information relating to a person's racial or ethnic origin; political opinion; religious or other beliefs; trade union membership; physical or mental health or condition; sexual life and biometric or generic information; criminal offences (alleged or committed).

Whenever the Town Council processes personal data it must be able to satisfy at least one of the conditions in Schedule 2 of the Data Protection Act and when it processes sensitive personal data it must be able to satisfy at least one of the conditions in Schedule 3.

The Town Council can also process personal data if it has the data subject's consent (this needs to be explicit when it processes sensitive personal data). In order for consent to be valid it must be "fully informed" which means the person giving consent must understand what they are consenting to and what the consequences are if they give or refuse consent. Consent must not be obtained through coercion or under duress and therefore be freely given.

Where the Town Council is required to process personal data in order to safeguard an individual, it will most likely use one of the exemptions in the Data Protection Act 2018. In such cases and where required, it will undertake such processing under the guidance of an Appropriate Policy Document.

5.1 The purposes for processing personal data include but are not limited to:

- 5.1.1 When you work for the Town Council
- 5.1.2 When you apply to work for the Town Council
- 5.1.3 When you are appointed to a committee or governing board
- 5.1.4 When you volunteer
- 5.1.5 When your data is processed as a member of the community for which the Council is the authority
- 5.1.6 When you enquire about a service or product that the Council may provide
- 5.1.7 When your images are captured by CCTV for which we are the Data Controller
- 5.1.8 When you visit our premises
- 5.1.9 When we undertake surveys that include personal data

#### **6. Disclosing Personal Data**

Personal data must not be disclosed to anyone internally or externally unless the person disclosing the information is fully satisfied that the enquirer or recipient is authorized in all respects and is legally entitled to the information.

If personal data is disclosed to another organisation or person outside of the Town Council, the

disclosing person must identify their lawful basis for the disclosure and record their decision. This should include a description of the information disclosed; the name of the person and organisation to which the information was disclosed; the date; the reason for the disclosure; the lawful basis.

In response to any lawful request, only the minimum amount of personal information should be disclosed. The person disclosing the information should ensure that the information is adequate for the purpose of the disclosure, relevant and not excessive.

#### **7. Accuracy and Relevance**

It is the responsibility of those who receive personal information to ensure so far as possible that it is accurate and up to date. Personal information should be checked at regular intervals to ensure that it is still accurate. If the information is found to be inaccurate, steps must be taken to rectify it.

Individuals who input or update information must also ensure that it is adequate, relevant, unambiguous and professionally worded. Data subjects have a right to access personal data held about them and have inaccuracies corrected. More information about a data subject's rights can be found in Section 9 below.

#### **8. Retention and Disposal of Data**

UK Data Protection Law requires that the Town Council does not keep personal data for any longer than is necessary. Personal data should be checked at regular intervals and deleted or destroyed when it is no longer needed, provided there is no legal or other reason for holding it.

The Town Council's Record Management Policy must be checked before records are disposed of to see whether there is a prescribed retention period for that type of record.

The Town Council retains personal data within the EEA countries. It may store data outside of these countries. In such circumstances appropriate safeguards will be in force. This may include but are not limited to the UK Addendum in conjunction with the EU Standard Contractual Clauses (SCCs) or the UK International Data Transfer Agreement (IDTA). All such transfers will be subject to Transfer Risk Assessments (TRAs).

#### **9. Freedom of Information Act**

The Council is obliged to comply with the Freedom of Information Act. This law requires us to reveal information that may concern the way we use public funds. It does not oblige us to reveal any personal data.

#### **10. Individual's Rights**

Individuals have several rights under UK Data Protection Law. These include the right to access personal data held about them (Subject Access). Where Honiton Town Council receives such a request, the processing will be handled in accordance with the guidance of the Information Commissioner's Office (ICO); the right to prevent their information being used in away which is likely to cause damage or distress; the right to compensation for any damages as a result of their information not being handled in accordance with UK Data protection Law; and the right to have inaccurate or misleading information held about them corrected or destroyed. A person wishing to exercise any of these rights must be given the Town Clerk's contact details.

It is particularly important that if a person has made a Subject Access request, this is forwarded to the Town Clerk as soon as possible. The Town Council has one month in which to respond to a Subject Access request, provided the applicant has put their request in writing and suitable identification has been supplied. The guidance to the handling of such requests allows for an extension of the permitted time allowed, any delays caused by the requester will therefore be added to time allowed. Whilst every effort should be made to uphold this right, where such requests are deemed excessive or disproportionate, access will be denied.

Other data subject rights include –

The right to be informed

The right to restrict the processing of personal data

The right to erasure or to be forgotten

The right to question automated decision making about an individual

The right to have your data ported to another council

The right to object to personal data being processed.

Some rights may not be upheld where the council uses any of the exemptions to the provision of the Data Protection Act 2018. In such cases and where the council deems it necessary, the council will rely upon an Appropriate Policy Document.

**11. Reporting Security Incidents**

Honiton Town Council has a responsibility to monitor all incidents that occur within the organisation that may breach the security and/or confidentiality of its information. All incidents need to be identified, reported, investigated and monitored. It is only by adopting this approach that the Council can learn from its mistakes and prevent losses re-occurring.

12. Individuals may complain about the council's handling of their personal data. Complaints are dealt with in accordance with the council's policy. Complaints can also be directed at the regulator of information rights in the UK, The Information Commissioner's Office (ICO). Further details about data subject rights can be found here <https://ico.org.uk/global/privacy-notice/your-right-to-complain/>