

Policy Document

Data Protection

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Policy Statement

This policy sets out how North Yorkshire County Council will comply with the Data Protection Act 1998 (DPA).

Protecting personal privacy is a basic although usually invisible feature of public service. It is another way for the County Council to relate to its citizens and the wider public. In fulfilling its obligations the County Council will take account of the context set by other legislation and the availability of resources.

The practical measures to be taken include the provision of

- policy guidance to assist managers in making decisions
- procedural guidance providing instruction in carrying out certain functions, including answering “subject access requests” and other information enquiries
- training in data protection matters (including on-line and “classroom” styles)
- an advice and guidance service (currently provided by Veritau Ltd)

To help accessibility and compliance with the codes of practice the County Council will apply its Records Management Policy.

Purpose

This Policy is a component of the Council’s Information Governance Strategy and should be read in the context of the policy framework which is a feature of that Strategy.

DPA provides a legal framework to make enforceable the web of social and cultural expectations of privacy. It is “out-put based” – it does not prescribe what must be done, but describes the outcomes that must be achieved. Every transaction of personal data must fulfil all eight Data Protection Principles¹. But the majority of transactions are within routine procedures, which can be devised so as to ensure compliance.

The Information Governance Strategy describes how this particular policy is fulfilled by the application of other, detailed policies and procedures, within the overall Information Governance Policy.

Scope

This Policy applies to the following data controllers:

- North Yorkshire County Council

¹ The principal obligations set out in the Act

- Elected members of North Yorkshire County Council ²
- Registrar of births marriages & deaths

It does not apply to schools as they are separate data controllers and set their own policies.

This policy applies to all personal data processed by the data controllers above.

Definitions

All terms used in this policy, if also found in the Data Protection Act, are as defined there, including “personal data”, “data controller”, and “processing”³.

“Subject Access Request” includes requests made under service-specific “Access to Records” provisions, although the director of ACS may provide special procedures for them.

Risks

This policy reduces the risks associated with personal data including the harm that might occur to data subjects – including citizens, customers and clients, and the Council’s employees; and the consequent financial and reputational risks to the Council and its members. It does so in the context of the overall policy framework of the Information Governance Strategy.

Corporate Governance

This policy is part of the framework governing information management in accordance with the Information Governance Strategy, and applies to personal data.

The Corporate Director Finance and Central Services is the Senior Information Risk Owner (SIRO) within North Yorkshire County Council who is responsible for overseeing compliance with DPA and who will report to Management Board and the Audit Committee.

Each Corporate Director is responsible for records management and access to information within their Directorate. They will nominate Information Asset Owner(s) whose role will be to identify what personal data is included in their information assets and ensure that the Data Protection Policy is applied, or that alternative controls ensure all eight principles are observed. It will be the responsibility of directors to ensure that procedures in their services fulfil all the data protection principles, that this policy (and others related to it) is implemented, and that staff are appropriately trained and supervised.

Directors will make suitable management arrangements, and provide advice and training appropriate to those roles, to enable officers to recognise and

² Guidance for elected members is published separately

³ for a brief discussion of these terms see the Information Management pages of the Intranet

respond correctly to individuals' requests for access to their personal data ("subject access requests").

The Information Governance Officer will provide advice on all aspects of DPA, and especially on subject access requests⁴, and will quality-control replies. He or she will take account of advice and guidance from the Assistant Chief Executive (Legal and Democratic Services) or her representative, the Information Commissioner, and decisions of the Commissioner, the Information Tribunal and the courts.

The Information Governance Officer will maintain the relevant Notifications to the Information Commissioner and act as a point of contact for that office. The Information Governance Officer will report relevant statistics, including achievement of the 40-day reply limit, to the SIRO from time to time.

The Senior Press Officer will provide advice on replying to enquiries from the media.

The Corporate Information Governance Group chaired by the SIRO will work to ensure compliance with DPA and this Policy.

The internal audit service (Veritau Ltd) will review compliance with this Policy at both service level and corporate level in order to provide assurance on the objectives above.

Policy implementation

Service managers are responsible for devising systems and practices for the delivery of their service that also comply with this policy and the procedures set by the Information Asset Owner, if that is a different person.

An understanding of this Policy and its related guidance is a basic competence for all managers. To support this, the Information Governance Officer will provide training and education, and ensure that the Information Management intranet pages carry up-to-date versions of all relevant policy and advice.

Codes of Conduct

Elected Members must observe the requirements of the Members' Code of Conduct in undertaking their work for the County Council. The Code supports the principles set out in this Policy and places upon Members an obligation not to disclose information other than in prescribed circumstances or prevent another person from gaining access to information to which that person is entitled.

Employees must observe the requirements of the Standards of Conduct Procedure including the observation of others' rights such as maintenance of privacy and access to information.

⁴ ie when a person asks for access to his or her own personal data

Charges

See the information Enquiry Charges Policy. Where a fee is payable, information will not be released until such fee is received.

Complaints

Complaints about the management or processing of personal data will be investigated according to the procedures in place in the relevant directorate but will take account of the Information Security Incident Reporting Policy.

Compliance

Officers of the County Council are required to comply with this policy/procedure in respect of its provisions and ethos. Failure to do so may be regarded as a breach of the Officers' Code of Conduct and could result in action being taken against the member of staff concerned

Advice

For advice on this policy contact the Information Governance Officer.

Governance

Responsible officer	Information Governance Officer
Accountable officer	Senior Information Risk Owner (SIRO)
Consulted	CIGG, Unison
Informed	

Review

This Policy will be reviewed by the Information Governance Officer annually. Any proposed changes to the Policy will be considered by the Corporate Information Governance Group which is chaired by the SIRO. Any variations to the Policy will require the approval of the Council's Management Board and the Audit Committee.

As the County Council's internal audit, counter fraud and information governance service, Veritau Limited has responsibility for reviewing adherence to this policy and associated procedures.

Revision

This policy is new.

The document previously available on the Intranet and headed "Data Protection Policy" no longer has any force

References

This policy has been developed and will be implemented within the context of other North Yorkshire County Council policies and guidelines, national legislation and codes of practice, and sectoral/professional standards. In particular:

- The Police and Criminal Evidence Act 1984
- The Computer Misuse Act 1990
- The Data Protection Act 1998
- The Human Rights Act 1998
- The Freedom of Information Act 2000
- The Data Protection (Processing of Sensitive Personal Data) Order 2000
- The Data Protection (Subject Access Modification) (Education) Order 2000
- The Data Protection (Subject Access Modification) (Health) Order 2000
- The Data Protection (Subject Access Modification) (Social work) Order 2000
- The Data Protection (Miscellaneous Subject Access Exemptions) Order 2000
- The Data Protection (Miscellaneous Subject Access Exemptions) (Amendments) Order 2000
- Common Law Duty of Confidentiality

The following North Yorkshire County Council policy documents are directly relevant to this policy, and are referenced within this document:

- Information Governance Strategy, including all the policies identified in the Policy Framework

The following North Yorkshire County Council documents are subject to this policy. Readers should have regard to this policy in applying them. In the event of a contradiction this policy takes precedence:

- Data Protection Guidelines and Procedures

- Fair Processing Notice Template
- Guidance on the consideration and use of CCTV
- Data Protection Leaflet
- Notification: guide to notification
- Short form and long form contract clauses relating to data protection
- Procedure and appeals under the Data Protection Act 1998
- Subject Access Request guidance and procedure
- Data Protection: A brief guide for elected members
- Guidance on disclosure of information to elected members

The following North Yorkshire County Council documents are indirectly relevant to this policy:

- none