

Puddington Parish Council

General Data Protection Regulation (EU regulation 2016/679) (GDPR)

Background

The General Data Protection Regulation came into force on 25 May 2018 and makes changes relating to the law relating to data protection. The legislation which is lengthy and complicated imposes duties and responsibilities on councils. This document only outlines the new rules the official text of the GDPR can be viewed on the website eur-lex.europa.eu

The main thrust of the GDPR is to regulate the collection, management, transmission and processing of personal data.

Definitions

The GDPR contains a number of definitions which are important to know:

Personal Data: information held in recorded form, both electronically and in writing or printing.

Data subject: an individual who is the subject of the data

Sensitive personal data: data consisting of information about a data subject relating to racial or ethnic origins; political opinions; religious or similar beliefs; membership of a trade union; physical or mental health; sexual life; the commission or alleged commission of any offence; any proceedings relating to any offence or alleged offence.

Data controller: a legal person or public authority which either alone or jointly with others, determines the purposes for which and the manner in which personal data is or will be, processed. Therefore, a local council is a data controller. A parish meeting is a public authority but it is not a statutory corporation and thus not a legal person.

Data processor: the person or authority which processes data on behalf of a data controller. For a Parish Council the Clerk will probably be the processor acting under the Parish Council as the controller.

Data protection principles

It is the duty of the data controller i.e. the parish council, to comply with data protection principles which state that personal data must:

- Be processed fairly and lawfully and in a transparent manner
- Be collected and held only for specified, explicit and lawful purposes
- Be accurate and kept up to date
- Not be kept for any longer than necessary for the stated purpose
- Be processed in a manner that ensures appropriate security of the personal data
- Have appropriate technical and organisational safeguards against unauthorised or unlawful processing
- Not be transferred to any country outside the European Economic Area (the 28 states of the European Union plus Iceland, Liechtenstein and Norway) unless that country has an adequate level of protection of the rights and freedoms of data subjects.
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The lawful bases of processing

- Consent: the data subject has consented to the processing of data about him/her
- Contract: the processing is necessary in accordance with a contract of employment between the data controller and the data subject
- Legal obligation: the processing is required in pursuance of a legal obligation but not including a contractual obligation
- Vital interests: the processing is necessary to protect someone's life
- Public tasks@ the processing necessary for the carrying out of a task in the public interest or official functions or official functions including a parish council meeting.

Exemptions

- There are a number of exemptions from these principles including:
- National security
- Defence
- Public security
- Prevention and detection of crime
- Other important public interests such as public health, budgetary and taxation matters
- Protection of judicial independence and proceedings
- Monitoring of inspection or regulatory functions
- Protection of the individual or the rights and freedoms of others
- Enforcement of civil law matters

Parish Council exemptions

So far as parish councils and parish meetings are concerned, personal data may be exempt in certain circumstances including for example:

- Disclosures of information required by law e.g. under the Freedom of Information Act 2000
- Maintenance of a public register, such as the register of councillors' interests in accordance with the council's Code of Conduct
- Where the information which is processed does not include personal data
- Information which is confidential as between a council and its legal professional adviser
- Certain administrative procedures, for example accounts and audit; staff administration and public relations and marketing of the council.

Data Protection Officer

Section 7 of the Data Protection Act 2018 exempts parish councils and parish meetings from the requirement to appoint a Data protection Officer under the GDPR.

Rights of data subjects

- **The right to be informed:** where personal data is collected, the data subject must be provided with details of the controller (the parish council) the purposes for which the data is used and the legal basis for processing responsible for the council's compliance with data protection law
- **The right of access:** the data controller must provide information on request. A data subject has the right to give written notice to a data controller requiring them to provide a

description of the data , the purpose for which it is being processed and the recipients, or classes of recipients, to whom the data may be disclosed..

- **The right to rectification:** where information is inaccurate or incomplete, a data subject is entitled to require the data to be altered and updated.
- **The right of erasure:** a data subject may require the controller to erase personal data. This right is sometimes called the right to be forgotten. Article 17.
- **The right to restrict processing:** a data subject has the right to restrict the processing of data on various grounds. These include inaccuracy of data; unlawful processing and situations where the data controller no longer needs the data. Article 18.
- **The right to data portability:** a data subject can require a controller to provide them with their personal data in a machine readable format.
- **The right to object:** a data subject has the right to object to data processing on the grounds that the processing was not in the public interest or in carrying out official duties.
- **The right not to be subject to automatic decision making including profiling:** Article 22.

Data Audit: Data held by the Parish Council

The Parish Council holds personal data about Parish Councillors including address and telephone numbers and Notification of Members' Interests.

The Parish Council has a paper copy of the Register of Electors containing names and addresses of all residents on the electoral for the parish. This data is owned by CWAC and the register is open to public inspection, under supervision. Regulations of use include:

- Extracts from the register can only be made by hand written notes. Photocopying or electronic recording are not permitted by law.
- Information taken from this register should not be used for commercial purposes, unless the information has been published in the edited version of the register. The edited version of the register is also available for inspection.
- The register must only be used for the purpose and manner specified in these regulations.

The Parish Council holds commercial data including bank details, e mail address, telephone numbers and addresses of its creditors, contractors, suppliers and service providers. Including: Cheshire Community Action; ChALC; Came & Company Insurance Brokers; Scottish Power; Unity Trust Bank; HMRC; GVH Facilities Ltd; Information Commissioner; Wellfield Accounting and PKF Littlejohn.

The Parish Council holds e mail, address and telephone numbers of officers of CWAC.

The Parish Council holds some e mail addresses of residents who have contacted the Parish Council relating to parish matters.

The Parish Council holds personal data relating to the Parish Clerk including name, contact details and bank details.