



## CORPORATE DATA PROTECTION POLICY

### Document Control

Issue/ Amendment	Date(s)	Pages Amended	Originator Approved By
v.1	May 2008	None	A Miller Committee
v.2	April 2012	All pages	J Anderson, Legal Services CMT: 31 <sup>st</sup> May 2012

The Data Protection Act 1998 (DPA 1998) requires data controllers (i.e. those who determine the purpose and the manner of the processing of personal data, such as Aberdeen City Council (ACC)) to comply with the rules of good information handling practice. These rules are incorporated within the Data Protection Principles, set out in Schedule 1 of the DPA 1998. The spirit of the DPA 1998 is to help secure an individual's right to privacy, and in doing so it also partially implements Article 8 of the Human Rights Act 1998. The law relating to data protection therefore encompasses the standards to be applied by an organisation when handling personal information.

In order to comply with its legal duties and responsibilities with respect to data protection matters, ACC has adopted this policy together with comprehensive procedures.

ACC is committed to fulfilling its legal obligations under the DPA 1998 and has therefore produced this Policy in order to realise this commitment. This Policy sets out the common standards to be adopted by all of ACC staff<sup>1</sup> and Elected Members when processing personal information. In order for this Policy to be effective, it is supported by Corporate Data Protection Procedures with which all ACC staff and Elected Members should familiarise themselves. Further, the Corporate Management Team have determined that all staff and Elected Members should undertake the e-learning module on Data Protection and any refresher training which is developed.

ACC regards the lawful processing of personal information as essential to the successful and efficient performance of its functions. ACC is therefore committed to ensure that it adheres to the concept of good information

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<sup>1</sup> The term "staff" includes full time, part time, temporary and contract employees.

management practice and will at all times use personal information lawfully and in accordance with this Policy and the Procedures.

In accordance with its commitment to process information fairly and lawfully, ACC fully endorses and adheres to the eight Principles of Data Protection as provided for within Schedule 1 of the DPA 1998. The eight data protection Principles require that personal information is:

- i. processed<sup>2</sup> fairly and lawfully and in particular, shall not be processed unless certain conditions can be met;
- ii. obtained only for one or more specified and lawful purpose, and shall not be further processed in any manner incompatible with that purpose or those purposes;
- iii. adequate, relevant and not excessive in relation to the purpose(s) for which they are processed;
- iv. accurate and where necessary kept up to date;
- v. not kept for longer than is necessary<sup>3</sup>;
- vi. processed in accordance with the rights of data subjects (these are rights to: access the data held about them; prevent processing likely to cause damage or distress; prevent processing for the purposes of direct marketing; object to automated decisions being taken about them; claim compensation for damage or distress caused by a breach of the DPA 1998 by a data controller; apply for rectification, blocking or erasure of inaccurate data);
- vii. 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;
- viii. not transferred to a country or territory outside the European Economic Area<sup>4</sup> 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.

In order to meet its obligations under the Data Protection Principles ACC will, through appropriate management and strict application of this policy and the Corporate data protection procedures:

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<sup>2</sup> "Processing" includes obtaining; recording or holding; disclosing by transmission, dissemination or otherwise making available; organising, adapting or altering; retrieval, consultation or use of the data; alignment, combination, blocking, erasure or destruction of the data.

<sup>3</sup> Comprehensive record retention policies are in the process of being devised across the ACC in accordance with section 61 of the Freedom of Information (Scotland) Act 2002.

<sup>4</sup> Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovenia, Slovakia, Spain, Sweden and the United Kingdom.

- observe fully the conditions regarding the fair collection and use of information;
- meet its legal obligations to specify the purposes for which the information is used;
- collect and process appropriate information, and only to the extent that it is needed to fulfil operational/service needs or to comply with any legal requirements;
- take steps to ensure the quality of information used, where appropriate;
- apply checks to determine the length of time information is held;
- take appropriate technical and organisational security measures to safeguard personal information;
- ensure that personal information is not transferred outside the European Economic Area without suitable safeguards;
- ensure that any rights of individuals with respect to whom personal information is held by ACC, can be fully exercised under the DPA 1998.

In addition, ACC will ensure that:

- there are named individuals with specific responsibility for data protection within the organisation;
- every member of staff/elected Member responsible for managing and handling personal information, understands that they are contractually responsible for following good data protection practice;
- every member of staff/elected Member responsible for managing and handling personal information, will have access to a copy of this Policy, the Corporate Data Protection Procedures and the staff information leaflet entitled "Data Protection Act 1998 – Protecting Personal Data";
- a member of staff who has a query about the handling of personal information, knows the relevant officer (i.e. the designated Information Management Liaison Officer, or in their absence a Deputy) to contact in relation to that query;
- queries from members of the public with respect to the handling of their personal information, are dealt with by ACC staff in a prompt and courteous manner. Such queries are dealt with timeously and in accordance with the specified time scales set out within the DPA 1998;

- methods of handling personal information are regularly assessed and evaluated;
- where poor handling of personal data by an individual member of staff or elected Member is identified, reasons for such performance will be immediately investigated and determined. Training will then be offered to the member of staff/elected Member to help counteract the problems being experienced by the individual concerned. A further evaluation/assessment should be undertaken within six months, and a log kept of progress made.

### **ACC FRAMEWORK FOR DEALING WITH DATA PROTECTION MATTERS**

In terms of the DPA 1998, ACC is a data controller. The nominated representative of the data controller is the Head of Legal and Democratic Services, Corporate Governance who has been appointed as ACC's Data Protection Officer. Various other administrative appointments have been made within ACC to facilitate compliance with the DPA 1998. Information Management Liaison Officers (IMLOs) will be responsible for providing support to staff within their Service with respect to any data protection queries. Any member of staff who has a query regarding data protection matters should, in the first instance, contact the IMLO responsible for their Service. IMLO's are fully trained in issues of data protection law and its implications for ACC, however IMLOs can obtain legal advice and assistance from a Solicitor within the Commercial & Advice Team, Legal and Democratic Services, when required. A Data Protection Technical Officer (DPTO) has also been appointed to deal with matters pertinent to ICT and the annual Notification process. Contact details for the DPTO and IMLOs are available on the Zone.

IMLOs, the DPTO and Solicitors from the Commercial & Advice Team, Legal and Democratic Services will meet on a Quarterly basis to discuss changes to law and practice and any concerns in relation to compliance with this Policy and the Procedures. Bulletins will also be sent to IMLOs in the period between meetings, informing them about developments within the Information Commissioners Office, enforcement action and internal updates which will cover compliance and training. The minutes of these meetings are available on the Zone.

The administration of Data Protection throughout ACC will be in accordance with this Policy and the approved Corporate Data Protection Procedures as set out in the Appendix.

Each Head of Service will be ultimately responsible for the non-adherence to this Policy by their staff. Where non-adherence by ACC staff or elected Members is as a result of insufficient training in Data Protection matters, training needs must be addressed on an urgent basis.

A breach of any of the data protection principles by a member of staff is regarded by ACC as an extremely serious matter. Depending upon the

particular circumstances of the breach, such a matter may attract disciplinary proceedings against that member of staff. Where ACC staff deliberately and knowingly breach this Policy, they will be subject to ACC disciplinary procedures, and such matter may be reported to the Police. All ACC staff can access details with respect to ACC disciplinary procedures directly from Human Resources, Corporate Governance.

The Head of Legal and Democratic Services has overall responsibility for this policy and the accompanying Procedures and shall update them on a regular basis in order to reflect any changes within the law; in the event of the Information Commissioner issuing further guidance; or as a result of any reported/apparent ineffective practices or procedures being utilised across ACC.

### Corporate Data Protection Procedures

Privacy Notices Procedure  
Data Processing by External Agency Procedure  
Notification Procedure  
Routine Data Sharing Procedure  
Subject Access Procedure – General  
Subject Access Procedure – Education Records  
Subject Access Procedure – Social Work Records  
Subject Access Procedure – Unstructured Files  
Third Party Request Procedure – General  
Third Party Request Procedure – Elected Members  
Third Party Request Procedure – Government Agencies and Regulatory Bodies  
Third Party Request Procedure – Parents  
Third Party Request Procedure – Police  
Third Party Request Procedure – Schools out with ACC remit requesting PPR  
Third Party Request Procedure – Solicitors and Courts  
Third Party Request Procedure – Other ACC Service Areas (including Internal Audit)  
Transferring Personal Data Overseas Procedure  
Breach Reporting Procedure