



Data Protection Policy Privacy Standard

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WORKING TOGETHER

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***This policy applies equally and jointly to each authority,
however the data will be processed locally.***

1. Purpose and Scope

The GDPR and Data Protection Act make it clear that whilst organisations process personal and sensitive data, the data itself is owned by the individual to who it relates. It is important that this valuable asset is therefore protected.

The Council recognise that the correct and lawful treatment of Personal Data will maintain confidence in the organisation and will provide for successful business operations. Protecting the confidentiality and integrity of Personal Data is a critical responsibility that we take seriously at all times. The Council is exposed to potential fines of up to EUR20 million (approximately £18 million), whichever is higher and depending on the breach, for failure to comply with the provisions of the GDPR.

All staff, including individual business areas, departments, supervisors, managers and directors are responsible for ensuring all Council Personnel comply with this Privacy Standard and need to implement appropriate practices, processes, controls and training to ensure such compliance.

The DPO is responsible for overseeing this Privacy Standard and, as applicable, developing Related Policies and Privacy Guidelines. That post is held by Director of Governance.

The purpose of this policy is to outline how Chorley Council and South Ribble Borough Council (referred to as the Council) manage data protection in compliance with UK GDPR and Data Protection Act.

This policy applies to all staff as well as third parties and suppliers involved in the receipt, handling or sharing of information held by the Council.

2. Responsibilities

The **Chief Executive** has overall responsibility for ensuring our compliance with this policy and with Data Protection legislation;

The **Director of Customer and Digital as Senior Information Risk Owner (SIRO)** has responsibility, at executive level, for oversight of data protection and other aspects of information governance.

The **Data Protection Officer (DPO)** has day-to-day responsibility for monitoring compliance with this policy, advising the organisation on data protection matters and for receiving reports of personal data incidents for escalation as appropriate.

Directors and Heads of Services are responsible for ensuring that all systems, processes, records and datasets within their business area are compliant with this policy and with Data Protection legislation; for assisting the DPO in their duties through providing all appropriate information and support; for ensuring that their staff are aware of their data protection responsibilities; and consulting the DPO on new developments or issues affecting the use of personal data in the organisation; for ensuring Data Protection Impact Assessments are

conducted as appropriate on data processing activities in their business area, drawing on advice from the DPO.

All colleagues are responsible for understanding and complying with relevant policies and procedures for handling personal data appropriate to their role, and for immediately reporting any event or breach affecting personal data held by the organisation.

The Council will adopt and implement the policy set out in this document, thereby ensuring its compliance with Data Protection Legislation.

3. Principles

The General Data Protection Regulation (GDPR) is based on six data protection principles that apply to the processing of all personal data including storing, retrieving, using and the disclosure of information.

The principles state that personal data shall be–

1. Processed lawfully, fairly and in a transparent manner in relation to individuals.
2. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
3. Adequate, relevant, and limited to what is necessary in relation to the purposes for which they are processed;
4. Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
5. Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals.
6. Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

The Council regards the lawful and correct treatment of personal information as critical to successful service delivery, and to maintaining the confidence of those with whom we work.

We must ensure that at all times the Council treats personal information lawfully and correctly. The Council fully endorses the six principles of data protection. Lawfulness, Fairness and Transparency

Personal data must be Processed lawfully, fairly and in a transparent manner in relation to the Data Subject.

The Council may only collect, Process and share Personal Data fairly and lawfully and for specified purposes. The GDPR restricts our actions regarding Personal Data to specified lawful purposes. These restrictions are not intended to prevent Processing but ensure that we Process Personal Data fairly and without adversely affecting the Data Subject.

The GDPR allows processing for specific purposes, some of which are set out below:

- The Data Subject has given his or her Consent.
- The Processing is necessary for the performance of a contract with the Data Subject.
- To meet our legal compliance obligations.
- To protect the Data Subject's vital interests.
- To pursue our legitimate interests for purposes where they are not overridden because the Processing prejudices the interests or fundamental rights and freedoms of Data Subjects. The purposes for which we process Personal Data for legitimate interests need to be set out in applicable Privacy Notices or Fair Processing Notices; or
- OTHER GDPR PROCESSING GROUNDS. You must identify and document the legal ground being relied on for each Processing activity in accordance with the Council's guidelines on Lawful Basis for Processing Personal Data.

4. Consent

A Data Controller must only process Personal Data on the basis of one or more of the lawful bases set out in the GDPR, which include Consent.

A Data Subject consents to Processing of their Personal Data if they indicate agreement clearly either by a statement or positive action to the Processing. Consent requires affirmative action so silence, pre-ticked boxes or inactivity are unlikely to be sufficient. If Consent is given in a document which deals with other matters, then the Consent must be kept separate from those other matters.

Data Subjects must be easily able to withdraw Consent to Processing at any time and withdrawal must be promptly honoured. Consent may need to be refreshed if you intend to Process Personal Data for a different and incompatible purpose which was not disclosed when the Data Subject first consented.

Unless the Council can rely on another legal basis of Processing, Explicit Consent is usually required for Processing Sensitive Personal Data, for Automated Decision-Making and for cross border data transfers. Usually we will be relying on another legal basis (and not require

Explicit Consent) to Process most types of Sensitive Data. Where Explicit Consent is required, you must issue a Fair Processing Notice to the Data Subject to capture Explicit Consent.

The Council will need to evidence Consent captured and keep records of all Consents so that the Council can demonstrate compliance with Consent requirements.

5. Transparency

The GDPR requires Data Controllers to provide detailed, specific information to Data Subjects depending on whether the information was collected directly from Data Subjects or from elsewhere. Such information must be provided through appropriate Privacy Notices or Fair Processing Notices which must be concise, transparent, intelligible, easily accessible, and in clear and plain language so that a Data Subject can easily understand them.

Whenever we collect Personal Data directly from Data Subjects, including for human resources or employment purposes, we must provide the Data Subject with all the information required by the GDPR including the identity of the Data Controller and DPO, how and why we will use, Process, disclose, protect and retain that Personal Data through a Fair Processing Notice which must be presented when the Data Subject first provides the Personal Data..

When Personal Data is collected indirectly (for example, from a third party or publicly available source), you must provide the Data Subject with all the information required by the GDPR as soon as possible after collecting/receiving the data. You must also check that the Personal Data was collected by the third party in accordance with the GDPR and on a basis which contemplates our proposed Processing of that Personal Data alongside data protection impact assessments.

You must comply with the Council's guidelines on drafting Privacy Notices/Fair Processing Notices.

6. Purpose Limitation

Personal Data must be collected only for specified, explicit and legitimate purposes. It must not be further Processed in any manner incompatible with those purposes.

You cannot use Personal Data for new, different or incompatible purposes from that disclosed when it was first obtained unless you have informed the Data Subject of the new purposes and they have Consented where necessary.

7. Data Minimisation

Personal Data must be adequate, relevant and limited to what is necessary in relation to the purposes for which it is Processed.

You may only Process Personal Data when performing your job duties requires it. You cannot Process Personal Data for any reason unrelated to your job duties.

You may only collect Personal Data that you require for your job duties: do not collect excessive data. Ensure any Personal Data collected is adequate and relevant for the intended purposes.

You must ensure that when Personal Data is no longer needed for specified purposes, it is deleted or anonymised in accordance with the Council's data retention guidelines.

8. Accuracy

Personal Data must be accurate and, where necessary, kept up to date. It must be corrected or deleted without delay when inaccurate.

You will ensure that the Personal Data we use, and hold is accurate, complete, kept up to date and relevant to the purpose for which we collected it. You must check the accuracy of any Personal Data at the point of collection and at regular intervals afterwards. You must take all reasonable steps to destroy or amend inaccurate or out-of-date Personal Data.

9. Storage Limitation

Personal Data must not be kept in an identifiable form for longer than is necessary for the purposes for which the data is processed.

You must not keep Personal Data in a form which permits the identification of the Data Subject for longer than needed for the legitimate business purpose or purposes for which we originally collected it including for the purpose of satisfying any legal, accounting or reporting requirements.

The Council will maintain retention policies and procedures to ensure Personal Data is deleted after a reasonable time for the purposes for which it was being held unless a law requires such data to be kept for a minimum time. You must comply with the Council's guidelines on Data Retention and comply with Directorate Data Retention Policies.

Council Personnel will take all reasonable steps to destroy or erase from Council systems all Personal Data that we no longer require in accordance with all the Council's applicable records retention schedules and policies. This includes requiring third parties to delete such data where applicable.

Council personnel will ensure Data Subjects are informed of the period for which data is stored and how that period is determined in any applicable Privacy Notice or Fair Processing Notice.

10. Security, Integrity and Confidentiality

Protection Personal Data

Personal Data must be secured by appropriate technical and organisational measures against unauthorised or unlawful Processing, and against accidental loss, destruction or damage.

The Council will develop, implement and maintain safeguards appropriate to our size, scope and business, our available resources, the amount of Personal Data that we own or maintain on behalf of others and identified risks (including use of encryption and Pseudonymisation

where applicable). We will regularly evaluate and test the effectiveness of those safeguards to ensure security of our Processing of Personal Data. Council Personnel are responsible for protecting the Personal Data we hold. Council Personnel must implement reasonable and appropriate security measures against unlawful or unauthorised Processing of Personal Data and against the accidental loss of, or damage to, Personal Data. You must exercise particular care in protecting Sensitive Personal Data from loss and unauthorised access, use or disclosure.

Council Personnel must follow all procedures and technologies we put in place to maintain the security of all Personal Data from the point of collection to the point of destruction. You may only transfer Personal Data to third-party service providers who agree to comply with the required policies and procedures and who agree to put adequate measures in place, as requested.

You must maintain data security by protecting the confidentiality, integrity and availability of the Personal Data, defined as follows:

- Confidentiality means that only people who have a need to know and are authorised to use the Personal Data can access it.
- Integrity means that Personal Data is accurate and suitable for the purpose for which it is processed.
- Availability means that authorised users are able to access the Personal Data when they need it for authorised purposes.
- You must comply with all applicable aspects of our Information Security Policy OR comply with and not attempt to circumvent the administrative, physical and technical safeguards we implement and maintain in accordance with the GDPR and relevant standards to protect Personal Data.

Reporting a Data Breach

The GDPR requires Data Controllers to notify any Personal Data Breach to the applicable regulator and, in certain instances, the Data Subject.

We have put in place procedures such as the Data Breach Policy to deal with any suspected Personal Data Breach and will notify Data Subjects or any applicable regulator where we are legally required to do so.

If you know or suspect that a Personal Data Breach has occurred, do not attempt to investigate the matter yourself. Immediately contact the person or team designated as the key point of contact for Personal Data Breaches [the DPO, the information technology or security department, the legal department and follow the Security Incident Response Plan/Checklist. You should preserve all evidence relating to the potential Personal Data Breach.

11. Transfer Limitation

The GDPR restricts data transfers to countries outside the EEA in order to ensure that the level of data protection afforded to individuals by the GDPR is not undermined. You transfer

Personal Data originating in one country across borders when you transmit, send, view or access that data in or to a different country.

On 28 June 2021, the EU Commission published an adequacy decision in respect of the UK for transfers under the EU GDPR. This enables cross border data transfer within the EEA by the UK.

You may only transfer Personal Data outside the EEA if one of the following conditions applies:

- The European Commission has issued a decision confirming that the country to which we transfer the Personal Data ensures an adequate level of protection for the Data Subjects' rights and freedoms.
- Appropriate safeguards are in place such as binding corporate rules (BCR), standard contractual clauses approved by the European Commission, an approved code of conduct or a certification mechanism, a copy of which can be obtained from the DPO.
- The Data Subject has provided Explicit Consent to the proposed transfer after being informed of any potential risks.
- The transfer is necessary for one of the other reasons set out in the GDPR including the performance of a contract between us and the Data Subject, reasons of public interest, to establish, exercise or defend legal claims or to protect the vital interests of the Data Subject where the Data Subject is physically or legally incapable of giving Consent and, in some limited cases, for our legitimate interest.

You must comply with the Council's guidelines on cross border data transfers.

12. Data Subjects Rights and Requests

Data Subjects have rights when it comes to how we handle their Personal Data. These include rights to:

- Withdraw Consent to Processing at any time.
- Receive certain information about the Data Controller's Processing activities.
- Request access to their Personal Data that we hold.
- Prevent our use of their Personal Data for direct marketing purposes.
- Ask us to erase Personal Data if it is no longer necessary in relation to the purposes for which it was collected or Processed or to rectify inaccurate data or to complete incomplete data.
- Restrict Processing in specific circumstances.
- Challenge Processing which has been justified on the basis of our legitimate interests or in the public interest.
- Request a copy of an agreement under which Personal Data is transferred outside of the EEA.

- Object to decisions based solely on Automated Processing, including profiling (ADM).
- Prevent Processing that is likely to cause damage or distress to the Data Subject or anyone else.
- Be notified of a Personal Data Breach which is likely to result in high risk to their rights and freedoms.
- Make a complaint to the supervisory authority.
- In limited circumstances, receive or ask for their Personal Data to be transferred to a third party in a structured, commonly used and machine-readable format.

You must verify the identity of an individual requesting data under any of the rights listed above (do not allow third parties to persuade you into disclosing Personal Data without proper authorisation).

You must immediately forward any Data Subject request you receive to your supervisor OR the DPO and comply with the Council's Data Subject response process.

13. Accountability

The Data Controller must implement appropriate technical and organisational measures in an effective manner, to ensure compliance with data protection principles. The Data Controller is responsible for, and must be able to demonstrate, compliance with the data protection principles.

The Council must have adequate resources and controls in place to ensure and to document GDPR compliance including:

- Appointing a suitably qualified DPO (where necessary) and an executive accountable for data privacy.
- Implementing Privacy by Design when Processing Personal Data and completing DPIAs where Processing presents a high risk to rights and freedoms of Data Subjects.
- Integrating data protection into internal documents including this Privacy Standard, Related Policies, Privacy Guidelines, Privacy Notices or Fair Processing Notices.
- Regularly training Council Personnel on the GDPR, this Privacy Standard, Related Policies and Privacy Guidelines and data protection matters including, for example, Data Subject's rights, Consent, legal basis, DPIA and Personal Data Breaches. The Council must maintain a record of training attendance by Council Personnel.
- Regularly testing the privacy measures implemented and conducting periodic reviews and audits to assess compliance, including using results of testing to demonstrate compliance improvement effort.

Record Keeping

The GDPR requires us to keep full and accurate records of all our data Processing activities.

You must keep and maintain accurate corporate records reflecting our Processing including records of Data Subjects' Consents and procedures for obtaining Consents in accordance with the Council's record keeping guidelines.

These records should include, at a minimum, the name and contact details of the Data Controller and the DPO, clear descriptions of the Personal Data types, Data Subject types, Processing activities, Processing purposes, third-party recipients of the Personal Data, Personal Data storage locations, Personal Data transfers, the Personal Data's retention period and a description of the security measures in place. In order to create such records, data maps should be created which should include the detail set out above together with appropriate data flows.

Training and Audit

The council are required to ensure all Council Personnel have undergone adequate training to enable them to comply with data privacy laws. We must also regularly test our systems and processes to assess compliance.

You must undergo all mandatory data privacy related training and ensure your team undergo similar mandatory training in accordance with the Council's mandatory training guidelines.

You must regularly review all the systems and processes under your control to ensure they comply with this Privacy Standard and check that adequate governance controls and resources are in place to ensure proper use and protection of Personal Data.

Privacy by design and Data Protection Impact Assessment (DPIA)

The Council are required to implement Privacy by Design measures when Processing Personal Data by implementing appropriate technical and organisational measures (like Pseudonymisation) in an effective manner, to ensure compliance with data privacy principles.

You must assess what Privacy by Design measures can be implemented on all programs/systems/processes that Process Personal Data by taking into account the following:

- The state of the art.
- The cost of implementation.
- The nature, scope, context and purposes of Processing.
- The risks of varying likelihood and severity for rights and freedoms of Data Subjects posed by the Processing. Data Privacy Impact Assessments must be completed by default and reviewed annually.

Data controllers must also conduct DPIAs in respect to high risk Processing.

You should conduct a DPIA (and discuss your findings with the DPO) when implementing major system or business change programs involving the Processing of Personal Data including:

- Use of new technologies (programs, systems or processes), or changing technologies (programs, systems or processes).
- Automated Processing including profiling and ADM.
- Large scale Processing of Sensitive Data.
- Large scale, systematic monitoring of a publicly accessible area.

A DPIA must include:

- A description of the Processing, its purposes and the Data Controller's legitimate interests if appropriate.
- An assessment of the necessity and proportionality of the Processing in relation to its purpose.
- An assessment of the risk to individuals.
- The risk mitigation measures in place and demonstration of compliance.

You must comply with the Council's guidelines on DPIA and Privacy by Design.

Automated Processing (including profiling) and Automated Decision Making

Generally, ADM is prohibited when a decision has a legal or similar significant effect on an individual unless:

- a. Data Subject has Explicitly Consented.
- b. The Processing is authorised by law.
- c. The Processing is necessary for the performance of or entering into a contract.

If certain types of Sensitive Data are being processed, then grounds (b) or (c) will not be allowed but such Sensitive Data can be Processed where it is necessary (unless less intrusive means can be used) for substantial public interest like fraud prevention.

If a decision is to be based solely on Automated Processing (including profiling), then Data Subjects must be informed when you first communicate with them of their right to object. This right must be explicitly brought to their attention and presented clearly and separately from other information. Further, suitable measures must be put in place to safeguard the Data Subject's rights and freedoms and legitimate interests.

The Council must also inform the Data Subject of the logic involved in the decision making or profiling, the significance and envisaged consequences and give the Data Subject the right to request human intervention, express their point of view or challenge the decision.

A DPIA must be carried out before any Automated Processing (including profiling) or ADM activities are undertaken.

Where you are involved in any data Processing activity that involves profiling or ADM, you must comply with the Council's guidelines on profiling or ADM if applicable.

Direct Marketing

The Council are subject to certain rules and privacy laws when marketing to our customers.

For example, a Data Subject's prior consent is required for electronic direct marketing (for example, by email, text or automated calls). The limited exception for existing customers known as "soft opt in" allows organisations to send marketing texts or emails if they have obtained contact details in the course of a sale to that person, they are marketing similar products or services, and they gave the person an opportunity to opt out of marketing when first collecting the details and in every subsequent message.

The right to object to direct marketing must be explicitly offered to the Data Subject in an intelligible manner so that it is clearly distinguishable from other information.

A Data Subject's objection to direct marketing must be promptly honoured. If a customer opts out at any time, their details should be suppressed as soon as possible. Suppression involves retaining just enough information to ensure that marketing preferences are respected in the future.

You must comply with the Council's guidelines on direct marketing to customers.

Sharing Personal Data

Generally the Council are not allowed to share Personal Data with third parties unless certain safeguards and contractual arrangements have been put in place.

You may only share the Personal Data we hold with another employee, agent or representative of the Council if the recipient has a job-related need to know the information and the transfer complies with any applicable cross-border transfer restrictions.

You may only share the Personal Data we hold with third parties, such as our service providers if:

- They have a need to know the information for the purposes of providing the contracted services.
- Sharing the Personal Data complies with the Privacy Notice provided to the Data Subject and, if required, the Data Subject's Consent has been obtained.
- The third party has agreed to comply with the required data security standards, policies and procedures and put adequate security measures in place.
- The transfer complies with any applicable cross border transfer restrictions.
- A fully executed written contract that contains GDPR approved third party clauses has been obtained.

You must comply with the Council's guidelines on sharing data with third parties.