

## **STONELEIGH AND ASHOW JOINT PARISH COUNCIL**

### **POLICY STATEMENT – DATA PROTECTION**

The Parish Council recognises its responsibility to comply with the Data Protection Act 1998 and the General Data Protection Regulations, May 2018. The acts regulate the use of personal data. This does not have to be sensitive data; it can be as little as a name and address.

#### **1. The Data Protection Act**

The Data Protection Act 1998 sets out high standards for the handling of personal information and protecting individuals' rights for privacy. It also regulates how personal information can be collected, handled, and used. The Data Protection Act applies to anyone holding personal information about people, electronically or on paper.

As a local authority the Parish Council has a number of procedures in place to ensure that it complies with The Data Protection Act 1998 when holding personal information. The Parish Council has also notified the Information Commissioner that it holds personal data about individuals.

#### **2. General Data Protection Regulations, May 2018**

Article 5 of the GDPR requires that personal data shall be:

- a) processed lawfully, fairly and in a transparent manner in relation to individuals;
- b) 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;
- c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- d) 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;
- e) 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; and
- f) 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."

#### **3. Consent**

The GDPR sets a high standard for consent, but the biggest change is what this means in practice for current consent mechanisms.

The GDPR is clearer that an indication of consent must be unambiguous and involve a clear affirmative action (an opt-in). It specifically bans pre-ticked opt-in boxes. It also requires distinct ('granular') consent options for distinct processing operations. Consent should be separate from other terms and conditions and should not generally be a precondition of signing up to a service. The Parish Council must keep clear records to demonstrate consent.

The GDPR gives a specific right to withdraw consent. The Parish Council needs to tell people about their right to withdraw and offer them easy ways to withdraw consent at any time.

#### 4. Accountability

One of the biggest changes introduced by the GDPR is around accountability – a new data protection principle that says organisations are responsible for, and must be able to demonstrate, compliance with the other principles. Although these obligations were implicit in the Data Protection Act 1998 (1998 Act), the GDPR makes them explicit.

The Parish Council now needs to be proactive about data protection, and evidence the steps taken to meet obligations and protect people's rights. Good practice tools, such as privacy impact assessments and privacy by design, are now formally recognised and legally required in some circumstances.

#### 5. Individual rights

The GDPR provides the following rights for individuals:

- The right to be informed
- The right of access
- The right to rectification
- The right to erasure
- The right to restrict processing
- The right to data portability
- The right to object
- Rights in relation to automated decision making and profiling
- The right to be informed

The GDPR is more specific about the information which needs to be provided to people about what is done with their personal data.

This information must be actively provided to individuals in a way that is easy to access, read and understand.

#### **What privacy information should be provided to individuals?**

The table below summarises the information that must be provided. Information differs slightly depending on whether personal data is collected from the individual it relates to or obtain it from another source.

<b>What information does the Parish Council need to provide?</b>	<b>Personal data collected from individuals</b>	<b>Personal data obtained from other sources</b>
The name and contact details of the organisation	✓	✓
The name and contact details of the representative	✓	✓
The contact details of the data protection officer	✓	✓
The purposes of the processing	✓	✓
The lawful basis for the processing	✓	✓
The legitimate interests for the processing	✓	✓
The categories of personal data obtained		✓
The recipients or categories of recipients of the personal data	✓	✓
The details of transfers of the personal data to any third countries or international organisations	✓	✓
The retention periods for the personal data	✓	✓
The rights available to individuals in respect of the processing	✓	✓
The right to withdraw consent	✓	✓
The right to lodge a complaint with a supervisory authority	✓	✓
The source of the personal data		✓
The details of whether individuals are under a statutory or contractual obligation to provide the personal data	✓	
The details of the existence of automated decision-making, including profiling	✓	✓

### **When should the Parish Council provide privacy information to individuals?**

When collecting personal data from the individual it relates to, the Parish Council must provide them with privacy information at the time their data is obtained.

When personal data is obtained from a source other than the individual it relates to, the Parish Council need to provide the individual with privacy information:

- within a reasonable of period of obtaining the personal data and no later than one month;
- if the data is used to communicate with the individual, at the latest, when the first communication takes place; or

- if disclosure to someone else is envisaged, at the latest, when the data is disclosed.

When collecting personal data from individuals, the Parish Council does not need to provide them with any information that they already have.

When obtaining personal data from other sources, the Parish Council do not need to provide individuals with privacy information if:

- the individual already has the information;
- providing the information to the individual would be impossible;
- providing the information to the individual would involve a disproportionate effort;
- providing the information to the individual would render impossible or seriously impair the achievement of the objectives of the processing;
- you are required by law to obtain or disclose the personal data; or
- you are subject to an obligation of professional secrecy regulated by law that covers the personal data.

## 6. Right of access

Under the GDPR, individuals will have the right to obtain:

- confirmation that their data is being processed;
- access to their personal data; and
- other supplementary information – this largely corresponds to the information that should be provided in a privacy notice

The Parish Council must provide a copy of the information **free of charge**. However, the Parish Council can charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive.

The Parish Council may also charge a reasonable fee to comply with requests for further copies of the same information. This does not mean that it can charge for all subsequent access requests.

The fee must be based on the administrative cost of providing the information.

Information must be provided without delay and at the latest within one month of receipt.

## 7. The right to rectification

The GDPR includes a right for individuals to have inaccurate personal data rectified, or completed if it is incomplete.

An individual can make a request for rectification verbally or in writing. The Parish Council has one calendar month to respond to a request. In certain circumstances the Parish Council can refuse a request for rectification.

## 8. The right to erasure

Under Article 17 of the GDPR individuals have the right to have personal data erased. This is also known as the 'right to be forgotten'. The right is not absolute and only applies in certain circumstances.

## **When does the right to erasure apply?**

Individuals have the right to have their personal data erased if:

- the personal data is no longer necessary for the purpose which the Parish Council originally collected or processed it for;
- the Parish Council is relying on consent as the lawful basis for holding the data, and the individual withdraws their consent;
- the Parish Council is relying on legitimate interests as the basis for processing, the individual objects to the processing of their data, and there is no overriding legitimate interest to continue this processing;
- the Parish Council is processing the personal data for direct marketing purposes and the individual objects to that processing;
- the Parish Council has processed the personal data unlawfully (i.e., in breach of the lawfulness requirement of the 1st principle);
- the Parish Council have to do it to comply with a legal obligation; or
- the Parish Council has processed the personal data to offer information society services to a child.

The GDPR specifies two circumstances where Parish Councils should tell other organisations about the erasure of personal data:

- the personal data has been disclosed to others; or
- the personal data has been made public in an online environment (for example on social networks, forums or websites).

### **9. The right to restrict processing**

Individuals have the right to request the restriction or suppression of their personal data. This is not an absolute right and only applies in certain circumstances. When processing is restricted, the Parish Council is permitted to store the personal data, but not use it. An individual can make a request for restriction verbally or in writing. The Parish Council has one calendar month to respond to a request.

### **10. The right to data portability**

The right to data portability allows individuals to obtain and reuse their personal data for their own purposes across different services. It allows them to move, copy or transfer personal data easily from one IT environment to another in a safe and secure way, without affecting its usability. Doing this enables individuals to take advantage of applications and services that can use this data to find them a better deal or help them understand their spending habits. The right only applies to information an individual has provided to a controller.

### **11. The right to object**

Individuals have the right to object to:

- processing based on legitimate interests or the performance of a task in the public interest/exercise of official authority (including profiling);
- direct marketing (including profiling); and
- processing for purposes of scientific/historical research and statistics.

## 12. Rights in relation to automated decision making and profiling.

Individuals have the right to object to:

- processing based on legitimate interests or the performance of a task in the public interest/exercise of official authority (including profiling);
- direct marketing (including profiling); and
- processing for purposes of scientific/historical research and statistics.

When dealing with personal data, the Parish Council staff and Councillors must ensure that:

### **Data is processed fairly and lawfully**

This means that personal information should only be collected from individuals if staff and Councillors have been open and honest about why they want the personal information.

### **Data is processed for specified purposes only**

### **Data is relevant to what it is needed for**

Data will be monitored so that too much or too little is not kept; only data that is needed should be held.

### **Data is accurate and kept up to date**

Personal data should be accurate, if it is not it should be corrected.

### **Data is not kept longer than it is needed**

Data no longer needed will be shredded or securely disposed of.

### **Data is processed in accordance with the rights of individuals**

Individuals must be informed, upon request, of all the personal information held about them.

### **Data is kept securely**

Only staff and Councillors can access the data. It cannot be accessed by members of the public.

## 13. Storing and accessing data

All data stored on the Parish Office computer is password protected. Once data is not needed any more, is out of date or has served its use and falls outside the minimum retention time of Council's document retention policy, it will be shredded or securely deleted from the computer.

This policy was adopted by the Stoneleigh and Ashow Parish Council on 14<sup>th</sup> July 2022.

It will be reviewed on an annual basis.