

# Old Stratford Parish Council

## Data Protection Policy

### Introduction

Old Stratford Parish Council is fully committed to compliance with the requirements of the Data Protection Act 1998 (the Act), which came into force on the 1<sup>st</sup> March 2000. The Council will follow procedures that aim to ensure that all Employee's Councillors who have access to any data held by or on behalf of the Council, are fully aware of and abide by their duties and Responsibilities under the Act.

### Policy Statement

For the Parish Council to operate efficiently and effectively it has to collect and use information about people with whom it works, these may include members of the public, current and past, prospective employee(s), clients and suppliers. In addition it may be required by law to collect and use information in order to comply with the requirements of Central Government. All personal information must be handled and dealt with properly, however it is collected, recorded and used, and whether it be on paper, computer records or recorded by any other means there are safeguards within the Act to ensure this happens.

Old Stratford Parish Council regards the lawful and correct treatment of personal information as very important to its operations and to maintaining confidence between the Parish Council and those with whom it carries out its business. Old Stratford Parish Council will ensure that it treats personal information lawfully and correctly, it will also fully endorse and adhere to the Principles of Data Protection as defined in the Data Protection Act 1998.

The Parish Clerk of Old Stratford Parish Council is responsible for ensuring adherence with the Data Protection Act.

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Dated: 23<sup>rd</sup> February 2018

# Old Stratford Parish Council

## Data Protection Act 1998

### Data Protection Act (the Act)

The Act sets out standards for the handling of personal information and protecting individual's rights for privacy. It also regulates how personal information can be collected, handled and used. The Act defines the word data as information which:

- A. Is being processed by means of equipment operating automatically in response to instructions given for that purpose.
- B. Is recorded with the intention that it should be processed by means of such equipment.
- C. Is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system.
- D. Does not fall within section's A, B, or C, but forms part of an accessible record as defined.
- E. Is recorded information held by a public authority and does not fall within any section A to D.

## Principals of Data Protection

The Data Protection Act (the Act) states that any person processing personal data **MUST** comply with **EIGHT PRINCIPALS** of good practice, these eight principals are legally binding.

The eight principals require that personal information:

1. Shall be processed fairly and lawfully and in particular, shall not be processed unless specific conditions are met.
2. Shall be 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.
3. Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which it is processed.
4. Shall be accurate and where necessary kept up to date.

5. Shall not be kept for longer than is necessary for that purpose or those purposes.
6. Shall be processed in accordance with the rights of data subjects under the Act.
7. Shall be kept secure, i.e. protected by an appropriate degree of security.
8. Shall not be transferred to a Country or Territory outside the European Economic Area, unless that Country or Territory ensures an adequate level of data protection.

### **Distinctions between Personal Data and Sensitive Data**

The Act provides conditions for the processing of any personal data. It also makes distinctions between **Personal Data** and ‘**sensitive**’ **Personal Data**.

#### **Personal Data**

Personal data is defined as: data relating to a living individual who can be identified from:

- That data.
- That data and other information which is in the possession of, or is likely to come into the possession of the data controller and includes an expression of opinion about the individual and any indication of the intentions of the data controller, or any other person in respect of the individual.

#### **Sensitive Data**

Sensitive data is defined as personal data consisting of information as to:

- Racial or ethnic origin.
- Political opinion.
- Religious or other beliefs
- Trade Union Membership.
- Physical or mental health condition.
- Sexual life.
- Criminal proceedings or convictions.

#### **The handling of personal/sensitive information**

Old Stratford Parish Council will, through appropriate management and the use of criteria and controls:

1. Observe fully conditions regarding the fair collection and use of personal information.
2. Meet its legal obligations to specify the purpose for which information is used.
3. Collect and process appropriate information and only to the extent that it is needed to fulfil its operational needs or to comply with any legal requirements.
4. Ensure the quality of information used.
5. Apply checks to determine the length of time information is held.
6. Take appropriate measures to safeguard personal information.
7. Ensure that the rights of people about whom the information is held can be fully exercised under the Act.

These include:

- The right to be informed that processing is being undertaken.
- The right of access to one's personal information within the statutory 40 days.
- The right correct, rectify, block or erase information regarded as wrong information.

The Parish Clerk is the Data Controller for Old Stratford Parish Council.

## **Data Collection**

### **Informed Consent**

Informed consent is when:

- A data subject clearly understands why their information is needed, who it will be shared with, and the possible consequences of them agreeing or refusing the proposed use of the data.
- And then gives consent.

Old Stratford Parish Council will ensure that data is collected within the boundaries defined in this policy. This applies to data that is collected in person or by completing a form.

When collecting data Old Stratford will ensure that the data subject:

1. Clearly understands why this information is required.
2. Understands what it will be used for and what the consequences are should the data subject decide not to give consent to processing.
3. As far as reasonably possible grants explicit consent, either written or verbal for data to be processed.
4. Is, as far as reasonably practicable, competent enough to give consent and has given so freely without any duress.

5. Has received sufficient information on why their data is needed and how it will be used.

Old Stratford Parish Council fully endorses and adheres to the principals of Data Protection as defined in the Data Protection Act 1998 and has a number of procedures in place to ensure that it complies with the Act when holding personal information.

### **Storage and Accessing Data**

Old Stratford Parish Council recognise its responsibility to be open and transparent with people when taking personal details from them and must be honest about why they want a particular piece of personal information.

Old Stratford Parish Council may hold information about individuals such as their addresses and telephone numbers. These will be securely kept within the Parish Council's files and are not available for Public access. All data stored on computers used for Parish Council work is password protected. Once data is no longer required, out of date or has served its use and falls outside the minimum retention time of the Council's document retention policy, it will be shredded or securely deleted from the computer.

All Data Subjects have the right to access the information the Parish Council holds about them. Old Stratford Parish Council will take reasonable steps to ensure that this information is kept up to date by asking data subjects whether there have been any changes.

### **Notification to the Information Commissioner**

The Information Commissioner maintains a public register of data controllers and Old Stratford Parish Council is registered with the Commissioner. The Data Protection Act 1998 requires every data controller who is processing personal data, to notify and renew their notification on an annual basis. Failure to do so is a criminal offence. The Parish Clerk of Old Stratford Parish Council will review the Data Protection Register annually, prior to notification to the Information Commissioner, within 28 days.

### **Data relating to Planning Applications**

The Town and County Planning (Development Management Procedure) (England) Order 2015, allows for data (e.g. addresses) to be published so there is not the same restriction on this type of data.

### **Update of Policy**

This Policy will be updated as necessary to reflect best practice in data management, securely and control and ensure compliance with any changes or

amendments made to the Data Protection Act 1998. It will also be reviewed in line with other Old Stratford Parish Council documents. In case of any queries or questions in relation to this Policy please contact the Parish Clerk.

## **Definitions**

The Data Protection Act 1998 provides definitions for the following:

### **Consent**

Any freely given specific and informed indication of wishes by which the data subject signifies agreement to personal data relating to them being processed.

### **Data Controller**

A person who determines the purpose for and the manner in which personal data, or are to be processed. This may be an individual or an organisation and the processing may be carried out jointly or in common to other people.

### **Data Processor**

A person who processes personal information on a data controller's behalf. Anyone responsible for disposal of confidential waste is also included under this definition.

### **Data Subject**

This is the data subject (individual) who is the subject of the personal information (data).

### **Freedom of Information Act 2000**

The Freedom of Information Act is law giving people the general right to see recorded information held.

### **Information Commissioner**

The information commissioner is an independent official appointed by the Crown to oversee the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

## **Notification**

Notification is the process by which a data controller's processing details are added to a register. Under the Data Protection Act every data controller who is processing personal data needs to notify unless they are exempt. Failure to notify is a criminal offence, even if a data controller is exempt from notification they must still comply with the principals.

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