



## REPORT TO CHARFIELD PARISH COUNCIL

### GENERAL DATA PROTECTION REGULATIONS (GDPR)

#### Background

As all Parish Councillors will be aware, the new General Data Protection Regulations come into force on Friday 25<sup>th</sup> May 2018. The Information Commission Officer (ICO) has stated that GDPR is a 'journey' and will be looking to ensure that all organisations have at least commenced that journey.

The purpose of this report is to help Parish Councillors understand the changes this new legislation will bring and the steps that have been taken to ensure that Charfield Parish Council will be compliant.

NALC and SLCC have prepared a very useful and extensive toolkit and Legal Briefings that have been made available to all Clerks and RFOs.

Following representation made to the Government by NALC, the Government has tabled an amendment to their own Data Protection Bill to exempt all Parish and Community Councils in England and Wales from the requirement to appoint a Data Protection Officer (DPO) under the new Legislation. However, it has been confirmed by the Department for Culture, Media and Sport that all other measures will still apply. The appointment of a DPO is considered to be 'good practice' by the ICO, but not a requirement of compliance.

#### Data Controller and Data Processor

**Data Controller (DC)** – In the context of Local and Parish Councils, the Data Controller is the Council. The role of the Clerk or other officers relating to working with data and its processing comes under the heading of Data Controller – the Clerk works for the Council and any activity the Clerk enters into is under the authority of the Council as a corporate body.

**Data Processor (DP)** – This is not the Clerk as the Clerk is processing data under the auspices of the Council rather than on its behalf. Example – another organisation is processing data on behalf of the Council, eg another company sending out the Council newsletter on behalf of the Council.

Advice from the ICO is that if you are a DP the GDPR places specific legal obligations on you, for example you are required to maintain records of personal data and processing activities. You will have legal liability if you are responsible for a breach. However, if you are a DC you are not relieved of your obligations where a DP is involved – the GDPR places further obligations on you to ensure your contracts with DP's comply with GDPR.

#### Data Audits

The Clerk is currently working on developing a spreadsheet which records the personal information and data held by Charfield Parish Council, their location and security arrangements. Eventually, this database will show exactly what information is held, where it came from and who we share it with and how long it is retained.

#### Privacy Statement



Charfield Parish Council should review and where necessary add a privacy statement on all emails, letters, reports, forms, web site explaining the lawful basis for processing data, retention period and the fact that individuals have a right to complain to the ICO. The Clerk has prepared a Privacy Statement to cover the required services:-

- General Privacy Statement
- Burial Ground Privacy Notice
- Email Privacy Notice

## Consent

This is one of the major key alterations to the existing regulations. For activities that are undertaken by virtue of being a Parish Council we may not have to gain consent to keep personal information as it may fall under lawfulness as a means of contracting business. However, if in doubt, or if consent falls outside of contractual agreement consent should be obtained and therefore a consent form has been prepared.

## Personal Data Breaches

The Clerk has prepared a Data Protection Breach Policy and Procedure.

## Procedure Checks/Tests

The Clerk would suggest that Charfield Parish Council check/test our proposed Data Protection Procedures by working through some situations. For example, if a resident asked the Parish Council to delete their personal data, how easily would we be able to locate it and delete it; how would we process a request for personal data; is the Parish Council holding information which should have been deleted; are there any instances when the Parish Council take personal information without seeking consent.

## Recommendations

The Clerk would recommend the adoption of the following policies/procedures in a phased manner. Items 1, 2 and 3 should be prioritised:-

1. Privacy Notice
2. Email Contact Privacy Notice
3. Councillor Privacy Notice
4. Management of Transferable Data Policy
5. Social Media & Electronic Communications Policy
6. Information & Data Protection Policy
7. Retention & Disposal Policy (including a list of documents for retention/disposal)
8. Data Security Breach Policy
9. General Data Protection – Burial Records Privacy Notice
10. General Data Protection Regulations Consent to hold Contact Information
11. Subject Access Request Form