Policy Document

Legal Responsibilities Policy

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Document Approvals

This document requires the following approvals:

Sponsor Approval	Name	Date
Head of Business Transformation	Deborah Poole	23rd August 2011

Document Distribution

This document will be distributed to:

Name	Job Title	Email Address

Contents

1 Policy Statement

Redditch Borough Council will ensure that every user is aware of, and understands, their responsibilities under the Data Protection Act 1998 and other relevant legislation.

2 Purpose

Redditch Borough Council collects, holds and uses data about people and organisations with whom it deals with in order to conduct its business. This data covers, but is not restricted to, the following:

- Current, past and prospective employees.
- Suppliers.
- Customers.
- Others with whom the Council communicates.

In addition, it may occasionally be required by law to collect and use certain types of personal information to comply with the requirements of government departments.

This policy outlines every user's responsibilities under the Data Protection Act 1998 and other relevant legislation.

3 Scope

Any information must be dealt with properly however it is collected, recorded and used, whether on paper, in a computer, or recorded on other media. There are safeguards in the Data Protection Act 1998 to ensure that personal information is dealt with correctly.

This policy relates to all personal data held by Redditch Borough Council in any form, and all PROTECT or RESTRICTED information held or processed by the Council. It applies to all Councillors, Committees, Departments, Partners, Employees of the Council, contractual third parties and agents of the Council who has access to information held or processed by Redditch Borough Council.

4 Definition

Redditch Borough Council fully endorses and adheres to the Principles of Data Protection as set out in the Data Protection Act 1998, and other relevant information security legislation. Therefore, the Council will ensure that all Councillors, Committees, Departments, Partners, Employees of the Council, contractual third parties and agents of the Council who have access to any information held by or on behalf of the Council are fully aware of, and abide by, their duties and responsibilities under this legislation.

5 Risks

Redditch Borough Council recognises that there are risks associated with users accessing and handling information in order to conduct official Council business.

This policy aims to mitigate the following risks:

- The non-reporting of information security incidents, inadequate destruction of data, the loss of direct control of user access to information systems and facilities etc.

Non-compliance with this policy could have a significant effect on the efficient operation of the Council and may result in financial loss and an inability to provide necessary services to our customers.

6 Applying the Policy – Data Protection

6.1 Relevant Legislation

The following statutory legislation governs aspects of the Council's information security arrangements. This list is not exhaustive:

Legislation	**Areas Covered**
The Freedom of Information Act 2000	Public access to Council information
The Human Rights Act 1998	Right to privacy and confidentiality
The Electronic Communications Act 2000	Cryptography, electronic signatures
The Regulation of Investigatory Powers Act 2000	Hidden surveillance of staff
The Data Protection Act 1998	Protection and use of personal information
The Copyright Designs and Patents Act 1988	Software piracy, music downloads, theft of Council data
The Computer Misuse Act 1990	Hacking and unauthorised access
The Environmental Information Regulations 2004	Public access to Council information related to the environment
The Re-use of Public Sector Information Regulations 2005	The Council's ability to sell certain data sets for commercial gain

Data protection and privacy must be ensured as required in relevant legislation, regulations, and, if applicable, contractual clauses. Key records must be protected from loss, destruction and falsification, in accordance with statutory, regulatory, contractual, and business requirements.

6.2 What is Personal Data?

Personal data is defined as:

"data which relate to a living individual who can be identified:
a) from those data; or,
b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller;

and includes any 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[1]."

6.3 What are the Principles of Data Protection?

The Data Protection Act 1998 stipulates that anyone processing personal data must comply with **Eight Principles** of good practice. These Principles are legally enforceable.

The Principles 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 purposes 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 Data Protection Act 1998;
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.

The Data Protection Act provides conditions for the processing of any personal data. It also makes a distinction between personal data and sensitive personal data. Sensitive personal data is defined as:

"personal data consisting of information as to:

a) the racial or ethnic origin of the data subject,
b) his political opinions,
c) his religious beliefs or other beliefs of a similar nature,
d) whether he is a member of a trade union,
e) his physical or mental health or condition,
f) his sexual life,
g) the commission or alleged commission by him of any offence, or
h) any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.[1]"

The data subject also has rights under the Data Protection Act. These consist of:

- 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 to prevent processing in certain circumstances; and,
- The right to correct, rectify, block or erase information regarded as wrong information.

[1] Data Protection Act, 1998 (http://www.opsi.gov.uk/Acts/Acts1998/ukpga_19980029_en_2#pt1-l1g1)

6.4 How will Redditch Borough Council Ensure Compliance?

In order to ensure it meets its obligations under the Data Protection Act, Redditch Borough Council will ensure that:

- There is an individual with specific responsibility for data protection in the organisation.
- Everyone managing and handling personal information understands that they are contractually responsible for following good data protection practice.
- Everyone managing and handling personal information is appropriately trained to do so.
- Persons wishing to make enquiries about handling personal information, whether a member of staff or a member of the public, is aware of how to make such an enquiry.
- Queries about handling personal information are promptly and courteously dealt with.
- Methods of handling personal information are regularly assessed and evaluated.

Redditch Borough Council will, through appropriate management and the use of strict criteria and controls,:

- Observe fully conditions regarding the fair collection and use of personal information.
- Meet its legal obligations to specify the purpose for which information is used.
- Collect and process appropriate information and only to the extent that it is needed to fulfil operational needs or to comply with any legal requirements.
- Ensure the quality of information used.
- Apply strict 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 abroad without suitable safeguards.
- Ensure that the rights of Data Subjects can be fully exercised under the Data Protection Act.

6.5 What Roles and Responsibilities have been Assigned?

Proper definitions of roles and responsibilities are essential to assure compliance with this Policy. In summary these are as follows :-

6.5.1 Information Manager

The Information Manager will promote this policy and provide detailed advice training and resources to departments to facilitate the correct processing of Requests for Access and other Data Protection related issues and will also monitor departments to ensure compliance with statutory and regulatory obligations.

6.5.2 Senior Management

Senior management will provide support and approval for this Data Protection Policy and any related initiatives across the Council. It will also ensure that adequate funding is made available.

6.5.3 Information Management Group

Members of the Information Management Group will meet regularly to review information management across the Council. As part of this they will address any Data Protection related issues that arise and generate initiatives or communications as necessary to ensure compliance with Redditch Borough Council policy.

6.5.4 Departmental Managers

Departmental managers are responsible for ensuring that Redditch Borough Council Data Protection Policy is communicated and implemented within their area of responsibility, and for ensuring that any issues such as resourcing or funding are communicated back to their strategic directors in a timely manner.

6.5.5 Individual Employees

Individual employees will be responsible for understanding this Data Protection Policy and ensuring that Requests for Access and other Data Protection related issues in their own department are handled in compliance with this policy.

6.6 Freedom of Information Act

The Freedom of Information Act came into force in January 2005. By granting a general right of access to records held by Public Authorities it encourages an attitude of openness and will enable the public to scrutinise their decisions and working practises. The key features of the Freedom of Information Act are:

- Every Council employee has a duty to provide advice and assistance to anyone requesting information.
- The public has a general right of access to all recorded information held by the Council and some Independent Contractors. Subject to exemptions set out in the Freedom of Information Act, a requester has the right to know whether a record exists and the right to a copy of that record supplied in a format of their choice.
- Every Council must adopt and maintain a Publication Scheme, listing what kinds of record it chooses to publish, how to obtain them and whether there is a charge involved.

The Information Commissioner's Office will oversee the implementation and compliance with the Freedom of Information Act and the Data Protection Act 1998.

6.7 Individual Responsibilities

All Councillors must accept responsibility for maintaining Information Security standards within the Council.

All managers must accept responsibility for initiating, implementing and maintaining security standards within the Council.

All non-managerial users must accept responsibility for maintaining standards by conforming to those controls, which are applicable to them.

ICT will be responsible for implementation of the controls marked for IT specialists.

Local managers must undertake yearly assessments of security risks within their own areas to ensure that the security breaches are kept to a minimum.

7 Policy Compliance

If any user is found to have breached this policy, they will be subject to Redditch Borough Council's disciplinary procedure. If a criminal offence is considered to have been committed further action may be taken to assist in the prosecution of the offender(s).

If you do not understand the implications of this policy or how it may apply to you, seek advice from your line manager or ICT.

8 Policy Governance

The following table identifies who within Redditch Borough Council is Accountable, Responsible, Informed or Consulted with regards to this policy. The following definitions apply:

- **Responsible** – the person(s) responsible for developing and implementing the policy.
- **Accountable** – the person who has ultimate accountability and authority for the policy.
- **Consulted** – the person(s) or groups to be consulted prior to final policy implementation or amendment.
- **Informed** – the person(s) or groups to be informed after policy implementation or amendment.

Responsible	ICT Transformation Manager
Accountable	Head of Business Transformation
Consulted	Corporate Management Team
Informed	All Council Employees, All Temporary Staff, All Contractors etc

9 Review and Revision

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 12 months.

Policy review will be undertaken by the Information Manager.

10 References

Internal guidance on implementation of the Data Protection Act, and key Data Protection Act related documents are available to Council employees via the Redditch Borough Council Intranet:

General guidance and a free helpdesk dealing with Data Protection Act related issues are available to Council employees and the public via the Internet on the Information Commissioner's website at:

http://www.ico.gov.uk/

The Data Protection Act can be accessed on the Internet via the UK Statute Law Database at:

http://www.statutelaw.gov.uk/Home.aspx

The following Redditch Borough Council policy documents are relevant to this policy, and are referenced within this document:

- Email Policy.
- Internet Acceptable Usage Policy.
- Software Policy.
- IT Access Policy.
- GCSx Acceptable Usage Policy and Personal Commitment Statement.
- Computer, Telephone and Desk Use Policy.
- Remote Working Policy.
- Removable Media Policy.
- Information Protection Policy.
- Human Resources Information Security Standards.
- Information Security Incident Management Policy.
- IT Infrastructure Policy.
- Communications and Operation Management Policy.

11 Key Messages

- The Council will ensure compliance with the Data Protection Act 1998.
- The Council has established a number of roles to assure compliance of this policy.
- Every Council user has a duty to provide advice and assistance to anyone requesting information under the Freedom of Information Act.
- All Councillors must accept responsibility for maintaining Information Security standards within the Council.