

WINSFORD TOWN COUNCIL



DATA PROTECTION & RETENTION POLICY

OCTOBER 2016

1. INTRODUCTION

- 1.1 Winsford Town Council recognises its responsibility to comply with the Data Protection Act 1998. The Act regulates the use of personal data. This does not have to be sensitive data - it can be as little as a name and address.
- 1.2 The Town Council would like to not only meet the legal requirements when handling this data, but would like to ensure high standards of practice.
- 1.3 Winsford Town Council will therefore seek to be open and transparent in how it works, so far as is possible, and will therefore seek to make information which is not confidential or personal available to the public.
- 1.4 Details of the information which is available is contained in the Town Council's Publication Scheme, based on the statutory model publication scheme for local councils.

2. DEFINITIONS

- 2.1 For the purposes of this policy, 'record' means any papers, files, books, photographs, tapes, films, recordings or other documentary materials or any copies thereof, regardless of physical form, made, produced, executed or received by any employee in connection with the transaction of Winsford Town Council's business.
- 2.2 The term 'electronic record' means any record created, received, maintained or stored on local workstations or central servers. Examples include, but are not limited to: email, word processed documents, spreadsheets, databases including, but not limited to, file records, investigation reports, financial accounting records and payroll records.
- 2.3 'Official records' are records maintained but not limited to accounts (including all financial records, VAT records, payroll records, bank accounts), electronic records, HR records (personnel records, insurance records etc.) and Town Council operation records (minutes, correspondence etc.).

3. DATA RETENTION

- 3.1 The purpose of this policy is to ensure that necessary records and documents are adequately protected and maintained and to ensure that records which are no longer needed or of no value are discarded at the appropriate time.
- 3.2 Records and/or documents no longer required under the Retention Policy may be required to be kept under the Archive Policy and before destruction this should be checked.
- 3.3 This Policy relates to electronic records as well as physical 'hard' copies.
- 3.4 Individuals responsible for the retention of records are also responsible for their destruction following expiry of the relevant retention period.

- 3.5 Sensitive or confidential documents must be disposed of by shredding or other means to ensure that the material can no longer be read or interpreted.
- 3.6 Appendix A sets out the Town Council's data retention requirements and the justification for the periods specified.
- 3.7 Record retention periods may be increased by government regulation, judicial or administrative constraint order, private or government contract, pending litigation or audit requirements. Such modifications supersede the requirements in Appendix A.
- 3.8 The Town Clerk/nominated other will maintain a list of major documents used by the Council in line with the requirements in Appendix A.
- 3.9 In the event of a government audit, investigation or pending litigation, record disposition may be suspended at the direction of the Town Mayor or Town Clerk and subsequently ratified by the Staffing Committee.
- 3.10 When litigation, complaints or investigations against the Town Council or its employees are filed or threatened, the law imposes a duty upon the Council to preserve all documents and records pertaining to the issues. In this instance, the Town Mayor/Clerk will notify the appropriate employees of a 'hold' directive.
- 3.11 The hold under 3.10 supersedes the retention schedule in Appendix A, and the Town Clerk will inform employees when holds are cleared.
- 3.12 Electronic records will be immediately maintained by the Council until the hold is released. No employee who has been notified of the hold may alter/delete any electronic records that fall within the scope of that hold.
- 3.13 Violation of the hold may subject the individual to disciplinary action, up to and including dismissal as well as personal liability for civil/criminal sanctions by the courts or enforcement agencies.
- 3.14 No document list can be exhaustive – questions regarding the retention period for any specific document/class of documents not included in the table below should be addressed to the Town Clerk who will consult with the relevant committee chair.

4. MAKING INFORMATION AVAILABLE

- 4.1 The Town Council's Publication Scheme is a means by which the Council can make information routinely available without waiting for someone to specifically request it. The Scheme is intended to allow local people to take an interest in the work of the Council.
- 4.2 In accordance with the Freedom of Information Act 2000, the Scheme specifies classes of information which the Town Council publishes or intends to publish, as

well as an information guide giving greater detail of what the Town Council will make available.

- 4.3 All formal meetings of the Town Council and its committees are subject to statutory notice given on the Town Council's noticeboards. The agenda is also published on the Town Council's website and can be circulated to members of the public who requested it via email.
- 4.4 The Town Council welcomes public participation and has time available for an 'Open Forum' at each Town Council meeting.
- 4.5 Occasionally, meetings of the Town Council and/or its committees need to consider matters in private. This may include matters involving personal details of employees or where details of commercial sensitivity are to be discussed. This can only happen after a formal resolution to exclude the press and public has been passed, and reasons will be specified for the decision taken.
- 4.6 Minutes from all formal meetings including the confidential sections are public documents.

5. DATA PROTECTION

- 5.1 The Data Protection Act (DPA) 1998 seeks to strike a balance between the rights of individuals and the sometimes competing interests of those with legitimate reasons for using personal information. This Policy is based on these principles, which also include: -

- The Town Council will make any notifications to the Information Commissioner's Office (ICO) under the DPA and periodically update this information;
- The Town Council will comply with the eight principles for processing sensitive data:
 - Fair and lawful – those requesting should be honest about why they need the information
 - Processed for limited/specified purposes only
 - Adequate, relevant and not excessive
 - Accurate and up to date
 - Not kept any longer than necessary
 - Secure
 - Not transferred to countries outside the EU
- The Town Council will ensure that at least one of the following conditions is met for personal information to be considered fairly processed:
 - The individual has consented to the processing
 - Processing is necessary for the performance of a contract with the individual
 - Processing is required under a legal obligation
 - Processing is necessary to protect the vital interests of the individual
 - Processing is necessary to carry out public functions

- Processing is necessary in order to pursue the legitimate interests of the data controller or third parties
- Particular attention is paid to the processing of any sensitive personal information and the Town Council will ensure that at least one of the following conditions is met:
 - Explicit consent of the individual
 - Required by law to process the data for employment purposes
 - A requirement in order to protect the vital interests of the individual or another person
- The Town Council will provide information on personal data to employees
- The Town Council will ensure that individuals on whom personal data is kept are aware of their rights and have access to that information on request
- If a person requests

5.2 The Town Council may hold information about individuals such as their addresses and telephone numbers. These will be kept in a secure location at the town council office and are not available for public access. All data stored on the council's computers is password protected. Once data is not needed anymore, if it is out of date or has served its use, it will be deleted from the computers.

5.3 The council is aware that people have the right to access any information that is held about them. If a person requests to see any data that is being held about them:

- They must be sent all the information that is being held about them,
- There must be explanation for why it has been stored,
- There must be a list of who has seen it,
- It must be sent within 40 working days

5.4 A fee to cover photocopying and postage charges will be charged to the person requesting the information. This fee will be agreed by the council and amended in line with inflation from time to time.

5.5 Council staff must be aware that when complaints or queries are made, they must remain confidential unless the subject gives permission otherwise. When handling personal data, this must also remain confidential

6. DISCLOSURE INFORMATION

6.1 The Town Council will as necessary undertake checks on both employees and Members with the Disclosure and Barring Service (DBS) and will comply with their code of conduct relating to the secure storage, handling, use, retention, and disposal of Disclosures and Disclosure information.

6.2 If an elected member of the council needs to access information to help carry out their duties, this is acceptable. They are only able to access as much information as necessary and it should only be used for that specific purpose. If, for instance, someone has made a complaint about over hanging bushes in a garden, a

councillor may access an address and telephone number of the person who has made the complaint so they can help with the enquiry. They can only do this providing they represent the area that the subject lives in; however, before they access any sensitive information about a person, they would need consent to do this from the clerk. Data should never be used for political reasons unless the data subjects have consented.

APPENDIX A – DOCUMENT RETENTION & DESTRUCTION

DOCUMENT	MINIMUM PERIOD OF RETENTION	REASON
Signed Council/Committee Minutes	Permanent archive after administrative use	Archive/Public Inspection
Charter	Permanent archive after administrative use	Archive/Public Inspection
By-Laws	Permanent archive after administrative use	Archive/Public Inspection
Corporate/Business Plans; Policies; Strategies; Annual Reports; Asset Registers	Permanent archive after superseded	Common Practice
Title Deeds, Leases, Agreements and Contracts	Indefinite	Management
Operating Procedures	Two years after superseded	Council Choice
Record of complaints against Council	Destroy after six years	Common Practice
Funding Documents	As required by individual fund providers	Funding requirements
Press/media releases	Destroy after three years	Council Choice
Licenses	Destroy six years after expiry	Management
FINANCIAL DOCUMENTS		
Receipt and payment accounts	Indefinite	Archive
Receipt books of all kinds	Six years	VAT
Bank statements including deposit/savings accounts	Last completed audit year	Audit
Cheque book stubs and paying in books	Last completed audit year	Audit
Quotations and tenders	12 years	Limitations Act 1980
Paid invoices	Six years	VAT
VAT Records	Six years	VAT
Budgets and estimates	Permanent archive after three years	Statutory (Local Government Act 1972)
Accounts & Audits	Permanent Archive after administrative use	Common Practice
Building Contracts	Life of building + 15 years	Statutory
Insurance Policies	40 years	Statutory
Insurance Claims	Destroy after seven years	Management
Loans	Destroy seven years after loan repaid	Common Practice
Investments	Indefinite	Audit/Management
Salary/Wage/Tax Documents (HMRC)	12 years	Superannuation

APPENDIX A – DOCUMENT RETENTION & DESTRUCTION

DOCUMENT	MINIMUM PERIOD OF RETENTION	REASON
ELECTRONIC DOCUMENTS		
Email	Two years	Council Choice
Faxes	Two years	Council Choice
Scanned Documents	Two years	Council Choice
HR DOCUMENTS		
Timesheets	Last completed audit year	Audit
Recruitment documents (including job descriptions; person specifications; adverts)	Five years	Equal Opportunities claims/Council Choice
Documents on persons not hired (application forms, letters, CVs and interview notes)	One year	Equal Opportunities claims
Accident or injury at work	Seven years	Council Choice
Statutory Maternity/Paternity Pay and Leave Records	Current tax year plus three years	Council Choice
Personnel Administration – including CVs, annual appraisals, disciplinary records, sickness, leave, training records, contracts, redundancy, promotion/pay awards/pay levels	Destroy six years after person leaves the Council's employment (except those staff working with children, which is 25 years) ¹	Council Choice/Statutory
Summary of service	Permanent	Council Choice
References	Destroy five years after the person leaves the Council	Insurance
Register of Members Allowances	Six years	Income Tax/Limitation Act 1980
CASE FILES		
Investigation Services	Active + two years	Council Choice
Commercial Debt Recovery Matters	Active + two years	Council Choice
Legal/Litigation Files	Active + seven years	Council Choice

¹ NB – prior to the destruction of these files, a summary of service must be created. This will include name, position(s) held, dates of employment, pay levels and so on. This information will be used for references given to third parties.