

## Cabinet

10 December 2024

### Part 1 - Public

#### Executive Non-key Decision



Cabinet Member	Cllr Kim Tanner
Responsible Officer	Adrian Stanfield, Data Protection Officer
Report Author	Adrian Stanfield, Data Protection Officer

#### Data Protection Policy

##### 1 Summary and Purpose of Report

1.1 This report presents an updated Data Protection Policy for approval by Members.

##### 2 Corporate Strategy Priority Area

2.1 Efficient services for all our residents, maintaining an effective council.

2.2 The proposals in this paper will contribute to the above priority area by ensuring that the Council lawfully discharges its data protection obligations. The Policy is intended to assist residents in exercising their data protection rights by setting out the nature of those rights and what they can expect from the Council in response to any request.

##### 3 Recommendations

3.1 Cabinet is asked to approve the policy at **Annex 1**.

##### 4 Introduction and Background

4.1 In order to ensure that the Borough Council is able carry out its statutory responsibilities in a lawful manner, we conduct regular reviews of our policies and procedures.

4.2 The Council's existing data protection policy has not been reviewed since the UK GDPR took effect in 2020. Revisions are therefore necessary to ensure that the Council continues to lawfully discharge its data protection obligations.

4.3 The UK GDPR requires the Council to put in place appropriate technical and organisational measures to implement the data protection principles effectively and safeguard individual rights. This is known as 'data protection by design and

by default'. The concept is not new, but under the UK GDPR it is now a statutory requirement.

4.4 The UK GDPR sets out seven data protection principles, which lie at the heart of the general data protection regime:-

- **Lawfulness, fairness and transparency** - personal data shall be processed lawfully, fairly and in a transparent manner in relation to individuals.
- **Purpose limitation** - the processing purposes shall be specified, explicit and legitimate and not further processed in a manner that is incompatible with those purposes.
- **Data minimisation** - personal data shall be adequate, relevant and not excessive in relation to the purpose for which it is processed
- **Accuracy** - personal data shall be accurate and, where necessary, kept up to date. Additionally, reasonable steps must be taken to ensure that personal data that is inaccurate, having regard to the law enforcement purpose for which it is processed, is erased or rectified without delay.
- **Storage limitation** - personal data shall be 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.
- **Integrity and confidentiality** - personal data shall be processed in a manner that ensures appropriate security of the personal data, using appropriate technical or organisation measures. Appropriate security includes protection against unauthorised or unlawful processing and against accidental loss, destruction or damage.
- **Accountability** - the data controller shall be responsible for and be able to demonstrate compliance with the above.

4.5 Members are asked to note that the draft Policy at Annex 1 is one of the ways in which the Council demonstrates compliance with the provisions of the UK GDPR and Data Protection Act 2018.

4.6 All staff are required to undertake regular training on data protection. The most recent training took place earlier this year via our e-learning system.

## 5 Proposal

5.1 The draft policy at Annex 1 is intended to assist any member of the public wishing to understand their data protection rights by explaining each of those rights and setting out how those may be exercised in respect of any personal data held by Tonbridge & Malling Borough Council. These rights are listed below:-

- Right to access personal information - known as subject access requests (SARs)
- Right to rectification
- Right to erasure
- Right to restrict processing
- Right to data portability
- Right to object
- Rights in relation to automated decision making and profiling

5.2 The policy also sets out the circumstances under which the exercise of any of these rights may be restricted.

## **6 Other Options**

6.1 No other options were considered. The policy needs to be updated to ensure that it is consistent with the provisions of the UK GDPR.

## **7 Financial and Value for Money Considerations**

7.1 The operation of the data protection policy has negligible financial impact upon the Council.

## **8 Risk Assessment**

8.1 The Council is required to demonstrate how it complies with its data protection obligations. This is known as the accountability principle under the UK GDPR / Data Protection Act 2018. The approval of an up-to-date policy is one of the ways in which the Council shows how it is meeting this accountability requirement.

## **9 Legal Implications**

9.1 The Council has a number of statutory responsibilities and duties under the provisions of the UK GDPR and the Data Protection Act 2018 (which sits alongside and supplements the UK GDPR).

9.2 The attached policy sets out how the Council intends to perform these responsibilities and duties.

## **10 Consultation and Communications**

10.1 Consultation has taken place with the Council's Information Governance Officer Steering Group, who have approved the draft at Annex 1.

10.2 If approved, the Policy will be published on the Council's website.

## **11 Implementation**

## **12 Cross Cutting Issues**

12.1 Climate Change and Biodiversity

12.1.1 Limited or low impact on emissions and environment.

12.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

## 12.2 Equalities and Diversity

12.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background Papers	None
Annexes	Annex 1 – Data Protection Policy