

**HAMBLETON**  
DISTRICT COUNCIL

# Appropriate Policy Document

Special Category and  
Criminal Conviction Data

a place to

*grow*

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## Update and approval

This Policy shall be updated annually or, if deemed necessary, whenever there is a need or requirement to do so. It will be updated in respect of changes within the privacy field, other regulatory changes, changes in the market where the District Council operates and internal changes within the District Council. Any changes to this Policy are subject to approval by the SIRO.



## 1. Introduction

This policy forms part of the council's wider Information Governance Framework.

This policy is concerned with the processing of special category and criminal conviction data. The policy therefore, as required by Schedule 1 of the Data Protection Act 2018 (DPA 2018), sets out how the council complies with the DPA 2018 and UK General Data Protection Regulation (UK GDPR) in this regard.

Queries about any aspect of the council's Information Governance strategy or corresponding policies are to be directed to the Data Protection Officer (DPO) at:

**[infogov.HambletonDC@veritau.co.uk](mailto:infogov.HambletonDC@veritau.co.uk)**

## 2. Scope

The Information Governance Strategy and corresponding policies apply to all Hambleton District council officers, any authorised agents working on behalf of the council, including temporary or agency staff, elected members, and third party contractors. Individuals who are found to knowingly or recklessly infringe this policy may face disciplinary action.

## 3. Description of data processed

The council processes personal data falling into all the special categories listed below:

- Racial or ethnic origin;
- Political opinions;
- Religious or philosophical beliefs;
- Trade union membership;
- Data concerning health;
- Data concerning a natural person's sex life or sexual orientation.
- Biometric data for the purpose of identifying individuals; specifically, fingerprint recognition of those authorised to use a particular mobile phone.

The council also processes criminal offence data.



## 4. Purpose

This document demonstrates that the processing by Hambleton District Council of personal data falling into the special categories and of criminal offence data, is compliant with the requirements of the UK GDPR Article 5 principles, and with the DPA 2018.

The UK GDPR makes provision for processing “special categories” of personal data and criminal convictions data. Articles 9 and 10 of the UK GDPR prohibit the processing of such data unless the special conditions are met.

The DPA 2018 includes the requirement for an Appropriate Policy Document (APD) to be in place when processing such data under certain specified conditions. This document incorporates the council’s APD. In addition it provides some further information about the council’s processing of special category and criminal offence data where a policy document isn’t a specific requirement. The information supplements the council’s privacy notices including its employee privacy notices.

The council processes special category and criminal offence data for a number of different purposes but does not need a separate policy document for each condition or processing activity, and this document covers them all. It references policies and procedures which are relevant to all the identified processing. Therefore it explains the council’s compliance with the principles in general terms, without specific reference to each individual Schedule 1 condition.

As the council relies on the conditions identified below, this policy should be considered as a part of the general record of processing activities under UK GDPR Article 30, and provides the SC and CO data with further protection and accountability. Other information in that record is to be found within the council’s Information Asset Registers. This document should therefore be read in conjunction with them.

## 5. Conditions for processing special category and criminal offence data

The council processes special categories of personal data under the following UK GDPR Articles:

### **Article 9(2)(a) - explicit consent**

The council makes sure that consent given by any person is unambiguous and for one or more specified purposes, is given by an affirmative action and is recorded as the condition for processing.

Examples of such processing include health information the council receives from service users or customers who require a reasonable adjustment to access its services.



**Article 9(2)(b)** - where processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law on the council or the data subject in connection with **employment, social security or social protection**.

Examples of such processing include staff sickness absences and political activity declarations, and salary deductions for trade union membership.

The council calculates benefits entitlements which is likely to necessitate collecting data in any of the special categories listed above in respect of the client and his or her family.

**Article 9(2)(c)** - where processing is necessary to protect the **vital interests** of the data subject or of another natural person.

This would be very unusual; an example of such processing would be using health information about a member of staff in a medical emergency.

**Article 9(2)(e)** processing relates to personal data which are **manifestly made public by the data subject**.

The council records the publicly declared political affiliations of elected councillors and of candidates for election.

**Article 9(2)(f) - for the establishment, exercise or defence of legal claims.**

It is sometimes necessary for the council to process SC data in relation to proceedings at an employment tribunal, and frequently in proceedings in relation to the protection of children or vulnerable adults.

**Article 9(2)(g) - reasons of substantial public interest.**

Hambleton District Council is a district council established by statute, with a wide variety of duties which it must fulfil, and powers that it can exercise in the public interest.

Its processing of personal data is therefore generally for the purposes of substantial public interest and is necessary for the carrying out of those duties or the exercise of those powers.

Examples of its processing of SC data include what is necessary as a local benefits and taxation authority. SC data may sometimes also be needed in relation to the application and enforcement of planning, Licensing and environmental protection law.

**Article 9(2)(h)** processing is necessary for...the provision of health or social care or ...the management of ...social care systems and services.

The relevant purpose the council relies on is Schedule 1 Part 1 paragraph 2 - Health or social care purposes.

The council collects and processes SC data as necessary for providing social care in respect of the Lifeline service.



**Article 9(2)(i)** processing is necessary for reasons of public interest in the area of public health

The relevant purpose the council relies on is Schedule 1 Part 1 paragraph 3 - Public health.

Among the council's duties and powers are those relating to public health. It is sometimes necessary to process personally identifiable health data or other SC factors believed to be relevant to protecting against serious cross-border threats to health or ensuring high standards of quality and safety of healthcare;

**Article 9(2)(j) - for archiving purposes in the public interest.**

The relevant purpose the council relies on is Schedule 1 Part 1 paragraph 4 - archiving.

The council uses this information for business intelligence purposes.

**Criminal Offence (CO) data**

The council processes criminal offence data under Article 10 of the UK GDPR

Examples of its processing of criminal offence data include pre-employment checks and declarations by an employee in line with contractual obligations.

## 6. Schedule 1 conditions for processing

The council will process Special Category data in accordance with the following conditions in Part 1 and 2 of Schedule 1:

- **Paragraph 1(1)** employment
- **Paragraph 3(1)** public health
- **Paragraph 4(a)** archiving purposes, scientific or historical research purposes or statistical purposes.
- **Paragraph 6(1) and (2)(a)** Statutory, etc purposes
- **Paragraph 10(1)** Preventing or detecting unlawful acts
- **Paragraph 12(1) and (2)** Regulatory requirements relating to unlawful acts and dishonesty etc
- **Paragraph 14(1)** Preventing fraud
- **Paragraph 17(1)** Counselling
- **Paragraph 18(1)** Safeguarding of children and of individuals at risk
- **Paragraph 20(1)** Insurance
- **Paragraph 21(1)** Occupational pensions
- **Paragraph 24(1)** Disclosure to elected representatives



In addition, District Councillors may, acting not on behalf of the council but in the capacity of representatives of their area, process SC data under Paragraph 23(1) (Elected representatives responding to requests).

The council may from time to time process criminal offence data and when doing so, will ensure it is in accordance with the following conditions in parts 1 and 2 of Schedule 1:

- **Paragraph 1(1)** employment
- **Paragraph 6(2)(a)** - statutory, etc. purposes
- **Paragraph 4(a)** archiving purposes, scientific or historical research purposes or statistical purposes.
- **Paragraph 6(1) and (2)(a)** Statutory, etc purposes
- **Paragraph 10(1)** preventing or detecting unlawful acts
- **Paragraph 12(1) and (2)** regulatory requirements relating to unlawful acts and dishonesty
- **Paragraph 18(1)** Safeguarding of children and of individuals at risk
- **Paragraph 20(1)** insurance
- **Paragraph 24(1)** disclosure to elected representatives

In addition, District Councillors may, acting not on behalf of the council but in the capacity of representatives of their area, process CO data under Paragraph 23(1) (Elected representatives responding to requests)

The council will ensure they meet any necessary conditions within Part 3 of Schedule 1 which provides additional conditions relating to CO data. This may include:

- **Paragraph 29** Consent provided by data subject
- **Paragraph 30** Protecting individual's vital interests
- **Paragraph 32** Personal data in the public domain
- **Paragraph 34** Legal claims
- **Paragraph 36** Extension of certain conditions under Schedule 1, Part 2: Allows for the processing of CO data where processing would meet a condition in Schedule 1, Part 2 except for the fact that it must satisfy the substantial public interest test, providing the council has an Appropriate Policy (this document) in place and ensures this document is in addition to the record of processing activity as per Article 30 UK GDPR.
- **Paragraph 37** Extension of insurance conditions under Paragraph 20:  
The extension allows for the condition to be met in Paragraph 20 even if the data does not include any special category data.



## 7. Procedures for Securing Compliance

Article 5 of the General Data Protection Regulation sets out the data protection principles. This table shows the council's procedures for ensuring compliance and supporting policies/documentation.

### Accountability Principle

Processing personal data must be lawful, fair and transparent. It is only lawful if and to the extent it is based on law and either the data subject has given their consent for the processing, or the processing meets at least one of the conditions in Schedule 1.

The Council provides clear and transparent information about why it processes personal data including its lawful basis for processing in its privacy notices, staff privacy notices and this policy document.

The Council's processing for purposes of substantial public interest is necessary for the exercise of functions conferred on it by a wide range of legislation.

The Council's processing for the purposes of employment relates to its obligations as an employer.

The Council also processes special category personal data to comply with other obligations imposed on it in its capacity as a public authority e.g. the Equality Act.

### Principle 1: lawfulness, fairness and transparency

Processing personal data for law enforcement purposes must be lawful and fair. Processing will not take place unless the reason to do so derived from legal powers granted to the Council.

The Council provides clear information about why it processes personal data in its privacy notices and this policy document.

Where consent is requested from an individual to allow sensitive processing, the individual will be provided with full details of what will happen to their data and the length of time it will be retained. The individual will also be advised of their right to withdraw their consent.

If the law enforcement purpose would be prejudiced by notifying the subject of the processing of their data then an exemption from the above obligations may apply.

Where sensitive data is being processed, the Council will ensure that it meets one of the conditions within Schedule 8 and continues to ensure that an appropriate policy document (this policy) is in place.





## Principle 2: purpose limitation

The Council is a creature of statute, governed by public law. It can only act in ways and for purposes which it is empowered to do. It follows that the purposes for which personal data will be used are limited to those functions the Council is empowered to carry out and the services it is empowered to provide.

Nevertheless the Council also processes such personal data as necessary for it to operate as an organisation. In particular it processes the personal data of its employees and its councillors.

The Council is a signatory to the North Yorkshire Multi-agency Information Sharing Protocol, which is applied all its routine personal data sharing even if the recipient is not itself a signatory. This requires that the Council must be satisfied that any recipient of personal data has a legal basis to process it

The Council will not process personal data for purposes incompatible with the original purpose for which it was collected.

## Principle 3: data minimisation

The Council collects personal data necessary for the relevant purposes and ensures it is not excessive. The information it processes is necessary for and proportionate to its purposes. Where personal data is provided to the Council or obtained by it, but is not relevant to its stated purposes, it is to be erased.

## Principle 4: accuracy

Where the Council becomes aware that personal data is inaccurate or out of date, having regard to the purpose for which it is being processed, it will take every reasonable step to ensure that data is erased or rectified without delay. If the Council decides not to either erase or rectify it, for example because the lawful basis it relies on to process the data means these rights don't apply, it will document its decision.



### Principle 5: storage limitation

All special category data processed by the Council for the purpose of employment or substantial public interest is, unless retained longer for archiving purposes, retained for the periods set out in its Retention Policy. The Council determines the retention period for this data based on its legal obligations and the necessity of its retention for its business needs. The Council's retention schedule is reviewed from time to time and updated when necessary.

### Principle 6: integrity and confidentiality (security)

Electronic information is processed within the Council's secure network. Hard copy information is processed in line with its security procedures.

The Council's electronic systems and physical storage have appropriate access controls applied.

The systems the Council uses to process personal data allow it to erase or update personal data at any point in time where appropriate.

## 8. Retention and Erasure

The council's retention and erasure policies are based on the purpose for which records are created and used. They do not identify categories of data and therefore do not explicitly state how long any of the special categories of data will be retained. There is no retention period specific to any of the special categories. Data falling into any of the special categories will be retained according to its purpose, not its category.

However the Information Asset Registers do identify what council data is included in each asset, and indicate how long it will be retained. The assets relate to all of the council's services, including its internal management.

The Retention Policy sets out retention periods for the types of records that the council uses to provide all of those services and internal management.



## 9. Contact

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### **Specific Point of Contact (SPOC)**

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