

# Langwathby Parish Council

Serving the villages of Langwathby and Edenhall

This Policy was adopted by the Council at its Meeting held on 17<sup>th</sup> May 2018

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Date of next review May 2019

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## Data Protection Policy

### 1. Introduction

This policy has been created to comply with the requirements of the General Data Protection Regulation.

The Data Protection Act 1998, Schedule 1, states:

“Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

(a) at least one of the conditions in Schedule 2 is met, and

(b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

2 Personal data 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 Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

4 Personal data shall be accurate and, where necessary, kept up to date.

5 Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

6 Personal data shall be processed in accordance with the rights of data subjects under this Act.

7 Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

8 Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.”

This policy demonstrates how Langwathby Parish Council complies with these principles in its processing and handling of personal data.

### 2. Roles and Responsibilities

Langwathby Parish Council is the Data Controller and the Data Processor.

The Clerk to Langwathby Parish Council is the Data Protection Officer, as outlined in more detail in Section 11.

### **3. Data Register**

The Data Register of Langwathby Parish Council is found in Appendix 1 of this policy. It includes:

- The types of data held by Langwathby Parish Council
- The legal basis for Langwathby Parish Council to process this data
- Where and for how long data is stored
- How frequently data is reviewed
- How data is disposed of

The Data Register is subject to annual review.

### **4. Communicating privacy information**

Langwathby Parish Council includes privacy notices on its website and relevant policies. These notices are reviewed and formally adopted by the parish council annually. Copies are available from the Clerk upon request.

### **5. Individuals' rights**

GDPR established the following rights of data subjects:

#### **5.1. The right to be informed**

Langwathby Parish Council posts privacy notices on its website and relevant policies to inform individuals about data use.

#### **5.2. The right of access**

The council provides right of access via its Freedom of Information Policy and Publications Scheme.

#### **5.3. The right to rectification**

Most data is provided to the parish council by other bodies so rectification would normally be undertaken by those bodies. For any other data, rectification requests would be dealt with by the Clerk.

#### **5.4. The right to erasure**

Any request from a member of the public to have their personal data, held by Langwathby Parish Council, erased will be considered by the DPO within the terms of relevant legislation.

Langwathby Parish Council is within its rights to refuse any application to erase data, and would almost certainly do so, since it holds data:

- to comply with a legal obligation for the performance of a public interest task or exercise of official authority
- for archiving purposes in the public interest, scientific research, historical research or statistical purposes

#### **5.5. The right to restrict processing**

Since most data is provided to the parish council by other bodies, any restrictions on processing would be referred to that body.

## 5.6. The right to data portability

Since Langwathby Parish Council does not process data by automated means, this right does not apply.

## 5.7. The right to object

Any objection would need to be made to the body providing the data to Langwathby Parish Council, most often Eden District Council.

## 5.8. Rights in relation to automated decision making and profiling.

Langwathby Parish Council does not carry out any automated decision making or profiling.

## 6. Subject access requests

The council provides right of access via its Freedom of Information Policy and Publications Scheme, available from the parish council's website, or in writing from the Clerk.

## 7. Consent

Article 4(11) of the GDPR defines consent as: *"any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her."*

Langwathby Parish Council rarely seeks personal data. Most data it holds is provided by other statutory bodies, primarily Eden District Council.

There are two notable exceptions to this:

7.1 Individuals who choose to enter into correspondence with the parish council.

7.2 Surveys, which are carried out occasionally by the parish council for the purpose of seeking residents' views on a particular issue. Residents may, when relevant, be invited to provide their contact details with a survey response to allow the parish council to follow up an issue with individuals. This would be done on a case-by-case basis and always with the onus on residents to provide their details only if they wish to.

Langwathby Parish Council considers that in both the above cases the data subject is, by providing their details to the parish council, making a clear affirmative action as outlined in the article, above.

## 8. Children

Langwathby Parish Council does not, as a general rule, hold data about children or vulnerable adults.

## 9. Data breaches

All electronic data held by Langwathby Parish Council is backed up weekly. External hard drives used for backing up are never transported at the same time as laptops. There is very little in the way of paper-based data and most of it is held at the Clerk's home in a locked cupboard. In the unlikely event of the Clerk's laptop or paper documentation being lost or stolen, the Clerk will notify the Chairman as soon as possible, or vice versa if it is the Chairman's laptop which has been lost. An internal investigation into the loss will be conducted, unless sensitive data has been lost. In this case, the relevant authorities will be notified.

## 10. Data Protection by Design and Data Protection Impact Assessments

Data protection impact assessments (also known as privacy impact assessments or PIAs) are a tool which can help organisations identify the most effective way to comply with their data protection obligations

and meet individuals' expectations of privacy. Since almost all the data held by the parish council is already in the public domain, the impact on the council of data protection is negligible.

## **11. Data Protection Officer**

As a public authority, Langwathby Parish Council is obligated by the GDPR to appoint a Data Protection Officer (DPO).

The role of the DPO is:

- To inform and advise the organisation and its employees about their obligations to comply with the GDPR and other data protection laws.
- To monitor compliance with the GDPR and other data protection laws, including managing internal data protection activities, advise on data protection impact assessments; train staff and conduct internal audits.
- To be the first point of contact for supervisory authorities and for individuals whose data is processed (employees, customers etc).

Langwathby Parish Council will ensure that:

- The DPO reports to the highest management level of your organisation – ie board level.
- The DPO operates independently and is not dismissed or penalised for performing their task.
- Adequate resources are provided to enable DPOs to meet their GDPR obligations.

Langwathby Parish Council's Data Protection Officer will be the Clerk to the Parish Council, as resolved by a full meeting of the council on 17<sup>th</sup> May 2018

## **12. International**

Langwathby Parish Council will only transfer data where appropriate to other bodies; for example, Eden District Council or Cumbria County Council. It will not transfer data to any international body. However, its website is accessible worldwide so any data on the website may be accessed from anywhere in the world.