

## Appropriate Policy Document (APD)

### Document Overview

The Appropriate Policy Document (APD) is a key document which outlines how Kirklees Council processes special categories of personal data and criminal offence data. It sets out clear examples of the most sensitive data types collected and processed by Kirklees Council. It outlines how we will protect the data, as well as how we will comply with our obligations under relevant UK data protection legislation. It will also provide individuals with reassurance that their data is being processed with the utmost care and attention.

### Intended Audience

All Kirklees employees, Elected Members (Councillors), volunteers and organisations working on behalf of Kirklees Council, plus members of the public.

### Linked Policies

[Data Protection Policy](#)

### Revision History

Version	Author	Reason for issue	Date
1.0	S. Hepworth	Mandatory requirement for APD	June 2022
2.0	J.Guilfoyle	Review & refresh. Accessible version required.	

### Date of next revision

March 2027

## **Document Scope**

This policy applies to all departments and functions within Kirklees Council and those working on behalf of the Council including, but not limited to, Councillors, contractors, agency workers, volunteers and work experience placements.

## **Appropriate Policy Document**

As part of our statutory and corporate functions, Kirklees Council processes special category data and criminal offence data. Schedule 1, Part 4 of the Data Protection Act (DPA) requires us to have an appropriate Policy Document (APD) in place, explaining our compliance with the principles in Article 5, when we rely on certain conditions for processing special category and criminal offence data. This policy will tell you:

- what special category and criminal offence data we process;
- our lawful basis (including our schedule 1 condition in the DPA) for processing that data;
- the purposes for which we process it; and
- how we ensure compliance with the principles of data protection law provided in Article 5 of the UK GDPR.

## **Criminal offence data**

As a public authority, we are required to process criminal offence data to perform a range of functions including safeguarding and service delivery (for example licensing, tackling antisocial behaviour, providing housing, delivering care). The type of data varies and can include details of offences, alleged offences and contextual information from victims, witnesses, alleged offenders and convicted offenders.

## **Special category data**

Special category data is defined at Article 9 of the UK GDPR as personal data revealing:

- racial or ethnic origin;
- political opinions;
- religious or philosophical beliefs;
- trade union membership;
- genetic data;
- biometric data for the purpose of uniquely identifying a natural person;
- data concerning health;
- data concerning a natural person's sex life or sexual orientation.

## **Schedule 1 condition for processing**

We use most of the Article 9 lawful bases given the range of processes we carry out and the wide responsibilities and services we have. We need to be able to demonstrate which condition of Schedule 1 we rely on when using the following:

## **Lawful bases requiring Schedule 1, Part 1**

This condition is particularly relevant for employers. It also applies to public authorities involved in providing social services and benefits. Social security and social protection cover benefits, social support or other interventions designed to assist individuals.

- **9(2)(b)** Employment, social security and social protection (if authorised by law)  
*Examples include payroll, HR functions, administration of benefits and housing.*
- **9(2)(h)** Preventative occupational medicine, health or social care (with a basis in law)  
*Examples include employee healthcare, provision of social care.*
- **9(2)(i)** Public health (with a basis in law)  
*Examples are our public health service work, infection prevention, environmental health functions.*
- **9(2)(j)** Archiving, research and statistics (with a basis in law)  
*An example of our processing is the transfers we make to the West Yorkshire Archives as part of our legal obligations.*

### **Lawful bases requiring Schedule 1, Part 2**

**9(2)(g)** Reasons of substantial public interest (with a basis in law).

When relying on 9(2)(g), the council will also need to meet at least one of 23 specific substantial public interest conditions set out in Part 2 of Schedule 1 of the DPA 2018. Some of these will not be relevant to what we do, but some will be frequently relied on (e.g. 6, 10, 18, 19).

### **Substantial Public Interest Conditions**

The Schedule 1, part 2 substantial interest conditions relied upon by Kirklees Council in the fulfillment of its duties are:

#### Statutory and government purposes

- fulfilling the council's obligations under the UK legislation for the provision of services to residents within the borough of Kirklees Council
- complying with other legal requirements, such as the requirement to disclose information in connection with legal proceedings

#### Equality of opportunity or treatment

- ensuring compliance with the council's obligations under legislation such as the Equality Act 2010 and Sex Discrimination Act 1970
- ensuring that we fulfil our public sector equality duty when carrying out our work
- ensuring we provide equal access to our services, to all sections of the community in recognition of our legal and ethical duty and serve communities

#### Preventing or detecting unlawful acts

- processing data concerning criminal records in connection with employment in order to reduce the risk to the council and the community
- carrying out enforcement action in connection with the council's statutory duties
- carrying out investigations and disciplinary actions relating to our employees

#### Protecting the public against dishonesty

- processing data concerning dishonesty, malpractice or other improper conduct in order to protect the local community
- carrying out enforcement action in connection with the council's statutory duties
- carrying out investigations and disciplinary actions relating to our employees

#### Regulatory requirements relating to unlawful acts and dishonesty

- complying with the council's enforcement obligations under UK legislation
- assisting other authorities in connection with their regulatory requirements

#### Preventing fraud

- disclosing personal data in accordance with arrangements made by an anti-fraud organisation

#### Support for individuals with a particular disability or medical condition

- to provide services or raise awareness of a disability or medical condition in order to deliver services to service users and their carers

#### Counselling

- for the provision of confidential counselling, advice or support or another similar service provided confidentially

#### Safeguarding of children and individuals at risk

- protecting vulnerable children and young people from neglect, physical, mental or emotional harm
- identifying individuals at risk while attending emergency incidents
- data sharing with our partners to assist them to support individuals

#### Insurance

- information that is necessary for insurance purposes

#### Occupational pensions

- fulfilling the council's obligation to provide an occupational pension scheme
- determining benefits payable to dependents of pension scheme members

#### Disclosure to elected representatives

- assisting elected representatives such as local government councillors and Members of Parliament with requests for assistance on behalf of their constituents

### **Part 3 - Additional Conditions Relating to Criminal Convictions, etc.**

Condition 36 (Part 3 of Schedule 1) refers to substantial public interest. The council may process personal data relating to criminal convictions or offences in connection with its statutory functions or as part of recruitment and employment checks without having to specifically argue the public interest case, as long as we could otherwise rely on one of the conditions from Part 2.

### **Procedures for ensuring compliance with data protection principles**

Kirklees Council has put in place the following procedures to ensure compliance:

## **Accountability**

We have put in place appropriate technical and organisational measures to meet the requirements of accountability. These include:

- the appointment of a data protection officer who reports directly to our highest management level;
- taking a 'data protection by design and default' approach to our activities;
- maintaining documentation of our processing activities;
- adopting and implementing data protection policies and ensuring we have written contracts in place with our data processors;
- implementing appropriate security measures in relation to the personal data we process;
- carrying out data protection impact assessments for our high-risk processing.

We regularly review our accountability measures and update or amend them when required.

## **Lawfulness, fairness, and transparency**

Processing of special category and criminal offence 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.

We provide clear and transparent information about why we process special category and criminal offence data including our lawful basis for processing in our published privacy notices and this policy document.

Our processing for purposes of substantial public interest is necessary for the exercise of a function of providing services to residents of Kirklees, for example council tax collection, or waste collection.

Our processing for the purposes of employment relates to our obligations as an employer.

## **Purpose limitation**

We process special category data for purposes of substantial public interest as explained above when the processing is necessary:

- for us to fulfil our statutory functions;
- for complying with a regulatory requirement to establish whether an unlawful or improper conduct has occurred;
- to protect the public from dishonesty;
- for preventing or detecting unlawful acts; or
- for disclosure to elected representatives.

We are authorised by law to process special category data for these purposes. We may process special category data collected for any one of these purposes (whether by us or another controller), for any of the other purposes here, providing the processing is necessary and proportionate to that purpose.

If we are sharing data with another controller, we will document that they are authorised by law to process the data for their purpose. If we are sharing data with a “processor”, we will document their processing and purposes in a contract and data processing schedule. We will not process special category data for purposes incompatible with the original purpose for which it was collected.

### **Data minimisation**

We collect special category data necessary for the relevant purposes and ensure it is not excessive. The information we process is necessary for and proportionate to our purposes.

We delete / securely dispose of anything we do not need and our service retention schedules outline for how long we hold information.

### **Accuracy**

Where we become aware that special category data is inaccurate or out of date, having regard to the purpose for which it is being processed, we will take every reasonable step to ensure that data is erased or rectified without delay.

If we decide not to either erase or rectify information, for example because the lawful basis we rely on to process the data means these rights don't apply, we will document our decision.

### **Storage limitation**

All special category data processed by us for the purpose of employment or substantial public interest is, unless retained longer for archiving purposes, retained for the periods set out in our retention schedules.

We determine the retention period for this data based on our legal obligations and the necessity of its retention for our business needs. Our retention schedules are reviewed regularly and updated when necessary.

### **Integrity and confidentiality (security)**

Electronic information is processed within our secure network. Hard copy information is processed in line with our security procedures. Our electronic systems and physical storage have appropriate access controls applied. The systems we use to process special category data allow us to erase or update special category at any point in time where appropriate.

### **Retention and erasure of personal data**

We will hold the information securely, and for no longer than reasonably necessary in accordance with Kirklees Council's service retention schedules. The relevant retention periods for specific processes are contained in privacy notices.

On disposal of data, the service completes a disposal log, or requires a destruction / disposal certificate from contractors.

## **Responsibility for processing special category data & criminal offence data**

All employees are required to comply with the Council's information governance policies and guidance when processing:

- personal data;
- special category data;
- criminal offence data.

Compliance with the policies is to ensure that processing is carried out legally, fairly, and transparently.

Information Asset Owners are responsible for ensuring that systems and processes under their control comply with current data protection legislation and that all personal data is processed in accordance with the data protection principles.