

## **Reform of data protection legislation and introduction of the General Data Protection Regulation**

### **Introduction**

The Data Protection Act 1998 (“1998 Act”) is the main piece of legislation which governs the protection of personal data today. NALC’s guidance about the application of the 1998 Act to parish councils and, in Wales, to community councils is in Legal Topic Note 38 – Data Protection.

### **Legislative changes**

Data protection law will significantly change on 25 May 2018, when the 2016 EU Directive known as General Data Protection Regulation (“GDPR”) takes effect. The GDPR will effectively replace the 1998 Act which implemented the EU Data Protection Directive (95/46/EC). The GDPR will be directly applicable in the UK without the need to implement national legislation. The Government has confirmed that the UK’s decision to leave the EU will not affect the commencement of the GDPR in 2018.

As with the 1998 Act, local authorities including parish councils and, in Wales, community councils will be subject to the GDPR. Many of the GDPR’s principles are the same as those in the 1998 Act. However GDPR imposes new obligations on data controllers and data processors and provides enhanced rights for individuals.

### **Preparing for the GDPR**

Compliance with GDPR will have resource implications and we advise councils to start getting for ready for the introduction of GDPR without delay. We strongly recommend that councils follow the ICO’s easy to read guide entitled “Preparing for the General Data

Protection Regulation (GDPR) 12 steps to take now". This is available via the web link <https://ico.org.uk/media/1624219/preparing-for-the-gdpr-12-steps.pdf>.

The Information Commissioner's Office's ("ICO") website provides detailed guidance about GDPR which is available via the web link <https://ico.org.uk/for-organisations/data-protection-reform/>.

### **Data protection officer**

As referenced in the above ICO guide, the GDPR will require some organisations such as public authorities to appoint a Data Protection Officer ("DPO"). The GDPR does not define the term "public authorities". However the term is expected to include local authorities. The DPO's responsibilities include:

- to inform and advise the organisation and its employees about their obligations to comply with the GDPR.
- to monitor compliance with the GDPR 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 the regulator and for individuals whose data is processed

It is not yet known if the requirement for public authorities to appoint a DPO will extend to parish councils and, in Wales, to community councils. We will seek clarification from the Government and the ICO and provide another briefing when we have more information.