Fact sheet for councils: the use of personal email addresses and devices

This factsheet has been produced following a series of workshops and discussions with local councils across the UK and will be of interest to parish council clerks looking for steps they can take to improve their council's data protection compliance.

The majority of parish clerks attending the Society of Local Council Clerks (SLCC) Leadership in Action Conference 2019 ranked the use of personal email addresses and devices for council business as their top data protection concern.

The UK General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA) don't say which email systems or devices should be used. But if the use of personal email addresses and devices is something your council does, you should be aware of the risks and the council's data protection obligations and responsibilities.

> Fact: Councils must ensure the confidentiality, integrity and availability of all personal data they hold, even if the data is being processed through personal email accounts or is stored on a privately-owned device.

As a data controller, a council has obligations relating to the confidentiality, integrity and availability of all personal data it holds. This means that the council is accountable for any council business conducted involving personal data on any device or through any email account.

The use of personal devices and email accounts could raise the risk that personal data is processed for different purposes from which it was originally collected. All members of the council should ensure they know their responsibilities in terms of only using personal data for the purposes which the council obtained it.

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If copies of data (such as email attachments) are stored on many different devices, there's an increased risk that it'll become out-of-date or inaccurate over time. There's also an increased risk that it'll be retained for longer than necessary, because it's difficult to keep track of copies.

You may also find it difficult to respond on time to a subject access request if you have to search multiple devices or if you aren't aware of all the devices on which personal data may be stored.

Questions to ask:

- What types of devices are in use?
- Who else uses the personal email account or privately-owned device, and who else has access?
- How can you control the data on the personal email account or privately-owned device (eg accuracy and retention)?
- How much consideration has been given to the data on the device being overlooked?

> Fact: Councils must process personal data securely – which may be more difficult to achieve if it's being processed through personal email accounts or is stored on privately-owned devices.

Councils must have 'appropriate technical and organisational measures' in place to prevent the personal data it holds being accidentally or deliberately compromised. This includes physical and organisational security measures and also cybersecurity. If data is shared around multiple devices this introduces more points of failure and vulnerability.

There's no 'one size fits all' solution to information security. The UK GDPR doesn't define the security measures that you should have in place. It requires you to have a level of security that is 'appropriate' to the risks presented by your processing. What's appropriate for your council will depend on your own circumstances, the information you're processing, and the risks it presents.

As the data controller, the council must ensure that all processing of personal data under its control remains compliant, regardless of the ownership of the device used

to carry out the processing. If there's a personal data breach, you must be able to demonstrate that you've secured, controlled or deleted all personal data on a particular device.

Questions to ask:

- How secure are the devices (eg is the device password-protected and what is the risk of malware)?
- What if the device is lost or stolen – can you remotely locate it and wipe the data?
- What operating system is the privately-owned device running?
- How is data transferred to other devices, and how secure are these systems and/or devices?
- Is your council using or considering cloud storage?

> Fact: Councils must demonstrate that they are UK GDPR-compliant, and the use of personal email accounts and privately-owned devices may make this more complicated.

The principle of accountability requires you to be able to demonstrate that you are complying with the UK GDPR, and have appropriate policies and processes in place. If personal devices or email accounts are being used, you should have an effective organisational policy in place to ensure that the associated risks are managed.

You'll also need to take steps to make sure your members are aware of the policy and that it is implemented. This could include training, monitoring and audits.

Questions to ask:

- If you're using personal email addresses and/or devices to process data for council business, do you have an acceptable use policy in place to manage this?
- Have you implemented appropriate security measures as outlined above?
- Have you documented the associated risks and subsequent decisions?
- Does your council need to review/update its current approach?

More information

For more information about the accountability principle with the UK GDPR, visit ico.org.uk and search 'accountability principle'.

The challenges of using a personal email system or device are set out in more detail in the ICO's Bring your own device (BYOD) guidance – visit ico.org.uk and search 'BYOD'.

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