

Thornley Parish Council
GENERAL PRIVACY NOTICE
Data Protection Policy

Adopted 22nd May 2018.

Introduction

Thornley Parish Council is committed to openness and accountability in the way that it carries out its work.

We will do what we can to ensure the successful implementation of the Data Protection Act 1998 ("The Act"). This will enable us to serve our customers, stakeholders, and partners, elected members and the public more effectively and to build increasing levels of trust in the way that we carry out our responsibilities pertaining to the manipulation of personal data. It will also help to ensure that the services we provide are delivered efficiently and effectively. This policy applies to all Council members and employees and provides a framework within the Council that will ensure compliance with the Act, and develop operational procedures to maintain adherence.

The Data Protection Act 1998

The Data Protection Act 1998 is "an Act to make provision for the regulation of the processing of information relating to individuals including the obtaining, holding, use or disclosure of such information. It places obligations on those who record and use personal data". The Council will endeavour to apply the spirit of the Act to ALL data operations.

Thornley Parish Council is required by law to collect and use certain types of information concerning individuals with whom it interacts to fulfil its statutory duties. These may include members of the public, current, past and prospective employees, clients and customers, and suppliers. In addition, it may be required by law to collect and use information in order to comply with the requirements of central government. This personal information must be dealt with properly however it is collected, recorded and used, whether on paper, stored electronically, or on other material.

The overall responsibility for ensuring compliance with the Data Protection Act rests with the Parish Clerk.

Policy Statement

Thornley Parish Council will ensure that it treats personal information lawfully and correctly, as this is essential in maintaining the confidence and operational efficiency between the Council and those with whom it carries out its business.

To this end the Council fully endorses and adheres to the 8 Principles of Data Protection as set out in the Data Protection Act 1998.

Your personal data – what is it?

"Personal data" is any information about a living individual which allows them to be identified from that data (for example a name, photographs, videos, email address, or addresses). Identification can be directly using the data itself, or by combining it with other information which helps to identify a living individual (e.g. a list of staff may contain personnel ID numbers rather than

names but if you use a separate list of the ID numbers which give the corresponding names to identify the staff in the first list then the first list will also be treated as personal data). The processing of personal data is governed by legislation relating to personal data which applies in the United Kingdom including the General Data Protection Regulation (the "GDPR) and other legislation relating to personal data and rights such as the Human Rights Act. Our registration number is **Z2930384** and can be viewed on the Information Commissioners office website.

Who are we?

This Privacy Notice is provided to you by Thornley Parish Council which is the data controller for your data.

Other data controllers the council works with from time to time may be:

- local authorities – principally Durham County Council
- Government departments and agencies
- Community groups
- Charities
- Other not for profit entities
- Contractors
- Accountants/Payroll

We may need to share your personal data we hold with them so that they can carry out their responsibilities to the council. If we and the other data controllers listed above are processing your data jointly for the same purposes, then the council and the other data controllers may be "joint data controllers" which mean we are all collectively responsible to you for your data. Where each of the parties listed above are processing your data for their own independent purposes then each of us will be independently responsible to you and if you have any questions, wish to exercise any of your rights (see below) or wish to raise a complaint, you should do so directly to the relevant data controller.

A description of what personal data the council processes and for what purposes is set out in this Privacy Notice.

The council will process some or all of the following personal data where necessary to perform its tasks:

- Names, titles, and aliases, photographs;
- Contact details such as telephone numbers, addresses, and email addresses;
- Where they are relevant to the services provided by a council, or where you provide them to us, we may process information such as gender, age, marital status, nationality, education/work history, academic/professional qualifications, hobbies, family composition, and dependants;
- Where you pay for activities such as use of a council hall, financial identifiers such as bank account numbers, payment card numbers, payment/transaction identifiers, policy numbers, and claim numbers;

- The personal data we process may include sensitive or other special categories of personal data such as criminal convictions, racial or ethnic origin, mental and physical health, details of injuries, medication/treatment received, political beliefs, trade union affiliation, genetic data, biometric data, data concerning and sexual life or orientation.

How we use sensitive personal data

We may process sensitive personal data including, as appropriate:

- information about your physical or mental health or condition in order to monitor sick leave and take decisions on your fitness for work;
- your racial or ethnic origin or religious or similar information in order to monitor compliance with equal opportunities legislation;
- in order to comply with legal requirements and obligations to third parties.

These types of data are described in the GDPR as “Special categories of data” and require higher levels of protection. We need to have further justification for collecting, storing and using this type of personal data. We may process special categories of personal data in the following circumstances:

- Where we need to carry out our legal obligations.
- Where it is needed in the public interest.

Less commonly, we may process this type of personal data where it is needed in relation to legal claims or where it is needed to protect your interests (or someone else’s interests) and you are not capable of giving your consent, or where you have already made the information public.

Do we need your consent to process your sensitive personal data?

In limited circumstances, we may approach you for your written consent to allow us to process certain sensitive personal data. If we do so, we will provide you with full details of the personal data that we would like and the reason we need it, so that you can carefully consider whether you wish to consent.

The council will comply with data protection law. The 8 Data Protection Principles says that the personal data we hold about you must be:

- Used lawfully, fairly and in a transparent way.
- Collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes.
- Shall be adequate and relevant and not excessive in relation to the purposes we have told you about and limited only to those purposes.
- Accurate, and where necessary kept up to date.
- Kept only as long as necessary for the purposes we have told you about.

- Processed in accordance with the rights of Data Subjects under the Act.
- Kept secure i.e. protected by an appropriate degree of security, and disposed of in a secure manner when relevant.
- Shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.

In addition to the 8 Principles, Thornley Parish Council will observe the following criteria to re-enforce good practice when the DPA applies;

- 1) Council staff managing and handling personal information is appropriately trained.
- 2) Council staff managing and handling personal information understands that they are contractually responsible for following good data protection practice and are fully aware of the Act and its implications.
- 3) A lead officer i.e. the Clerk is assigned with specific responsibility for the provision of data/information within the Council.
- 4) Council staff dealing with personal data and information is supervised accordingly and appropriately.

We use your personal data for some or all of the following purposes:

- To deliver public services including to understand your needs to provide the services that you request and to understand what we can do for you and inform you of other relevant services;
- To confirm your identity to provide some services;
- To contact you by post, email, telephone or using social media (e.g., Facebook)
- To help us to build up a picture of how we are performing;
- To prevent and detect fraud and corruption in the use of public funds and where necessary for the law enforcement functions;
- To enable us to meet all legal and statutory obligations and powers including any delegated functions;
- To carry out comprehensive safeguarding procedures (including due diligence and complaints handling) in accordance with best safeguarding practice from time to time with the aim of ensuring that all children and adults-at-risk are provided with safe environments and generally as necessary to protect individuals from harm or injury;
- To promote the interests of the council;
- To maintain our own accounts and records;
- To seek your views, opinions or comments;
- To notify you of changes to our facilities, services, events and staff, councillors and other role holders;
- To send you communications which you have requested and that may be of interest to you. These may include information about campaigns, appeals, other new projects or initiatives;

- To process relevant financial transactions including grants, and payments for goods and services supplied to the council
- To allow the statistical analysis of data so we can plan the provision of services.

Our processing may also include the use of CCTV systems for the prevention and prosecution of crime.

What is the legal basis for processing your personal data?

The council is a public authority and has certain powers and obligations. Most of your personal data is processed for compliance with a legal obligation which includes the discharge of the council's statutory functions and powers. Sometimes when exercising these powers or duties it is necessary to process personal data of residents or people using the council's services. We will always take into account your interests and rights. This Privacy Notice sets out your rights and the council's obligations to you.

We may process personal data if it is necessary for the performance of a contract with you, or to take steps to enter into a contract. An example of this would be processing your data in connection with the use of sports facilities, or the acceptance of an allotment garden tenancy

Sometimes the use of your personal data requires your consent. We will first obtain your consent to that use.

Sharing your personal data

This section provides information about the third parties with whom the council may share your personal data. These third parties have an obligation to put in place appropriate security measures and will be responsible to you directly for the manner in which they process and protect your personal data. It is likely that we will need to share your data with some or all of the following (but only where necessary):

- The data controllers listed above under the heading "Other data controllers the council works with";
- Our agents, suppliers and contractors. For example, we may ask a commercial provider to publish or distribute newsletters on our behalf, or to maintain our database software;
- On occasion, other local authorities or not for profit bodies with which we are carrying out joint ventures e.g. in relation to facilities or events for the community.

How long do we keep your personal data?

We will keep some records permanently if we are legally required to do so. We may keep some other records for an extended period of time. For example, it is currently best practice to keep financial records for a minimum period of 8 years to support HMRC audits or provide tax information. We may have legal obligations to retain some data in connection with our statutory obligations as a public authority. The council is permitted to retain data in order to defend or pursue claims. In some cases the law imposes a time limit

for such claims (for example 3 years for personal injury claims or 6 years for contract claims). We will retain some personal data for this purpose as long as we believe it is necessary to be able to defend or pursue a claim. In general, we will endeavour to keep data only for as long as we need it. This means that we will delete it when it is no longer needed.

Your rights and your personal data

You have the following rights with respect to your personal data:

When exercising any of the rights listed below, in order to process your request, we may need to verify your identity for your security. In such cases we will need you to respond with proof of your identity before you can exercise these rights.

The right to access personal data we hold on you.

- 1) At any point you can contact us to request the personal data we hold on you as well as why we have that personal data, who has access to the personal data and where we obtained the personal data from. Once we have received your request we will respond within one month. There are no fees or charges for the first request but additional requests for the same personal data or requests which are manifestly unfounded or excessive will be subject to an administrative fee of £10.

2) The right to correct and update the personal data we hold on you

3) The right to have your personal data erased

4) The right to object to processing of your personal data or to restrict it to certain purposes only

5) The right to data portability

6) The right to withdraw your consent to the processing at any time for any processing of data to which consent was obtained

7) The right to lodge a complaint with the Information Commissioner's Office.

- If the data we hold on you is out of date, incomplete or incorrect, you can inform us and your data will be updated.
- If you feel that we should no longer be using your personal data or that we are unlawfully using your personal data, you can request that we erase the personal data we hold.

- When we receive your request we will confirm whether the personal data has been deleted or the reason why it cannot be deleted (for example because we need it for to comply with a legal obligation).
- You have the right to request that we stop processing your personal data or ask us to restrict processing. Upon receiving the request we will contact you and let you know if we are able to comply or if we have a legal obligation to continue to process your data.
- You have the right to request that we transfer some of your data to another controller. We will comply with your request, where it is feasible to do so, within one month of receiving your request.
- You can withdraw your consent easily by telephone, email, or by post (see Parish Council Contact Details below).

Transfer of Data Abroad

Any personal data transferred to countries or territories outside the European Economic Area ("EEA") will only be placed on systems complying with measures giving equivalent protection of personal rights either through international agreements or contracts approved by the European Union. Our website is also accessible from overseas so on occasion some personal data (for example in a newsletter) may be accessed from overseas.

Further processing

If we wish to use your personal data for a new purpose, not covered by this Privacy Notice, then we will provide you with a new notice explaining this new use prior to commencing the processing and setting out the relevant purposes and processing conditions. Where and whenever necessary, we will seek your prior consent to the new processing.

Statutory Exemptions

The rights of data subjects are subject to certain statutory exemptions. The Council will disclose personal information, without the data subject's consent in accordance with the DPA 1998.

This includes but is not limited to: -

- 1) On production of a court order for disclosure.
- 2) Where the purpose of disclosure is to enable the Authority to assess or collect any tax or duty or any imposition of a similar nature.

- 3) Where the purpose of disclosure would be to prevent or detect a crime, apprehend or prosecute offenders.
- 4) By order of the Secretary of State.
- 5) Where we are obliged by any law to disclose information.
- 6) Where information is required for research purposes providing such data is general and does not cause damage or distress to the data subject.
- 7) Where disclosure would be to safeguard national security.
- 8) To Elected Members, where disclosure is necessary to enable them to fulfil their statutory duties as a Councillor, i.e. for example where the Councillor is a member of a specific committee or when acting on behalf of a Constituent.

If a subject access request is refused, the Clerk must respond to the applicant in writing, within the 40 day deadline, clearly stating the reasons for refusal. They must also include a copy of the Councils appeals and complaints procedure.

Third Party Disclosure

Any request for data where received by a third party should be in writing and the third party must be identified. Where the third party relies on a legal authority for disclosure they must quote the relevant authority.

Unless an exemption applies, personal data will not be disclosed, except where the data subject consents to disclosure. Third party includes members of a data subject's family, legal representatives of a data subject, a data subject's employer and anybody acting on behalf of an individual i.e. a Housing Association.

Requests for access from a third party should be accompanied by either an Authority to Disclose from the data subject or in the absence of this, necessary enquiries should be undertaken by the Clerk to ascertain if consent is given. If there is any doubt, written confirmation direct from the Data Subject should be sought.

The 40-day time limit also applies to requests for data from a third party, including the requirement to inform why a decision for not disclosing is made and the reasons for doing so. Again, this decision should be taken by the Clerk and the reasons for not disclosing documented and made clear to the third party. Nothing should be disclosed which would be likely to cause serious harm to a child's or vulnerable adult's physical or mental health. In all requests for access, the interests of the subject, particularly in the case of a child or vulnerable adult must be paramount and the duty of the Council to protect children and vulnerable adults from potential harm is of primary importance.

Elected Members

Councillors must ensure that Data Protection legislation and policy are complied with whatever role they may exercise. If the Member is in any doubt, they should contact the Parish Clerk for clarification.

Where Councillors sit as the Council's representative on an outside body, the Councillor's duties will vary depending on the nature of the role taken but in the case of a Trustee or Director, they will owe a duty to the organisation on which they sit. In addition, Councillors are subject to the Code of Member Conduct, which includes duties in relation to information acquired or received in confidence.

Where the Councillor is required to act as Thornley Parish Council's representative on other public sector bodies, joint boards, working parties etc, and their status will be the same as if they were an employee of the Council. However, Councillors must not use their position as a representative to secure services for individual constituents. Conversely, Councillors must not pass on any personal information acquired as a Member to any outside body.

When Councillors are required to act as the Council's appointed representative on Local Government National Bodies, the Councillor's responsibility will be towards the body, which made the appointment and not the Council in the first instance.

If members are of a specific political party, Councillors will also be subject to any Data Protection conditions established by the organisation concerned. Councillors may in the course of their business seek to use personal data for their own purposes. This may include but is not limited to the following;

- 1) Constituency casework.
- 2) Where the Councillor is not carrying out their official duties but is acting in a personal capacity.
- 3) Canvassing political support.
- 4) Processing of personal data held in connection with duties as a representative of a National Body.
- 5) Processing of personal data held and processed as part of the Councillors own business or profession.

If a Councillor is processing data for their own purposes they must ensure compliance with the principles of the DPA 1998. Councillors are also data subjects and as such, have the same entitlements as any other individual under the DPA 1998 regarding personal information held about them.

Disclosure to Elected Members

The Council does not always have to obtain the consent of the data subject for disclosure to the Member provided the Member represents the ward in which the data subject lives, in which case it is presumed that the Member acts on behalf of the data subject.

However, where disclosure is made of sensitive personal data, the consent of the data subject is required. Care must also be taken not to disclose anything which will conflict with the needs of a child or vulnerable adult whose interests must be paramount i.e. child abuse investigations. Any information forming part of such court proceedings or investigation is highly unlikely to be able to be disclosed to a Member, even where the Member represents the ward in which the data subject lives. In addition, it is vital that information disclosed to members is accurate and up to date.

The Clerk will determine in all cases what information is deemed acceptable to be divulged to members and may refuse inappropriate requests on the grounds of the DPA 1998.

When providing information to any Councillor, the Clerk should make a note of the request and make clear to the Councillor that the information is provided only for the limited purpose of assisting the data subject.

Where the information is requested by Elected Members for political purposes, consent of the individual data subject must be obtained except if the Council is required to make certain data public, i.e. lists of certain types of licence holders) or if information disclosed does not identify living individuals.

Generally, Elected Members are not treated as separate data controllers but are regarded as being within Thornley Parish Council for the purposes of data protection. Where the Councillor receives personal data from the Council about individuals in order to enable them to carry out their statutory duties as a member of the Council, the Councillor's use of the data is subject to this policy as though the Councillor were an employee of the Council. Personal data will be treated as confidential and the requirements in respect of disclosure to third parties will apply.

Non-Compliance with Legislation and Policy

Thornley Parish Council expects all employees to comply fully with this Policy, and the Data Protection Act 1998. Disciplinary action may be taken against any Council employee who knowingly breaches any instructions contained in, or following from this Data Protection Policy. Elected Members will be referred to Durham County Council's Standards Committee. Individual employees are affected in the same way as the Council as a whole.

Anyone contravening the Act could be held personally liable and face court proceedings for certain offences which may result in a fine. If any of the principles of the Data Protection Act 1998 are breached, the data subject may be entitled to compensation and/or a decision may be made by the Information Commissioner or the Information Tribunal for their records to be

amended. The Information Commissioner or Information Tribunal may decide to uphold a decision of the Council following a decision not to disclose or amend information held. The Information Commission has power to investigate any aspect of a Data Controller's data processing of personal data and if need be, has powers to cause the processing to cease which would have catastrophic implications for the operational requirements of the Councils daily functions.

The Information Commission also has powers of entry and inspection into the premises of a data controller and in some circumstances has power to fine data controllers for an unlimited amount.

Changes to this notice

We keep this Privacy Notice under review and we will place any updates on this web page: thornley-pc.gov.uk

This Notice was adopted 22nd May 2018, and will be reviewed/updated in May 2019 or sooner if amendments are made in the GDPR regulations.

Contact Details

Please contact us if you have any questions about this Privacy Notice or the personal data we hold about you or to exercise all relevant rights, queries or complaints at:

WD Moore, Parish Clerk, Parish Office, Thornley Village Centre, High Street Thornley DH6 3EL.

Further Information

For independent advice about data protection please contact the Information Commissioner at:

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Website: www.informationcommissioner.gov.uk

Telephone 01625 545745

Fax 01625 524510

Email mail@ico.gsi.gov.uk