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1 Scope

1.1 This policy has been developed for West Lindsey District Council (WLDC) to meet the requirement in the Data Protection Act (DPA) 2018 for an appropriate policy document. The Policy details the safeguards we have put in place when we process special category data, criminal conviction data, and sensitive data for law enforcement purposes.

1.2 This policy covers:

- substantial public interest processing for WLDC's statutory and corporate functions
- employment, social security and social protection law for certain benefits and credits functions and processing for HR purposes
- processing for archiving, research and statistical purposes
- law enforcement processing

1.3 WLDC is a statutory body with statutory functions and a statutory duty of confidentiality which are set out in the Council's Constitution. As part of WLDC's statutory and corporate functions, we process special category and criminal conviction data under:

- Article 6(a) of the General Data Protection Regulation (GDPR) (the data subject has given consent to the processing of his or her personal data for one or more specific purposes)
- Article 6(b) of the GDPR (processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract)
- Article 6(c) of the GDPR (processing is necessary for compliance with a legal obligation to which WLDC is subject)
- Article 6(e) of the GDPR (processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in WLDC)

1.4 WLDC processes sensitive data for law enforcement purposes under section 35 of the DPA 2018.

1.5 The WLDC Privacy Notice has more information about WLDC's data protection policy and procedures, including the kind of information we hold and what it is used for.

2 Definition of special category, sensitive and criminal conviction data

2.1 Special category data (defined by Article 9 of the GDPR) and sensitive data (defined by section 35 of the DPA 2018) is personal data which reveals:

- 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

2.2 Section 11(2) of the DPA 2018 provides that criminal conviction data includes data which relates to the alleged commission of offences and related proceedings and sentencing.

3 Conditions for processing special category data and criminal conviction data

3.1 WLDC processes special category data under the following paragraphs of Article 9 of the GDPR:

- paragraph 2(a) (the data subject has given explicit consent to the processing of those personal data for one or more specified purposes)
- paragraph 2(b) (processing is necessary for the purposes of carrying out the obligations and exercising specific rights of WLDC or the data subject in the field of employment and social security and social protection law)
- paragraph 2(g) (processing is necessary for reasons of substantial public interest)
- paragraph 2(j) (processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1))

3.2 Article 10 of the GDPR permits processing of personal data relating to criminal convictions and offences under the control of official authority. WLDC may therefore process criminal conviction data under Article 10 of the GDPR as it is exercising official authority within the meaning set out in section 8 of the DPA 2018.

4 Substantial public interest

4.1 Section 10(3) of the DPA 2018 sets out that in order for processing of special categories of personal data to be necessary for reasons of substantial public interest under Article 9(2)(g) of the GDPR, that processing must meet one of the conditions set out in Part 2 of Schedule 1.

4.2 WLDC processes special category data in the performance of its statutory and corporate functions when the following conditions set out in the following paragraphs of Part 2 of Schedule 1 to the DPA 2018 are met:

- paragraph 6 (Statutory etc and government purposes)
- paragraph 8 (Equality of opportunity or treatment)
- paragraph 10 (Preventing or detecting unlawful acts)
- paragraph 12 (Regulatory requirements relating to unlawful acts and dishonesty etc)
- paragraph 24 (Disclosure to elected representatives)

4.3 These conditions apply to WLDC's statutory and corporate functions. All processing is for the first listed purpose and might also be for others, depending on the context.

5 Employment, social security and social protection law

5.1 Section 10(2) of the DPA 2018 sets out that in order for processing of special categories of personal data to be necessary for the purposes of carrying out obligations and exercising specific rights of the controller or data subject in the field of employment, social security and social protection law under Article 9(2)(b) of the GDPR, that processing must meet one of the conditions set out in Part 1 of Schedule 1.

5.2 WLDC processes special category data for HR purposes when the condition set out in paragraph 1 of Part 1 of Schedule 1 to the DPA 2018 is met. This condition may also apply to WLDC's revenues and benefits, Wellbeing, and housing functions and to processing for HR purposes.

6 Archiving purposes in the public interest

6.1 Under Article 9(2)(j) of the GDPR, WLDC may process special category data where it is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject. We may also process criminal conviction data for these purposes under the DPA 2018.

6.2 Under section 10(2) of the DPA 2018, WLDC may process special category data and criminal conviction data for the purposes of archiving, research and statistics when a condition set out in Part 1 of Schedule 1 to the DPA 2018 is met.

7 Law enforcement processing

- 7.1 Section 31 of the DPA 2018 defines the law enforcement purposes as the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security. WLDC is listed as a competent authority for the purposes of law enforcement in paragraph 1 of Schedule 7 to the DPA 2018 and does not rely on the consent of the data subject to process sensitive data.
- 7.2 Section 35(5) of the DPA 2018 sets out that where processing is strictly required for law enforcement purposes, WLDC must meet at least one of the conditions in Schedule 8. WLDC processes data for the law enforcement purposes when the conditions set out in the following paragraphs of Schedule 8 to the DPA 2018 are met:
- paragraph 1 (Statutory etc purposes)
 - paragraph 3 (Protecting individual's vital interests)
 - paragraph 5 (Personal data already in the public domain)
 - paragraph 6 (Legal claims)
 - paragraph 8 (Preventing fraud)
 - paragraph 9 (Archiving etc)
- 7.3 All processing is for the first listed purpose and might also be for others dependent on the context.

8 WLDCs compliance with the data protection principles

- 8.1 In accordance with the accountability principle, WLDC maintains records of processing activities under Article 30 of the GDPR and section 61 of the DPA 2018. We carry out data protection impact assessments where appropriate in accordance with Articles 35 and 36 of the GDPR and section 64 of the DPA 2018 for law enforcement processing to ensure data protection by design and default.
- 8.2 WLDC follows the data protection principles set out in Article 5 of the GDPR, and Part 3, Chapter 2 of the DPA 2018 for law enforcement processing, as follows:

8.2.1 Lawfulness, fairness and transparency

8.2.1.1 We are a district council and our purpose is to serve our citizens and make decisions on their behalf in an open, lawful and transparent manner. We have a number of powers and duties which are primarily set out in the Local Government Act 1972.

8.2.1.2 The Council's Constitution sets out WLDC's functions.

8.2.1.3 We provide clear, transparent information to all those who provide personal data to us in the [WLDC Privacy Notice](#). We publish an internal Staff Data Privacy Notice.

8.2.2 Purpose limitation

8.2.2.1 WLDC does not process personal data for purposes that are incompatible with the purposes for which it is collected. When we process personal data to fulfil our statutory functions, we do so in accordance with all relevant legislation.

8.2.2.2 Generally, processing by local authorities will fall under what is known as a 'public task', providing the data processing relates to the local authority's statutory functions, as this basis can be relied upon when *"the processing is necessary for the data controller to perform a task in the public interest or for their official functions, and the task or function has a clear basis in law"* (Article 6(1)(e) of the GDPR). The public task basis will be the routine lawful basis for local authorities to rely on when processing personal data to provide a social care service.
<https://www.localgovernmentlawyer.co.uk/information-law/344-information-law-features/38893-gdpr-and-civil-claims>

8.2.2.3 When we share special category data, sensitive data or criminal conviction data with another controller, processor or jurisdiction, we will ensure that the data transfers are compliant with relevant laws and regulations and use appropriate international treaties, data sharing agreements and contracts.

8.2.3 Data minimisation

8.2.3.1 We collect personal data that is adequate, relevant and limited to the relevant purposes for which it is processed. We ensure that the information we process is necessary for and proportionate to our purposes.

8.2.4 Accuracy

8.2.4.1 Personal data shall be accurate and, where necessary, kept up to date. Where we become aware that personal 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.

8.2.5 Storage limitation

8.2.5.1 WLDC retains special category data, criminal conviction data and sensitive data for law enforcement processing in accordance with the [WLDC retention and disposal schedule](#), published on West Lindsey's website. These categories of personal data may be retained for longer than WLDC's default standard retention period if required by statutory, regulatory, legal or security reasons.

8.2.6 Integrity and confidentiality

8.2.6.1 We have put in place appropriate technical, physical and managerial procedures to safeguard and secure the information we collect about individuals. We have strict security standards, and all our staff and other people who process personal data on our behalf get regular training about how to keep information safe. We limit access to your personal information to those employees, or third parties who have a business or legal need to access it.

8.2.6.2 Third parties or contractors that WLDC engages will only process your personal information on our instructions or with our agreement, and where they do so they have agreed to treat the information confidentially and to keep it secure. We will also disclose personal data to an agent if we receive the consent of the individual to whom the data concerns.

9 Policy review statement

9.1 This policy will be periodically reviewed and updated, with delegated authority granted to the Director of Resources to make minor housekeeping amendments to the policy in future, in consultation with the Chairman of the Corporate Policy and Resources Committee and the Chairman of the Joint Staff Consultative Committee.