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# Data Protection Policy



Kerry County Council  
*Comhairle Contae Chiarraí*

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## - REVISION CONTROL -

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## 1. Introduction

Kerry County Council (the Council) is fully committed to compliance with the requirements of the General Data Protection Regulation (GDPR), effective from 25<sup>th</sup> May 2018, and replacing the existing data protection framework under the EU Data Protection Directive.

The GDPR is designed to harmonise data privacy laws across the European Union to standardise and strengthen all individuals' (Data Subjects') data privacy rights by meeting its obligations to help create a consistent data protection regime. The GDPR emphasises transparency, security and accountability by data controllers and processors as it governs the collection, processing and storage of an individual's personal data.

The key changes resulting from the GDPR include:

- Increased obligations on transparency and accountability
- Stricter rules on the obtaining and processing of data based on consent
- New requirements in relation to data breaches
- Enhanced rights for individual access requests for personal data
- Stricter rules on processing special categories of data (i.e. sensitive data, children's data, biometric data)
- Mandatory Data Impact Assessments for new systems
- Increase in sanctions, fines and right to compensation
- New rules on data transfer.

The Council will therefore aim to ensure that all employees, elected members, customers, contractors, agents, consultants, suppliers, or partners of the Council who have access to any personal data held by or on behalf of the Council, are fully aware of and abide by their duties and responsibilities under the legislation.

## 2. Purpose

The Council is committed to protecting the rights and privacy of Data Subjects in accordance with current Data Protection legislation. The Council needs to collect and use certain types of personal data to fulfil its statutory and other legal functions. Personal data may be held by the Council in many forms, including: database records, electronic (computer) files, emails, CCTV, photographs, on website and mobile phones.

This personal data must be dealt with properly whether it is collected, recorded and used on paper, computer or other material. When collecting personal data from an individual, in both paper and electronic format, the Council has a duty to keep these details private and safe. This process is known as Data Protection.



The purpose of this policy is to explain how the Council will help ensure compliance with Data Protection legislation, including organisational and other measures.

Detailed procedures and guidance on various aspects of Data Protection do not form part of this policy document. These can be accessed via the Council's website [www.kerrycoco.ie](http://www.kerrycoco.ie) under GDPR. This policy will be subject to review.

### 3. Scope

This policy is applicable to all Council personnel, elected members and relevant third-party providers that use personal data in support of their work on behalf of the Council. All have a responsibility to ensure compliance with the principles of the Data Protection legislation and to adhere to this Data Protection Policy.

This policy sets out how the Council handles and processes personal Data, gives clear guidance to Data Subjects regarding their privacy rights and outlines our data collection, processing and retention policies in an open, transparent and unambiguous manner. A glossary of terms used in this policy, and other related policies, is available in Appendix 1.

### 4. Responsibilities

Kerry County Council collects, processes and protects Personal Data in accordance with the basic principles of GDPR (Article 5):

#### 1. Lawfulness, Fairness and Transparency

We collect and process your personal data lawfully, fairly and in a transparent manner in accordance with statutory and other legal obligations.

#### 2. Purpose Limitation

We process your Personal Data only for the specific, explicit and legitimate purposes for which the data were collected.

#### 3. Data Minimisation

We only collect personal Data that is adequate, relevant and limited to what is necessary in relation to the collection and processing purposes.

#### 4. Accuracy

We ensure that Personal Data is accurate and every reasonable step is taken to ensure that the data are kept up to date.

#### 5. Storage Limitation



We retain Personal Data in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data is processed. Personal Data may be stored for longer periods in accordance with statutory and other legal obligations.

## **6. Integrity and Confidentiality**

We keep Personal Data safe and secure by using appropriate technical or organisational measures that ensure appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage.

## **7. Accountability**

We are responsible for, and able to demonstrate compliance with, lawfulness, fairness and transparency.

## **5. Training**

Data Protection awareness training will be provided to staff through presentations and be strengthened by online material and information notices. Further information and guidance can be obtained on the Data Protection Commissioner's website - <http://gdprandyou.ie/>

The Council will implement appropriate technical and organisational security measures to protect personal data, which will be reviewed regularly.

## **6. Contractual and Partnership arrangements**

When the Council enters contractual or partnership arrangements which involve the processing of personal data, a written arrangement will specify which party is data controller and whether there are joint data controller arrangements. Where a third party is processing personal data and information on behalf of the Council, a written contract will be put in place.

Where the Council remains as data controller, it will take steps to ensure that the processing by its contractors and sub-contractors will comply with legislation. Contractors will not be able to sub-contract data processing without the explicit written permission of the Council. The Council will take reasonable steps to ensure that data processing by third parties is regularly monitored to ensure Data Protection requirements are being met.

## **7. Information Sharing**

The Council will only share personal information having regard to the following:



- Have a basis in legislation and where the legislation clearly identifies the public bodies involved, the information that is shared and the purpose for sharing the information.
- Where no legislative basis exists, the personal data may be gathered directly from the Data Subject based on explicit consent. If this occurs the Council will provide to the Data Subject, to whom the information will be disclosed, the purpose for which data is processed and the right to have the data rectified or erased.
- Clearly inform Data Subjects that their data may be shared and for what purpose; this information will be provided when personal data is first collected.
- Share the minimum amount of data to achieve the purpose of sharing of data.
- The Council will use exemptions under Data Protection legislation, where necessary, regarding the sharing of personal data for purposes other than which data was collected, such as
  - Preventing a threat to public security
  - Preventing, investigating or prosecuting criminal offences
  - Legal proceedings
  - Protecting the vital interests of individuals.

## 8. Other Data Protection Policies

In addition to this Data Protection Policy, Kerry County Council have implemented other individual policies and notices in relation to their obligations and procedures under the GDPR and Data Protection Acts 1988 to 2003.

These include:

- **Privacy Notices for Business Units**  
These notices outline how the council applies data protection across various sections and business units and on the Council's website.
- **Subject Access Requests policy**  
This outlines the Council's policy in responding to Subject Access Requests for personal data and details the responsibilities of the Council and the rights of individuals, including the right to have personal data amended if found incorrect or erased in certain cases.
- **Data Breach policy**



The Council acknowledges the importance of information security. It also recognises however that a data breach may still occur leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed. The policy sets out a framework for addressing any breach that occurs and is also reflective of the Data Security Breach Code of Practice issued by the Office of the Data Protection Commissioner, as guidance.

## 9. Data Protection Officer

As part of the General Data Protection Regulation (GDPR) it is mandatory for Kerry County Council to appoint a Data Protection Officer (DPO). The DPO's role facilitates compliance and ensures that the Council, in carrying out its functions, will protect all personal data in line with the regulatory rights of the individual. The contact details of the DPO will be published to all data subjects (internal and external), and also communicated to the Office of the Data Protection Commissioner (ODPC). The published details will include a postal address, a dedicated telephone number and a dedicated e-mail address.

The tasks of the DPO shall include:

- (a) Inform and advise Council staff of their obligations under GDPR and Data Protection Acts 1988-2003
- (b) Monitor compliance with GDPR in relation to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations
- (c) Provide advice where requested as regards Data Protection Impact Assessments and monitor performance
- (d) Cooperate with the ODPC
- (e) Act as the contact point for the ODPC on issues relating to processing and to consult, where appropriate, with regard to any other matter
- (f) Act as the contact point for Data Subjects
- (g) Have due regard to the risk associated with processing operations, taking into account the nature, scope, context and purposes of processing.



## 10. Data Protection Contact Details

For all enquiries relating to Data Protection you can contact the Council at:

Phone: 066 718 3500  
E-mail: [dpo@kerrycoco.ie](mailto:dpo@kerrycoco.ie)  
Postal Address: Kerry County Council  
County Buildings  
Rathass  
Tralee  
V92 H7VT  
Co. Kerry.

If you are not satisfied with the outcome of the response you receive from the Council in relation to your request, then you are entitled to make a complaint to the Data Protection Commissioner who may investigate the matter for you.

The Data Protection Commissioner's website is [www.dataprotection.ie](http://www.dataprotection.ie) or you can contact their Office at:

Lo Call Number: 1890 252 231  
E-mail: [info@dataprotection.ie](mailto:info@dataprotection.ie)  
Postal Address: Data Protection Commissioner  
Canal House  
Station Road  
Portarlinton  
R32 AP23  
Co. Laois.



## Appendix 1 – Glossary of Terms

**Personal Data** means any information relating to an identified or identifiable natural person.

**Data Subject;** an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

**Processing** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

**Restriction of processing** means the marking of stored personal data with the aim of limiting their processing in the future;

**Profiling** means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements;

**Pseudonymisation** means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person;

**Filing system** means any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;

**Controller** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;

**Processor** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;

**Recipient** means a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not. However, public authorities which may receive personal data in the framework of



a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients; the processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing;

**Third party** means a natural or legal person, public authority, agency or body other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data;

**Consent** of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;

**Personal data breach** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

**Genetic data** means personal data relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from the natural person in question;

**Biometric data** means personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data;

**Data concerning health** means personal data related to the physical or mental health of a natural person, including the provision of health care services, which reveal information about his or her health status;

**Main establishment** means: (a) as regards a controller with establishments in more than one Member State, the place of its central administration in the Union, unless the decisions on the purposes and means of the processing of personal data are taken in another establishment of the controller in the Union and the latter establishment has the power to have such decisions implemented, in which case the establishment having taken such decisions is to be considered to be the main establishment; (b) as regards a processor with establishments in more than one Member State, the place of its central administration in the Union, or, if the processor has no central administration in the Union, the establishment of the processor in the Union where the main processing activities in the context of the activities of an establishment of the processor take place to the extent that the processor is subject to specific obligations under this Regulation;

**Representative** means a natural or legal person established in the Union who, designated by the controller or processor in writing pursuant to Article 27, represents the controller or processor with regard to their respective obligations under this Regulation;



**Enterprise** means a natural or legal person engaged in an economic activity, irrespective of its legal form, including partnerships or associations regularly engaged in an economic activity;

**Group of undertakings** means a controlling undertaking and its controlled undertakings;

**Binding corporate rules** means personal data protection policies which are adhered to by a controller or processor established on the territory of a Member State for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings, or group of enterprises engaged in a joint economic activity;

**Supervisory authority** means an independent public authority which is established by a Member State pursuant to Article 51; L 119/34 EN Official Journal of the European Union 4.5.2016

**Supervisory authority concerned** means a supervisory authority which is concerned by the processing of personal data because: (a) the controller or processor is established on the territory of the Member State of that supervisory authority; (b) data subjects residing in the Member State of that supervisory authority are substantially affected or likely to be substantially affected by the processing; or (c) a complaint has been lodged with that supervisory authority;

**Cross-border processing** means either: (a) processing of personal data which takes place in the context of the activities of establishments in more than one Member State of a controller or processor in the Union where the controller or processor is established in more than one Member State; or (b) processing of personal data which takes place in the context of the activities of a single establishment of a controller or processor in the Union but which substantially affects or is likely to substantially affect data subjects in more than one Member State.

**Relevant and reasoned objection** means an objection to a draft decision as to whether there is an infringement of this Regulation, or whether envisaged action in relation to the controller or processor complies with this Regulation, which clearly demonstrates the significance of the risks posed by the draft decision as regards the fundamental rights and freedoms of data subjects and, where applicable, the free flow of personal data within the Union;

**Information society service** means a service as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the European Council (1); (26) 'international organisation' means an organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries.