

LEGAL SERVICES

Summary

This privacy notice sets out why and how we process your data in connection with criminal prosecutions. It should be read together with the [Halton Borough Council Privacy Notice](#) which provides more information.

Who is the Data Controller?

Halton Borough Council is the data controller for all data referred to below. The Data Protection Officer is Jonathan Greenough who can be contacted on 0151 511 7002 or by email to Jonathan.Greenough@halton.gov.uk.

Any specific queries on how legal services process your data as set out in this notice should be directed to Liz Wilson-Lagan who can be contact on 0151 511 6535 or at Liz.Wilson-Lagan@halton.gov.uk.

Why we process personal data

The Council is a 'competent authority' for the law enforcement purposes under Part 3 of the Data Protection Act 2018 ("the Act"). The 'law enforcement purposes' are set out in section 31 of the Act and are the purposes of:-

"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".

We have statutory powers to investigate and prosecute criminal offences. These include but are not limited to:-

- Trading Standards offences;
- Environmental Protection offences;
- Waste offences;
- Health and Safety offences;
- Offences under planning legislation.

Your personal data will be handled by Legal Services in order to prosecute such offences. The majority of the personal data we hold is passed to us by our clients. Our clients include those internally from other departments within the Council, and those who we act for externally to the Council.

Personal data is normally held by Legal Services about defendants, victims, witnesses and others involved in the prosecution of offences.

We also process personal data for non-law enforcement purposes such as for providing legal advice to our clients and for audit purposes.

We will only process personal data when it is lawful to do so and where it is necessary and proportionate.

What categories of personal information is processed as part of a prosecution file?

Personal data processed within a prosecution file will predominantly contain but is not limited to:- the defendant's name, address and age, contact details for any witnesses/expert witnesses, charging decisions and client correspondence, the commission or alleged commission of an offence, evidence and statements, intelligence, previous convictions, hearing record sheets and file notes, defence firm details, counsel details and correspondence.

It is likely that other sensitive categories will also be processed where they relate directly to a criminal case. The full definition of sensitive personal data is defined in the UK General Data Protection Regulation (GDPR) as:

'Personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation'.

What is the legal basis we are relying on?

Section 35 of the Act sets out the first data protection principle which provides that *"the processing of personal data for any of the law enforcement purposes must be lawful and fair"*. To be lawful, the processing of personal data for any of the law enforcement purposes must be based on law and either:-

1. The data subject has given consent to the processing for that purpose; or
2. The processing is necessary for the performance of a task carried out for that purpose by a competent authority.

We rely upon the second limb as we do not rely upon consent to process data of this nature.

We carry out sensitive processing only on reliance of the consent of the data subject or where it is strictly necessary for law enforcement purposes and it meets a condition in Schedule 8 of the Act.

Where we are processing your data for non-law enforcement purposes, the lawful bases we rely on include;

1. Consent of the data subject;
2. Compliance with a legal obligation;
3. Vital interests; and
4. Public Task.

In these circumstances, sensitive personal data will only be processed in accordance with article 9(2) of the UK GDPR and section 10 and Schedule 1 of the Act.

How we process your data?

We will only process your data in accordance with data protection legislation and for the purpose it was collected unless otherwise permitted.

Your information may be shared with other Council departments, Courts and Tribunals, Representatives of other parties, Barristers and Experts, the Police and other Enforcement Agencies, service providers such as bailiffs, government Departments, other Councils, regulatory bodies, auditors, the Land Registry and our insurers.

How long will we keep your information?

We only retain personal data for as long as necessary and in accordance with our Records Management Policy. Prosecution files are retained for 7 years.

Your rights

Under the Act, you have the right to:-

- Information– this is set out within this privacy notice;
- Access – i.e. to the information we hold about you;
- Rectification - i.e. correction of inaccurate personal data;
- Erasure - i.e. removal of personal data;
- Restriction of processing - i.e. to limit the further processing of data we hold;
- Right of data portability - i.e. to receive the personal data we hold and have it transferred to another Data Controller;
- Object - i.e. to object to us using personal data about you
- Automated decision making - i.e. not to be subject to a decision based solely on automated processing.

These rights may be restricted in accordance with data protection legislation.

Contacting us about your data and complaints

If you have any questions or concerns about how we use your personal information, please contact the Data Protection Officer.

You also have the right to complain to the Information Commissioner's Office if you are unhappy about how we process your information. Details for which are set out below.

Address: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Tel no: 08456 30 60 60 or 01625 54 57 45

Website: www.ico.org.uk