

MERTON PARISH COUNCIL

Cllr Email and Own Device Policy.

This document sets out Merton Parish Councils approved and agreed practices. Any deviation must be made by resolution of the full Council and recorded below.

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LEGAL REQUIREMENTS

Using your own device raises several data protection concerns since the device is owned by the user rather than the data controller (Merton Parish Council)

It is crucial that the data controller ensures that all processing for personal data which is under her control remains in compliance with the General Data Protection Regulations 2018.

The Data Protection Act states *“The seventh principle says: appropriate technical and organisational measures shall be taken against accidental loss or destruction of, or damage to, personal data. It means you must have appropriate security in place to prevent the personal data you hold from being accidentally or deliberately compromised. This is relevant if personal data is being processed on devices which you may not have direct control over”.*

Permitting a range of devices to process personal data held by Merton Parish Council gives rise to several questions a data controller must answer in order to continue to comply with its data protection obligations.

It is important to remember that the data controller must remain in control of the personal data for which they are responsible, regardless of the ownership of the device used to carry out the processing.

The Data Protection Act 1998 (DPA) requires that the data controller must take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data. Where personal data is stored on a device it will be important to consider the safe and secure deletion of the data throughout the lifecycle of the device, and particularly if the device is to be sold or transferred to a third-party.

Inappropriate use of personally-owned devices or unsatisfactory procedures could involve a breach of the Code of Conduct, the Data Protection Act 1998, and the General Data Protection Regulation ("GDPR").

There are, therefore, several matters which should be considered which allow personally-owned devices to be used for purposes related to Parish Council matters and practices:

- (a) If the device is lost or stolen, confidential information might be accessible to third parties. This could lead to a fine being imposed by the ICO.
- (b) If the member ceases to be a councillor, confidential information will, unless it is deleted, remain accessible to the ex-member and could be used for unauthorised purposes or disclosed to third parties. The continuing accessibility of this data would be contrary to the GDPR (for example Articles 5 and 24) and could result in a fine being imposed (even if no personal data is illegitimately disclosed).
- (c) If a personally owned device is used in an insecure manner, and/or is used by family members, the device could be affected by malware/spyware which could lead to a fine being imposed by the ICO.

For these reasons and in order to comply with GDPR Article 24.2, Merton Parish Council has written a Cllr Email and Own Device policy which sets out the conditions under which personally-owned devices are used by members for Parish Council business.

Non-compliance of this policy exposes both councillors and the council to risks. If a breach of this policy occurs the council may discipline councillors in line with the council's Disciplinary Procedure, Data Protection Policy and Code of Conduct.

Guidance will also be offered to councillors to support them in complying with this policy

Any Member wishing to use their own device must complete the declaration at **Appendix A** to this policy.

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Personal devices used by members and Council Email accounts.

- 1) The purpose of this policy is to ensure so far as possible that personal devices used by members are used in a manner which protects personal data and the confidentiality of council communications.
- 2) All members will be made aware, in accordance with the following policies, that the council reserve the right to access personally-owned devices for the purpose of ensuring the effectiveness of this policy, in the event of termination of membership or if it is suspected that there has been a breach of this policy or any other Council policy.
 - Privacy Statement,
 - Data Retention Policy
 - Data Protection Policy
 - Removable Media Policy
 - Risk Management Policy
- 3) Following completion of [Appendix A](#), members may use personally-owned computers, smartphones and tablet computers for purposes related to council business.
- 4) The Parish Clerk will maintain a secure list of supplied Encrypted Removable media devices and passwords as well as the declarations made ([Appendix A](#))
- 5) Individual Councillors are responsible for their personal device at all times. The Council is not responsible for the loss, theft of, or damage to the personal device or storage media on the device (e.g. removable memory card) howsoever caused.
- 6) The Council takes no responsibility for supporting councillor's own approved devices; nor has the council a responsibility for conducting annual PAT testing of personally-owned devices.
- 7) All Councillors have been provided with a Council email account for use for all Council Business.
- 8) Councillors must not send council information to or from their personal email accounts.
- 9) Care must be taken to avoid using personal devices in a manner which could pose a risk to confidentiality, whether by clicking on links in suspicious emails, accessing potentially harmful websites, using potentially harmful application software, using un-secured wi-fi facilities, or otherwise. Some apps may be capable of accessing sensitive information.
- 10) If a personal device is lost or stolen, or is suspected of having been lost or stolen, the Clerk, as Data Processor, must be informed as soon as possible so that such steps as may be appropriate may be taken to protect the council members email account.
- 11) Passwords to Council email accounts must be kept confidential and must not be shared with family members or third parties.
- 12) Personal devices which are used/shared by family members or other persons must ensure that the Council email account is securely logout when not being used by the Councillor, unless the device has been configured for separate profiles and logins to ensure restricted access.
- 13) Anti-virus software should be used on personal devices and should be kept up to date at the members own expense.
- 14) Home Wi-Fi networks should be encrypted. Caution must be exercised when using public Wi-Fi networks as public Wi-Fi networks may not be secure.
- 15) Councillors may view council information via their mobile devices but must not store the information on their devices, or on cloud servers linked to their mobile devices. In some cases, it may be necessary for councillors to download council information to their mobile devices in order to view it (for example, to view an email attachment). Members must delete this information from their devices as soon as they have finished viewing it unless it has been saved to a Council supplied encrypted removable media device.

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- 16) Where personal devices are used to process data of a personal or sensitive nature appropriate encryption of files or devices must be used. All such data should be deleted from mobile devices as soon as work has been completed. The Clerk will retain master copies of all Parish Council business in accordance with the Council's Data Retention Policy if a document/email has been deleted.
- 17) Cloud storage services may not be used for the storage of Council business.
- 18) If a personal device needs to be repaired, appropriate steps must be taken to ensure that confidential information cannot be seen or copied by the repairer.
- 19) In the event that an approved removable media device needs to be disposed of, confidential material must be destroyed or wiped using a recognised method to put the data beyond recovery, to the satisfaction of The Data Controller. Merely deleting the files, single-pass overwriting, or reformatting the disk is insufficient.
- 20) In the event of a member leaving the council, appropriate steps must be taken to the satisfaction of the Data Processor to remove the members email account and other data belonging to the Parish Council, from personal devices and removable media devices used by that member. The date on which those steps are taken and the date on which those steps are approved by the Data Processor must be recorded.

Appendix A:

Declaration.

I Cllr. _____ declare that I have read the Cllr email and own device policy and will ensure that all Council business, other than public documents which are available on the Council's website, will remain on the Council issued email account and that any changes to the password will be report to the Clerk immediately.

Any Council business, other than public documents which are available on the Council's website, which are downloaded on to my personal device will be saved only onto a Council owned encrypted removable media device, supplied by the Clerk and in accordance with the Removable Media Policy (MPC 018) which will be returned to the Clerk as and when I leave the office of Councillor to Merton Parish Council.

Signed: _____

Date: _____