

# Buckinghamshire Council

## Data Protection Impact Assessment [DPIA]

**Service and Team:** TEE Planning & Environment - 23.05.2018

*REVISED – Aug 23 and Nov 23*

**Process/Project/Activity:** PACE Interviews & Case Files

### SUBMITTING DATA CONTROLLER DETAILS

<b>Data Controller Name:</b>	Buckinghamshire Council
<b>Data Controller contact:</b>	Data Protection Officer – dataprotection@buckinghamshire.gov.uk

### STEP 1: IDENTIFY THE NEED FOR A DPIA

1. Give a summary of the process/project/activity and what it hopes to achieve.

*You may find it helpful to refer or link to other documents, such as a Business Case or PID.*

1. The Waste Enforcement Team carries out investigations into the illegal dumping of waste. This includes gathering information at formal investigative interviews under conditions prescribed by the Codes of Practice under the Police and Criminal Evidence Act 1984 (often called PACE interviews). Information is presented for review by the Enforcement Manager who approves and authorises formal enforcement actions as appropriate. Where it is intended that a case should be considered for prosecution at Magistrates' or Crown Court under criminal Law the evidence bundle is submitted for consideration by the Litigation Team within Legal Services.

*The process/project/activity will involve using the following personal information:*

<b>Personal data</b> (select those that apply)		<b>Special category data</b> (select those that apply)	
Forename	<input checked="" type="checkbox"/>	Racial or ethnic origin	<input checked="" type="checkbox"/>
Surname	<input checked="" type="checkbox"/>	Political opinion	<input type="checkbox"/>
Date of Birth	<input checked="" type="checkbox"/>	Religious belief	<input type="checkbox"/>
Age	<input checked="" type="checkbox"/>	Trade Union membership	<input type="checkbox"/>
Gender	<input type="checkbox"/>	Health or Social Care Status	<input checked="" type="checkbox"/>
Address	<input checked="" type="checkbox"/>	Sexual life	<input type="checkbox"/>
Postcode	<input checked="" type="checkbox"/>	Commission or alleged commission of an offence	<input checked="" type="checkbox"/>
Unique ID (i.e. NHS No)	<input checked="" type="checkbox"/>	Proceedings for any offence committed or alleged	<input checked="" type="checkbox"/>

*List any other personal information collected: Email address, contact telephone number, vehicle make, vehicle model, vehicle registration and photo/video. Sensitive data (Racial/Ethnic origin, Political opinion, Religious belief, Health & Social Care Status and Sexual life) and Financial data could be collected incidentally.*

### STEP 2: DATA PROTECTION LEGISLATION COMPLIANCE

1. Do you already collect, use, store or share this information?
2. What is your lawful basis?
3. How is the collection and use of the information fair?
4. How will you be transparent about the collection and use of the information?
5. How will you ensure that this information is only used for this process/project/activity?
6. Is this the minimum of information you need?
7. How will you ensure the accuracy of the information you collected/stored/used/shared?
8. How long will you keep (retain) the information?
9. When will you delete (or destroy) the information?

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10. If this is a new system, explain how automatic retention and destruction has been built in?
11. Why will it not be deleted sooner?
12. What are the security risks associated with the collection, storage, use and sharing of this information?
13. Does the Information Asset Owner know about this process/project/activity?
14. Have you or the Information Asset Owner updated the Record of Processing Activity (ROPA)?

1. Yes, we already collect data and information.

2. Select those that apply: **To comply with duty under Environmental Protection Act 1990**

Legal obligation	X	Contract	
Processing is necessary to comply with the law (not including contractual obligations).		Processing is necessary for a contract you have with the individual, or because they've asked you to take specific steps before entering into a contract.	
Public task	X	Vital interests	
Processing is necessary to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.		Processing is necessary to protect someone's life.	
Legitimate interests		Consent	
Processing is necessary for your legitimate interests or the legitimate interests of a third party, unless there is a good reason to protect the individual's personal data which overrides those legitimate interests. <b>Cannot apply to BC processing data to perform our official tasks.</b>		The individual has given clear consent for you to process their personal data for a specific purpose.	

3. The information is collected solely to allow processing of criminal investigation.
4. Transparency is governed here within the terms of criminal law (Criminal Procedures and Investigations Act 1996) which limits information available to persons suspected of and charged with offences.
5. This is overseen both by the supervising Enforcement Manager and directly by Legal Services, when suspects are 'reported for consideration of prosecution'.
6. All 'relevant' material has to be retained for evaluation as to whether or not it must be disclosed to 'defence' side. 'Minimum' is not a term of relevance here.
7. We gather information for legal use both by prosecution and defence. We are not able to 'ensure accuracy' in the manner suggested. The information is considered, and evidential and relevancy tests are applied.
8. The information will be kept in accordance with the Council's retention policy – 6 years +1.
9. The information will be deleted in accordance with the Council's retention policy – 6 years +1.
10. N/A
11. We investigate criminal offences and on occasions we will have a regularly encounter with the same suspect who is under a "renewed" investigation following an incident(s) where they are suspected of re-offending.
12. Our work involves criminal investigations, and we deal with sensitive information. The largest potential 'security risk' might involve a witness' details being inadvertently released to the suspect.
13. The information Asset Owner is aware of this.
14. *Graham Tennant confirmed on 30.08.23 that he will register this on the ROPA.*

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### STEP 3: DESCRIBE THE PROCESSING

#### Describe the nature of the processing:

1. How will you collect the information and who from?
2. How will you use the information?
3. How will you store the information?
4. How will you delete the information?
5. Will you be sharing the information with anyone? You may find it useful to refer to a flow diagram.
6. How will you be sharing information?
7. What are the risks of collecting and using the information?
8. Will any suppliers, contractors or third parties be collecting, storing or using the information on our behalf?
9. Will any suppliers, contractors or third parties be collecting, storing or using the information for themselves?
10. Will any suppliers, contractors, third parties or external organisations have access to the information e.g. because they are storing it or when they need to do maintenance to a system?
11. If this is new technology (e.g. computer system, App, platform, etc) what assurances has the provider given you about its security?

1. We are investigating offences relating to the illegal deposit of waste. This means verbal, written, and eyewitness evidence together with CCTV video and still photographs taken by surveillance cameras.
2. We analyse the information to determine if anyone can legitimately be suspected of having committed a waste offence. That person is then shown the evidence we intend to rely on during a PACE interview. If charged with an offence they are likely to be shown or have access to all the information we have gathered, barring sensitive information relating to witnesses.
3. We now store all evidence and information on the secure site SharePoint.
4. Cases and files are stored with dates and are deleted at or before 6 years +1, as per the Council's retention period.
5. We share information with Thames Valley Police and on a very rare occasion with the Environment Agency, where we are presented with a valid disclosure request.
6. This usually takes the form of an email link to One Drive but can involve physically sharing files on SD cards where the other authority is led on the investigation and our officers are witnesses.
7. A person is 'innocent until proven guilty' in this context, so it is important that their details are kept secure so that no 'slur' on their character would arise due to inadvertent publicity that they were a suspect. It is also vital that witnesses' details are not shared (beyond the necessary level) with suspects/defendants.
8. Yes, for body worn cameras (Halo Europe) and CCTV (DSSL Group Ltd and Videosoft Global Ltd). Both contracts have individual DPIA's and contractual agreements in place for stored data.
9. No, the data is stored on a portal only accessed by individual username and password by our investigating officers. If the contractor/supplier was to access our data for any reason, then they are contractually obliged to submit an access request to the Council. This request would need to be approved before any data can be accessed.
10. Yes, as per question 8 & 9.
11. We have a contract with a CCTV company (DSSL Group Ltd as the main Contractor and Videosoft Global Ltd as the Sub-Contractor) which sets out standard Buckinghamshire Council provisions

#### Describe the scope of the use of the information:

1. How often will you be collecting the information?

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2. *How many individuals' information will you be collecting (don't forget to count family members)?*

3. *What geographical area are the individuals located in?*

1. The information will be collected daily.

2. Approx 100-150 annually.

3. Individuals will be mainly based in Buckinghamshire and the neighbouring areas, but on a rare occasion there may be other UK locations and possibly Europe. This would mean communication with a suspect who is outside Bucks (to make an appointment) but would not mean gathering information from them.

**Describe the context of the process/project/activity and its use of personal information:**

1. *What is your relationship with the individuals and how much control will they have?*

2. *Would they expect you to use their information in this way?*

3. *Do they include children or other vulnerable people?*

4. *Are there prior concerns over the use of personal information in this way or security flaws?*

5. *Is it novel or new in any way?*

6. *What is the current state of technology in this area?*

7. *Are there any current issues of public concern that you should factor in?*

8. *Are you/your provider signed up to any approved code of conduct or certification scheme?*

1. Investigators deal with witnesses and suspects. Witnesses will have no control once they have volunteered information other than they would have the right to withdraw a statement. Suspects have no control beyond the rights set out under Criminal Procedures and Investigations Act 1996.

2. Yes – this is standard criminal procedures.

3. On the very rare occasion the officers would need to handle data associated with children or vulnerable people. This data would be handled in the same way as other data, but decision making would consider age and any vulnerability.

4. No – it is necessary and is stored securely on the Council's secure SharePoint portal.

5. No this is an existing process.

6. Our CCTV cameras are covered under a separate (and signed off) DPIA. The portal used is secure (and meets the standard IT security and encryption requirements) and the Council's systems are also secure.

7. No, as the process of PACE interviews and case files are covered under the Criminal Procedures and Investigations Act 1996. Investigating officers are governed by the legislative guidance and law when processing PACE interviews and case files.

8. Criminal Procedures and Investigations Act 1996 governs behaviours of our investigators together with Police and Criminal Evidence Act 1984.

**Describe the purposes of the use of the information:**

1. *What do you want to achieve?*

2. *What is the intended effect on individuals?*

3. *What are the benefits of the processing – for you, for the individuals and more broadly?*

1. We aim to apprehend and prosecute all known offenders under PACE compliance.

2. Individuals will be suspects, witnesses or defendants within the justice system, and if appropriate they will be given with a written warning, a Fixed Penalty Notice or will be prosecuted.

3. The benefit will be to successfully follow a criminal investigation / justice procedure to secure the appropriate outcome to the waste crime.

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### STEP 4: CONSULTATION PROCESS

#### Consider how to consult with relevant stakeholders:

1. Describe when and how you will seek individuals' views, or justify why it's not appropriate to do so?
2. Who else do you need to involve within BC (i.e. Procurement, IT, Legal, Equalities)?
3. Do you need to ask your data processors or suppliers, contractors or third parties to assist?
4. Have you consulted information security experts, or any other experts?
5. If this relates to new technology (e.g. computer system, App, platform, etc) has IT confirmed it meets current security standards?
6. Have you consulted the Information Governance (IG) team?

1. Views are not sought in the way envisaged by the question. Criminal cases are heard at Magistrates' and Crown Courts where the suspect will have their views heard in a fair way.
2. Legal are involved with cases 'reported for consideration of prosecution'. An EQIA has been completed and signed off for this process.
3. We may need to ask for contractors / suppliers to assist if there are any known system issues or maintenance faults. These agreements are covered in the individual DPIAs and under their signed contracts.
4. Yes – regarding recordings of PACE interviews, 'body worn' cameras and the CCTV. The body worn cameras and CCTV have individual DPIAs to cover data protection.
5. Yes, under both contracts for body worn cameras and CCTV, IT requirements have been agreed and satisfied.
6. Yes, IG were consulted during preparation of DPIAs for body-worn camera use and for the use of CCTV systems for gathering evidence.

### STEP 5: ASSESS NECESSITY AND PROPORTIONALITY

#### Describe compliance and proportionality measures, in particular:

1. Does the collection and use of the information actually achieve your purpose?
2. Is there another way to achieve the same outcome?
3. What information will you give individuals about this processing?
4. Provide a link to relevant Privacy Notice, screenshots of proposed form wording, correspondence or templates associated with the processing.
5. How will you help to support the individual's data protection rights?
6. If there is a supplier, contractor or third party collecting, using or storing information on our behalf, is this detailed in the proposed contract with them?
7. What measures are you taking to ensure suppliers, contractors or third parties comply?
8. How will you safeguard any international transfer of data?

1. Yes, all data collected is used to pursue a waste crime under PACE.
2. No, we are required to collect this data and all investigating officers follow the PACE regulation.
3. Individuals will be provided the relevant and necessary information as set out and required under the Criminal Procedures and Investigations Act 1996.
4. N/A.
5. All data protection rights is provided under PACE law.
6. Yes and all information relating to this is covered under the individual DPIAs and under the contractual agreements.

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7. Any contract held where data is stored (CCTV/Body worn cameras), we have obtained all necessary and signed off DPIAs. All data protection agreements are covered under the individual contracts.
8. We have no intention of handling any international transfer of data.

### STEP 6: IDENTIFY AND ASSESS RISKS

*Describe source of each risk and the nature of potential impact on individuals. Include associated compliance and corporate risks as necessary.*

Risk ref	Description	Likelihood of harm Remote, Possible or Probable	Severity of harm Minimal, Significant or Severe	Overall risk Low, Medium or High
1	Data is lost during migration or transfer.	Remote	Significant	Medium
2	Images of individuals are shared in publicity materials despite individuals requesting that their images are not shared.	Remote	Significant	Medium
3	Compromise to BC SharePoint system.	Remote	Significant	Medium
4	Vehicles used in commission of offence could have images released in publicity materials but may no longer be owned by offender.	Possible	Minimal	Medium

### STEP 7: IDENTIFY MEASURES TO REDUCE RISKS

*Identify additional measures you could take to reduce or eliminate each risk identified as Medium or High risk in step 6. If N/A, please state*

Risk ref	Options to reduce or eliminate risk	Effect on risk Eliminated, Reduced or Accepted	Residual risk Low, Medium or High	Measure approved Yes or No
1	SharePoint use.	Accepted	Low	Yes
2	Images of individuals only ever shared following court conviction when in public domain.	Reduced	Low	Yes
3	Images of vehicles always have index plate obscured.	Reduced	Low	Yes

### STEP 8: SIGN-OFF AND RECORD OUTCOMES

	Name/role/date	Notes
<b>Measures approved by:</b>		<i>Integrate actions into Risk Register, with dates and named owners.</i>
<b>Residual risks approved by:</b>		<i>If accepting any residual High risk, you MUST consult the ICO before proceeding.</i>
<b>Reviewed/agreed by:</b>		<i>All DPIAs must be reviewed and agreed by Information Asset Owner (HoS) before being passed to the IG team.</i>

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<b>IG advice provided:</b>	Jennifer Griffin, Head of Info Gov and Complaints	<i>IG advice to include compliance, step 7 measures and if processing can proceed.</i>
<b>Summary of IG advice:</b>		
<b>IG advice accepted or overruled by:</b>	Martin Dickman, Service Director, Neighbourhood Services	<i>If overruled, explain your reasons.</i>
<b>Comments:</b>		
<b>Consultation responses reviewed by:</b>	<i>If applicable</i>	<i>If decision departs from individuals' views, explain your reasons.</i>
<b>Comments:</b>		
<b>DPIA to be kept under review by:</b>	<b>Gary Slee, Enforcement Manager and Janine White, Enforcement Project Manager</b>	<i>IG team may also review ongoing compliance with DPIA.</i>
<b>Date DPIA sent to IG:</b>	<b>30/08/23</b>	