Holbeach PARISH COUNCIL

Clerk/RFO: Jan Hearsey

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Data Breach Procedure

GDPR defines a personal data breach as “a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed”. Examples include:

- Access by an unauthorised third party
- Deliberate or accidental action (or inaction) by a controller or processor
- Sending personal data to an incorrect recipient
- Computing devices containing personal data being lost or stolen
- Alteration of personal data without permission
- Loss of availability of personal data

Holbeach Parish Council takes the security of personal data seriously, computers are password protected and hard copy files are kept in locked cabinets.

Consequences of a personal data breach

A breach of personal data may result in a loss of control of personal data, discrimination, identity theft or fraud, financial loss, damage to reputation, loss of confidentiality of personal data, damage to property or social disadvantage. Therefore, a breach, depending on the circumstances of the breach, can have a range of effects on individuals.

Data processors duty to inform Holbeach Parish Council

If a data processor (i.e. payroll provider or member of staff) becomes aware of a personal data breach, it must notify Holbeach Parish Council without undue delay. This can be done by notifying the HR, H&S and Data Prtection Committee or the Clerk. It is then Holbeach Parish Council’s responsibility to inform the ICO, it is not the data processors responsibility to notify the ICO.

Holbeach Parish Council duty to report a breach

When a data breach is identified it should be investigated and the Data Breach Incident form should be filled in. Within this form a risk assessment will be carried out which will determine whether the breach needs to be reported to the ICO and the effected individuals. All data breaches will be investigated, and the incident forms submitted to the HR, H&S and Data Protection Committee.

If the data breach is likely to result in a risk to the rights and freedoms of the individual, the breach must be reported to the individual and ICO without undue delay and, where feasible, not later than 72 hours after having become aware of the breach.

To report a data breach, use the ICO online system:

https://ico.org.uk/for-organisations/report-a-breach/

If the ICO is not informed within 72 hours, Holbeach Parish Council must give reasons for the delay when they report the breach.

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When notifying the ICO of a breach, Holbeach Parish Council must:

1. Describe the nature of the breach including the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned
2. Communicate the name and contact details of the DPO (N/A)
3. Describe the likely consequences of the breach
4. Describe the measures taken or proposed to be taken to address the personal data breach including, measures to mitigate its possible adverse effects.

When notifying the individual affected by the breach, Holbeach Parish Council must provide the individual with (ii)-(iv) above.

Holbeach Parish Council will not need to communicate with an individual if the following applies:

- It has implemented appropriate technical and organisational measures (i.e.encryption) so those measures have rendered the personal data unintelligible to any person not authorised to access it;
- It has taken subsequent measures to ensure that the high risk to rights and freedoms of individuals is no longer likely to materialise, or
- It would involve a disproportionate effort

However, the ICO must still be informed even if the above measures are in place.

Records of data breaches

All data breaches must be internally recorded whether or not they are reported to individuals or the ICO. This record will help to identify system failures and should be used as a way to improve the security of personal data.

Data Breaches should be recorded using Holbeach Parish Council's Data Breach Incident Form (Attached).

Version	Date Approved	Amendments Made	Next Review Date
1	14/12/2020		11/04/2022
2	19/04/2022	Notify HR, H&S and Data Protection Committee or Clerk of Breach, Incident forms submitted to HR, H&S and Data Protection Committee.	11/04/2023

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Data Breach Incident Form

Grading the personal data breach

Any incident must be graded according to the significance of the breach and the likelihood of serious consequences occurring. The incident must be graded according to the impact on the individual or groups of individuals and not the organisation.

Likelihood grade	Likelihood of adverse effect	Description
1	Not occurred.	There is absolute certainty that there can be no adverse effect. This may involve a reputable audit trail or forensic evidence.
2	Not likely or any incident involving vulnerable groups even if no adverse effect occurred.	In cases where there is no evidence that can prove that no adverse effect has occurred this must be selected.
3	Likely.	It is likely that there will be an occurrence of an adverse effect arising from the breach.
4	Highly likely.	There is almost certainty that at some point in the future an adverse effect will happen.
5	Occurred.	There is a reported occurrence of an adverse effect arising from the breach.

Severity grade	Severity of the adverse effect on individuals	Description
1	No adverse effect.	There is absolute certainty that no adverse effect can arise from the breach.
2	Potentially some minor adverse effect or any incident involving vulnerable groups even if no adverse effect occurred.	A minor adverse effect must be selected where there is no absolute certainty. A minor adverse effect may be a delay to a home safety check
3	Potentially some adverse effect.	An adverse effect may be release of confidential information into the public domain leading to embarrassment.
4	Potentially Pain and suffering/ financial loss.	There has been reported suffering and decline in health arising from the breach or there has been some financial detriment occurred. A person is at risk of harassment or violence from exposed information.
5	Death/ catastrophic event.	A person dies or suffers a catastrophic occurrence. Specific risk information for tailored response is wrong or not available.

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INVESTIGATOR DETAILS:			
Name:		**Position:**	
Date:		**Time:**	
INCIDENT INFORMATION:			
Date/Time Or Period Of Breach:			
Description & Nature Of Breach:			
Categories of Data Subjects Affected:			
Categories of Records Concerned:			
No. Of Data Subjects Affected:		**No. Of Records Involved:**	

Breach Assessment Grid (please circle assessment of risk)

This operates on a 5 x 5 basis with anything other than "grey breaches" being reportable. Incidents where the grading results are in the red are advised to notify data subjects.

Severity (Impact)	Catastrophic	5	5	10	15	20	25
	Serious	4	4	8	12	16	20
	Adverse	3	3	6	9	12	15
	Minor	2	2	4	6	8	10
	No Adverse Effect	1	1	2	3	4	5
			1	2	3	4	5
			Not Ocurred	Not Likely	Likely	Highly Likely	Occurred
			Likelihood that citizens rights have been affected (harm)				

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Immediate Action Taken To Contain/Mitigate Breach:	
Staff Involved In Breach:	
Procedures Involved In Breach:	
Third Parties Involved In Breach:	

BREACH NOTIFICATIONS:		
Was The Supervisory Authority Notified?	**YES / NO**	
If Yes, Was This Within 72 Hours?	**YES / NO / NA**	
If no to the above, provide reason(s) for delay		
If Applicable, Was The Below Information Provided?	**YES**	**NO**
A description of the nature of the personal data breach		
The categories and approximate number of data subjects affected		
The categories and approximate number of personal data records concerned		
The name and contact details of the Data Protection Officer and/or any other relevant point of contact (for obtaining further information)		
A description of the likely consequences of the personal data breach		
A description of the measures taken or proposed to be taken to address the personal data breach (including measures to mitigate its possible adverse effects)		
Was Notification Provided To Data Subject?	**YES / NO**	

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INVESTIGATION INFORMATION & OUTCOME ACTIONS:	
Details Of Incident Investigation and Outcome:	
Procedure(s) Revised Due To Breach:	
Staff Training Provided: *(if applicable)*	