



# ***Data Protection Policy***

DATA PROTECTION POLICY	
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## THE ASSESSOR AND ELECTORAL REGISTRATION OFFICER

**Lothian Valuation Joint Board** is a Public Body established in 1996 to provide valuation services to the four constituent Lothian Councils, City of Edinburgh, Midlothian, East Lothian and West Lothian.

The Assessor and Electoral Registration Officer (ERO) is appointed to head the organisation and ensure the fulfilment of duties across the three statutory functions of the organisation. The Assessor is responsible for the valuation of all commercial and domestic properties within Lothian by providing Council Tax Bands and Rateable Values, maintaining and producing the Council Tax List and Valuation Roll. As Electoral Registration Officer the Assessor is also responsible for the compilation, maintenance and production of the Electoral Register.

### 1. POLICY STATEMENT

- 1.1 This policy covers all data collected, generated, made publicly available or shared with third parties who are legally entitled to receive data from the Assessor and ERO.
- 1.2 In order to comply with his statutory obligations the Assessor and ERO must collect and use personal information. In addition, the Assessor and ERO may be required by law to collect and use information to comply with the requirements of government and meet legislative requirements.
- 1.3 The Assessor and ERO respects the privacy of an individual's information. The lawful and careful treatment of personal information is very important to the successful operation and maintenance of confidence between the Assessor and ERO and those with whom business is carried out. The Assessor and ERO will ensure that personal information is treated lawfully and proportionately.
- 1.4 The Assessor and ERO is committed to protecting the rights and privacy of individuals including those rights set out in the UK Data Protection Regulation and the Data Protection Act 2018. Further, the Assessor and ERO's principal aim is to ensure that all personal data processing carried out by them, or on their behalf, complies with this legislation.
- 1.5 This Policy applies to all employees of Lothian Valuation Joint Board (LVJB) as well as any other individuals performing a function in relation to personal information for which the Assessor or ERO for Lothian is responsible.

### 2. DEFINITIONS

#### 2.1 Personal Data and the Data Subject

- 2.1.1 '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 person.

## **2.2 Special Category Data**

2.2.1 Special Category Data is information relating to any of the following categories for personal information:

- Racial or ethnic origin.
- Political opinions.
- Religious or philosophical beliefs.
- Trade union membership.
- Genetics.
- Biometrics.
- Physical or mental health.
- Sex life or sexual orientation.
- Criminal Offences.

2.2.2 Special category personal data is subject to much stricter conditions of processing.

## **2.3 Data Controller**

2.3.1 'Data Controller' means a natural or legal person, public authority, agency or other body which determines the purposes and means of the processing of personal data.

2.3.2 As head of the organisation the Assessor and ERO is the data controller for the three Statutory functions Valuation Roll, Council Tax and Electoral Registration as well as data relating to the employees of Lothian Valuation Joint Board.

## **2.4 Joint Data Controllers**

2.4.1 Any person or organisation that jointly, with the Assessor and ERO, determines the purpose and manner in which any personal information is to be processed.

## **2.5 SAA Portal Joint Data Controllers**

2.5.1 The Assessor for Lothian works together with the other thirteen Assessors in Scotland to develop and maintain the Scottish Assessors' Portal which provides a single point Internet access to Valuation Roll and Council Tax information on a Scotland-wide basis. Information is sourced from the locally managed and maintained databases held by each of the Assessors.

2.5.2 The Assessors are joint data controllers for documents and data generated by the SAA and shared at the portal (e.g. minutes of meeting) and for data generated by the portal (e.g. cookies and analytics data).

2.5.3 It is recognised that despite the shared display of Valuation Roll and Council Tax List and related data through the portal, each Assessor remains the Data Controller for the information gathered locally and presented centrally. A Data Sharing Agreement is maintained which covers the shared display of data at the portal and which recognises each Assessor as an individual Data Controller.

2.5.4 Where users provide personal information through the portal (e.g., on-line NDR proposals/appeals, CT proposals and Forms of Return) there will be signposting to the relevant Privacy Notices.

## 2.6 Electoral Registration Joint Data Controllers

- 2.6.1 The ERO is a joint data controller along with the Returning Officers (ROs) for the four constituent councils. The ERO produces registers and Absent Voting Data used to issue electors with postal votes for Elections and Referendums. The RO has the responsibility for determining the validity of a returned postal ballot. The ERO is also a joint controller along with the UK Government to allow for the application process for Voter Authority Certificates. In addition to the personal information required to make an application via a portal managed by the UK Government, a photograph of the data subject making the application will be required.

## 2.7 Data Processor

- 2.7.1 'Processor' means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller. For example; contractors, agents, printers etc. are data processors.

## 2.8 Processing

- 2.8.1 'Processing' means any operation or set of operations which is performed on personal data or a 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.

## 2.9 Records Management

- 2.9.1 Records Management is the control of Assessors' records during their lifetime, from creation to storage until archiving or destruction.
- 2.9.2 A copy of the [Lothian Valuation Joint Board Records Management Policy](#) can be found on the LVJB Intranet and on the LVJB website [Lothian Valuation Joint Board Records Management Policy](#).

## 3. LAWFUL BASIS FOR PROCESSING PERSONAL INFORMATION

- 3.1 The lawful basis for processing is set out in the UK Data Protection Regulation. At least one of the options noted below must apply whenever the Assessor or ERO processes personal information.
- **Consent:** the individual has given clear consent to process his/her personal data for a specific purpose.
  - **Contract:** the processing is necessary for a contract that the Data Controller has with the individual, or because the individual has asked the data holder to take specific steps before entering into a contract.
  - **Legal obligation:** the processing is necessary for the Data Controller to comply with the law (not including contractual obligations).
  - **Vital interests:** the processing is necessary to protect someone's life.
  - **Public interest:** the processing is necessary for the Data Controller to perform a task in the public interest or in the exercise of official authority vested in the relevant body.
  - **Legitimate interests:** the processing is necessary for the purposes of legitimate interests pursued by the Data Controller or a third party unless there is a good reason to protect the individual's personal data which overrides those legitimate interests.

## **3.2 Lawful Basis for LVJB Functions**

3.2.1 The lawful basis for the LVJB functions - Council tax, Valuation Roll and Electoral Registration is covered under legal obligation and task carried out in the public interest. The processing of personal information is driven by statute/regulation namely:

- The Representation of the Peoples Act 1983 (as amended) for Electoral Registration.
- Elections Act 2022 for Voter Identification.
- Local Government Finance Act 1992 for Council Tax.
- Lands Valuation (Scotland) Act for 1854 (as amended) for Valuation Roll.
- Non-Domestic Rates (Scotland) Act 2020

3.2.2 The lawful basis under GDPR for which personal information is processed for Council tax, Valuation Roll and Electoral Registration is:

*Article 6(1)(c) processing is necessary for the compliance with a legal obligation to which the controller is subject or;*

*Article 6(1)(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or;*

*Article 9(2)(g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State Law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.*

The lawful basis under The Data Protection Act 2018 is:

*Schedule 9, Condition 3 - processing is necessary for the compliance with a legal obligation to which the controller is subject;*

*Schedule 9, Condition 5 (c) and Schedule 10, Condition 7 (c) - processing is necessary for the exercise of functions conferred on the LVJB by an enactment or rule of law;*

*Schedule 9, Condition 5 (e) - processing is necessary for the exercise of functions of a public nature exercised in the public interest.*

## **3.3 Lawful Basis for LVJB Employees**

3.3.1 The lawful basis for processing personal information for current, former and new employees is covered under contract, legitimate interests, legal obligation and task carried out in the public interest.

3.3.2 The lawful basis under UK for which personal information is processed for current, former and new employees is:

*Article 6(1)(b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of a data subject prior to entering in to a contract; or*

*Article 6(1)(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third part, except where such interests are overridden by the interests or fundamental rights and*

*freedoms of the data subject which require protection of personal data, in particular where the data subject is a child; or*

*Article 9(2)(b) processing is necessary for the purposes of carrying out obligations and exercising specific rights of the controller or of a data subject in the field of employment and social security and social protection law in so far as it is authorised by Union or Member State law or a collective agreement pursuant to member state law providing for appropriate safeguards for the fundamental rights and the interests of the data subject; or*

*Article 9(2)(g) processing is necessary for reasons of substantial public interest, on the basis on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.*

The lawful basis under The Data Protection Act 2018 is:

*Schedule 9, Condition 3 - processing is necessary for the compliance with a legal obligation to which the controller is subject;*

*Schedule 9, Condition 5 (c) and Schedule 10, Condition 7 (c) - processing is necessary for the exercise of functions conferred on the LVJB by an enactment or rule of law;*

*Schedule 9, Condition 5 (e) - processing is necessary for the exercise of functions of a public nature exercised in the public interest.*

## **4 THE DATA PROTECTION PRINCIPLES**

4.1 The UK GDPR sets out six principles for the processing of personal information which are legally binding. The information must be:

1. Processed lawfully, fairly and in a transparent manner in relation to individuals.
2. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
3. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
4. Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.
5. Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals.
6. Processed in a manner that ensures appropriate security of the personal data, including protection



against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

## **5 RIGHTS OF INDIVIDUALS**

5.1 Subject to some legal exceptions individuals have the right to the following:

- The right to be informed about how their information will be used.
- The right of access to their personal information.
- The right to rectification, which is the right to require the relevant Assessor to correct any inaccuracies.
- The right to request the erasure of any personal information held by an Assessor where the Assessor no longer has a basis to hold the information.
- The right to request that the processing of their information is restricted.
- The right to data portability.
- The right to object to the relevant Assessor processing their personal information.
- Rights in relation to automated decision making and profiling.

5.2 The legal basis used for processing the information determines what rights are applicable. Information regarding rights can be found at [www.ico.org.uk](http://www.ico.org.uk)

## **6 PROCESSING PERSONAL INFORMATION**

6.1 The Assessor and ERO will only hold and process personal information where there is a clear basis in law. Personal data must be processed fairly and lawfully. The processing must be necessary to comply with a statutory obligation, to carry out a task in the public interest or in exercise of official authority, to allow the performance of a contract or may be necessary for the purpose of legitimate interests pursued by the Assessor and ERO.

6.2 The Assessor and ERO will share data, including personal information, with other Assessors and Electoral Registration Officers under statutory provision. A Data Sharing Agreement will define and regulate such data sharing.

6.3 The Assessor and ERO will share personal information with other organisations where permitted to do so. In doing so, they will comply with the provisions of the Information Commissioner's [Data Sharing Code of Practice](#). Data Sharing Agreements or Data Processing Agreements will be used to define and regulate such data sharing.

6.4 The individual is advised at the point of personal information collection, of the purpose for which the information will be held or processed and who the information may be shared with. For information relating to the processing of personal data the individual can visit the LVJB website at [www.lothianvjb.gov.uk/privacy](http://www.lothianvjb.gov.uk/privacy) to view our Privacy Notices.

## **7 ROLES AND RESPONSIBILITIES**

### **7.1 Senior Information Risk Owner**

7.1.1 The Head of Governance is The Senior Information Risk Owner (SIRO) for the LVJB and has overall strategic responsibility for governance in relation to data protection risks which exist at the portal. The SIRO:

- Acts as advocate for information risk at Governance Committee.
- Oversees the reporting and management of information incidents.

### **7.2 The Governance Committee (GC)**

7.2.1 The GC's role is to understand what information is held by LVJB. The GC must ensure that written procedures are in place and followed relating to LVJB activities, risks are assessed, mitigated and the risk assessment processes are audited.

7.2.2 The GC have responsibility and accountability for ensuring that all LVJB activities and individuals involved in its activities comply with data protection legislation, this policy and associated policies and procedures.

### **7.3 Data Protection Officer**

7.3.1 The LVJB has a Data Protection Officer (DPO) who is responsible for ensuring that the Assessor and ERO is compliant in terms of the UK GDPR and Data Protection Act 2018.

## **8 INFORMATION SECURITY**

8.1. The security of information held by, and processed at, the LVJB will be provided for by a combination of:-

- Technical Security - contractually agreed with system hosts and developers, and
- Procedural Arrangements - established by the Governance Team.

## **9 TRAINING**

9.1 The Assessor and ERO is responsible for training and providing awareness regarding data protection law and practice. The Assessor and ERO is also responsible for training in Information Security.

9.2 The DPO and the Governance team will assist the Assessor and ERO in ensuring that all LVJB employees are aware of the UK GDPR and they comply with its guidelines and with the policies and procedures of LVJB.

9.3 The Head of Governance will assist the Assessor and ERO in ensuring that employees of LVJB have received training in Information Security.

9.4 LVJB employees should receive refresher training on the GDPR and Information Security.

9.5 Any training requirements identified during data breach investigations will be fulfilled as soon as practicable.

9.6 Refer to Section 13 of this policy for additional information regarding policies and procedures.

## **10 NOTIFYING THE INFORMATION COMMISSIONER**

- 10.1 The Assessor and ERO must document the purpose or purposes for processing personal data under UK GDPR. The Assessor and ERO may have to make this documentation available to the Information Commissioner Officer (ICO) on request; for example, for an investigation.

## **11 COMPLAINTS**

- 11.1 Any complaints about how personal information is handled by LVJB should be referred to the DPO.
- 11.2 However, if the individual is dissatisfied with our response they have the right to make a [complaint](#) to the Information Commissioner's Office (ICO). Details regarding the contact information for the ICO can be found on our Privacy Notices on the LVJB website at [www.lothian-vjb.gov.uk/complaints/](http://www.lothian-vjb.gov.uk/complaints/)

## **12 BREACHES OF SECURITY**

- 12.1 Organisations which process personal data must take appropriate measures against unauthorised or unlawful processing and against accidental loss, destruction of, or damage to, personal data. Despite the security measures taken to protect personal information, a breach can happen.
- 12.2 All LVJB employees are provided with a copy of the Data Breach Policy and should ensure that they are aware of the requirements of the Data Protection laws to ensure the security and confidentiality of all personal and sensitive personal data that LVJB processes.
- 12.3 If a breach occurs the Data Protection Officer and the Governance Team must be notified immediately. The Governance team can be emailed at [governance@lothian-vjb.gov.uk](mailto:governance@lothian-vjb.gov.uk)
- 12.4 A serious breach must be reported to the ICO within 72 hours.
- 12.5 The DPO and the Governance team will initiate a review of the incident and will take appropriate remedial action as required.
- 12.6 More information on breach management can be found in the [Lothian Valuation Joint Board Data Breach Policy](#) which is part of the [LVJB Information and Technology Management and Security Policy](#) under Sub Policy 14 on the LVJB Intranet or on Information Commissioner's Office [Guidance on Data Security Breach Management](#).

## **13 RELATED POLICIES AND PROCEDURES**

- 13.1 The [Lothian Valuation Joint Board Data Breach Policy](#) is part of the [LVJB Information and Technology Management and Security Policy](#) under Sub Policy 14 found on the LVJB Intranet under Human Resources-Policies and Procedures. The [GDPR presentation](#) is also on the LVJB Intranet under the Governance Wiki. Security awareness training for LVJB uses interactive videos provided by [KnowBe4.com](http://KnowBe4.com).
- 13.2 The [Lothian Valuation Joint Board Records Management Policy](#) can be found on the LVJB Internet under Groups-Records Management-Documents and on the LVJB website [Lothian Valuation Joint Board Records Management Policy](#).
- 13.3 View our Privacy Notices at [lothian-vjb.gov.uk/privacy/](http://lothian-vjb.gov.uk/privacy/) on LVJB website.

## **14 FURTHER INFORMATION AND GUIDANCE**

- 14.1 The ICO [Guidance on Data Security Breach Management](#) is on the ICO website.
- 14.2 The ICO [Data Sharing Code of Practice](#) is on the ICO website.
- 14.3 Making a [complaint](#) to the ICO is on the ICO website.
- 14.4 General information regarding the GDPR and data protection is also available from the [Information Commissioner's website](#)

## **15 MONITORING AND REPORTING**

- 15.1 This policy will be reviewed annually or as required.