

## **General Data Protection Regulations**

### **Update from HALC November 2017**

Town and Parish Councils will need to comply with the new General Data Protection Regulations (GDPR) by 25th May 2018. Where the legislation refers to Public Authorities, this means Town and Parish Councils, including Parish Meetings. As a consequence of being defined as Public Authorities, Councils will need to appoint a Data Protection Officer (DPO). In order to avoid a conflict of interest, a DPO should not determine the purpose or manner of processing personal data. If the Council is satisfied that their Clerk does not do this, then the Clerk could act as the DPO. It may also be possible to appoint someone external to the council, such as sharing a DPO between parish councils, a district council or other principal local authority. The Information Commissioner's Office (ICO) is currently preparing guidance on the requirements of the GDPR. Once we are notified of such documentation, we will provide a further update.

### **Advice from HALC October 2017**

Councils Appointing a Data Protection Officer (DPO) All Councils will need to confirm to the new General Data Protection Regulations (GDPR) from May 2018. The 'Proper Officer' may be appointed as the council's DPO. But, what matters is whether or not the individual meets the criteria for the position. Larger councils should be able to muster the skills and the time, but clerks in smaller councils may not have the time or the skills readily available? This is a serious consideration that Council must consider. GDPR Article 37.5 says that the DPO 'shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices, and the ability to fulfil the tasks referred to in Article 39'. Not every clerk will have such expertise, but many of course will. The GDPR does say that a single DPO may be designated for several public authorities or bodies, taking account of their organisational structure and size (Art. 37.3). It also says that the DPO may be a staff member, or fulfil the task on the basis of a service contract (Art. 37.6). So some councils may wish to share a DPO, or to enter into an agreement with their principal authority or another body for the provision of a DPO.