

## **Sharing personal data between Council services**

This guidance note aims to provide help and information to employees who are unsure about whether it is acceptable to share personal data with another Council service.

For the purposes of the General Data Protection Regulations 2016 / Data Protection Act 2018 East Devon District Council is a single organisation (the data controller) which makes its own decisions on how personal data is used.

The passing of personal data by the Council to a third party will always be disclosure of personal data and therefore there must be a legitimate and lawful basis to do so which will need to be documented and detailed in the relevant privacy notice.

**If one service holds data for a particular purpose and then passes it to another service so that it can be used for a different purpose, this will be a secondary use of that data. This too will require a legitimate and lawful basis to pass on the personal data.**

To establish that sharing is permitted, the service passing on the data must ensure that they comply with these principles:

- Personal data shall be processed fairly and lawfully
- Personal data shall be obtained for one or more specified purpose(s) and shall not be further used/processed in a manner incompatible with that purpose(s)

This means that the Council must not obtain data for one set of purposes and then use it for a completely separate and unrelated set of purposes – unless there is a lawful basis to do so and the data subject is aware (either by being expressly told or through the relevant privacy notices) that sharing may occur.

**If the Council is open and transparent about all the probable reasons for collecting data in the first place, this can facilitate the use of that data in other services.**

If you wish to use or disclose personal data for a purpose that was not contemplated at the time of collection or for which the data subject was not made aware, you have to consider whether this will be fair. If using or disclosing the information would be unfair because it would be outside what the individual concerned would reasonably expect, or would have an unjustified adverse effect on them, then you should regard the use or disclosure as incompatible with the purpose you obtained the information for.

**What do I need to take into account before passing data to another service:**

### **1. Do you have the consent of the data subject?**

*It is preferable that a data subject has consented to the sharing / secondary use of their personal data. Consider whether they have been informed of all the likely uses of their data and been given the opportunity to consent (or not) to these uses? Consent must be expressly given and cannot be implied.*

**Example 1:**

*The Council decides to collect consent up front in order to help customers receive any benefits and services they may be entitled to. Housing Benefit/Council Tax Benefit (HB/CTB) claim forms are designed to obtain consent for data to be used for purposes other than HB/CTB. The customer is asked to indicate on the form if they are content that information provided for HB/CTB can be used to determine eligibility for 'any other benefits and services to which I may be entitled.'*

*If the person ticks the box then their personal information can be shared solely for the basis of establishing whether there are any other benefits / services to which they are entitled. It cannot then be shared for any other purpose on the basis of the consent.*

**Example 2:**

*Staff in Housing are concerned about a tenant who has built up serious arrears of rent. They are considering court action to recover the debt but first want to check whether the tenant has applied for any benefits they may be entitled to.*

*Unless Housing obtain the customer's consent to seek information about his benefits, nothing can be done at all. With the customer's consent, the Housing team approach HB/CTB colleagues and ask for information. HB/CTB staff provide details about the tenant's HB claim, taken from records they hold locally.*

**2. If there is no consent - is it expressly stated (for instance within a fair processing notice) or within other documentation (such as a privacy notice) that their data may be used / shared for this secondary purpose?**

*The sharing of information across services for fraud prevention / collection of taxes / regulatory enforcement work is likely to be acceptable in the absence of consent, provided that the data subject is informed that this sharing / secondary use is something that may occur. The fair processing notices and privacy notices will need to detail this at the point of the personal data being collected.*

*Looking back to Example 2, Housing could still not rely on this basis to seek benefit information as it is not for the collection of taxes – the tenant's debt is a purely contractual debt (non-payment of rent under a tenancy agreement) and it would remain unacceptable for Housing to have access to the benefit information.*

**3. In the absence of consent or express confirmation that sharing may occur, would it be within the reasonable expectation of the data subject that their details will be used in this way?**

This will require a careful assessment as to whether or not the secondary use / sharing is compatible with the initial purpose and even when it could be viewed as being compatible

whether it is fair or not to do so. You should seek advice from the Data Protection Officer if you are seeking to share on this basis.

#### **4. Is special category of personal data included?**

It is important to remember that where special category of personal data is being processed it must always be on the basis of the consent of the data subject.

If you are looking to access the personal data held by another service or provide personal data you hold to another service, please complete the 'System Access Form' available on the Intranet and submit to the Data Protection Officer for approval.