



information
management & security



Gloucestershire County Council Disclosure of Personal Information to Third Parties Policy

1. Policy Statement

Gloucestershire County Council needs to collect and share personal information about its customers and staff in order to carry out its functions appropriately. The Council is committed to doing this in partnership with individuals, respecting their privacy wherever possible, unless there are exceptional circumstances when this is not feasible.

2. Purpose

This policy outlines the situations and circumstances when an individual's personal and/or sensitive personal information can be shared with third parties.

3. Scope

This document covers the disclosure to a third party of identifiable personal information concerning any customer of Gloucestershire County Council. If identifiable information has been removed, i.e. the data has been anonymised, then this policy need not apply.

This policy applies to all employees, elected members, partners, contractors, agents, representatives and temporary staff working for or on behalf of the Council.

This policy applies to all contact mediums and recording mechanisms associated with individuals' records.

This policy does not apply to requests for access to personal information made by an individual or by another person on their behalf. This is covered by the [Access to Personal Information \(Subject Access\) Policy](#) & [Supporting Procedures](#)

This policy does not apply to requests for access to a deceased person's records. This is covered by the [Access to Deceased Person's Records Policy](#).

4. Legal Context

[Data Protection Act 1998](#)

[Department of Health Data Protection Act 1998 – Guidance to Social Services, March 2000](#)

[Data Protection \(Processing of Sensitive Personal Data\) \(Elected Representatives\) Order 2002](#)

Information Commissioner's Office:

[Data Protection Technical Guidance Note – Disclosures to Members of Parliament carrying out Constituency casework](#)

[Subject Access Code of Practice](#)

[Data Protection Good Practice Note – Advice to local authorities on disclosing personal information to elected members](#)

[Releasing information to prevent or detect crime](#) (section 29)
[Data Protection Good Practice Note – How does the Data Protection Act apply to recording and retaining professional opinions?](#)

[Sharing Personal Information: Our Approach](#)

[Data Sharing Code of Practice](#)

5. Gathering Information and Gaining Consent to Share

When can we gather information

In order to respond appropriately to its customers, Gloucestershire County Council needs to gather personal information about the people it works with and/or provides support or services to. The Council will normally ask for consent to use personal information, however, there will be some situations where the law requires the use of information without consent.

In situations where there is concern regarding an individual's safety, information can be gathered from a variety of appropriate sources without first seeking the consent of the individual concerned.

For specific advice on gaining consent:

Children's Social Care teams should refer to the Gloucestershire [Children's Social Care Procedure Manual](#).

Integrated Adult care teams should refer to the integrated Clinical and Social Care Record Keeping policy developed for use by Gloucestershire County Council staff operating within integrated teams with Gloucestershire Care Services NHS Trust.

Adult Social Care teams should refer to Section 15 of the [Record Keeping Policy](#)

All other County Council teams should consider the ICOs' guidance <https://ico.org.uk/for-organisations/guide-to-data-protection/principle-1-fair-and-lawful/>

6. Sharing an individual's personal information with third parties

When information can be disclosed

- With the informed consent of the individual it refers to;
- When it is in the public interest and/or the best interest of the individual concerned e.g. concerns of suicide, self harm, actual or assessed risk of violence, health risks;
- When it is required by statute or court order;

- When it is for the prevention or detection of crime or the apprehension or prosecution of offenders;
- Where there are concerns about an individual's safety.

Methods of transferring personal and/or sensitive information can be found in the Council's [Information Handling Standards](#)

7 Restrictions surrounding sharing information obtained from non-professionals

Information from health staff, the police and other non-professional third parties, including friends, relatives and neighbours, forms an important part of the total information upon which decisions in individual cases have to be based.

However, a duty of confidence can arise when a member of staff is provided with information by a non-professional third party, in the expectation that the information will only be used or disclosed in accordance with their wishes. If there is a breach of confidence, the individual(s) affected may have the right to take action through the courts.

There are certain circumstances, however, where information may have to be shared without first seeking the third party's consent. These include:

- if there is concern about an individual's safety
- when the disclosure is required by law, e.g. the courts have made an order
- when there is an over-riding public interest
- to prevent or detect a crime
- to apprehend or prosecute an offender

8. Sharing an individual's personal information for the provision of social care

Service users must be given a copy of the leaflet '[Your Information – Implementing the National Social Care Record Guarantee](#)' which explains in more detail how their information will be used.

As part of the assessment process, staff should always seek consent from an individual or their parents or carer, if appropriate, to share their personal and /or sensitive information.

Below are the range of workers and others, to whom staff can disclose information in order to carry out social care functions; such disclosure will normally be with the individual's consent:

- Other County Council staff involved in the individual's care, including support services staff, where appropriate

- Students on placement and their supervisors
- Commissioned providers involved in the care of the individual
- Voluntary organisations, volunteers and carers involved in the care of the individual (volunteers should be aware of the need for confidentiality)
- Other Integrated Team members/NHS staff involved in the care of the individual

In practical terms, this means that information will be shared with other professionals who are involved in considering and responding to the health and social care needs of the individual.

9. Disclosure to Elected Members as members of the Council

Personal information can be disclosed to an elected member if they need to access and use that information to carry out official duties. Elected members are, effectively, in the same position as an employee. However, the following guidelines should always be considered:

- The elected member should only be given access to the personal information they need to carry out their duties
- When disclosing personal information to an elected member, you should specify the purposes for which that information may be used or disclosed e.g. to investigate a complaint
- Where the elected member is given a copy of the personal information (either in paper or electronic form), or where they have remote access to the information, they should be reminded of the necessary steps to be taken to keep the information secure.

10. Disclosure to Elected Members acting on behalf of residents in their council ward

If an elected member is representing an individual in their request for personal information from the authority or requires personal information to respond to an individual's complaint, it is not generally necessary to get additional consent from that individual. However, in cases where the personal information is particularly sensitive, it is advisable to get written consent from the individual before disclosing.

Whenever providing personal information to an elected member, it should be made clear that it is provided only to help the individual and must not be used for any other purpose.

Any requests for personal information from elected members should be recorded on the individual's record, as should the decision as to whether or not to provide the information, and the reasons why that decision was reached and by whom.

11. Disclosure to Members of Parliament (MPs)

Personal information can be disclosed to Members of Parliament who are carrying out constituency casework. If an individual has raised a matter with their MP, it can generally be assumed that they will expect the MP to contact relevant organisations on their behalf and obtain any personal information pertinent to their investigation.

However, there may be exceptional circumstances when an organisation responding to a MP is justified in contacting the constituent to inform them of intended disclosures. For example, if to provide an adequate response, it was necessary to disclose sensitive personal information outside the likely expectation of the individual concerned, and this was likely to cause genuine distress.

12. Disclosure to the Police

A request for information from the Police does not automatically mean that they should be given the information. The correct procedure needs to be followed in order for the information to be released.

Detailed guidelines on the Council's process for disclosing information to the Police under section 29 of the Data Protection Act can be found at:

https://staffnet.gloucestershire.gov.uk/media/2537/release_of_personal_information_to_the_police_2011-30641.doc

The Police may also request information from the Council under the 2013 Protocol and Good Practice Model: Disclosure of information in cases of alleged child abuse and linked criminal and care directions hearings. The Information Management Service is also the Single Point of Contact (SPOC) for managing these requests.

Any request for information received from the Police should be forwarded to the Information Management Service's SPOC Co-ordinator at foi@gloucestershire.gov.uk or 01452 32 4267.

13. Disclosure to Researchers

Personal information should not be disclosed to researchers without first seeking the consent of the individual(s) concerned and considering the privacy and ethical impact. However anonymised statistical data can be collected without additional consent.

14. Disclosure without consent to carry out statutory duties

There are situations where it is legitimate to share information without a person's knowledge or consent. This might be the case where failing to share information about a carer's lifestyle would put a vulnerable person at risk. There are also other circumstances where information should be shared despite a lack of consent, for

example, where the sharing is necessary to safeguard the public in an emergency situation. In many criminal justice contexts it is not feasible to get consent, because doing so may prejudice a particular investigation. However, you should always be open with individuals about the sorts of circumstances in which you may share information without their knowledge or consent.

Adults and young people who receive social care support should be given a copy of the leaflet [Your Information – Implementing the National Social Care Record Guarantee](#) which explains the circumstances and situations when their personal information may be shared without consent.

15. Disclosure without seeking the individual's consent

General guidance

Staff may disclose an individual's personal information in cases where there are concerns about risk and safety both to the individual and/or the public, and to prevent or detect serious crime. Details of these disclosures, who made the decision and the reasons behind it, should be recorded on the individual's record. Such disclosures may be made to:

- agencies, contributing to the care and treatment or supervision of the individual
- partner agencies and/or relevant agencies when an individual transfers from one area to another
- carers, family, partners if they are at risk, especially at immediate risk

Disclosure without consent – Safeguarding

Staff have to acknowledge that some individuals will make eccentric or unwise decisions, but are still deemed to have capacity to make decisions about how they live their lives ([see Mental Capacity Act 2005 Summary and Guidance for staff](#) for further information). However, in situations where such behaviour causes a risk of serious harm to the individual and/or others, staff may need to disclose information without consent, in line with the [Gloucestershire Safeguarding Adults Multi-Agency Policy and Procedures](#) and/or seek the advice of the Safeguarding Adults Team.

If a member of staff is concerned about the well being of a child or young person or feels they may be at risk of significant harm, they should follow the [Gloucestershire Child Protection procedures](#).

Disclosure without user consent - HIV and AIDS

- Individuals who are supported by the Council are not required to reveal their HIV status.

- If known, disclosure without consent is possible when there is a need to ensure proper care (individual health), or to prevent a serious risk to the health of others (public health). Such decisions will only be taken by the Commissioning Director: Adults, the Director of Public Health or the appropriate Caldicott Guardian, following legal and specialist medical advice.

Disclosure of criminal convictions without consent, to commissioned services or Shared Lives schemes

There is no legal obligation on the Council to disclose information about an individual's previous criminal history, even if it were known, unless the Council has knowledge that the individual might present a serious risk to others.

If the potential resident refuses to consent, the Council will need to consider whether this was reasonable. In some circumstances it will be necessary to inform the individual that their wishes are being overruled, and if they object it may not be possible to provide them with the agreed support.

The decision to take these actions should be made by the appropriate Manager, and recorded on the individual's electronic record. When a decision of this nature is reached, the Manager must also write to the individual in question advising them of the Council's actions.

Disclosure between agencies about potentially violent or abusive individuals

In situations where staff have concerns about an individual and their potential for violent or abusive behaviour, reference should be made to section.10.1 of the [Warning Flags Policy](#).

Document Control

Owner:	Heather Forbes, Head of Information Management & Archives
Author:	Kirsty Benzie, Information Manager (Strategic Policy) & Caldicott Angel
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V2-0	March 2015	Updated to include non social care work. Expanded section 12 on disclosures to the police.