

Appendix E

Information Sharing Guidance & Protocol– Community Support Service

Guidance

Data sharing agreements can take a variety of forms, depending on the scale and complexity of the data sharing in question. An agreement is a set of common rules binding on all the organisations involved in the data sharing.

Good practice and compliance with the Data Protection Act 1998 expects data sharing agreements to address the following as a minimum:

Purpose of the data sharing: The agreement should explain why data sharing is necessary and detail any specific aims or benefits of sharing the information. To ensure that all parties are clear as to the purpose for which data may be shared and used, this needs to be documented as fully as possible.

The organisations involved in the data sharing: All organisations involved in data sharing for the purpose need to be clearly identified and contact details of key members of staff documented. If additional organisations are to be involved in any part of data sharing, they also need including in the agreement. If appropriate, any organisations which need to be excluded from any sharing arrangements need to be detailed.

Data items to be shared: The types of data the Council intends sharing with the organisations stated above need to be explained and detailed. As much information needs to be documented as in some cases it will be appropriate to share certain details held in a file although more sensitive data would not be shared under any circumstances.

Basis for sharing: The basis for sharing the data needs to be clearly detailed. As a local authority, there are some legal duties to share certain types of personal data such as the Data Protection Act and some Children's legislation. Even if there isn't a legal requirement to share data, there will usually be a legal power allowing for the sharing of data. A principle of the Data Protection Act requires personal data to be 'fairly and lawfully processed' and should only be shared where a Schedule 2 condition is met and when information is sensitive, a Schedule 3 condition must be met. There is additional guidance specific to the Data Protection Act at Appendix A. Throughout the Council, there is a variety of legislation which is relevant and ranges from the Children's Act 2004 to the Crime and Disorder Act 1998. If you require any further information on any of these acts, please contact legal services.

Access and individuals' rights: The Data Protection Act provides the right for individuals to access and receive copies of the records held about them. The agreement should address how shared information would be accessed upon request and by whom with an overview of the sort of data normally released under the Data Protection Act or the Freedom of Information Act.

Information governance: There are a number of practical problems which can potentially arise when sharing personal information. By expanding on these key areas all parties to the agreement should have a better understanding of governance issues.

- Detail which 'datasets' may be shared to prevent irrelevant or excessive information being disclosed
- Make sure the data being shared is accurate and is subject to regular review

- Where appropriate, all parties are using compatible datasets and are recording data in the same way.
- Have common rules for the retention and deletion of shared data and ensure data which is subject to different statutory or professional retention/deletion rules are identified.
- Have common technical and organisational security arrangements, including the transmission of data and procedures for dealing with any breach of the agreement.

Data Sharing Protocol for Community Support Services

This data sharing agreement is between Bracknell Forest Council and **[insert name(s) of third party]** with effect from **[insert date]**.

Purpose and basis for sharing:

The aim of this agreement is to facilitate the lawful exchange of personal data and sensitive personal data as defined within the Data Protection Act 1998 (the DPA), within and between the organisations listed in the agreement for notified and defined purposes. The Parties acknowledge that there is a need to share information with each other in order to ensure that services are delivered effectively. The purposes are:

- *To enable the Organisation to provide the service commissioned by the Council*
- *To ensure that the Service is provided in accordance with the Contract and Specification*
- *To ensure that all parties are able to meet their individual responsibilities in line with relevant legislation and the Contract and the Specification*
- *To ensure that concerns are reported to the other party in accordance with the Contract and the Specification*
- *To ensure the smooth exchange of information necessary to support the Service in accordance with the Contract and the Specification*

The overarching purpose and basis for sharing information is to enable the Organisation to provide a Community Support Service.

The relevant legislation is:

- Data Protection Act 1998
- Crime and Disorder Act 2000
- Children's Act 2004

Organisations:

The Council Key Contacts

All addresses are *Bracknell Forest Council, Time Square, Market Street, Bracknell, Berks, RG12 1JD*

Name/Team	Telephone Number	Email

The Organisations Key Contacts [to be completed by Provider after contract award]

Name/Team	Telephone Number	Email

Each party shall inform the other party of changes to this information in writing as soon as practicably possible.

Information to be shared:

The information shared will be the minimum amount necessary, it will be relevant and only used for the purposes of this agreement. This is necessary to ensure compliance with the second and third principles of the Data Protection Act.

- Principle 2 "Personal data shall be obtained only for one or more specified and lawful purposes; and shall not be further processed in any manner incompatible with that purpose or those purposes.
- Principle 3 "Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

It is anticipated that personal data and sensitive personal data will be shared at meetings, by telephone or by written communication e.g. letter or email. The parties hereby agree:-

- *Information will be stored securely whether in written or electronic form*
- *Information shared electronically will be transmitted securely to the relevant named contact. Fax machines will not be used for the transmission of sensitive information unless additional security controls are in place and approved by the Council, where no other method of transmission is available*
- *Data will be anonymised wherever possible*
- *Information sent by post will be marked 'Private and Confidential', and marked for the attention of the named contact*
- *Any personal data or sensitive personal data to be disposed of will be shredded or otherwise securely deleted.*

The type of information to be shared consists of:

- *Name of Individual*
- *Address*
- *Telephone number*
- *Gender*
- *Marital status*
- *Ethnicity*
- *Next of kin/family/other involved parties*
- *Well being plan*
- *Medical details*
- *Details of risk e.g. manual handling*
- *Incidents & accidents*
- *Safeguarding concerns*
- *Complaints*

The data to be shared under this agreement will be both personal and sensitive; any sensitive information cannot be shared without the data subject's explicit consent (unless other legislation takes precedence).

The parties shall ensure that access to personal data and sensitive personal data is limited to those employees who need access to it to meet the parties' obligations under this Agreement, and in the case of any employee, such parts as is strictly necessary for performance of that employee's duties. The parties shall ensure that all employees are informed of the confidential nature of the information, have undertaken training in the law relating to handling such information and are aware both of the parties' duties and their personal duties and obligations under the law and this Agreement. The parties shall take

reasonable steps to ensure the reliability of any of the parties' employees who have access to the information.

General: The data to be shared will be reviewed by all parties to ensure it is up to date and accurate.

Each party will make sure they take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

All complaints and breaches must be reported to Jillian Hunt as soon as detected/identified/raised.

Signatures

I agree to abide by the terms and conditions above.

[Parties including full name and date]

On behalf of the Council:-

Name:

Position:

Signature:

Date:

On behalf of the Organisation:-

Name:

Position:

Signature:

Date:

Appendix A

Data Protection Act 1998

This Act deals with the processing of personal (i.e. sensitive and non-sensitive) data. Personal data is data which relates to a living person, including the expression of any opinion or any indication about the intentions in respect of the child or young person is considered personal data. Sensitive personal data is personal data relating to racial or ethnic origin, religious or other similar beliefs, physical or mental health or condition, sexual life, political opinions, membership of a trade union, the commission or alleged commission of any offence, any proceedings for any offence committed or alleged to have been committed, the disposal of proceedings or the sentence of any court in proceedings.

Organisations which process personal data must comply with the data protection principles set out in schedule 1 of the Act. These require data to be:

- fairly and lawfully processed;
- able to meet a schedule 2 condition, and if sensitive personal data, a schedule 3 condition;
- processed for limited specified purposes;
- adequate, relevant and not excessive for those purposes;
- accurate and up to date;
- kept for no longer than necessary;
- processed in accordance with individuals' rights;
- kept secure;
- not transferred to non-EEA (European Economic Areas) without adequate protection.

The Data Protection Act only stipulates that records should be kept no longer than is necessary for the purposes for which the records are being processed and no actual timescales are imposed. It is a matter for individual judgement, taking account of the nature and purpose of the records.

If the information enables a person to be identified, then a **Schedule 2** condition should be met. These are:

- subject has given consent to share information;
- sharing information is necessary to protect the person's vital interests; or
- to comply with a Court Order; or
- to fulfil a legal duty; or
- to perform a statutory function; or
- to perform a public function in the public interest; or
- sharing is necessary for the legitimate interests of the data controller, or of the third party or parties to whom the data is disclosed, unless the rights or interests of the data subject preclude sharing.

When information is sensitive then a **schedule 3** condition must be met. These are:

- individual has given explicit consent to share information
- sharing information is necessary to establish, exercise or defend legal rights; or
- is necessary for the purpose of, or in connection with any legal proceedings; or
- to protect someone's vital interests and the person to whom the information relates cannot consent, is unreasonably withholding consent, or consent cannot reasonably be obtained; or
- to perform a statutory function; or
- it is in the substantial public interest and necessary to prevent or detect a crime and consent would prejudice that purpose; or

- processing is necessary for medical purposes and is undertaken by a health professional.