

# **Report for Full Council**

## **27 July 2018**

### **Dorset Information Sharing Charter**

#### **For Decision**

#### **Portfolio Holder(s)**

Cllr Piers Brown – Access & Customer Services

#### **Senior Leadership Team Contact:**

J Vaughan, Strategic Director

#### **Report Author:**

J Fisher, Information Services Team Leader

#### **Statutory Authority**

Data Protection Act 1998

s111 Local Government Act 1972

#### **Purpose of Report**

- 1 To enable Members to decide whether NDDC should become a signatory to the Dorset Information Sharing Charter.
- 2 On 17 May 2018 NDDC Cabinet resolved:
  - a) To delegate authority to the Strategic Director to commit NDDC to the Dorset Information Sharing Charter (“the DISC”) and execute all documents on behalf of the Council necessary to achieve this;
  - b) To recommend to Full Council that power is delegated to the Head of Business Improvement to undertake all action in relation to securing arrangements, developing internal protocols and generally ensuring appropriate governance for the sharing of data with other organisations including for the avoidance of doubt:

#### **Recommendations**

- 3 That power is delegated to the Head of Business Improvement to undertake all action in relation to securing arrangements, developing internal protocols and generally ensuring appropriate governance for the sharing of data with other organisations including for the avoidance of doubt:
  - a) to determine the terms of any such arrangements and/or protocols; and
  - b) to secure appropriate training.

## **Reason for Decision**

- 4 The recommendation to Full Council is necessary to enable the Head of Business Improvement to take all operational decisions in relation to the management of the DISC.

## **Background and Reason Decision Needed**

- 5 In 2008 the Council signed up to the Dorset Overarching Information Sharing Protocol. This has been replaced and updated by the DISC.
- 6 The DISC was initially set up for the sharing of information between care services. Today, a total of 78 organisations across Dorset are signed up to it. This includes blue light groups (Dorset Police, Dorset and Wilshire Fire and the South West Ambulance Service Trust), health organisations (including NHS Dorset Clinical Commissioning Group), and local authorities (Dorset County Council, Bournemouth Borough Council, Christchurch Borough Council and East Dorset District Council). Many other types of organisation, including housing associations and schools are also using the DISC as their primary framework for sharing information in Dorset.

### **Why would we share information?**

- 7 There are broadly 2 scenarios in which the Council shares information with third parties. The first scenario is where a third party processes personal data on behalf of the Council. For example, companies who provide services to the Council will often necessarily be required to process personal data. Other examples could include any third party providing the Council with software, storage or computing infrastructure as a service.
- 8 The second scenario in which the Council might share data with a third party is where various legislation requires integrated working with other agencies with the aim of joining-up services such as health, housing and social care. Under the Children's Act and Care Act the Council has a statutory duty to cooperate with relevant partners to improve the wellbeing of children and adults. This kind of legislation requires professionals within local authorities to make judgements about the need to share information, and whether it is appropriate to seek consent. Such decisions still have to comply with data protection law and the data being shared must be protected.

### **How does the new General Data Protection Regulation affect the sharing of data?**

- 9 The DISC must operate within the constraints of the new General Data Protection Regulation (GDPR) and in any event, all signatories to the DISC are required to comply with the GDPR in their own right. The GDPR requires the Council to comply with the regulation's 6 principles when doing virtually anything with personal data. These principles are set out in Article 5 of the GDPR and all are relevant to the sharing of information; but principles 1, 2 and 6 are particularly pertinent. These state:

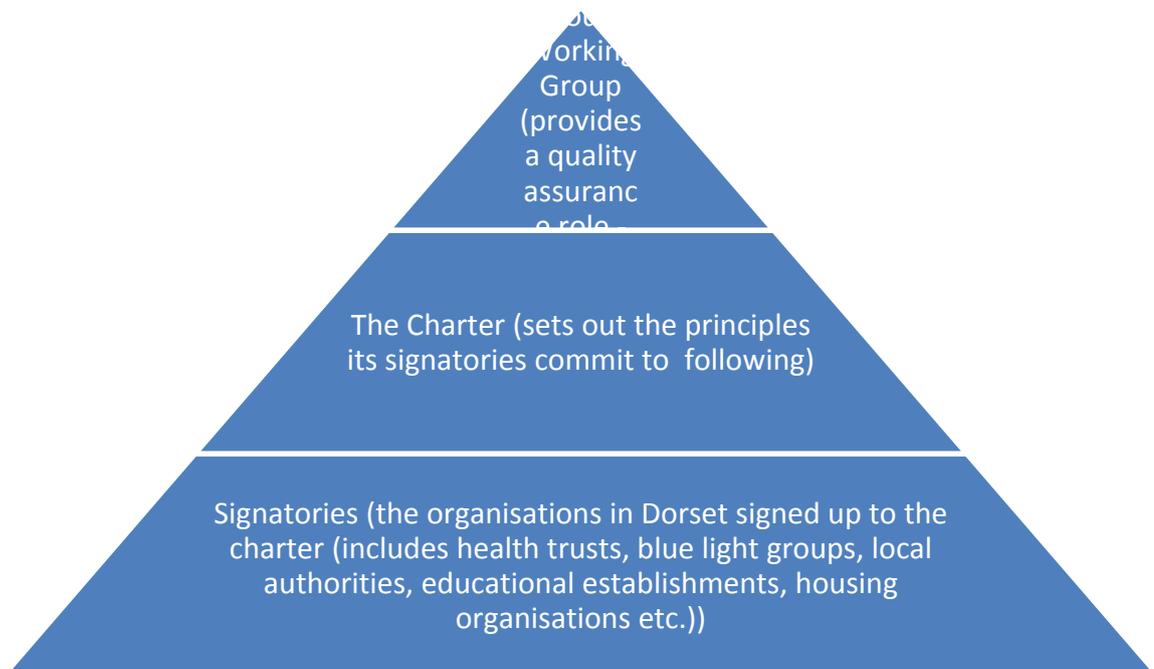
- Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject;
- Personal data shall be collected only for specified, explicit and legitimate purposes, and not further processed in a manner that is incompatible with those purposes;
- Personal data shall be processed in a manner that ensures appropriate security of the personal data...

10 To comply with these principles, the Council must only share data where it has a legal basis to do so. The GDPR provides 6 kinds of lawfulness conditions, including: 1) consent, 2) contractual, 3) legal obligation, 4) protecting vital interests, 5) public interest or exercise of official authority and 6) legitimate interest. These conditions all have detailed rules limiting their applicability. For sensitive personal data (such as health information), the GDPR requires 1 of 10 additional lawfulness conditions to be met.

11 In order to ensure personal data is processed fairly and only collected for specified and legitimate purposes, the GDPR requires fair processing notices to be readily available to customers at the point of data collection. This notice must include the legal basis for processing, how the information will be used and whether and with whom the data might be shared.

**How does the DISC work and what safeguards does it put in place to protect residents' data and prevent inappropriate sharing?**

12 The structure of the DISC is shown below:



13 The DISC helps to safeguard residents' data by requiring signatories to have in place Personal Information Sharing Agreements (PISAs) before they can share data with each other. These agreements must be quality assured by the Pan Dorset Information Governance Group set up under

the charter. For example, if a proposed PISA did not identify an appropriate legal basis on which personal information could be shared, the external scrutiny provided by the Pan Dorset group could prevent such data sharing from going ahead.

- 14 Although the GDPR requires the Council to have in place contracts with its “processors” (scenario 1 above), there is not an equivalent requirement to have a contract in place when sharing information with “controllers” (scenario 2 above). The DISC therefore goes further than the GDPR by requiring us to have PISAs in place irrespective of whether we are sharing information with a controller or a processor.
- 15 Finally, the PISAs help to safeguard resident’s data by ensuring compliance with the Council’s obligation to keep personal data secure. The PISA would provide appropriate technical procedures that ensure the security of information is not compromised by being shared.
- 16 The principles of the DISC are to:
  - a) Identify the lawful basis for information sharing;
  - b) Provide the framework for security of information and the legal requirements associated with information sharing;
  - c) Address the need to develop and manage the use of Personal Information Sharing Agreements (PISAs);
  - d) Encourage flows of personal data and develop good practice across integrated teams;
  - e) Provide the basis for Pan Dorset processes which will monitor and review data flows and information sharing between partner services;
  - f) Protect partner organisations from unlawful use of personal data; and
  - g) Reduce the need for individuals to repeat their story when receiving an integrated service.
- 17 Signing up to the DISC would provide the Council with additional resources and training to help staff comply with best practice under the GDPR.
- 18 The DISC is currently being reviewed in light of the new EU General Data Protection Regulation coming into force on 25 May 2018. It is not anticipated that organisations will have to re-sign the charter following these revisions.
- 19 **What is the Council doing to ensure compliance with the GDPR?**
  - Comprehensive view of what information is held across the partnership (Information Asset register).
  - Detailed view of where personal data is processed in every service including the lawful basis that applies. Note, the majority of personal data processing within the partnership is NOT based on consent, however, there are exceptional circumstances e.g., where we may have a mailing list for communicating with residents about local services or carrying out surveys. Other examples which require consent include activities within the Leisure and Tourism. These

have all been noted on the Information Asset Register and we are currently working to put consent mechanisms in place where necessary.

- Formalised information asset management roles (Information Asset Owners and Information Asset Administrators are in place for each service area). These are people responsible for data held within their services.
- A formal Information Governance framework has been implemented across the partnership.
- A streamlined data retention policy across all 3 Council's is in place.
- A Breach Management procedure and related Breach Policy is in place.
- Streamlined process for handling individual rights under GDPR with public facing forms on D4U are being introduced.
- DPO post resourced.
- Face-to-face Data Protection Training and awareness sessions for employees who handle personal data including SLT, CLT, Members has been provided.
- Additional online interactive training covering both GDPR and Cyber Security is mandatory for all staff.
- SWAP GDPR Audit results expected in the next few weeks

20 We are now focusing on:

- Drafting and updating the Council's Privacy Policies and Privacy Notices.
- Putting in place consent mechanisms (for consent based processing).
- Reviewing contracts and sharing agreements to ensure ongoing GDPR compliance beyond 25 May.

## **Implications**

### **Corporate Plan**

21 Signing up to the DISC would support the corporate priority to develop successful partnerships.

### **Risk Management (including Health & Safety)**

22 It is believed that by working with partner organisations using the DISC framework, taking full advantage of the assurance and advice provided through the Pan Dorset Information Governance Group and using the resources and training available to signatories of the DISC, NDDC will be able to more effectively mitigate the risk of failing to comply with the GDPR.

## **Consultation and Engagement**

23 Consultation has been undertaken with Legal Services and Cllr Piers Brown, portfolio holder for Access & Customer Services.

## **Appendices**

24 Appendix 1: Dorset Information Sharing Charter

### **Footnote**

Issues relating to financial, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

**Report Author:** James Fisher

**Telephone:** 01305 838125

**Email:** JFisher@dorset.gov.uk

**Date:** 10 May 2018