

# **Management Committee**

## **5 June 2018**

### **Dorset Information Sharing Charter**

#### **For Decision And Recommendation To Council**

#### **Brief Holder(s)**

Corporate Affairs and Continuous Improvement

#### **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 WPBC should become a signatory to the Dorset Information Sharing Charter.

#### **Recommendations**

- 2 That members delegate authority to the Strategic Director to commit WPBC to the Dorset Information Sharing Charter ("the DISC") and execute all documents on behalf of the Council necessary to achieve this;
- 3 That members 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:
  - a) to determine the terms of any such arrangements and/or protocols; and
  - b) to secure appropriate training.

#### **Reason for Decision**

- 4 By adopting the DISC, service areas will be provided with a robust framework that facilitates the safe, fair and legal sharing of information with partner organisations. In addition, 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;

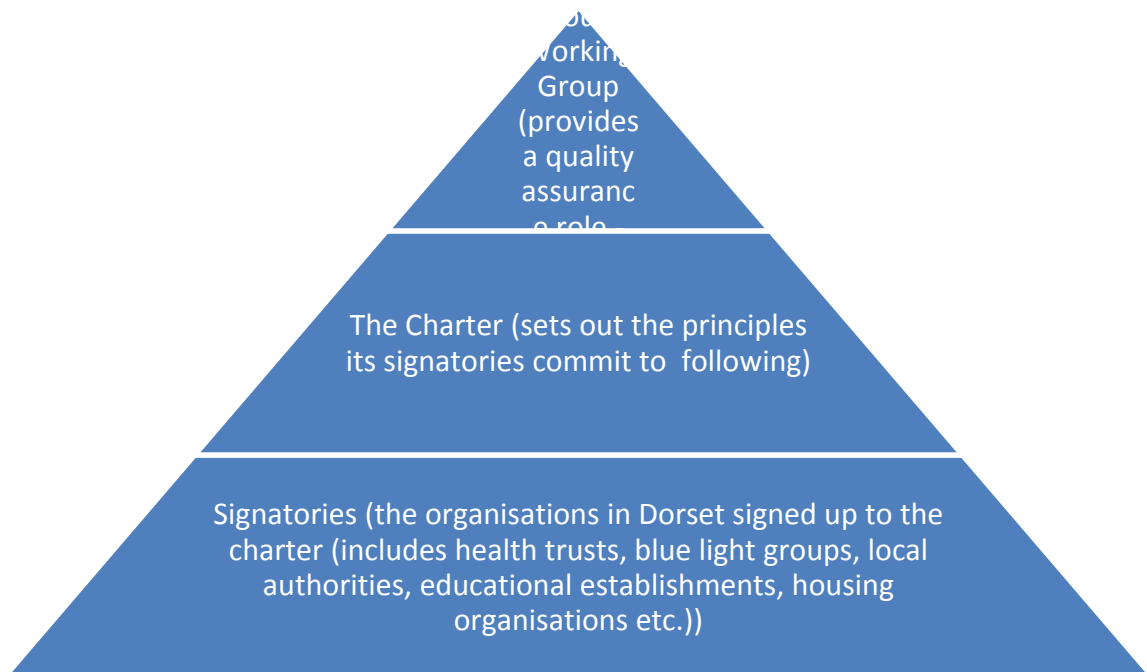
- Personal data shall be processed in a manner that ensures appropriate security of the personal data...

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 may 25.

## **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, WPBC 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 Alison Reed, brief holder for Corporate Affairs and Continuous Improvement.

## **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.

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**Date:** 10 May 2018

## Appendix 1



# DiSC

Dorset Information Sharing Charter

**By sharing information  
we work better together**

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## **1. Introduction**

- 1.1 This charter aims to provide Dorset partner agencies with a robust foundation for the lawful, secure and confidential sharing of personal information between themselves and other public, private or voluntary sector organisations that they work, or wish to work in partnership with. It will enable all partner organisations to meet their statutory obligations and share information safely to enable integrated service provision across the county and better care outcomes for its residents.

## **2. Charter Principles**

- 2.1 The principles of this charter 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
  - (g) reduce the need for individuals to repeat their story when receiving an integrated service.

## **3. Scope**

- 3.1 This charter considers the foundation for all personal information processed by partner organisations that is shared as a result of partnership and integrated working in order to provide a more seamless service to the individual.
- 3.2 This charter regards all identifiable personal information relating to an individual as confidential that should only be shared if there is a legitimate purpose, statutory obligation or lawful basis and is covered by associated procedures and/or agreements to this document between partners and/or specific services within that provide services to the public.
- 3.3 In line with the Data Protection Act 1998 (DPA), the term 'personal information' and 'data' refers to any information held as either manual or electronic records including that which is held virtually, on the internet and within social medium, or records held by means of audio and/or visual technology, about an individual who can be personally identified from that information.
- 3.4 This charter defines processing and sharing of information as collecting, obtaining, recording, organising, discussing, holding, retrieving, altering, destroying or disclosing data which can be transferred verbally, in writing or through electronic medium including images and photographs.

- 3.5 The DPA further defines certain classes of personal information as 'sensitive data', for which additional conditions must be met to ensure the information is used and disclosed lawfully. All partners under this charter are expected to treat sensitive data in line with conditions set out by the DPA 1998.
- 3.6 This charter applies to all persons within the partner agencies who manage, share and/or use information as part of established partnership working arrangements and integrated teams or services. It also applies to anyone working in a voluntary or contracted capacity within those arrangements.

#### **4 Partner Commitment**

4.1 By becoming a partner to this charter, all organisations are making a commitment to:

- (a) accept the principles of this charter as the foundation for sharing information with each other and promote awareness to all staff
- (b) share information in line with legislation and associated information sharing agreements where the purpose and necessity to share information has been agreed by all parties
- (c) ensure the sharing of information is agreed as proportionate to meet the purpose
- (d) ensure all persons working with personal information on behalf of their organisation do so in line with the principles of this charter
- (e) delegate authority to a nominated lead for their organisation who will act on their behalf for decision making
- (f) provide a nominated lead to assist the governance of this charter and associated information sharing agreements where required or link with a like-minded partner
- (g) support on going participation for better information sharing in accordance with the governance protocol. Ensure groups are properly represented and representatives are supported with decision making
- (h) support the production of shared guidelines and literature associated with information sharing for both staff and the public
- (i) support the development and provision of joint cross agency training where appropriate
- (j) ensure all staff receive the appropriate training and support to be able to share information safely and legally as part of their normal duties
- (k) ensure that all staff sharing information under this charter possess the appropriate knowledge and authority and are aware of the legislative and lawful basis requirements.
- (l) develop and agree PISAs detailing the data sharing arrangements for specific, individual information sharing initiatives between partner organisations

- (m) ensure their DPA notification to Information Commissioner covers the arrangements established under this charter and any associated PISAs
- (n) follow the key Caldicott and/or Data Protection principles
- (o) understand that the sharing of information under this charter without lawful justification or consent places them at risk of prosecution
- (p) ensure appropriate organisational policies and procedures are in place to cover the security, storage, retention and destruction of personal information under this charter. Safe Haven procedures will apply where appropriate.

4.3 It is understood that signatories to this charter are committing their entire organisation to fully support the principles and carry out their commitments to the full. Any organisation, that for whatever reason is unable to continue their commitments, will be removed as a partner and signatory to this charter. Only partner signatories to this charter will be able to benefit from any integrated agreements, joint development, support and universal resources available.

## **5 Governance**

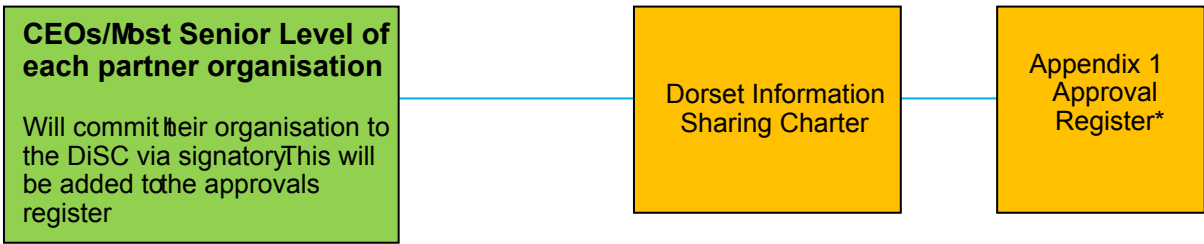
5.1 A governance framework will be put in place to manage this charter and monitor associated procedures and PISAs on behalf of all partners.

5.2 The framework will cover:

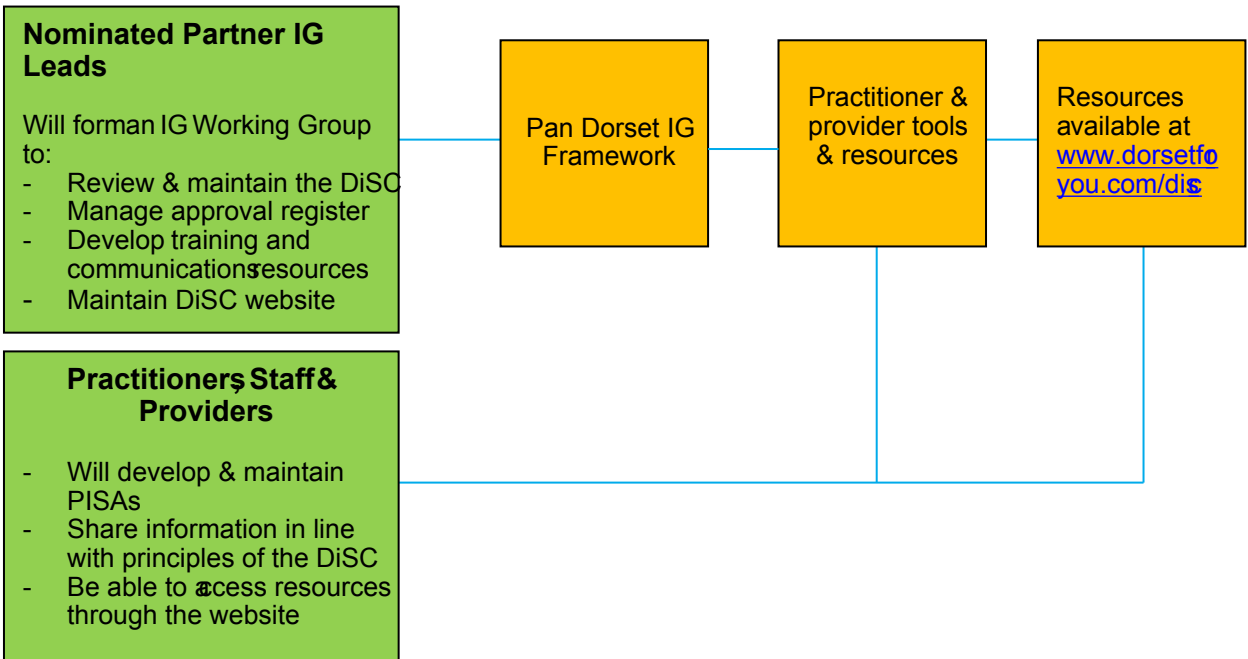
- Review and monitoring of the overarching charter and PISAs
- Approval of information sharing procedures and protocols associated to the charter
- Production of shared guidance and literature
- Privacy Impact Assessments
- Principles of good practice for information sharing
- Management of appropriate registers and logs, e.g. data breaches
- Structure and Terms of Reference for nominated lead persons
- Information sharing complaints

A two-tier structure is proposed and explained below:

## Tier 1 – Strategic level



## Tier 2 – Operational level



5.3 By approving the charter, Tier 1 members grant delegated authority to their nominated leads to act on their behalf for management of this charter and all associated operational documents.

5.4 Tier 2 is the operational level, where the day to day information sharing decision making and IG support to organisations will operate on behalf of Tier 1 by delegated authority. The governance structure will also provide an overarching assurance role on behalf of all partners to the charter.

## 6 The Lawful basis and Legal Requirements

6.1 Principle legislation and guidance governing the protection and use of personal information is:

- a. Data Protection Act 1998
- b. Human Rights Act 1998 (article 8)
- c. The Common Law Duty of Confidentiality
- d. Caldicott Principles

All partners commit to respect the rights of individuals in line with legislation and the principles of this charter.

## **7 Personal Information Sharing Agreements (PISAs)**

- 7.1 PISAs will be required by any partners that have a need to share specific personal data between their services in order to improve the customer journey and continuity of care. They are intended to define the procedural requirements to share agreed information in accordance with the principles of this charter.
- 7.2 PISAs need to be agreed between participating partners and their nominated lead person. These need to be shared with the Pan Dorset IG Group who will provide an assurance role on behalf of all partners to the charter.
- 7.3 Existing PISAs prior to partner agreement of this charter will remain valid until their review date where they must be updated in line with this charter and approved through the agreed governance procedure. However, for good practice and to maintain a consistent approach existing PISAs should ideally be reviewed and updated in line with this charter at the earliest opportunity.
- 7.4 The governance procedures associated to this charter will define agreed processes for the management and monitoring of all PISAs on behalf of partners. However, it will be the responsibility of nominated lead persons to undertake the review and updating of their respective PISAs.

## **8 Review of the Charter**

- 8.1 It is intended that the overarching charter contains high level principles and partner commitments only. It will be reviewed every 5 years by the governance group.

Partners and signatories to the charter will be expected to sign up for the remaining term of the charter at the point of signing.

Subject to there being no significant changes, the charter may be extended by a further 5 years without seeking further approval or new signatures. However, any significant changes will require the full approval process and re-launch.

The planned review dates are April 2020 and April 2025.

- 8.2 In addition and as part of their assurance role, the governance group will undertake annual 'light touch' reviews to ensure the charter is up to date and accounts for any changes in government legislation and requirements. These reviews will not require further partner approval unless the principles of the charter and partner commitments are significantly affected.

\*Appendix 1 – Signatories to the DISC is not provided in this report but may be viewed here: [https://www.dorsetforyou.gov.uk/media/222016/DISC-signatories/doc/DISC\\_signatories.xlsx](https://www.dorsetforyou.gov.uk/media/222016/DISC-signatories/doc/DISC_signatories.xlsx)