

## **MODEL Data Protection Policy**

### **Policy Statement**

Devon County Council is committed to protect the rights of individuals with regard to the processing of personal data. It has established the following policy to support this commitment.

Devon County Council undertakes to apply this policy to all Devon County Council employees, contractors, agents or anyone else processing information on behalf of Devon County Council.

The day to day management of such matters rests with the Information Compliance Team.

### **Information Compliance Team**

The Information Compliance Team is situated within Information Management in Chief Executives and will:

- ensure that guidance is available on all matters relating to the Data Protection Act
- ensure the Information Commissioner is notified of the processing of personal data
- deal with matters relating to Subject Access

Individuals should be aware that a breach of this policy could lead to disciplinary action being taken, which may result in dismissal.

### **Introduction**

The Data Protection Act 1998 (the Act) provides safeguards for handling personal information about living and identifiable individuals and is based upon 8 principles of 'good information handling'.

Devon County Council has a legal obligation to comply with the Act and does so by applying the 8 Principles of good information handling to the personal data it collects, stores, uses, discloses and destroys. The eight principles are as follows:

Personal data must be:

- 1.** processed fairly and lawfully
- 2.** processed for specified and lawful purposes
- 3.** adequate, relevant and not excessive
- 4.** accurate, and where necessary kept up to date
- 5.** not kept longer than is necessary

- 6.** processed in accordance with the rights of the data subject
- 7.** kept secure
- 8.** transferred only to countries with adequate security

## **Access to and use of personal information**

Access and use of personal information by Council employees, contractors and agents must only be in the course of their official duties. Use for any other purpose is prohibited.

Deliberate unauthorised access to, copying, destruction or alteration of or interference with any computer equipment or data is strictly forbidden and may constitute a criminal and/or a disciplinary offence.

It is an offence under Section 55(1) of the Data Protection Act for any person to knowingly or recklessly, obtain or disclose personal information, without the permission of the data controller (Devon County Council) subject to certain exceptions.

It is also an offence for someone to sell or offer to sell personal information which has been obtained in contravention of Section 55(1). Full details of this offence can be found under Section 55 of the Data Protection Act 1998.

## **Security**

Access to any working area or IT equipment must be restricted to employees, contractors and agents in the course of their official duties. Identification badges must be worn at all times and individuals found not wearing an identification badge should be challenged. Any visitors entering a work area or using Council IT equipment must be accompanied at all times.

A clear desk policy should be adopted in order to reduce any potential unauthorised access to paper records containing personal information.

All IT equipment is password protected in order to keep Council data secure. IT users have to create their own password in order to log onto IT equipment. This password needs to be difficult for others to guess so family/pets names should be avoided. Passwords should contain a combination of upper and lower case letters and numerals which should be changed regularly.

Passwords must not be written down or disclosed to anyone else.

## **Disclosure of Information**

Personal information held by Devon County Council must not be disclosed to anyone internally or externally, unless the person disclosing the information is fully satisfied that the enquirer or recipient is authorised in all respects and is legally entitled to the information. Verification should be sought from the Information Compliance Team when this is not clear. If possible, ask the enquirer to put their request in writing and send it to the relevant department stating their reasons and legal entitlement to the information. If an Information Sharing Protocol exists, this should be adhered to.

In response to any lawful request, only the minimum amount of personal information should be disclosed and where possible, personal data should be anonymised by removing any information which would identify the person. The disclosing officer should ensure that the information disclosed is adequate for the purpose of the disclosure, relevant and not excessive.

In the case of doubt concerning the disclosure of *personal* information, advice can be sought from the Information Compliance Team.

## **Exemption from the Non-Disclosure Provisions**

There may be occasions when we need to disclose information about someone which will usually be in breach of the Data Protection Act 1998. For example, if we wanted to disclose information knowing that the disclosure would be likely to cause that person damage or distress (this is one of

the non-disclosure provisions). The Data Protection Act contains exemptions which allow us to override a non-disclosure provision in certain circumstances, if the disclosure is in the public interest. For example, when the disclosure is necessary for the prevention or detection of crime or the apprehension or prosecution of offenders and where failure to disclose the information would be likely to prejudice an investigation.

We can also disclose information about someone if the information is urgently needed to protect the vital interests of a person (i.e. matters of life and death or for the prevention of serious harm to an individual).

The decision to use an exemption from the non-disclosure provisions must be made on a case by case basis. Advice can be sought from the Information Compliance Team in such matters.

### **Right of Access to Personal Information**

Section 7 of the Data Protection Act provides all individuals with the right to be told whether their information is being processed by an organisation and if so, to receive a copy of that information upon request (subject to certain exemptions). This is called the 'Subject Access' right.

Devon County Council is not obliged to supply any personal information requested, unless the request is in writing, adequate identification of the enquirer has been provided and sufficient information has been given to trace the data. Individuals wishing to apply for a copy of their personal information held by Devon County Council should complete the Subject Access application form which is available online.

All Subject Access requests should be forwarded to the Information Compliance Team, Coaver Offices, County Hall EX2 4QX or to the relevant Directorate's Data Protection Liaison Officer. Contact details can be found on the Data Protection Intranet page on-line.

### **Accuracy of Data**

It is the responsibility of those who receive personal information to ensure, so far as possible, that it is accurate, valid and up to date. Individuals who input or update information must also ensure that it is adequate, relevant, unambiguous and professionally worded. Matters of opinion (not fact) must be clearly recorded as such.

Staff should be aware that any information which they record about someone, whether in a handwritten note, in an email or a formal document, may be disclosed to that person upon request. If an operator is aware that the information recorded is inaccurate, they must take steps to rectify it.

### **Review and Destruction of Data**

Principle five of the Data Protection Act states that "personal data shall not be kept for longer than is necessary".

Any personal data held must be reviewed at frequent intervals to ensure that it is accurate, up to date and still relevant. If the personal data held is no longer needed and there is no legal or other reason for holding the information, it should be destroyed. Further information about record retention can be found in Devon County Council's Record Retention Policy, which is available on-line.

### **Contact Us**

If you have any queries about this policy or any of the matters raised, contact the Information Compliance Team on **Telephone:** (01392) 384678 or **E-mail:** [dpoffice@devon.gov.uk](mailto:dpoffice@devon.gov.uk)

