



## **Data Protection Good Practice Note**

### **Advice to local authorities on disclosing personal information to elected members**

This good practice note aims to advise local authorities on what they need to consider when deciding whether to disclose personal information to elected members of a council. Elected members can find guidance specifically for them on our website ([www.ico.gov.uk](http://www.ico.gov.uk)).

The Data Protection Act 1998 (the Act) regulates the holding and processing of personal information that relates to living individuals and which is held on computer or, in some cases, on paper.

#### **Notification**

Local authorities are likely to need to notify their processing to the Commissioner. Before disclosing personal information to elected members for any purpose, they must make sure they describe this on their notification.

If local authorities use the standard notification templates (which have been prepared to simplify the notification process), each of the standard purposes in the template includes possible disclosures of personal information to elected members. If local authorities devise their own notification entry, they should check that for every relevant purpose they include elected members as a category of people who receive personal information from them.

#### **The role of the elected member**

The elected members of a council are likely to have three different roles.

- They will represent residents of their ward, for example, in dealing with complaints.
- They will act as a member of the council, for example, as a member of a committee.
- They may represent a political party, particularly at election time.

Depending on the role the elected member has at any one time, the local authority may be able to disclose personal information to them. In doing so, it will often be necessary to explicitly restrict the use of any personal information provided for specific purposes.

## **Disclosures to the elected member as a member of the council**

Local authorities can disclose personal information 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.

The local authority should consider the following.

- The elected member should only be given access to the personal information they need to carry out their duties.

A member of the Housing Committee may attend a meeting to decide whether or not to seek the eviction of a council tenant. The local authority may provide them all the relevant personal information about the tenant and the circumstances giving rise to the possible eviction. However, the local authority would not be justified in providing the elected member with general access to the Housing Department system.

- When disclosing personal information to the elected member, the local authority should specify the purposes for which that information may be used or disclosed. This may be done on a case-by-case basis or through developing more general procedures and guidelines.
- Where the elected member is able to take a copy of the personal information away from local authority premises (whether in paper or electronic form), or where they have remote access to the information, the local authority should specify the steps to be taken to keep the information secure. For example, they may lay down rules about how personal information on a laptop or on paper should be stored securely and who can have access to it.

## **Disclosures to elected members acting on behalf of local residents**

A local authority does not generally have to get the consent of an individual to disclose their personal information to an elected member, as long as:

- the elected member represents the ward in which the individual lives;
- the elected member makes it clear that they are representing the individual in any request for their personal information to the local authority; and

- the information is necessary to respond to the individual's complaint.

Where personal information is particularly sensitive, it may be advisable to get an individual's signed consent. However, there may be circumstances where the individual would reasonably expect their sensitive information to be disclosed to respond to their complaint. The basis for this processing is in the Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002 No. 2905.

In any event, when providing personal information to the elected member, the local authority should make clear that it is provided only to help the individual and must not be used for any other purpose. Local authorities may wish to do this for each disclosure or more generally lay down a code of practice for members to follow. It would certainly be good practice to keep a record of any requests by elected members for personal information.

### **Disclosures to elected members for political purposes**

Local Authorities should not normally disclose personal information to elected members for political purposes without the consent of the individuals concerned. There are two exceptions to this.

- There may be sets of personal information which the local authority is required to make public, for example, lists of some types of licence holder. In this case the Act does not prevent disclosure.
- Personal information may also be disclosed if it is presented in an aggregated form and does not identify any living individuals, for example, Council Tax band information or statistical information. However, there would be a breach of the Act if personal information was released in an apparently anonymised form which could then be linked to the individuals concerned, for example, by comparing property data with the electoral roll.

### **More information**

If you need any more information about this or any other aspect of data protection, please contact us.

#### **Head Office**

Phone: 01625 545 745 or 08456 306 060

Notification helpline: 01625 545 740

E-mail: please use the online enquiry form on our website

Website: [www.ico.gov.uk](http://www.ico.gov.uk)

## **Regional Offices**

### **Scotland**

**Phone: 0131 301 5071**

**Fax: 0131 301 5069**

**E-mail: [scotland@ico.gsi.gov.uk](mailto:scotland@ico.gsi.gov.uk)**

### **Wales**

**Phone: 029 2044 8044**

**Fax: 029 2044 8045**

**E-mail: [wales@ico.gsi.gov.uk](mailto:wales@ico.gsi.gov.uk)**

### **Northern Ireland**

**Phone: 028 9051 1270**

**Fax: 028 9051 1584**

**E-mail: [ni@ico.gsi.gov.uk](mailto:ni@ico.gsi.gov.uk)**