



Data Disclosure / Data Sharing Agreements Procedure

Introduction and Aim

The purpose of this Procedure is to outline the requirements for disclosure of data by Public Health Wales in line with Data Disclosure and Data Sharing Agreements

Linked Policies, Procedures and Written Control Documents

[All corporate policies and procedures are available on the Public Health Wales website](#)

All Wales Information Governance Policy

Scope

This procedure applies to all projects within Public Health Wales.

Equality and Health Impact Assessment	This procedure is subject to the EHIA completed for the Information Governance Policy IG EHIA Policy
Approved by	Information Governance Group
Approval Date	08/12/2022
Review Date	08/12/2025
Date of Publication:	11/01/2023
Accountable Executive Director/Director	Rhiannon Beaumont-Wood, Executive Director of Quality Nursing and Allied Health Professionals.
Author	John Lawson, Data Protection Officer

Disclaimer

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the [Corporate Governance](#).

Summary of reviews/amendments

Version number	Date of Review	Date of Approval	Date published	Summary of Amendments
1.0		08/12/22	11/01/23	New document

IMPORTANT NOTE

Nothing in this procedure should prevent the immediate sharing of personal data in an emergency. In such cases advice should be sought from the Data Protection Officer or Senior Information Risk Owner.

1. Introduction

Under current data protection legislation, Public Health Wales as a data controller, must be able to demonstrate that all processing carried out is done so lawfully, fairly and transparently. One of the key tools for achieving this is need for a formal agreement with the other party involved.

This Procedure explains how such agreements are developed and approved. This Procedure covers the sharing and disclosure of personal data as defined in data protection legislation and also the disclosure of personal identifiable information which is not covered by data protection legislation but is nevertheless subject to the Common Law Duty of Confidence. In the interests of brevity and clarity, the term personal data is used throughout this document to cover both issues described above.

This document relates to the following categories of agreement which are described below:

- Data Disclosure Agreement
- Data Sharing Agreement
- Data Processing Contract

2. Methods of Disclosure covered by this Procedure

There are three main types of agreement that Public Health Wales will enter into with other organisations for the purpose of sharing personal data:

Data Disclosure Agreement. This is where Public Health Wales shares personal data with another Data Controller to enable them to use the data for their own purposes in a one way transaction.

Data Sharing Agreement. This is where Public Health Wales shares personal data with another Data Controller in a reciprocated arrangement, by which the other controller also shares data with Public Health Wales. Both organisations become data controllers for the data received and are able to make use of it for their own purposes.

Data Processing Contract. This is where Public Health Wales enters into a legally binding contract with another organisation, in which that organisation processes personal data provided by us, in line with our instructions. The organisation cannot use the personal data for any other purpose without our express written consent.

The requirements for Data Processing Contracts are outlined in more detail in the Data Protection Impact Assessment Procedure and so are not discussed further in this document.

These agreements are generally entered into for data sharing that will take place on a regular basis or at least on more than one occasion. There will be instances where personal data will need to be disclosed (e.g. disclosing personal data to a Police Force for law enforcement purposes), where there will not be a requirement for a formal data sharing agreement. In such instances, advice should be sought from the Data Protection Officer.

3. The Wales Accord on the Sharing of Personal Information (WASPI)

Supported by Welsh Government and administered by Digital Health and Care Wales (DHCW), the Wales Accord on the Sharing of Personal Information (WASPI) is a framework to which the majority of public sector organisation in Wales have signed up.

The WASPI website provides template agreements for organisations to use and provides guidance and flow charts to guide organisations on developing the proper agreements. The website can be accessed through [this link](#).

All Data Sharing / Data Disclosure Agreements between Public Health Wales and non-NHS organisations are to be developed on the appropriate WASPI template (see below).

Public Health Wales and other NHS organisations are to be developed on the Intra NHS Agreement template, which can be found on this link.

4. Common Law duty of Confidence

It is important to note that the Common Law Duty of Confidence (CLDC) also applies in all cases where there is a requirement to comply with data protection legislation. There are however occasions when data protection legislation does not apply, but the CLDC still does. An example would be when dealing with the personal data of deceased persons.

In such cases it may be more appropriate for the agreement to be signed off by the organisation's Caldicott Guardian. There will rarely be a clear line in the sand on this issue, and it will be a matter for the SIRO and the Caldicott Guardian to agree who the most

appropriate signatory should be.

5. Roles and Responsibilities

Relevant Executive Director / Executive Team member will be responsible for:

- Identifying the requirement for the sharing of personal data
- Appointing an Information Asset Owner

Information Asset Owner will be responsible for:

- Ensuring completion of a DPIA
- Ensuring completion of any appropriate template for sharing personal data
- Reviewing the completed documentation and forwarding them onto the Information Governance Team
- Ensuring that no personal data are processed in line with the agreement until the documentation has been signed off according to this procedure

Information Governance Managers will be responsible for:

- Providing advice and support to Information Asset Owners
- Reviewing and quality checking the required documentation prior to submission to the DPO.

The Data Protection Officer will be responsible for:

- Signing off the DPIA
- Forwarding the required documentation to the SIRO for sign off.

The Senior Information Risk Owner (or Caldicott Guardian – see para 4 above) will be responsible for:

- Signing off the Data Sharing / Disclosure Agreement

6. Procedure

When a requirement to share personal data is identified, the Director of the Directorate in question, will appoint an Information Asset Owner (IAO) to take responsibility for the documents. The IAO must first arrange for the completion of a Data Protection Impact Assessment (DPIA). This link will take you to the Data Protection Impact Assessment Procedure, and it is also strongly recommended that advice be sought at an early stage from the

Information Governance Service.

The purpose of the DPIA is to identify any risks to the privacy of individuals or to identify where there may be risks to the organisation that require attention. The development of the DPIA will also highlight what sort of agreement is required. This document can then be developed alongside the DPIA.

Once the DPIA and the Data Sharing / Disclosure Agreement are completed, The IAO should send the documents to the Information Governance Team for review and quality control check at phw.informationgovernance@wales.nhs.uk

Once satisfied, the Data Protection Officer (DPO) will sign off the DPIA. In the event that there are risks which remain to be addressed, or the DPO feels that the DPIA requires higher level sign off, the DPO will advise the SIRO and seek his/her approval.

Once the DPIA has been approved, the DPO will then be responsible for sending the completed Data Sharing/Data Disclosure Agreement onto the Senior Information Risk Owner for their signature. It will be for the SIRO to determine whether s/he is the most appropriate signatory or if the matter should be referred to the Caldicott Guardian.

Once the DPIA and the agreement have both been signed off, they will be returned to the IAO. Only once the documents have been signed off may the sharing of information commence.

The Head of Information Governance will then ensure that an entry is made on the Information Asset Register.

7. Training requirements

The Head of Information Governance is responsible for providing training to all Information Asset Owners. All staff are also required to undertake mandatory Information Governance training.

8. Monitoring compliance

The Head of Information Governance will monitor this procedure to ensure it is compliant with current legislation and to ensure it is effectively implemented.