

The following information has not been updated since the Data Protection Act 2018 became law. Although there may be some subtle differences between the guidance in this document and guidance reflecting the new law – we still consider the information useful to those in the media

Disclosure of personal information by local authorities to councillors

Data Protection Act

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Introduction

1. The Data Protection Act 1998 (DPA) is based around eight principles of good information handling. These give people specific rights in relation to their personal information and place certain obligations on those organisations that are responsible for processing it
2. An overview of the main provisions of the DPA can be found in [The Guide to Data Protection](#).
3. This is part of a series of guidance, which goes into more detail than the Guide, to help data controllers to fully understand their obligations and promote good practice.
4. This guidance explains what local authorities need to consider when deciding whether to disclose personal information to councillors.

The role of the councillor

5. Councillors are likely to have three different roles:
 - they represent residents of their ward, for example, in dealing with complaints;
 - they act as a member of the council, for example, as a cabinet member or member of a committee; and
 - they may represent a political party, particularly at election time.
6. Depending on the role the councillor 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 restrict the use of any personal information provided for specific purposes.

Disclosures to councillors representing local residents

7. A local authority does not generally have to get the express 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.

In these circumstances, the individual has provided implied consent to the processing of their personal data that is reasonably necessary to pursue the complaint.

8. There are different requirements when dealing with sensitive personal data, which is defined in the DPA as information about an individual's:
- racial or ethnic origin;
 - political opinions;
 - religious beliefs;
 - trade union membership;
 - health;
 - sexual life;
 - alleged criminal activity; or
 - court proceedings

There may be occasions when it is advisable to get an individual's signed consent. However, in most cases, the individual would reasonably expect their sensitive personal data to be disclosed in order to respond to their complaint. [The Data Protection\(Processing of Sensitive Personal Data\)\(elected Representatives\) Order 2002 No. 2905](#) covers this, as it provides a basis for:

- the processing of sensitive personal data by elected representatives in connection with their function as a representative, including the disclosure of such information where necessary; and

- the disclosure of sensitive personal data by organisations responding to elected representatives acting on behalf of individual constituents.
9. 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 councillors to follow. It would be good practice to keep a record of any requests by elected members for personal information.

Disclosures to the councillor as a member of the council

10. Local authorities can disclose personal information to a councillor if they need to access and use the information to carry out official duties. For this purpose, councillors are in the same position as an employee.
11. The local authority should consider the following:
- They should only give the councillor access to the personal information they need to carry out their duties.

Example

A member of the Housing Committee attends a meeting to decide whether or not to seek the eviction of a council tenant. The local authority provides the member with 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.

- They 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 councillor is able to take a copy of the personal information away from the premises, or where they have

remote access to the information, the local authority should specify the steps to keep the information secure. For example, setting out rules about how personal information on a laptop or on paper should be stored securely and who can have access to it.

Disclosures to councillors when representing a political party

12. Local authorities should not normally disclose personal information to elected members for political purposes without the consent of the individuals concerned.
13. There are two exceptions to this:
 - Sets of personal information which the local authority is required to make public, for example, lists of some types of licence holder.
 - Personal information 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 DPA 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.)

Other considerations

14. Local authorities will usually need to register their processing with the Commissioner, in which case, they must make sure that their registration includes councillors as a category of people who receive personal information from them.

More information

15. Specific guidance for elected members is available on [our guidance pages](#). Additional guidance is also available there if you need further information on other parts of the DPA.
16. If you need any more information about this or any other aspect of data protection, please [contact us](#), or visit our website at www.ico.org.uk.