



Data Sharing and Data Processing Agreements Standard Operating Procedure (SOP)

Introduction

In this Standard Operating Procedure (SOP) an overview of the difference between a Data Sharing Agreement and Data Processing Agreement will be set out. It will provide information about which Agreement should be used and why it should be used.

Prior to entering an Agreement, a section should notify the Data Protection Officer and the Data Protection Section that an Agreement is required in respect of the transfer of personal and special categories of personal data. Where an agreement is required to be renewed, the Data Protection Officer and Data Protection Section should be notified.

Advice will be provided to the section and the relevant template agreement will be e-mailed to the section.

Data Sharing Agreement

A Data Sharing Agreement is where personal and special categories of personal data are provided by the Council to a third-party to develop and/or assistance in the development of software, applications etc. A third-party cannot collect, use, retrieve data. The personal and special categories of personal data must be provided to the third-party by the Council.

A data sharing agreement is where personal and special categories of personal data are shared with a service provider to assist in developing software system or an application for the Council.

The service provider uses the data to develop the system but once the system is developed does not process or access the data on a day-to-day basis and under a data sharing agreement will be required to destroy/delete the data transferred. A service provider may have access to the system to allow for updates, for bugs and check if the system is operating according to the parameters. They do not input any new data or operate the front of house or the front end of the system.

When a service provider has built the system for the Council, it provides services to ensure that the system is fully maintained. The transferred data is deleted after the completion/development of the system.

Data Processing Agreement

Processing personal and special categories of personal data is the storing, collecting, retrieving, using, combining, erasing and destroying personal data.

A data processing agreement is utilised when a service provider processes personal and special categories of personal data on our behalf. Processing involves one or more actions set out in the preceding paragraph and the service user has day-to-day access to input collect, retrieve, use etc data. Council employees do not operate the front end system and this is done by the service provider.

Determining if a Data Sharing Agreement is required:



1. If you require any assistance to determine whether you need to implement a Data Sharing Agreement contact the Data Protection Officer at dpo@galwaycity.ie.
2. Before entering a Data Sharing Agreement you should contact the Data Protection Officer (DPO). Template agreements are available.
3. All Data Sharing Agreements must be authorised by the DPO

Entering agreement and renewal agreements.



1. Do not enter into any data sharing agreement without the consulting with the DPO.
2. The DPO should be consulted prior to the renewal of any data sharing agreement and a renewal should not be signed without advice and approval from the DPO

Considerations



1. Is personal and/or special categories of personal data being transferred to an outside organisation?
2. If yes, is it a public sector body or third-party organisation?
3. Does the third-party organisation store, retrieve, use, collect the data?
4. Does the third-party organisation receive the data directly by transfer from the Council only?

Basis for the sharing of the data



1. What is the data transfer required for?
2. Is it for sort term one off use?
2. Is the one-off use required to develop a new system for the Council?
4. Is the one-off use to assist in developing an update to the current system?
5. Does the service provider have to day-to-day access to the data?

Public Sector or outside third party.



1. Check to see whether this is public sector body or external provider.
2. If the Council is sharing with a public sector body, a public sector body public sector sharing agreement is required.
3. If sharing with a outside body, a data sharing agreement is required.

Contract- Data Sharing Agreement



1. If the sharing is not on a day-to-day basis, then a Data Sharing Agreement is required.
2. If it is with another public sector body, a public sector data sharing agreement is required.
3. Otherwise, a third-party Agreement is required.
4. Do not sign agreement without consulting the DPO

Determining if a Data Processing Agreement is required:



1. If you require any assistance to determine whether you need to implement a Data Processing Agreement contact the Data Protection Officer at dpo@galwaycity.ie.
2. Before entering a Data Processing Agreement you should contact the Data Protection Officer (DPO). Template agreements are available.
3. All Data Processing Agreements must be authorised by the DPO

Entering agreement and renewal agreements.



1. Do not enter into any data processing agreement without the consulting with the DPO.
2. The DPO should be consulted prior to the renewal of any data processing agreement and a renewal should not be signed without advice and approval from the DPO

Considerations



1. Is personal and/or special categories of personal data being transferred to an outside organisation?
2. Is the third-party continually receiving personal and special categories of personal data?

Basis for processing of the data



1. What is the data transfer required for?
2. Will the third-party be continually processing it on our behalf?
2. Does the third-party have the ability to collect, store, retrieve, use etc the data.

Contract- Data Processing Agreement



1. If the processing is continuous, then a processing agreement is required.
2. If the data collect, used etc in the EEA, then an EEA processing agreement is required.
3. If the data is collected, used etc outside the EEA, then a non-EEA processing agreement is required.
4. Do not sign agreement without consulting the DPO