



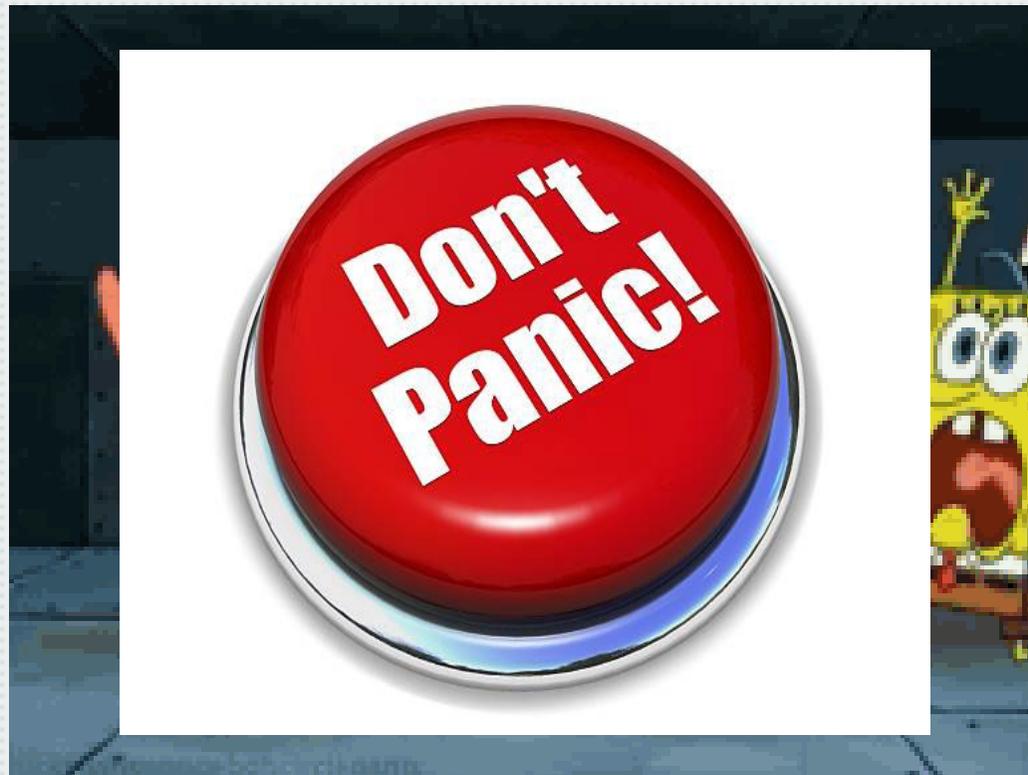
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Do's and Don'ts of Data Sharing

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Overview



Overview



Data sharing: the principles

Data sharing: in practice

Your questions



Data sharing: the principles

Data sharing: the principles



DATA PROTECTION PRINCIPLES

- Lawfulness, fairness and transparency
- Purpose limitation
- Data minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality
- Accountability
- Third country transfers

Data sharing: lawfulness



**LEGAL
POWER**

**LEGAL
BASIS**

Data sharing: lawfulness



**LEGAL
POWER**

- **Statutory obligation**
- **Statutory power**
- **Industry-specific regulation**
- **Any prohibitions**

Data sharing: lawfulness



LEGAL BASIS

- Specific, informed consent
- Necessary for performance of a contract
- Necessary for compliance with legal obligation
- Necessary to protect vital interests
- Necessary for public interest task
- Necessary for legitimate interests, unless overridden

Data sharing: lawfulness



**LEGAL
BASIS**

**Special
category
personal
data**

**Criminal
convictions
/offences**

Data sharing: fairness and transparency



- Treat individuals fairly
 - Have you considered the expectations of individuals?
- Be reasonable and proportionate
- Be transparent
 - Have you informed individuals about how you might share data?
 - Have you explained this to individuals in an accessible manner?
 - Have you (recipient) complied with Article 14 GDPR?

Data sharing: purpose limitation



- Does disclosure fall within original, specified purpose?
- Does disclosure involve an additional or different purpose?
- Have you considered third party's purpose(s) for processing?
- Have you updated your privacy policy?

Data sharing: security



INTERNAL

*appropriate
measures*

EXTERNAL

*reasonable
steps*

Data sharing: exemptions



**Crime and
taxation**

Immigration

**Law etc./
legal
proceedings**

Data sharing: exemptions



Crime and taxation

- Personal data processed for the purpose of:
 - Prevention or detection of crime
 - Apprehension or prosecution of offenders
 - Assessment/collection of a tax/duty/similar
- 'Listed GDPR provisions' do not apply to the extent that their application would prejudice the above matters

Data sharing: exemptions



**Law etc./
legal
proceedings**

- **Personal data disclosed:**
 - **To the public by or under enactment**
 - **As required by law or by court order**
 - **Where necessary for legal proceedings**
- **‘Listed GDPR provisions’ do not apply to the extent that their application would prevent the above**



Data sharing: in practice

Data sharing: What does it look like?



Forms of Data Sharing

- A reciprocal exchange of data
- Providing data to a third party
- Several organisations pooling information
- Exceptional, one-off disclosures of data in unexpected or emergency situations
- Regular disclosures of information pursuant to a data sharing agreement.

Data sharing: With whom are we sharing?



Third Party Data Controllers

- Another company within a group
- Financial institutions
- Professional Advisors
- Police and Inland Revenue
- Government Agencies (e.g. Child Maintenance Service)
- Local authorities
- Partner businesses engaged in joint marketing

Data sharing: What does it look like?



Typical examples

- A group of retailers exchanging information about employees who were dismissed for stealing
- A primary school passing details about a child showing signs of harm to the police or social services
- The police passing information about the victim of a crime to a counselling charity
- A GP sending information about a patient to a hospital

Data sharing: The Request Arrives



Dealing with the Request

- Consider ICO Data Sharing Code of Practice – admissible in legal proceedings
 - Would sharing comply with the relevant principles?
 - Do any exemptions apply?
 - Do we need to do a DPIA?
 - Do we have a data sharing agreement in place?
 - What about policies and procedures?
- Checklist: <https://ico.org.uk/for-organisations/guide-to-data-protection/ico-codes-of-practice/data-sharing-a-code-of-practice/annex-a-data-sharing-checklist/>

Data sharing: The Checklist



Checklist

- Is the sharing justified?
- Consider doing a DPIA
- Be clear about what you are sharing, how you are sharing, and compliance with principles
 - e.g. lawful basis
- Document your decision.

Data sharing: Data Sharing Agreements



Data Sharing Agreements

- Key Benefits
- Parties and Purpose
- What is being shared?
- What is our lawful basis for sharing?
- Provision for individual rights
- Information Governance
- Review clause?

Data sharing: Policies and Procedures



Policies and Procedures

- How can you meet the regulator's expectations?
 - Review process to assess, through a DPIA or similar, the legal benefits and risks of sharing
 - Decisions should be documented
 - Clear policies and procedures and guidance about data sharing
 - Training for staff who will be sharing data

Data sharing: What does it look like?



Practical Examples

- Housing Association occasionally receives requests from utility companies, debt collectors and councils for information about current and former tenants:
 - No DSA
 - Case by case basis
 - What have tenants been told?
 - What is in the tenancy agreement?
 - Who in the association deals with the request?

Data sharing: What does it look like?



Practical Examples

- The police ask social services for address details of one of their clients so as to contact them urgently in connection with a criminal investigation.
 - Consider crime and prevention exemption
 - Question of prejudice must be considered
 - Document in writing
 - What does the privacy notice say?

Data sharing: Other useful tools



Useful Tools

- **HM Government Information Sharing:**
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1062969/Information_sharing_advice_practitioners_safeguarding_services.pdf
- **ICO Data Sharing Information Hub:**
<https://ico.org.uk/for-organisations/data-sharing-information-hub/>



Data sharing: your questions



Data sharing: Need further assistance?

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