### Frequently asked questions and answers

**What is a privacy notice?**

A **Privacy Policy** is a legal agreement designed to let visitors to your website or users of your app know what personal information you gather about them, how you use this information and how you keep it safeA **Privacy Policy** is a legal agreement designed to let visitors to your website or users of your app know what personal information you gather about them, how you use this information and how you keep it safeA privacy notice is a document designed to let people we are working with know:

* what information we gather from them
* how we use the information
* who we share this information with
* their rights in relation to their information

**Why do we use a privacy notice?**

Any organisation that’s subject to the GDPR must provide a privacy notice whenever they obtain their information. It gives individuals the information they need to understand their data subject rights.

It is a requirement of GDPR to be transparent with how we use personal data, unless in exceptional circumstances.

The use of the privacy notice highlights that consent no longer needs to be the basis of our handling of information. Rather the ‘public task’ we fulfil and our ‘lawful basis for sharing’ are the grounds for our handling information.

**What do we mean by ‘public task’ and ‘lawful basis’?**

Public task: (Article 6(1)) – “processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller”

This can apply if you are either:

* carrying out a specific task in the public interest which is laid down by law; or
* exercising official authority (for example, Gloucestershire County Council’s tasks, functions, duties or powers) which is laid down by law.

Lawful basis: You must have a valid lawful basis in order to process personal data. There are six available lawful bases for processing. Which basis is most appropriate to use will depend on your purpose and relationship with the individual. These 6 are:

* **Consent:** the individual has given clear consent for you to process their personal data for a specific purpose.
* **Contract:** the processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering into a contract.
* **Legal obligation:** the processing is necessary for you to comply with the law (not including contractual obligations).
* **Vital interests:** the processing is necessary to protect someone’s life.
* **Public task:** the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.
* **Legitimate interests:** the processing is necessary for your legitimate interests or the legitimate interests of a third party, unless there is a good reason to protect the individual’s personal data which overrides those legitimate interests. (This cannot apply if you are a public authority processing data to perform your official tasks.)

For most of our work in Children’s Services, our lawful bases will be: legal obligation, vital interests, and/or public task.

Most lawful bases require that processing is ‘necessary’ for a specific purpose. If you can reasonably achieve the same purpose without the processing, you won’t have a lawful basis.

**What do we mean by personal information?**

Personal information (or personal data) means any information relating to a living individual that could directly or indirectly identify an individual e.g. Name, address, phone number, DoB, contact details for family members, photos

**What is special category data?**

Definition under the GDPR: data consisting of racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data, data concerning health or data concerning a natural person's sex life or sexual orientation.

Special category data is personal data that carries with it higher risks to the individual..

If you are processing special category data, criminal conviction data, or data about offences you need to identify both a lawful basis for general processing and an additional condition for processing this type of data.

GCC Children’s Services regularly use all forms of this information. We therefore need to be continuously mindful and clear on the lawful basis and conditions for handling this information.

**How does this effect our sharing of information with others?**

We need to be transparent in the way we are sharing data. This means naming specific bodies or organisations we share information with in our privacy notices. The sharing of information needs to be done for a purpose e.g. ensuring young people and families get the support they need. For most of our information sharing these powers will be invested in us through legislation and our duty to cooperate / do what is right for positive outcomes for a child, young person or family.

**When should you provide / refer people to our GCC Children Service privacy notice?**

When you collect personal information from the Children, YP and families we are working with; you must provide them with privacy information at the time you obtain their data. This data is contained within a privacy notice. The GCC Privacy Notice (and information about this) can be found [here](https://www.gloucestershire.gov.uk/council-and-democracy/data-protection/privacy-notices/). The specific GCC Children’s Service Privacy Notice (and other specific notices) can be found [here](https://www.gloucestershire.gov.uk/council-and-democracy/data-protection/service-specific-privacy-notices/).

**Obtaining information from partner agencies.**

Organisations that we work with are responsible to handle people’s information under the same GDPR standards. This means that they too are able to use privacy notices and share information with us under these. This means that consent to share between them and us is often not needed as long as this is clarified through their privacy notice.

When you obtain personal information from a source other than the individual it relates to, you need to provide the individual with privacy information:

* within a reasonable period of obtaining the personal data and no later than one month;
* if you use the data to communicate with the individual, at the latest, when the first communication takes place; or
* if you envisage disclosure to someone else, at the latest, when you disclose the data

**What does this mean for information sharing practices relying on Consent?**

The first important point is that consent to handling information is different to consent to receive a service (e.g. an Early Help, s17, or s20 service). These FAQ’s relate only to information handling and not consent for services. Practice in relation to seeking consent to receive a service remains unchanged.

In short, sharing the privacy notice in a way that people can understand indicates that we no longer need to rely on consent to handle people’s information. The privacy notice clarifies that we will be processing their personal data in accordance with our functions to offer them the best services to support positive outcomes. This gives them the **right to object** to the processing but this is not the same as exercising their right to withdraw consent.

Offering consent (as a lawful basis) includes the option to withdraw consent which would mean we would **have** to stop processing their data – which we usually can’t do as once we’ve received it we still have to hold and process their data to fulfil our duties. The conditions for consent therefore mean that it does not fit with the functions of a local authority. If for any reason you cannot offer people a genuine choice over how you use their data, consent will not be the appropriate basis for processing.

Ultimately, as a local authority we have powers to process personal data and as such we can’t seemingly give people apparent control to withdraw at any point as this is not a true reflection of our relationship or our responsibilities as a local authority.

The privacy notice very clearly outlines the rights of people in relation to the information we handle. These include: **right to access information;** **right to object; right to correct inaccurate information; and right to be forgotten (erasure)**.