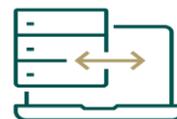




# Guidance Note

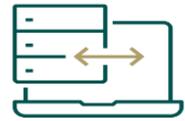
## Data Sharing Governance Framework under the Data Sharing & Governance Act 2019





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## Introduction

The Data Sharing and Governance Act 2019 provides for the regulation of information sharing, including personal data, between public bodies; of the management of information by public bodies, the establishment of base registries, the collection of public service information; and to establish the Data Governance Board. The purpose of this guidance note is to provide Public Service Bodies (PSBs) with an introduction to the new Data Sharing Governance Framework under the Data Sharing and Governance Act 2019 (DSGA). This note also identifies those sections of the Act that were commenced in July 2021.

This guidance offers PSBs wishing to leverage the DSGA as their legal basis for sharing data, clarification on what constitutes data sharing, when data can and can't be shared, who can share data, a summary of how to share data and the processes involved with the new Data Sharing Governance Framework.

The full step by step process for data sharing can be found in the [Data Governance](#) section of the [OGCIO's](#) website.



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# Data Sharing and Governance Act

## What is the purpose of the DSGA?

The DSGA is an enabling piece of legislation that provides a statutory basis on which public bodies can share personal data in the context of providing public services. It will ensure the safe handling of that data through an appropriate governance framework and gives transparency to the data sharing agreements in place.

Data sharing across the public service has a key driver in the once-only principle which seeks to facilitate that citizens and businesses only need to supply the same information once to the State. Moreover, effective and appropriate data sharing can improve services to citizens, improve quality of data, support research and development, assist data driven decision making and inform policy. Whilst data sharing can bring benefits in terms of efficient delivery of public services, it must be done in a way that assures individuals that their personal data is treated with respect, only shared where necessary and in accordance with law.

## What is Data Sharing?

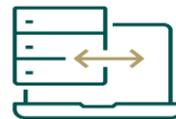
The DSGA defines **data sharing** as the disclosure of information, including personal data, by a public body to another public body. Unless another specific statutory basis exists, the sharing of personal data between public bodies must be carried out in accordance with the Act.

## What is Personal Data?

Under the DSGA, “personal data” has the same meaning as in the General Data Protection Regulation (GDPR).

Under GDPR “‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.”

Under the DSGA, a reference to the key word “person” includes a deceased person and a reference to personal data or special categories of personal data also include personal data or special categories of data of a deceased person.

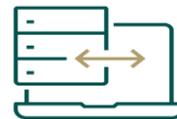


## What is the current status of the DSGA?

The DSGA is being commenced in a number of stages. Several sections were commenced immediately after the DSGA was passed into law April 2019. For details on these initial sections commenced see the [Irish Statute Book](#).

July 2021 has seen a significant set of commencements in particular those that establish the Data Governance Board and allow it to begin its work – see [Appendix A](#) which describes these sections.

The final commencement will be specifically for section 6(2) (3) and is currently scheduled for 31st March 2022 and for which a further advisory will issue at that time.



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## Sharing Data through the DSGA

### Who can share data?

The DSGA applies only to data sharing between public bodies. Section 10 of the DSGA sets out the definition of a public body for the purposes of data sharing - link [here](#). A list of bodies that are excluded from the definition of public body and therefore cannot share data under the DSGA, can be found in the final Schedule of the Act - link [here](#).

The Public Service Bodies (PSBs) mentioned throughout this documentation are the same public bodies as listed under Section 10 of the DSGA.

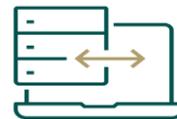
### When can data be shared?

The DSGA provides broad terms for when data can be shared. A public body may disclose personal data (including personal data of deceased persons) to another public body in the following circumstances:

- 1) Where required to do so by a direction of the Minister of Public Expenditure and Reform under Section 14 of the DSGA.

**OR**

- 2) Where it is necessary and proportionate to do so for the purpose of performing a function of either public body, **and for at least one of the following purposes:**
  - To verify the identity of a person, in connection with the provision of services to that person.
  - To identify and correct erroneous information held by either public body.
  - To avoid a financial or administrative burden that would otherwise be imposed on a person in connection with the provision of services to that person.
  - To establish a person's entitlement to the provision of a service.
  - To facilitate the administration, supervision and control of a service, programme or policy being delivered by or on behalf of either public body.
  - To facilitate the improvement or targeting of such a service, programme or policy.
  - To enable evaluation, oversight or review of such a service, programme or policy.
  - To facilitate analysis of the structure, functions, resources and service delivery methods of either public body.



The DSGA requires that a Data Sharing Agreement (DSA) must be completed as part of the governance processes for data sharing. This DSA ensures compliance with all relevant data protection legislation.

## When is it not legally appropriate to use the DSGA for data sharing?

The DSGA does not apply where another specific statutory basis for sharing data exists, as for example under section 265 of the Social Welfare Consolidation Act 2005.

The DSGA also provides that a Data Sharing Agreement between public bodies under the DSGA is not an appropriate legal basis for sharing data for the following purposes:

- The internal administration of either public body, including that relating to the employment of the data subject.
- The prevention, detection or investigation of offences.
- The apprehension or prosecution of offenders.
- The imposition or execution of a fine or sentence of imprisonment.
- The exercise of the functions of the Criminal Assets Bureau.
- Protecting the security of the State, including from espionage, sabotage and unlawful acts of subversion or foreign interference.
- Identifying foreign capabilities, intentions or activities that impact the international or economic well-being of the State.
- Co-operating with authorities in other states and international organisations aimed at preserving international peace, public order and security.
- The defence of the State.
- The international relations of the State.

For a complete list of data sharing exclusions see Part 2 Section 12 of the DSGA - [DSGA Exclusions](#).

## What data is excluded from the DSGA?

The provisions of the Act exclude sharing of **special category data** (racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, or sexual orientation– see Article 9 GDPR).



However, there are some exclusions in relation to the processing of information for administration or actuarial valuation of the public service pension scheme and the Personal Data Access Portal.

**If a power to share information is not expressed in legislation, then it would be safer to assume that a Data Sharing Agreement under the DSGA will be needed for the sharing to take place.**

## How can I share data?

The governance framework for data sharing under the DSGA consists of several stages and processes that must be followed. They are:

- **Stage 1:** Data Sharing Preparation
- **Stage 2:** Data Officers Review
- **Stage 3:** Preparing the DSA
- **Stage 4:** Public Consultation
- **Stage 5:** PSBs Review
- **Stage 6:** Data Sharing Committee Review
- **Stage 7:** Data Governance Board Review
- **Stage 8:** PSBs Address Recommendations and Sign
- **Stage 9:** Publication of Approved DSA and Recommendations
- **Stage 10:** DSA Execution

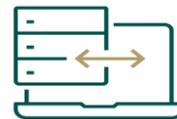
The key documents and templates that support and define these stages, all of which can be found on the [Data Governance](#) section of the [OGCIO's](#) website<sup>1</sup>, are:

### The Data Sharing Playbook

The Data Sharing Playbook is essentially a flowchart that navigates the stages of data sharing along with roles and responsibilities. The stages are sequential and must be followed in order to adhere to the data sharing governance framework.

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<sup>1</sup> Note these Data Sharing Publications will be available on the OGCIIO website in the last week of August 2021.



## The Data Sharing Guidelines

The Data Sharing Guidelines provide more detailed information on the rules, processes and procedures for data sharing. They also define all obligations for PSBs involved in data sharing.

## The Model Data Sharing Agreement (DSA)

A new DSA template must now be completed as part of the governance processes for data sharing. This DSA ensures compliance with all relevant data protection legislation. No sections of the DSA template may be removed; however, new sections can be added. The Administration Section must also be completed in full.

Note also in line with GDPR Art.35 and under Section 55 of the DSGA, the PSBs involved must publish a summary of any Data Protection Impact Assessment (DPIA) carried out, or a summary of the reasons why a DPIA was not carried out.

All sections should be completed before submission for public consultation (together with DPO Statements) and can be amended after consultation. After submission to the Data Sharing Committee and review by the Board, the DSA will be published along with the Board recommendations.

## Accession Agreement

Ideally, all PSBs involved in the data sharing arrangement should sign up to the DSA on the date of its execution. If it is not possible to do so on this date, an Accession Agreement can be created but will only be to the DSA in its original form. If different terms are required, a creation of a separate DSA will be necessary.

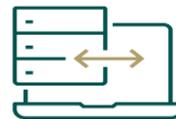
The DSA and Accession Agreement templates are available for download from the [Data Governance](#) section of the [OGCIO's](#) website<sup>2</sup>.

## What is involved in Public Consultation?

The Data Officer in the Lead PSB will be responsible for sending the Data Governance Unit the DSA and associated documents when they are ready for public consultation. The DSA must be fully completed (with the exception of the Authorised Signatures, which are the last step before execution of the DSA) and the DPO Statements must be signed at this stage.

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<sup>2</sup> Note these Data Sharing Publications will be available on the OGCIO website in the last week of August 2021.



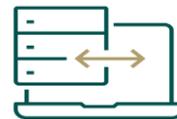
The Unit will manage the public consultation where the DSA (including summary of DPIA) and DPO Statements will be published on the Public Consultations website, <https://www.gov.ie/en/consultations> for a period of time defined by the Data Governance Board.

Note that public feedback can only be collated from the email address associated with the DSA on the Public Service Consultations webpage. The collated feedback will be returned to each Data Officer for the relevant PSBs.

Further detailed information on the process to follow for public consultation can be found on the [Data Governance](#) section of the [OGCIO's](#) website - Data Sharing Public Consultation Guidelines.<sup>3</sup>

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<sup>3</sup> Note this publication will be available mid-September 2021



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# The Governance Framework

## Who plays a role?

### Lead Agency/Lead PSB

The Lead Agency/Lead PSB is the organisation that is responsible for ensuring completion and submission of the Data Sharing Agreement (DSA) and associated documents. Often they are the controller of the disclosed information; and, in the case of joint controllers, a lead PSB should be nominated. In the case of a Base Registry, the Lead is always the disclosing PSB.

The specific obligations for a Lead PSB, which last for the lifetime of the DSA, are defined in the Data Sharing Guidelines, more details can be found on the [Data Governance](#) section of the [OGCIO's](#) website.

### Data Officer

All PSBs should nominate a Data Officer who will act as a data advocate for data sharing within their organisation. They will coordinate and prepare any new Model Data Sharing Agreement (DSA) by engaging with all internal contributors to ensure the DSA is completed and ready for public consultation. This role will also act as the contact for the Data Governance Board and committees in all other matters of data sharing and management. During the lifetime of the DSA, the Data Officer in the Lead PSB will be responsible for informing the Data Governance Board of any changes to the DSA e.g. change of frequency or when a new PSB joins by way of Accession Agreement.

More details on this role can be found in the Data Sharing Playbook and Guidelines the [Data Governance](#) section of the [OGCIO's](#) website.

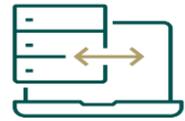
### Data Protection Officer (DPO)

The DPO is required to review the data sharing agreement for their organisation and to sign a DPO Statement to that fact. It is the Data Protection Officer's responsibility to ensure that the DSA is compliant with Data Protection law and is consistent with GDPR.

More details on this role can be found in the Data Sharing Playbook and Guidelines.

### Data Governance Board and their Committees

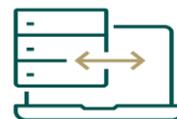
The DSGA allows a new Data Governance Board to be established. The Board consists of a membership from both within and external to the public and civil service. The members bring a mix of best practice and experience skillsets in areas of technical architecture, data



protection and ethics, legal, research and analytics, base registries, and citizen advocacy. The Board has a remit that covers all areas of data sharing and data management across the public service. The Board can establish various committees for specific functions. An example is the Data Sharing Committee who will have several functions one of which will be to review each DSA for legal compliance and report its findings to the Board.

### **Data Governance Unit**

The Data Governance Unit will manage the Public Consultation on behalf of the PSBs who are party to a DSA. The Unit also offers governance support to the Data Governance Board and its Committees.

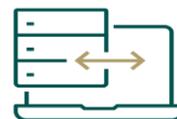


## Appendix A

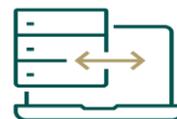
The table includes a brief description of what each section means, for more detail on each section please visit [Data Sharing and Governance Act 2019](#).

### July 2021 Commencements

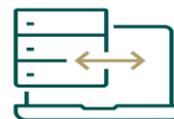
Part	Section	Name	Description
P2	7(1,2,4,3,5)	Interaction with Social Welfare Consolidation Act 2005	The DSGA, other than Part 5 and Chapter 3 of Part 9, does not affect the operation of the Social Welfare and Consolidation Act of 2005
	8(2,3)	Interaction with other enactments	The DSGA will not apply to data collected for statistical purposes in accordance with the Statistics Act 1993, or disclosed in accordance with section 2 of the Vital Statistics and Births, Deaths and Marriages Registration Act 1952. The DSGA, does not apply to the disclosure of information under the Civil Registration Act 2004.
P3	13	Data-sharing requirements	Specifies requirements that must be met before the disclosure of personal data by a public body to another public body. Personal data is disclosed in a DSA and complies with rules, procedures, standards and guidelines set out in the DSGA
	14	Directions	Contains information where the Minister can direct one or more public bodies to disclose information to one or more public bodies.
P4	15	Application (P4)	This applies to the disclosure of personal data where no other enactment/EU Law is in operation, does



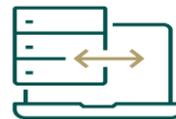
			not apply to disclosure of personal data under Part 5
	16	Obligation to enter into data-sharing agreement	A public body should enter into a DSA prior to disclosing data
	17	Formal requirement	A data-sharing agreement should be in writing
	18	Accession to data-sharing agreement	Where a public body that wasn't part of the initial data-sharing agreement can accede to the DSA and become part of it by completing an accession agreement to the DSA
	19	Content of data-sharing agreement	Contains information around the DSA and how it will be managed and deleted where necessary
	20	Review of operation of data-sharing agreement	Contains details on how DSA agreements should be reviewed
	21	Lead agency	Specification of party to be responsible for carrying out the functions of the DSA [Referred to as Lead PSB in Guidance Documentation]
	22	Cessation	Details on notification of the termination of a DSA
P6	34 (3)	Application (Part 6)	Subsection 3 - This applies to the disclosure of business information by a public body to another public body permitting or requiring data sharing.
	36	Disclosure of business information	A public body may disclose business information to another public body for the performance of a function of either PSB and for the purposes specified in data sharing requirements
P7	37	Designation of base registry	When a database is designated as a base registry.
	38	Base registry owner	Contains information about what a base registry owner's responsibilities are.



	39	Processing of information	A base registry owner will have the power to process the information called out in the designated base registry
	40	Terms of service	A base registry owner will prepare terms of service or terms and conditions that they and any public body will comply with when using that base registry
	41	Access to information	The base registry owner may amend any information held in the base registry and access information, held by another public body that relates to that base registry
	42	Obligation to use base registry	Where information is already collected in a base registry, a public service body must use this information rather than collected it from a different source.
P8	43	Application (P9)	Applies to personal data (including special categories of personal data)
	44	Establishment of personal data access portal	Establishment of an information system (website) known as the “Personal Data Access Portal” where someone can send a request and get a response to viewing personal data relating to them, personal data breaches, copy of a data-sharing agreement under which his or her personal data has been disclosed
P9 (Chap 1)	45	Appointment of Board	Data Governance Board appointment
	46	Functions of Board	Functions performed by the Board
	47	Membership of Board and related matters	How the membership of the DGB should be consisted and appointed
	48	Committees	How the DGB sub-committees should be established and run
	49	Disqualification from membership of Board	Reasons members should be disqualified



	50	Resignation from membership	How a member would resign from the DGB
	51	Casual vacancies	How casual vacancies to the board are handled
	52	Reporting	Reporting functions of the board
<b>P9 (Chap 2)</b>	53	Definitions (Chapter 2)	Definitions used in Chapter 2
	54	Exclusions (Chapter 2)	Exclusions used in Chapter 2
	55	Public Consultation	Details of agreements and how they are published online
	56	Submission of documentation of information to Board	Details of agreements and documents that should be submitted to the Board
	57	Review of data-sharing agreement	Details of how a DSA should be reviewed
	58	Amendments following review	How amendments should be submitted to the board
	59	Execution of agreement	The board may or may not specify recommendations in their review. Proposed agreement may be executed when all conditions have been met.
	60	Publication	The lead agency (PSB) the Minister and the board will be transparent by publishing documents relating to a data sharing agreement.
	61	Effective date of agreement	A data-sharing agreement will come into effect on the date of its publication
	62	Time periods and documentation	The board shall specify the time periods and they will not be less than 14 days.
<b>P9 (Chap 3)</b>	63	Application (Chapter 3)	Applies to personal data (including special categories of personal data) and information other than personal data.
	64	Rules, procedures and standards	Rules, procedures and standards prescribed for number of purposes relevant to the performance of a public body



	65	Guidelines	Prepare and issue guidelines in relation to rules, procedures or standards to assist public bodies in the performance of their functions
	66	Model agreements	Model data sharing agreements that the Board can advise on their preparation and revision
	67	Publication of regulations and guidelines	the rules, procedures and standards and guidelines published on a website
	68	Compliance report	The Board may request a compliance report within a specified time from any Public Body
<b>P10</b>	69	Prohibition on requests for certain documents	Certain documents are prohibited to be requested from a person (other than a public body)
	70	Specification of information	Specifications of formats to ensure consistency accuracy and usefulness of the information

Table 1.0

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END

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**Tithe an Rialtas. Sráid Mhuirfean Uacht,**  
**Baile Átha Cliath 2, D02 R583, Éire**  
Government Buildings, Upper Merrion Street,  
Dublin 2, D02 R583, Ireland

T:+353 1 676 7571

@IRLDeptPer

[www.gov.ie/per](http://www.gov.ie/per)