Birmingham Children’s Collaborative Working Information Sharing Framework / Policy

For the purpose of safeguarding and promoting the welfare of children, young people and their families.

**Document Control**

**Key individuals consulted or involved in developing the document.**

|  |  |
| --- | --- |
| Name | Designation |
| Tony Elliott | Head of ICT, Birmingham Children’s Trust |
| Parminder Bhomra  | Solicitor, Birmingham Children’s Trust |
| Paul Mountford | Data Evaluation Officer, Birmingham Children’s Trust |
| Subhasree De | Data Protection Officer, Birmingham Children’s Trust |
| Claire Graham | Birmingham Children’s Trust |
| Clare Nankivell | Birmingham City Council |
| Malkiat Thiarai | DPO, Birmingham City Council |
| Uzma Afzal | Information Governance Officer, Birmingham Community Healthcare NHS Foundation Trust |
| Alan Lowe | Deputy Head of IG, Birmingham Community Healthcare NHS Foundation Trust |
| Fateha Choudhury | Information Governance Manager, Birmingham Women’s and Children’s NHS Foundation Trust |
| James Littlehales | Superintendent, West Midlands Police |
| Tim Crane | Solicitor, West Midlands Police  |
| Simon Cross | Birmingham Safeguarding Children Partnership |
| Tom Joyce | West Midlands Police |
| Nigel Parr | IG Manager, NHS Birmingham and Solihull Integrated Care Board (ICB) |
| Simon Cross | Birmingham Safeguarding Children Partnership |
| Angeline Hayles-Henderson | Solicitor, Birmingham Safeguarding Children Partnership |

**Version Control**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Version** | **Date of Issue** | **Summary of changes** | **Reviewers** | **Organisation** |
| Version 1.1 Final  | 22/3/2019 | First Signed off version | In table above |  |
| Version 2.0 Draft | 5/2/2021 | Updated to reflect the Uk leaving the EU and various other tidy ups in the document. The changes reflect the current review and also earlier work done in 2020 to review the document.  | Tony Elliott Nigel ParrClare NankivellParminder BhomraPaul Mountford Lauren AmerySimon Cross Subhasree DeBridget Francis | Birmingham Childrens TrustBirmingham and Solihull CCG Birmingham City Council Birmingham City Council (Legal) Birmingham Children’s TrustBirmingham and Solihull CCGBirmingham Safeguarding Children PartnershipDPO Birmingham Childrens TrustBirmingham Women’s and Children’s NHS Foundation Trust |
| Version 2.1 Final | 21/02/2023 | Final version incorporating minor changes advised on version 2.0. Version 2.1 provided for final sign off by all Principal Parties. | All Principal Parties |  |
| Version 2.2 | 27/07/2023 | Final version incorporating changes to the key individual’s table. | All Principal Parties as outlined into the key individuals table |  |

The document in conjunction with the Birmingham Children’s Collaborative Working Data Sharing Agreement sets out;

* How the Parties will comply with the data protection principles to process personal data including special category data and criminal offence data
* How the Parties will handle personal data including special category data and criminal offence data that they process, the lawful bases, purpose of processing and the relevant condition(s) for processing under the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR).
* the Parties’ policies for the retention and erasure of personal data including special category data and criminal data processed.

This policy/framework document will be retained, reviewed and (if appropriate) updated by the Principal Parties, and (if requested) made available to the Information Commissioner.

**Birmingham Children’s Collaborative Working Information Sharing Framework/Policy**

# Parties to the policy/framework

## Principal Parties are as follows:

* Birmingham Children’s Trust
* NHS Birmingham and Solihull Integrated Care Board (ICB)
* Birmingham City Council
* The Chief Constable of West Midlands Police (“the Chief Constable”)
* Birmingham Community Health Care NHS Foundation Trust
* Birmingham Women’s and Children’s NHS Foundation Trust
* Birmingham Safeguarding Children Partnership

The Principal Parties have defined and signed off this policy/framework document.

* 1. **Adhering Parties:** Parties that have signed up to the Birmingham Children’s Collaborative Working Data Sharing Agreement “DSA” dated 27/07/2023 version 2.2 and its terms byduly executing a Deed of Adherence that is appended to the DSA.
1. **Definitions**
* **Criminal Offence Data**: means Personal Data relating to criminal convictions and offences, or related security measures.
* **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) (DPA 2018); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and the guidance and codes of practice issued by the Commissioner and which are applicable to a party
* **Parties:** means bothPrincipal Parties and Adhering Parties
* **Personal Data:** has the meaning given in the Data Protection Legislation
* **Special Category Data:** means Personal Data which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership, or genetic data, or biometric data which is processed for the purpose of uniquely identifying a natural person, or data concerning health or data concerning a natural person’s sex life or sexual orientation.
* **UK GDPR**: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act of 2018.
1. **Legal Bases for Processing Personal Data**
	1. **In line with Article 6.1** of the UK GDPR the lawful conditions which allow the Parties to process Personal Data will depend on the circumstances but are likely to include:
		1. **Performance of a Task Carried out In the Public Interest – Art.6.1.e legal bases of the UK GDPR**

This is the condition most likely to be the basis under which we carry out the majority of our processing. Section 8 of the DPA 2018 extends our grounds for processing Personal Data under the performance of a task carried out in the public Interest. The processing of the data is necessary for the performance of a task carried out in the public interest or in the exercise of official authority invested in us, and the task has a clear basis in law as follows:

* Children Act 1989 as amended
* Section 11of the Children Act 2004, duty to have arrangements in place to safeguard and promote the welfare of children
* Section 175 of Education Act 2002 which applies to local authority education functions and to governing bodies of maintained schools
* NHS Act 2006
* Health and Social Care Act 2015 and subsequent amendments
* Welfare Reform Act 2016
* Working Together to Safeguard Children 2018

(Please note this is not an exhaustive list).

* + 1. **Processing is Necessary for Compliance with a Legal Obligation - Art 6.1. c. legal bases of the UK GDPR**

This legal basis allows the Parties to process Personal Data to meet legal obligations to which they are subject and have a clear basis in law which includes but is not limited to:

* To provide Social Care for children and adults
* Provision of Health Services
* To provide support and protection and safeguarding for vulnerable children, young people, and adults
1. **Legal Bases for Processing Special Category Data**
	1. **Under Article. 9.2 of the UK GDPR, the** lawful condition which will allow the Parties to process Special Category Data will be **Article 9.2.h** “for the provision of health or social care” purposes.
2. **Legal Bases for processing Criminal Offence Data**
	1. **Under Article 6.1 and Article 10 of the UK GDPR** the processing of Criminal Offence Data has additional safeguards. The Parties will process any criminal convictions or criminal offences data under the control of official authority or when processing is authorised by relevant law. Criminal Offence Data also include information about the alleged commission of offences or criminal proceedings for an offence committed or alleged to have been committed or the disposal of such proceedings, including sentencing as per Section 11(2) of the DPA 2018.
	2. In the case of the **Chief Constable**, Personal Data may also be processed for any of the law enforcement purposes outlined under the Data Protection Directive (EU) 2016/680) and/or under Part 3 of the DPA 2018 and in the event that the Chief Constable processes Personal Data for these purposes, he shall do so lawfully and fairly in accordance with the data protection principles contained within Part 3 of the DPA 2018.
3. **This Framework / ‘Policy’ meets the additional conditions in the DPA 2018 as follows**
* **Paragraph 2 of Schedule 1** - the processing of special category personal information is necessary for the provision of health or social care purposes as outlined in 4.1 above.
* **Paragraph 2 of Schedule 1** - For the provision of health or social care purposes (para.2, Part 1, Sch1 of the DPA) or safeguarding of children and of individuals at risk that allows sharing of information without consent (para. 18, Part 2, Sch 1 of the DPA) requiring that an appropriate policy document be in place where the processing of criminal convictions, criminal offences is carried out under official authority or when the processing is authorised by Union or Member State Law.
* Additionally, in the case of the **Chief Constable**, insofar as he processes Special Category Data under Part 3 of the DPA, the requirement that he has an appropriate policy document in place under section 42 of the DPA and he has met a relevant condition under Schedule 8 of the DPA, which sets out the relevant conditions for processing Special Category Data under Part 3 of the DPA.
1. **Retention period or criteria used to determine the retention period**

Parties will retain and erase Personal Data including Special Category Data and Criminal Convictions Data in accordance with their organisation’s records management policy and retention schedules. They contain a list of the records, the length of time the records are kept and what happens to them.

1. **Privacy Notices**

Privacy Notices can be found on each organisation’s website. Key ones are listed here:

<https://www.birminghamchildrenstrust.co.uk/privacy>

<https://www.birmingham.gov.uk/info/20154/foi_and_data_protection/384/privacy_statement>

[*https://www.west-midlands.police.uk/about-us/privacy-notice*](https://www.west-midlands.police.uk/about-us/privacy-notice)

[*https://bwc.nhs.uk/privacy-policy*](https://bwc.nhs.uk/privacy-policy)

[*http://www.bhamcommunity.nhs.uk/about-us/corporate-information/privacy-notices-and-data-protection/*](http://www.bhamcommunity.nhs.uk/about-us/corporate-information/privacy-notices-and-data-protection/)

[Data protection :: NHS Birmingham and Solihull (icb.nhs.uk)](https://www.birminghamsolihull.icb.nhs.uk/what-we-do/data-protection#:~:text=Everyone%20working%20for%20the%20ICB,be%20held%20securely%20and%20confidentially.)

[*http://www.lscpbirmingham.org.uk/*](http://www.lscpbirmingham.org.uk/)(Birmingham Safeguarding Children Partnership web site)

1. **Specific Data Sharing Arrangements**

Specific details of data sharing arrangements between the Parties under this Policy/Framework are documented in the Birmingham Children’s Collaborative Working Data Sharing Agreement dated 27/7/2023 version 2.2.