

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

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Document Control

Key individuals consulted or involved in developing the document

| Name | Designation |
|---------------------------|--|
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| Baljinder Sidhu | Solicitor Birmingham City Council |
| Malkiat Thiarai | DPO, Birmingham City Council |
| Claire Graham | Birmingham Children's Trust |
| Clare Edwards | Birmingham Community Healthcare NHS Foundation Trust |
| Alan Lowe | Birmingham Community Healthcare NHS Foundation Trust |
| Bridget Francis | Birmingham Women's and Children's NHS Foundation Trust |
| Roma Mcloughlin | West Midlands Police |
| Tony Diaram | Birmingham Safeguarding Children Board |
| Tom Joyce | West Midlands Police |
| Tim Crane | Solicitor, West Midlands Police |
| Claire Nankivell | Birmingham City Council |
| Alison Joyce | NHS Birmingham and Solihull Clinical Commissioning Group |
| Angeline Hayles-Henderson | Solicitor Birmingham Safeguarding Children Board |

The document sets out;

- How we will comply with the data protection principles to process special category data
- How we will handle special category data that we process, our lawful bases , purpose of processing and the relevant condition for processing under data protection law
- It explains the Parties' policies for the retention and erasure of personal data processed.

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

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1 Parties to the framework

1.1 Principal Parties: are as follows:

- Birmingham Children's Trust
- NHS Birmingham and Solihull Clinical Commissioning Group (CCG)
- 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 Board

The Principal Parties have defined and signed off this agreement.

1.2 Adhering Parties: Parties that have signed up to this agreement and its terms by duly executing a Deed of Adherence.

2 Definitions

- **Agreement:** means this Information Sharing Framework / Policy between the Parties as section 1 above.
- **Data Subject:** has the meaning given in the Data Protection Legislation
- **Parties:** means both Principal Parties and Adhering Parties
- **Personal Data:** has the meaning given in the Data Protection Legislation and means any information relating to an identified or identifiable natural person; 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 identify of that natural person.
- **Shared Personal Data:** means Personal Data shared between the Parties to this Agreement.
- **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.
- **Criminal Offence Data:** means Personal Data relating to criminal convictions and offences, or related security measures.

3 Legal Bases for Processing Personal Data

3.1 In line with Article 6(1) of the General Data Protection Regulation 2016/679 (GDPR) the lawful conditions which allow us to process Personal Data will depend on the circumstances but are likely to include:

- Public Task
- Legal Obligations

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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 Data Protection Act 2018 (“DPA”) 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.

3.2 **Under Art. 9 of the GDPR 9(2)(h)** the lawful condition which will allow us to process Special Category Data will be “for health or social care”. Special Category Data is referred to in the legislation as data which could include the following.

- race
- ethnic origin
- politics
- religion
- trade union membership
- genetics
- biometrics (where used for ID purposes)
- Health
- sex life; or
- sexual orientation

3.3 **Under Art. 10 of GDPR** the processing of Criminal Offence Data has additional safeguards. We will process any criminal convictions or criminal offences data under the control of official authority or under a relevant law to do so. Criminal Offence Data includes information about criminal allegations, offences, criminal proceedings and criminal convictions

3.4 This Framework / ‘Policy’ meets the following requirements of the Data Protection Act 2018(DPA)

- **Paragraph 1 & 2 of Schedule 1** - requiring that an appropriate policy document be in place where the processing of special category personal information necessary for the purposes of performing or exercising obligations or rights which are conferred by law on controllers or the data subject in connection with employment, social security or social protection;
- **Paragraphs 1 & 2 of Schedule 1** 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.

4 Social Care, Health and Police Processing of Personal Data

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4.1 Performance of a Task Carried out In the Public Interest – Art.6 (e) legal basis of the 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 and subsequent amendments (including section 11 and 175 statutory compliance around safeguarding children) and Working Together 2018 guidance.
- 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).

4.2 Processing is Necessary for Compliance with a Legal Obligation to which we as Controllers are subject- Art 6 (c) legal basis of the GDPR

This legal basis allows us to process data to meet legal obligations to which we 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

4.3 Retention period or criteria used to determine the retention period

Parties will retain and erase personal data in accordance with their organisation's records management policy and retention schedules. Retention schedules for organisation are published on their respective websites. They contain a list of the records, the length of time the records are kept and what happens to them.

4.4 Privacy Notices

Privacy statements can be found on each organisations 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://bwc.nhs.uk/privacy-policy>

<http://www.bhamcommunity.nhs.uk/about-us/corporate-information/privacy-notices-and-data-protection/>

<https://www.birminghamandsolihullccg.nhs.uk/privacy-policy>

<http://www.lscbbirmingham.org.uk/> (Birmingham Safeguarding Children Board web site)

4.5 Specific Data Sharing Arrangements

Specific details of data sharing arrangements between the Parties to this Agreement are documented in the “Birmingham Children’s Collaborative Working Data Sharing Agreement”.

Principal Party Signatures

For and On behalf of;

Birmingham Children's Trust

Signature

Signature

Print Name

Print Name

Position

Position

Date

Date

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For and On behalf of;

Birmingham City Council

Signature

Signature

Print Name

Print Name

Position

Position

Date

Date

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For and On behalf of;

**The Chief Constable of West Midlands
Police**

Signature

Signature

Print Name

Print Name

Position

Position

Date

Date

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For and On behalf of;

Birmingham Safeguarding Children Board

Signature

Signature

Print Name

Print Name

Position

Position

Date

Date

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For and On behalf of;

**Birmingham Community Healthcare NHS
Foundation Trust**

Signature

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Print Name

Print Name

Position

Position

Date

Date

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For and On behalf of;

**Birmingham Women's and Children's NHS
Foundation Trust**

Signature

Signature

Print Name

Print Name

Position

Position

Date

Date

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For and On behalf of;

**NHS Birmingham and Solihull Clinical
Commissioning Group**

Signature

Signature

Print Name

Print Name

Position

Position

Date

Date