**WEISF INFORMATION SHARING PROTOCOL**

# SUMMARY SHEET

**Title of Agreement: Inequalities in Waiting Lists ISP**

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| --- | --- | --- | --- | --- | --- |
| Organisation Name | Head Office Address | Phone | Email | Named Data Protection Officer | ICO Notification reference |
| Essex County Council | County Hall, Market Road Chelmsford, CM1 1QH | 08457 430430 | [dpo@essex.gov.uk](mailto:dpo@essex.gov.uk) | Paul Turner | Z6034810 |
| Mid and South Essex Foundation Trust | Basildon &Thurrock University Hospital  Nethermayne, Basildon  SS16 5NL | 01268 524900 | Matthew.Barker@btuh.nhs.uk | Matthew Barker | Z1972899 |

**Version Control**

|  |  |
| --- | --- |
| Date Protocol comes into force | June 2022 |
| Date of next Protocol review | June 2023 |
| **Protocol Lead Organisation** | ECC |
| Protocol drawn up by (Author(s)) | Josie Harding/Zenith McIntyre-Allen/Katy Bennett/Tom MacGregor |
| Status– DRAFT/FOR APPROVAL/APPROVED | Approved |
| Version | 0.3 |

**Wider Eastern Information Stakeholder Forum**

This Information Sharing Protocol is designed to ensure that information is shared in a way that is fair, transparent and in line with the rights and expectations of the people whose information you are sharing.

This protocol will help you to identify the issues you need to consider when deciding whether to share personal data. It should give you confidence to share personal data when it is appropriate to do so but should also give you a clearer idea of when it is not acceptable to share data.

Specific benefits include:

* minimised risk of breaking the law and consequent enforcement action by the Information Commissioner’s Office (ICO) or other regulators;
* greater public trust and a better relationship by ensuring that legally required safeguards are in place and complied with;
* better protection for individuals when their data is shared;
* increased data sharing when this is necessary and beneficial;
* reduced reputational risk caused by the inappropriate or insecure sharing of personal data;
* a better understanding of when, or whether, it is acceptable to share information without people’s knowledge or consent or in the face of objection; and reduced risk of questions, complaints and disputes about the way you share personal data.

Please ensure all sections of the template are fully completed with sufficient detail to provide assurance that the sharing is conducted lawfully, securely and ethically.

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| --- | --- | --- |
| Item | Name/Link /Reference | Responsible Authority |
| Data Protection Impact Assessment (DPIA) | 1166 TM | Essex County Council |
| Supporting Standard Operating Procedure |  |  |
| Associated contract | Snowflake and Azure | Snowflake – Mid & South Essex Foundation Trust  Azure – Mid & South Essex Foundation Trust, Essex County Council |
| Associated Policy Documents |  |  |
| Other associated supporting documentation |  |  |

1 – Purpose

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| Context  People living in more deprived areas wait up to 35% longer (43 days) for treatment than those in the least deprived areas [Source: Moscelli et al (2018), “Socioeconomic inequality of access to healthcare: Does choice explain the gradient?”]. This finding is even more stark when we consider the current situation where “the number of people waiting for hospital treatment in England has hit a record high of 5.7 million as the NHS struggles to clear the growing backlog of care worsened by the pandemic” [Source: The Guardian (14th October 2021), “Record 5.7m people in England waiting for hospital treatment”]. As of October 2021, there were approximately 76,000 people waiting for treatment at Mid and South Essex Foundation Trust (MSEFT).  Similarly, there has also been an increase number of people on local authority waiting lists for Adult Social Care services – either waiting for an initial care assessment or for a planned annual review of needs. Under the Care Act, councils are legally obliged to review care plans no later than every 12 months. As of October 2021, there were approximately 3,600 people on the Adult Social Care review waiting list.  Purpose  The Health and Social Care Act 2012(3) placed a legal duty on Public Health England and NHS England to have due regard to reducing health inequalities, which are defined as “unfair and avoidable differences in health across the population, and between different groups within society” [Source: <https://www.england.nhs.uk/ltphimenu/definitions-for-health-inequalities/>].  In these unprecedented times, where waiting lists are at their largest, we are able to see clearer than ever before the inequalities and disparities that exist locally and how this impacts on their access and experience of health and social care services, and their overall outcomes. By making health inequalities a large part of our work, MSEFT can explore how to reduce variations, implement, and evaluate the impact of service-based interventions and plans to address pre-pandemic and pandemic-related disparities. The programme of work currently being undertaken at MSEFT will systematically analyse and reduce health inequalities, not just among patients waiting for hospital treatment but also among those who have received treatment, cancelled, or do not attend their appointments, complaints and incidents of harm within the Trust. However, limitations to the MSEFT data systems means that they are not able to identify all the potential inequalities among their patients using their datasets alone. This project will identify protected characteristics and health inequalities within MSEFT patient population using additional data available via ECC and aims to assess if there is unwarranted variation being experienced for this cohort. By just using the MSEFT dataset, there is a risk of excluding patient cohorts of increased risk or disadvantage where MSEFT information is limited.  Equality is a key theme of ECC’s new Organisation Strategy; understanding what is going on in particular parts of the county and for specific parts of our population is important insight for tackling inequalities and our Levelling Up work to level up our most deprived cohorts. “Some people and places need more help than others. We will target our attention and focus on the people and places where we can make the biggest difference to improve lives.” Source: Everyone’s Essex: On overview of the Plan for Essex 2021-2025 (dated 16th September 2021). From ECC's perspective, it is important to understand where residents and social care users in particular, may be facing multiple disadvantages from the combinations of problems that prevent them living fulfilling and independent lives. In this case, being on waiting lists for healthcare services and risk of their condition deteriorating. This is important insight to support work to manage crisis demand for social care services towards more preventative approaches.  How we will use the data:  The specific research questions that will be addressed are:   * What is the demographic make-up of people on the MSEFT patient data? * How many people on the MSEFT patient data are known to social care? What are their current social needs? * Are there cohorts or areas more prevalent in the MSEFT patient data? * Are there variations in patient’s healthcare outcomes by protected characteristics (where the data exists), area deprivation level or vulnerable groups? |

2 – Information to be shared

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| --- | --- |
| **Agency Name** | **Data field/description** |
| **Mid and South Essex Hospital Group: A&E Data** |  |
| **Mid and South Essex Hospital Group: Inpatient Data** |  |
| **Mid and South Essex Waiting List data (Snapshot)** |  |
| **Essex County Council: Adult Social Care Registrations** |  |
| **Essex County Council: Adult Social Care Demographics** |  |
| **Essex County Council: Adult Social Care Assessments** |  |
| **Essex County Council: Open Adult Social Care Reviews** |  |
| **Essex County Council: Adult Social Care Services** |  |
| **Essex County Council: Geographic master file (and open source data)** |  |
| **Essex County Council: Adult Social Care – Health Conditions** |  |
| **Essex County Council: Sensory Impairment Registrations** |  |
| **Essex County Council: Languages spoken** |  |

3. Legal basis

The identified conditions for processing under the Data Protection Act 2018:

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| Personal Data (identifiable data) | Special Categories of Data  (Sensitive identifiable data – if applicable) | Law Enforcement data  (if applicable e.g. community safety) |
| Article 6: | Article 9: (if appropriate): | DPA Part 3 (if appropriate): |
| Public Task | Substantial Public Interest | Choose an item. |
| Choose an item. | Health & Social Care | Choose an item. |
| Choose an item. | Choose an item. | Choose an item. |
| Choose an item. | Choose an item. | Choose an item. |

Please list below relevant legislation or statute empowering this sharing activity:

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| Vulnerable Peoples Act |
| Childrens Act 1989/2004 |
| Human Rights Act 1998 |
| Care Act 2014 |
| Health & Social Care Act 20012015 |
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4. Responsibilities

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| For the purposes of this Protocol the responsibilities are defined as follows:  For help go to [Controllers and processors | ICO](https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/key-definitions/controllers-and-processors/) | Tick box | Organisation Name(s) |
| The Sole Data Controller for this sharing is: |  | * Essex County Council * Mid and South Essex Foundation Trust |
| The Joint Data Controllers for this sharing are: |  |  |
| In the case of Joint Data Controllers, the designated single contact point for Individuals is: |  |  |
| Data Processors supporting the processing carried out under this protocol are (please list names): |  | Snowflake  Microsoft Azure |

This Protocol will be reviewed one year after it comes into operation, or sooner should a breach occur or circumstances change, to ensure that it remains fit for purpose. The review will be initiated by the Lead Organisation (see page one).

5. Data Subject Rights

It is each Partner’s responsibility to ensure that they can comply with all of the rights applicable to the sharing of the personal information. Partners will respond within one month of receipt of a notice to exercise a data subject right. It is for the organisation initiating this ISP to identify which rights apply, and then each Partner has a legal responsibility to ensure they have the appropriate processes in place.

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| Data Subject Rights  Select the [applicable rights](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/) for this sharing according to the legal basis you are relying on | Check box to confirm processes are in place |
| UK GDPR Article 13 & 14 – Right to be Informed – Individuals must be informed about how their data is being used. This sharing must be reflected in your privacy notices to ensure transparency. |  |
| UK GDPR Article 15 – Right of Access – Individuals have the right to request access to the information about them held by each Partner |  |
| UK GDPR Article 16 – Right to Rectification – Individuals have the right to have factually inaccurate data corrected, and incomplete data completed. |  |
| UK GDPR Article 17 (1) (b) & (e) – Right to be forgotten – This right may apply where the sharing is based on Consent, Contract or Legitimate Interests, or where a Court Order has demanded that the information for an individual must no longer be processed. Should either circumstance occur, the receiving Partner must notify all Data Controllers party to this protocol, providing sufficient information for the individual to be identified, and explaining the basis for the application, to enable all Partners to take the appropriate action. |  |
| UK GDPR Article 18 – Right to Restriction – Individuals shall have the right to restrict the use of their data pending investigation into complaints. |  |
| UK GDPR Article 19 – Notification – Data Controllers must notify the data subjects and other recipients of the personal data under the terms of this protocol of any rectification or restriction, unless it involves disproportionate effort. |  |
| UK GDPR Article 21 – The Right to Object – Individuals have the right to object to any processing which relies on Consent, Legitimate Interests, or Public Task as its legal basis for processing. This right does not apply where processing is required by law (section 3). Individuals will always have a right to object to Direct Marketing, regardless of the legal basis for processing. |  |
| UK GDPR Article 22 – Automated Decision-Making including Profiling – the Individual has the right to request that a human being makes a decision rather than a computer, unless it is required by law. The individual also has the right to object to profiling which places legal effects on them. |  |
| Freedom of Information (FOI) Act 2000 or Environmental Information Regulations (EIR) 2004 relates to data requested from a Public Authority by a member of the public. It is best practice to seek advice from the originating organisation prior to release. This allows the originating organisation to rely on any statutory exemption/exception and to identify any perceived harms. However, the decision to release data under the FOI Act or EIR is the responsibility of the agency that received the request. |  |

6. Security of Information

The Partners to this protocol agree that they will apply appropriate technical and organisational security measures which align to the volume and sensitivity of the personal data being processed in accordance with article 32 of the UK GDPR as applied by the Data Protection Act 2018.

Personal information will be securely shared viaSnowflake Platform (pseudonymised data only).

Partners receiving information will:

* Ensure that their employees are appropriately trained to understand their responsibilities to maintain confidentiality and privacy
* Protect the physical security of the shared information
* Restrict access to data to those that require it, and take reasonable steps to ensure the reliability of employees who have access to data, for instance, ensuring that all staff have appropriate background checks
* Maintain an up-to-date policy for handling personal data which is available to all staff
* Have a process in place to handle any data breaches involving personal data, including notifying relevant third parties of any breach
* Ensure any 3rd party processing is agreed as part of this protocol and governed by a robust contract and detailed written instructions for processing.

7. International Transfers **(Where applicable)**

If any personal data is to be transferred outside of the UK, please ensure you capture the relevant supporting adequacy decision or safeguard for the transfer (articles 40-43).

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| --- | --- | --- |
| [Adequacy Decision](https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/adequacy-protection-personal-data-non-eu-countries_en) in place | Yes | [International data transfers | ICO](https://ico.org.uk/for-organisations/dp-at-the-end-of-the-transition-period/data-protection-and-the-eu-in-detail/the-uk-gdpr/international-data-transfers/) |
| [International data transfer agreement to support personal data processed under the UK GDPR](https://ico.org.uk/media/for-organisations/documents/4019536/idta.docx) | N/A | [hyperlink] |
| [EU standard contract clauses](https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc/standard-contractual-clauses-international-transfers_en) supported by  [International data transfer addendum to the European Commission’s standard contractual clauses for international data transfers](https://ico.org.uk/media/for-organisations/documents/4019535/addendum-international-data-transfer.docx) to support transfers of personal data processed under both the UK GDPR and the EU GDPR | N/A | [hyperlink] |
| ICO Approved [Binding Corporate Rules](https://icosearch.ico.org.uk/s/redirect?collection=ico-meta&url=https%3A%2F%2Fico.org.uk%2Fmedia%2Ffor-organisations%2Fdocuments%2F2618639%2Fbinding-corporate-rules-at-the-end-of-the-transition-period-final-131120.pdf&auth=kLXxYe3BM09XkjcwzYUzfA&profile=_default&rank=3&query=binding+corporate+rules) in place | N/A | [hyperlink] |
| The receiving organisation in a 3rd country is bound by an approved Code of Conduct recognised by UK | N/A | [hyperlink] |

**ICO guidance on International Transfers can be found at** [**https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/international-transfers/**](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/international-transfers/)

# 8. Format & Frequency

* The format the information will be shared in is **.csv files via SFTP and HTTPS**
* The frequency with which the information will be shared is **one-off**

If a shared system is being used by partners:

* What system is being shared?  **Snowflake/Microsoft Azure**
* Who is the owner of the system?  **MSEFT**

# 9. Data Retention

Information will be retained in accordance with each partners’ published data retention policy available on their websites, and in any event no longer than is necessary for the purpose of this protocol. All data beyond its retention will be destroyed securely.

# 10. Data Accuracy

Please check this box to confirm that your organisation has processes in place to ensure that data is regularly checked for accuracy, and any anomalies are resolved

# 11. Personal Data Breach Notifications

Where a data breach linked to the sharing of data under this protocol is likely to adversely affect an Individual, all involved Partners must be informed within 48 hours of the breach being detected. The email addresses on page 1 should be used to contact the Partners. The decision to notify the ICO can only be made after consultation with all other affected Partners to this protocol, and where notification to the ICO is required, it must be made within 72 hours of the breach being detected. Where agreement to notify cannot be reached within this timeframe, the final decision will rest with the Protocol Lead Organisation as depicted on page one.

All involved Partners should consult on the need to inform the Individual, so that all risks are fully considered, and agreement is reached as to when, how and by whom such contact should be made. Where agreement to notify cannot be reached, the final decision will rest with the Protocol Lead Organisation as depicted on page one.

All Partners to this protocol must ensure that robust policy and procedures are in place to manage data breaches, including the need to consult Partners where the breach directly relates to information shared under this protocol.

# 12. Complaint Handling

Partner agencies will use their standard organisational procedures to deal with complaints from the public arising from information sharing under this protocol.

# 13. Commencement of Protocol

This Protocol shall commence upon date of the signing of a copy of the Protocol by the signatory partners. The relevant information can be shared between signatory partners from the date the Protocol commences.

# 14. Withdrawal from the Protocol

Any partner may withdraw from this protocol upon giving 4 weeks written notice to the Protocol Lead Organisation stated on page one, who will inform other partners to the protocol. The leaving Partner must continue to comply with the terms of this Protocol in respect of any information that the partner has obtained through being a signatory. Information, which is no longer relevant, should be returned or destroyed in an appropriate secure manner.

# 15. Agreement

This Protocol must be approved by the responsible person within each organisation (DPO/SIRO/Caldicott Guardian/Chief Information Officer). Signed copies should be retained by the Lead Organisation for the lifetime of the Protocol plus two years.

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| --- | --- |
| Protocol Lead Organisation |  |
| Lead Organisation | Essex County Council |
| Role of Lead Signatory | Senior Information Risk Officer |
| Name of Lead Signatory | Nicole Wood |
| Date | 06.06.2022 |
| Protocol Lead Organisation |  |
| Lead Organisation | Essex County Council |
| Role of Lead Signatory | Director of Adults Services |
| Name of Lead Signatory | Nick Presmeg |
| Date | 16.06.2022 |
| Protocol Partner Organisation |  |
| Partner Organisation | Mid and South Essex NHS Foundation Trust |
| Role of Partner Signatory | Chief Nursing and Quality Officer |
| Name of Partner Signatory | Diane Sarkar |
| Date | 17.06.22 |

Signed Protocols, or emails of approval should be sent to the Lead Organisation at: dpo@essex.gov.uk