



PLYMOUTH SAFEGUARDING CHILDREN BOARD

General Data Protection Regulations

May 2018

Sharing information is an essential part of any frontline practitioners' job when working with children and young people. Decisions about how much information to share, with whom and when, can have a profound impact on individuals' lives, but can also prove to be a major challenge, with data protection rules often perceived as a significant barrier to timely information sharing of safeguarding data.

The introduction of the UK Data Protection Act 2018 and the General Data Protection Regulation (GDPR) in May 2018 has brought issues of consent and information sharing into sharp focus, potentially leading to concerns that the new rules will make it even harder to keep children safe.

A great deal has changed in the last two decades since the Data Protection Act 1998 was introduced, not least the ways in which personal data is collected and processed by organisations. In particular, the growth of the internet and the significant increase in the amount of personal data being transferred, stored, and processed online means that legislation that worked 20 years ago is, in many respects, no longer up to the task.

The provisions of the Data Protection Act 2018 and GDPR ensure that all individuals have more rights over their information, and are empowered to be able to make decisions on who can process, store and share their personal information. It also introduces more transparency and accountability in compliance with the Act, removing a lot of the bad practice that has been undertaken with data in the last 20 years. The Act is not designed to stop essential public services being delivered, as they would fail if this was the case. It is designed to ensure that each organisation understands and applies the appropriate legal basis to their information sharing, providing transparency to the people whose information is being processed

A new amendment in the proposed Data Protection Act 2018 was introduced on 13 March 2018 and broadens the scope of the Act to incorporate the processing of personal information for safeguarding purposes within organisations. This means that organisations such as schools, charities, volunteer groups and sports clubs will have lawful grounds for the processing of personal information without having to seek consent from the individual concerned, providing the circumstances are justified.

In summary, it provides for a lawful ground for the processing of special category personal information – **without consent if the circumstances justify it** – where it is in the substantial public interest, and necessary for the purpose of:

- protecting an individual from neglect or physical, mental or emotional harm; or

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- protecting the physical, mental or emotional well-being of an individual where that individual is a child or an adult at risk.

Victoria Atkins MP, Parliamentary Under-Secretary of State (Home Department) announced that the ground is intended to make it easier to carry out “*legitimate safeguarding activities that are in the substantial public interest*”.

Farrer & Co have published a briefing on a safeguarding amendment (85) to the Data Protection Bill adopted by the House of Commons Public Bill Committee on 13 March 2018 which can be found [here](#).

Early Help

The EHAT is a whole family assessment. You will need to gain consent from a parent/carer and the child/young person if appropriate. **Consent is a requirement for completing an Early Help assessment.** If there is no consent you cannot complete the assessment. If you are concerned about a child and the family will not engage in this process please seek information and advice from the Gateway. If consent is relied upon for the legal basis to process the information, the consent for a child under 13 needs to be supplied by the parent or guardian. Any child over 13 can provide their own consent.

Practitioners are reminded that consent can be withdrawn at any time by the child/young person/parent or guardian. If this does happen then the EHAT process should be halted and immediate contact made with the Gateway to seek support on how lawfully, and how best for the child, to proceed.

This publication is a general summary. It should not replace legal advice tailored to your agency’s specific circumstances.

Plymouth Safeguarding Children Board
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