Data Sharing Agreement – Licensing

Contents

1. Introduction to the Sharing

This Data Sharing Agreement [DSA] documents how the parties to this agreement, listed in Appendix A, will share information about the full range of licensing activities to allow each party to undertake their roles in licensing matters. By signing this Agreement, the named agencies agree to accept the conditions set out in this document, according to their statutory and professional responsibilities, and agree to adhere to the procedures described.

This Agreement has been developed to:

- Define the specific purposes for which the signatory agencies have agreed to share information.
- Outline the Personal, Special Category and Criminal Data to be shared.
- Set out the lawful basis condition under UK GDPR and Data Protection Act 2018 through which the information is shared, including reference to the Human Rights Act 1998 and the Common Law Duty of Confidentiality.
- Stipulate the roles and procedure that will support the processing/sharing of information between agencies.
- Describe how the rights of the data subject(s) will be protected as stipulated under the data protection legislation.
- Describe the security procedures necessary to ensure that compliance with responsibilities under data protection legislation and agency-specific security requirements.
- Describe how this arrangement will be monitored and reviewed.
- To illustrate the flow of information from referral through processing and outcome.

Parties to this agreement cannot amend or add appendices unless agreed as part of a formal review. It is expected that each party will have procedures, processes and policies sitting underneath this agreement, for their respective organisations. These will, for example, describe the specific processes for secure transfer of data.

1.1. Ownership of this agreement

This agreement was drafted by a working group of representatives of the police, local authorities and London Councils. These professionals were specialists in licensing, police procedures, information governance and law. The local authority representatives worked under the banner of the Information Governance for London Group (IGfL), to draft one agreement that would work for all boroughs, CCGs and police BCUs across London. The aim is to reduce the number of versions of sharing agreements that historically differed between boroughs, partly to reduce the burden on pan-London organisations, that must have agreements with multiple boroughs.

IGfL, a group of information and security professionals at London boroughs, assisted with co-ordination of this agreement, but the responsibilities within it, and compliance with data protection legislation, remain with the listed data controllers.

1.2. Responsibilities of parties involved

The parties are registered Data Controllers under the Data Protection Act. Signatories are identified as those who have signed this agreement on the platform on which this agreement is hosted (expected to be the Information Sharing Gateway). A list of expected types of signatories is at Appendix A.

All parties confirm that they comply with data protection legislation by:

- having a lawful basis for processing and sharing personal data.
- ensuring data quality.
- storing and sharing information securely, with access management controls.
- having policies and procedures for compliance with data protection legislation including for managing data subject rights & complaints, identifying and managing data breaches/incidents and retention & disposal.
- ensuring that mandatory training is undertaken regularly by their employees to ensure they are clear and up to date on their responsibilities. Every individual must uphold the principles of this agreement and overarching confidentiality, and seek advice from the relevant Data Protection Officer when necessary.
- undertaking appropriate data protection due diligence checks with any contractors/data processors they employ, and ensuring that a written agreement is in place with each data processor, and that all data processors will be bound by this agreement.
- having written processes for the processing of data to ensure employees use and share personal data in line with data protection law, the data protection principles, and this agreement.

Organisations and their staff must consult the organisation's Data Protection Officer/Information Governance Manager and/or Caldicott Guardian if they are unsure at any point in the processing and sharing of personal data.

1.3. Confidentiality and vetting

Each Partner must ensure that there are appropriate written contracts or agreements with employees, agency staff, volunteers etc. These must include requirements to ensure compliance with policies which include confidentiality.

Each Partner must ensure that suitable vetting has taken place. This may be through standard employee checks (BPSS or equivalent), DBS, Security Vetting or Counter Terrorist Check [CTC].

1.4. Assessment and review

A review of this information sharing agreement will take place after 6 months of implementation and then annually thereafter., unless otherwise agreed by the organisations' Data Protection Officers. The aim of the review will be to ensure the purposes are still relevant, the scope has not slipped, the benefits to the data subjects and organisations are being realised, and the procedures followed for information security are effective.

Changes in legislation and developments in the areas of public sector data sharing will be considered as and when they arise, as will any changes to the signatory parties.

The working group who drafted this agreement strongly recommend that a working group approach is used for any reviews, as this was a successful way to achieve pan-London and cross-specialism consensus to one sharing agreement.

1.5. Termination of agreement

In the event of termination of this agreement each party may continue to hold information originating from other parties for which they are data controller.

1.6. Outside of this agreement

There are multiple other information sharing arrangements that form part of the duties of the parties and involve similar data for often similar overall purposes, like safeguarding and preventing crime. A non-exclusive list is below.

Area of work	Description
Gangs/Serious Youth Violence (SYV)	The gang and serious youth violence projects are part of specific police-led initiatives.
MACE - Multi-agency Child Exploitation Panel	This group reviews cases of child exploitation.
Multi-Agency Public Protection Arrangements.	Public protection involves generally a different level of discussion to other agreements.
Prevent	The PREVENT strategy is aimed as reducing the risk of radicalisation of young persons
Rescue & Response (County Lines)	The exploitation of persons to sell and move drugs between areas, commonly known as "county lines" is a major element of modern exploitation of young persons and in some cases, modern slavery.
ASB	Anti-social behaviour can overlap with licensing issues but has a different purposive outcome

2. Purpose and Benefits

This DSA covers all areas of licensing undertaken by local authorities: alcohol, gambling, sexual entertainment venues, special treatment licences, Houses in Multiple Occupation (HMOs), food premises, various forms of animal licences, various highway licences, and poisons licences. Research and experience have demonstrated the importance of information sharing across professional boundaries to ensure effective delivery of licensing roles. Poor licensing decisions can mean venue gain licences for alcohol, gambling, sexual entertainment or special treatments when they should not do, or appropriate conditions may not be imposed. Equally overly stringent conditions may be imposed leading to economic harm for legitimate businesses. Children are vulnerable to the effects of alcohol and gambling, and women may be vulnerable to exploitation in badly controlled sexual entrainment venues.

The Metropolitan Police work with Councils to undertake test purchases for alcohol and or gambling products to ascertain if the age restrictions are met. Sharing data between the bodies allows for smoother more joined up working on this valuable proactive area of public protection.

All patrons of special treatment licenced venues and food premises are at risk of harm such as communicable diseases or food poisoning though poor hygiene standards. The general public also are entitled to have such venues properly regulated so they do not cause nuisance to local residents or other businesses.

Premises licenced to sell poisons sell substances that can be used for illegal means and to cause harm to persons. Issues associated with poor compliance with animal licences such as dangerous wild animals, pet shops and dog boarders and breeders can cause public safety concerns and in some cases emergency situations.

Highway licences cover temporary structures and road obstructions such as cranes, skips and other similar road structures where the owner of such is not always obvious but have the potential to cause rod traffic and health and safety risks.

HMOs are frequently occupied by some of the most vulnerable occupiers, but can also be at risk of anti-social behaviour or other public safety problems.

To deliver the best decisions that ensure timely, necessary and proportionate interventions, local authority decision makers need the full information picture concerning a licenced premise, relevant individuals and their circumstances to be available to them. The police who make representations to the local authority on licensing matters need appropriate information in order to make fully informed and evidenced representations, and to fulfil their law and order responsibilities effectively. Police who may be called to deal with urgent issues regarding animal, highways licences or HMO licenced premises may need information on licence holders to effectively handle such matters.

Information viewed alone or in silos may not give the full picture or identify the true risk. All the information from various agencies needs to be available and accessible in one place; to keep members of the public safe and assist signatories to this Agreement in discharging their obligations under the relevant legislation that covers these licenced activities.

2.1. Benefits

The benefits of this DSA are to achieve a more comprehensive, joined up and efficient method for both police and councils to deliver their work in licensing venues and ensuing conditions are appropriate and met by the venues. It will also:

- Cover the sharing of information for licensing purposes.
- Remove barriers to effective information sharing.
- Sets parameters for sharing personal data and clearly identifies the responsibilities of organisations.
- Identify the correct lawful basis to share personal information.
- Ensure information is shared whenever there is a requirement to do so.
- Enables authorities to share data on performance, quality assurance, learning and impact analysis.
- Raises awareness amongst all agencies of the key issues relating to information sharing and gives confidence in the process of sharing information with others.

- Provide better understanding between professionals.
- Greater efficiencies in processes and resources.
- Preventing and detecting crime.
- Effectively dealing with public safety concerning licensing matters

2.2. Principles of information sharing

Effective information sharing is a vital element of delivery fit for purpose licensing decisions and enforcement. Organisations can hold different pieces of information which need to be placed together to enable a thorough assessment and plan to be made.

To share information, a lawful basis for doing so must be identified. This may come from legislation or from statutory guidance.

The sharing of personal data must comply with both the GDPR Principles and the Caldicott Principles, listed at Appendix B. Together, those principles lead to a series of questions and considerations to be answered before sharing takes place. These are listed as an Information Sharing Checklist in *Appendix D: Information Sharing Checklist.*

2.3. Lawful Basis

The sharing of information must comply with the law relating to confidentiality, data protection and human rights. Having a legitimate purpose for sharing information is an important part of meeting those legal requirements. This is a complex area and each Partner must take their own decisions and seek advice from their organisation's Data Protection Officer/Information Governance Manager and/or Caldicott Guardian.

For purposes other than law enforcement by competent authorities

Articles 6, 9 and 10 of the UK GDPR, and section 8 of the DPA 2018 set out the acceptable conditions for the processing and sharing of personal, special category, and criminal data. The conditions relevant in the UK GDPR to data processed under this agreement are below.

Article 6 (1) – Personal Data Processing
(c) processing is necessary for compliance with a **legal obligation** to which the controller is subject
(d) processing is necessary in order to protect the **vital interests** of the data subject or of another natural person;
(e) processing is necessary for the performance of a task carried out in the **public interest** or in the exercise of official authority vested in the controller Use of this article requires that the Data Protection Act section 8 be satisfied. The laws given at *Appendix C – Applicable legislation* provide for each party a legal basis under section 8 – the specifics are noted in the appendix.

Article 9 (2) – Special Category Personal Data Processing
(b) **social protection law** - processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law in so far as it is authorised by Union or Member State law or a collective agreement pursuant to Member State law providing for appropriate safeguards for the fundamental rights and the interests of the data subject;
(c) processing is necessary to protect the **vital interests** of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent;
(g) **substantial public interest** - processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject Use of this article requires that the Data Protection Act Section 10(3) be satisfied. This requires that a condition within Schedule 1, Part 2 is met. For this agreement these are: • *Statutory etc., and government purposes under Para 6(1)(2)* • *Preventing and detecting unlawful acts under Para 10(1)(2)(3)* • *Safeguarding children and individuals at risk under Para 18(1)(2)(3)(4)*
(h) **provision of health or social care** - processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services Use of this article requires that the Data Protection Act Section 10(2) be satisfied. This requires that a condition within Schedule 1, Part 1 is met. For this agreement these are: • *Health or Social Care Purposes under Para 2 with appropriate safeguards as required by section 11(1) of the act and Article 9(3) of the UK GDPR*
(i) **public health** - processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of Union or Member State law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject, in particular professional secrecy Use of this article requires that the Data Protection Act Section 10(2) be satisfied. This requires that a condition within Schedule 1, Part 1 is met. For this agreement these are: • *Public Health Purposes under Para 3, under the responsibility of a health professional or by a person who owes a duty of confidentiality under an enactment or rule of law*

Art. 10 GDPR : Processing of personal data relating to criminal convictions and offences

Processing of personal data relating to criminal convictions and offences or related security measures based on Article 6(1) shall be carried out only under the control of official authority or when the processing is authorised by Union or Member State law providing for appropriate safeguards for the rights and freedoms of data subjects. Any comprehensive register of criminal convictions shall be kept only under the control of official authority.

Data Protection Act 2018 Schedule 1

PART 2 Substantial public interest conditions

Requirement for an appropriate policy document when relying on conditions in this Part. 5(1)Except as otherwise provided, a condition in this Part of this Schedule is met only if, when the processing is carried out, the controller has an appropriate policy document in place (see paragraph 39 in Part 4 of this Schedule).
(2) See also the additional safeguards in Part 4 of this Schedule.

Statutory etc and government purposes

6(1) This condition is met if the processing—
(a)is necessary for a purpose listed in sub-paragraph (2), and
(b)is necessary for reasons of substantial public interest.
(2) Those purposes are—
(a)the exercise of a function conferred on a person by an enactment or rule of law;
Preventing or detecting unlawful acts

10(1) This condition is met if the processing—

(a)is necessary for the purposes of the prevention or detection of an unlawful act,
(b)must be carried out without the consent of the data subject so as not to prejudice those purposes, and
(c)is necessary for reasons of substantial public interest.

For the purposes of law enforcement by competent authorities

The "competent authorities" are defined in Section 30 of the DPA which refers to Schedule 7. The competent authorities under this agreement are generally (but not exclusively) police, probation services, youth offending teams and government departments.

The "law enforcement" purposes are defined in Section 31 of the DPA as "*prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security".*

There are additional safeguards required for "sensitive processing". This is defined in Section 35(8) as:

(a) the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership;

(b) the processing of genetic data, or of biometric data, for the purpose of uniquely identifying an individual;

(c) the processing of data concerning health;

(d) the processing of data concerning an individual's sex life or sexual orientation.

The additional requirements are given in Section 35(4) and (5). Both require an appropriate policy document, and this document will form part of the policy for such processing, although competent authorities will need to satisfy themselves their own internal policy documents fully cover such use.

Section 35(4) requires the consent of the data subject, 35(5) requires that the processing be strictly necessary for the law enforcement purposes, and meets a condition in Schedule 8.

For the processing in relation to the purposes here, the following conditions in Schedule 8 are met:

- Statutory etc. purposes Para 1(a)(b);
- Administration of justice Para 2;
- Protecting individual's vital interests Para 3;
- Safeguarding of children and of individuals at risk Para 4(1)(2)(3)(4);

The applicable legislation that provides the lawful basis is listed in more detail in *Appendix C – Applicable legislation.*

2.4. Consent

The parties will often work collaboratively with data subjects and aim for agreement with them on the actions to be taken. However, it is recognised that this is different to using consent (Article 6 (a)) or explicit consent (Article 9 (a)) as the lawful basis conditions used for processing under this agreement.

Consent is not generally the lawful basis the public sector organisations use for processing information shared under this agreement. It is possible that the other parties, such as voluntary groups, may use consent as lawful basis for some personal data processing. Each party is responsible for managing consent where they use consent as the lawful basis condition.

2.5. Proportionality and necessity

Proportionality, data minimization, necessity and not being excessive are factors to be taken into consideration when deciding whether to share personal information. In making the decision, employees must weigh up what might happen as a result of the information being shared against what might happen if it is not, and apply their professional judgement. It is for this reason professionals must ensure they comply with Article 5(1)(c) and share the adequate and relevant information, and limit that information to what is necessary for safeguarding purposes.

Although sharing of information can impact on a practitioner's relationship with an individual/family, keeping the child safe must always be the first consideration. **Where there is a clear risk of significant harm to a child you must share the information to safeguard the child or children.** Safeguarding is a "special purpose" under the Data Protection Act and as such you should share if the sharing is necessary for protection an individual or a type of individual who is under 18 or over 18 and at risk from neglect or physical, mental or emotional harm.

There are legal safeguards which mean that it is a defence when sharing that you believed it was:

- necessary for the purposes of preventing or detecting crime
- required or authorised by an enactment, by a rule of law or by the order of a court or tribunal
- in the particular circumstances, was justified as being in the public interest.

Or that you acted in the reasonable belief that:

- the person had a legal right to do the obtaining, disclosing, procuring or retaining
- the person would have had the consent of the controller if the controller had known about the obtaining, disclosing, procuring or retaining and the circumstances of it, or
- the person acted—

  (i) for the special purposes,

  (ii) with a view to the publication by a person of any journalistic, academic, artistic or literary material, and

  (iii) in the reasonable belief that in the particular circumstances the obtaining, disclosing, procuring or retaining was justified as being in the public interest

Professionals must record:

- the decision to share, or not to share
- the lawful basis for sharing
- to whom the information was shared

This will enable you to account for decisions made.

2.6. Other relevant legislation

The actual disclosure of any personal data to achieve these objectives must also be conducted within the framework of the Human Rights Act 1998 (HRA) and the Common Law Duty of Confidence. Caldicott Principles also apply to all information sharing and they are listed in Appendix B: Data Protection & Caldicott Principles.

- Human Rights Act 1998 (HRA)
- Common law duty of confidentiality
- Confidentiality and Sharing for Direct Care

2.7. Common Law Duty of Confidence

Much of the police information to be shared will not have been obtained under a duty of confidence as it is legitimately assumed that data subjects will understand that police will act appropriately with regards to the information for the purposes of preventing harm to or promoting the welfare of children.

However, for the police, as a safeguard before any information is passed on, it will undergo an assessment check within relevant policies. The assessment and decision making will require the police to comply with Part 3 of the Data Protection Act, relying on section 37 to share adequate, relevant and not excessive information for the law enforcement purpose. This will allow the police to confidently share information for the protection of children or other vulnerable persons, to fulfil a legal obligation and/or legitimate interest pursued by the police. This also allows the police to share information with third parties (partner agency) when passing the information to a partner agency would facilitate a task carried out in the public interest.

Information held by other agencies that will be shared may have been gathered where a duty of confidence is owed. Duty of confidence is not an absolute bar to disclosure as information can be shared where consent has been provided or where there is a strong enough public interest to do so.

When overriding the duty of confidentiality, the parties may seek the views of the organisation who hold the duty of confidentiality and consider their views in relation to breaching confidentiality. The organisation may wish to seek legal advice if time permits.

2.8. Freedom of Information

The Freedom of Information Act 2000 gives all individuals the right to access official information held by a public authority (the Environmental Information Regulations 2004 also allow access to data. For ease of drafting, FOI is used to cover both legislation). Limited exemptions may apply and all public authorities must ensure they have recognised procedures in place for administering requests of this nature.

All requests for FOI will be directed through the relevant organisations' FOI processes. Each party will seek advice/opinion from the other parties where there is concern about that information being released and any impact it is likely to have. The final decision to disclose or not will lie with the party who holds the information (data controller).

It is encouraged that all parties proactively publish this document. It may also be disclosed to the public under FOI.

3. Individuals

Organisations processing personal data are required to begin with the ethos of Data Protection by Design and Default (also known as Privacy by Design (PbD)). This means that we must consider and uphold the privacy of an individual's data before we begin and throughout the processing taking place.

Each party agrees that they have undertaken a DPIA (Data Protection Impact Assessment), where they feel the processing meets the legislative criteria for a DPIA.

3.1. Right to be informed – Privacy notices

Where personal data is created or received by one of the parties, they are responsible, as required by law, for making the data subject(s) aware within a reasonable time frame that the organisation holds the data, what they will do with it, how long they will keep it, and who they will share it with (such as under this DSA). This is normally done through a privacy notice, whether written or verbal. Organisations agree that they will adhere to the transparency requirements of the UKGDPR and will issue appropriate notices which inform the data subject that the information will be shared with the parties under this agreement.

In some cases, it may not be appropriate to let a person know that information about them is being processed and shared. Consideration should be given to whether notifying the individual may place someone at risk or prejudice a police, other criminal, or safeguarding investigation. In these circumstances, the parties need not inform individuals that the information is being processed/shared; but should record their reasons for sharing information without making the individual aware.

3.2. Data subject rights requests and complaints

Each organisation must have in place appropriate policies and processes to handle data subject requests made in line with data protection law, to ensure they are responded to within deadline and in an

appropriate manner. Requests include; right of access, right to rectification, right to erasure, right to restrict processing, right to data portability, right to object and rights related to automated decision making including profiling.

If an individual successfully requests the erasure or limitation of use of their data (right to erasure, right to rectification, right to restrict processing, right to object), the party that has been informed by the data subject will communicate this to the other parties where relevant and appropriate. In each case each party is responsible for securely disposing of such information or limiting its processing.

Each party must have clear, fair and objective complaint procedures. Any complaints from individuals how their data is being processed or shared will be handled under the policy and processes of organisation concerned.

3.3. Data subjects

There is a breadth of data subjects whose data is shared under this agreement. The data subjects include the following:

- Applicants for licences, and their employees where relevant
- Details of licence holders
- People at risk of sexual exploitation by sexual entertainment venues
- Complainants and persons making representations against, in favour of, or neutrally, in respect of a licence application
- Complaints about licenced venues
- professional adviser or consultant (eg doctor, lawyer)
- professional opinions of employees eg licensing officers and police officers
- witnesses
- people captured on CCTV, Body Worn Video, or similar
- CCTV footage of incidents
- Police cadets and others undertaking test purchase on behalf of the council and or police

Some of the data subjects are vulnerable. Parties to this agreement are in positions of power over data subjects and data subjects have little or no control over why and how their data is processed.

4. Data

The personal data and its processing involved in these workstreams is extensive, highly sensitive and at times intrusive. There is a high volume of data and data subjects.

Anonymisation or pseudonymisation will rarely be possible because of the way the work focusses on individual licence applications and those applying for them, although any statutory returns, workforce planning and management reports should be anonymised if possible.

Information will include:

- **Personal, special category and criminal data** to enable the effective licensing regime in the borough and the safeguarding of all those affected by licenced activities
- **Personal, special category and criminal data** for law enforcement purposes, including data defined as **sensitive data** for the competent authorities for law enforcement purposes
- **Aggregated (anonymised or pseudonymised) data** reporting to enable the parties to further understand the licensing priorities.
- **Aggregated (anonymised or pseudonymised) and personal data** regarding licencees and employees in relation to learning reviews and workforce development.
- **Personal and anonymised data** required for statutory returns.

4.1. The data to be shared

Due to the complexity of the licensing processes, providing a prescriptive list of data fields to be shared is difficult. Not all the above information will be shared in every case; only relevant information will be shared on a case-by-case basis where an organisation has a 'need-to-know' the information.

Data that will be shared includes:

- name and contact details
- age/date of birth
- equalities information
- criminal information on relevant allegations and convictions, relevant police information and intelligence
- details regarding previous non-conformities with licensing legislation and conditions
- details in licensing applications and submissions
- details of licence holders including contact details
- details of conditions attached to licences
- details of complaints made to parties about licenced activities
- financial information
- images in photographs, film or CCTV
- employment information
- status as to being a police cadet or similar for those undertaking test purchases

4.2. Deceased persons

The sharing is unlikely to involve data of deceased persons, but where it does it is noted that this data will not be covered by data protection legislation but will still require due regard to the common law duty of confidentiality and the Human Rights Act.

4.3. Confidential information

In this agreement, we refer to personal data, as defined by data protection legislation. However, the word 'confidential' may be used by individuals and practitioners to describe information and can mean different things to different people.

Confidential can mean:

- Personal and special category data as defined by data protection legislation
- Patient Identifiable Information (PII) or 'personal confidential information'; both terms most commonly used in health settings
- Information which is not already lawfully in the public domain or readily available from another public source
- Information that has been provided in circumstances where the person giving the information could reasonably expect that it would not be shared with others.

4.4. Storing and handling information securely

Information should only be stored and shared in accordance with data protection legislation and follow information security policies and procedures of the relevant organisation.

Information should always be shared securely, either by a secure IT connection, encrypted email, secure sharing platform, or secure and tracked transfer of paper documents. Information should never be sent via a non-secure method. Special category data may need a higher level of security. The employee/organisation sending the information must chose the most appropriate method of transfer and be responsible for its safe delivery.

Organisations will have secure data repository and sharing platforms as part of their network, such as MS Teams, Google, FTP sites. To use these, the parties must establish that these are suitably secure, and that access is only provided to those who need it, and only to the data needed

Email is not generally a secure method of transferring personal data. Although two or more of the parties may have additional encryption that allows for an encrypted path between two of the parties, this cannot be identified simply from the email address. It would be prudent for parties to establish whether there are any encrypted paths between them, and write that into the organisation's processes for employees.

In the absence of that, secure email systems such as CJSM, Egress and Encrypt and Send must be used. Description of specific transfer processes must be in relevant process documents within each organisation.

Information may be shared over the phone, in a virtual meeting, or a face to face meetings. Employees must ensure that attendance and distribution of content is limited, with minutes or recordings with limited distribution. Sharing by telephone should be avoided unless the requirement is urgent and email is not practicable.

Any paper records printed must be kept to a minimum and kept secure at all times whether in the office, home or during transit. Organisations must adopt an appropriate policy surrounding the use and transfer of paper records. Appropriate security methods must be applied when storing or disposing of paper records.

4.5. Access controls and security

All parties will ensure that they have appropriate technical and organisational security measures in place to guard against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

All personal data held by partner organisations electronically will be stored in a secure network area with password protected entry and appropriate back-up functionality. The systems will be auditable so that it

is possible for any auditor to establish who has accessed the system. All laptops, computers, and any other portable devices will be encrypted.

Any individual no longer required to have access will promptly have such access revoked by the line manager and Human Resources related to the relevant employer.

There is an expectation that partner organisations will either be working toward ISO 27001, the International Standard for Information Security Management, or a similar standard of security.

4.6. Outside UK processing

Parties are responsible for ensuring that if information is processed or shared outside the UK, that suitable written agreements are in place, and that appropriate due diligence has been completed for the transfer of data.

4.7. Data quality

Each partner is responsible for ensuring the accuracy and relevance of the personal data that it processes and shares and must have clear processes in place for managing data quality.

Any party learning of the inaccuracy of personal data is responsible for informing the parties with whom that data has been shared.

4.8. Data breaches/incidents

All parties must have a clear policy and procedure regarding the reporting and handling of data protection breaches or data loss incidents. This must include assessing the level of risk to the data subject(s), as well as to make a decision on notifying the ICO within the statutory time frame of 72 hours. This complies with Articles 33 and 34 of UKGDPR, and Section 67 and 68 of the DPA 2018 for personal data processed for law enforcement purposes.

If the incident may impact the processing of another party to this agreement, all relevant parties should be informed and appropriate co-ordination of the incident must take place. The decision to report the incident will lie with the data controller(s) of the information concerned. The parties agree to provide all reasonable and necessary assistance at their own expense to each other to facilitate the handling of any personal data breach in an expeditious and compliant manner.

It is confirmed that security breaches (including misuse or unauthorised disclosure) are covered by the partner's internal disciplinary procedures. If misuse is found there should be a mechanism to facilitate an investigation, including initiating criminal proceedings where necessary.

4.9. Retention & Disposal

Organisations are required by data protection legislation to document processing activities for personal data, such as what personal data is held, where it came from and with whom it has been shared. This Record of Processing Activity (ROPA) must include the retention period for the data.

Information must not be retained for longer than necessary for the purpose for which it was obtained. Disposal or deletion of personal data once it is no longer required, must be done securely with appropriate safeguards, in accordance with that organisation's disposal policies.

5. Signatures

For the Metropolitan Police:

……..

Name……

Rank ……

Date……

Local Authorities:

All local authorities signing this DSA will do so via a centralised electronic system rather than physically signing a document.

Version control	
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6. Appendix A – Parties to this agreement

Organisation	Duties
London Borough Council	• Co-ordinates, gathers, processes, risk assesses and shares information held about licenced activities in conjunction with information received from partner agencies • Makes decisions on whether to grant licences, what conditions to apply to them, whether to amend conditions, whether to revoke licences and whether to prosecute for licensing offences committed, and whether to take civil action against licensing breaches depending on the licence in question • Allocates resources in accordance with licensing requirements • Co-ordinates, gathers, processes, risk assesses and shares licensing information with partners to achieve common licensing goals • Holds licensing committees where necessary
Metropolitan Police Service	• Co-ordinates, gathers, processes, risk assesses and shares police information relevant to licensing applications and crime and disorder. • Assesses all new licence applications, transfers, variations, TENs and personal licences, and submits written representations to the LA. Gives evidence at panel hearings if agreement on conditions / timings cannot be sought. • Conducts licence reviews based on the 4 licensing objectives (see Appendix C) associated with licenced premises • Conducts unannounced visits to licenced premises (including gambling)

7. Appendix B: Data Protection & Caldicott Principles

The Principles as described in Article 5 of the General Data Protection Regulation.

1) Fair & Lawful
processed lawfully, fairly and in a transparent manner in relation to the data subject

2) Purpose limitation
collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes

3) Data minimisation
adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed

4) Accuracy
accurate and, where necessary, kept up to date; Inaccurate data must be erased or rectified without delay

5) Storage limitation
kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed

6) Integrity & Confidentiality
secured through appropriate technical or organisational measures, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage.

The Caldicott Principles

Principle 1
Justify the purpose(s) for using confidential information
Every proposed use or transfer of personal confidential data within or from an organisation should be clearly defined, scrutinised and documented, with continuing uses regularly reviewed, by an appropriate guardian.

Principle 2
Don't use personal confidential data unless it is absolutely necessary
Personal confidential data items should not be included unless it is essential for the specified purpose(s) of that flow. The need for patients to be identified should be considered at each stage of satisfying the purpose(s).

Principle 3
Use the minimum necessary personal confidential data
Where use of personal confidential data is considered to be essential, the inclusion of each individual item of data should be considered and justified so that the minimum amount of personal confidential data is transferred or accessible as is necessary for a given function to be carried out.

Principle 4
Access to personal confidential data should be on a strict need-to-know basis
Only those individuals who need access to personal confidential data should have access to it, and they should only have access to the data items that they need to see. This may mean introducing access controls or splitting data flows where one data flow is used for several purposes.

Principle 5
Everyone with access to personal confidential data should be aware of their responsibilities
Action should be taken to ensure that those handling personal confidential data - both clinical and non-clinical staff - are made fully aware of their responsibilities and obligations to respect patient confidentiality.

Principle 6
Comply with the law
Every use of personal confidential data must be lawful. Someone in each organisation handling personal confidential data should be responsible for ensuring that the organisation complies with legal requirements.

Principle 7
The duty to share information can be as important as the duty to protect patient confidentiality
Health and social care professionals should have the confidence to share information in the best interests of their patients within the framework set out by these principles.

8. Appendix C – Applicable legislation

Legislation	Main purpose of Legislation
Licensing Act 2003	Covers alcohol and entertainment licences, such as pubs, clubs restaurants off-licences etc. provides for offences in certain cases. The licensing objectives are— (a)the prevention of crime and disorder; (b)public safety; (c)the prevention of public nuisance; and (d)the protection of children from harm.
Gambling Act 2005	Covers registration and conditions around operation of gambling premises, such as casinos and betting shops, provides for offences in certain cases. Licensing objectives are (a)preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, (b)ensuring that gambling is conducted in a fair and open way, and (c)protecting children and other vulnerable persons from being harmed or exploited by gambling.
London Local Authorities Act 1991 and 2000	Covers premises used for paid services for reception or treatment of persons requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light, electric or other special treatment of a like kind or vapour, sauna or other baths, excludes registered medical practitioners. Premises must be registered, registration has conditions for public order and safety, opening hours, hygiene, safety and safe operating
Local Government (Miscellaneous) Provisions Act 1984 as amended	Covers licensing of sexual entertainment venues and other sexual venues
Dangerous Wild Animals Act 1976	Covers the licensing of animals specified in the order, excludes domestic and farm animals; covers animals from armadillos to zebras
Housing Act 2004	Covers the requirements for houses that meet certain conditions to have HMO licence and meet various safety requirements. Local schemes can vary which properties need to be licenced.
Poisons Act 1972 and associated rules	Rules include general and specific provisions for the storage and sale and supply of listed non-medicine poisons
Animal Welfare Act 2006 and The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018	Provides for licensing of animal related activities such as animal boarding, riding establishments, dog breeders, and performing animals
Highways Act 1980	Provides for the licensing of various temporary structures and obstructions on public roads including scaffolding, hoarding, building materials, containers (for example skips) or temporary cross-overs, also licences for cranes

Legislation	Main purpose of Legislation
The Localism Act 2011	The Localism Act created general powers for Local Government to act as an individual for any purpose, with specific goals to promote economic, social and environmental well-being within their boundaries. This regulation provides the general power for local authorities to act in any manner they believe suitable for the purposes giving a legal basis under Section 8 of the DPA for this use. However, as a general power it can be challenged, and an additional legal basis is preferred.
Antisocial Behaviour, Crime and Policing Act 2014	Covers closure orders and closure notices of any premises
The Criminal Justice Act 2003	This act amended a wide range of provisions in the PACE act and provided new regulations on offence management, disclosure and trials. The regulation clarifies process and procedure for police and their legal basis for use.
The Police and Criminal Evidence Act 1984	This act makes the specific provision for the secretary of state to issue codes of practice to police with statutory effects. It provides the basis for many of the police actions in respect of matters relating to safeguarding and other matters, and as such provides their legal basis for use.
The Crime and Disorder Act 1998	Each LA in England & Wales has the responsibility to formulate a strategy to reduce crime and disorder in their area and to work with police authorities to do this.
Working Together to Safeguard Children 2018	Local authorities, working with partner organisations and agencies, have specific duties to safeguard and promote the welfare of all children in their area. The Children Acts of 1989 and 2004 set out specific duties: section 17 of the Children Act 1989 puts a duty on the local authority to provide services to children in need in their area, regardless of where they are found; section 47 of the same Act requires local authorities to undertake enquiries if they believe a child has suffered or is likely to suffer significant harm. This provides the policy document required for the safeguarding purposes under Schedule 1 Part 2, para 18 of the DPA for national bodies.
London Child Protection Procedures 2018	The London Child Protection Procedures sets out the procedures which all London agencies, groups and individuals must follow in identifying, raising and responding to welfare concerns when coming into contact with or receiving information about children 0 to 17 years, including unborn children and adolescents up to their 18th birthday This provides the policy document required for the safeguarding purposes under Schedule 1 Part 2, para 18 of the DPA for various London bodies.
The Children Act 1989	Under S.47 of the *Children's Act 1989*, a Local Authority has a duty to investigate when informed that a child in their area is in police protection or the subject of a protection order. This regulation provides specific powers giving a legal basis under Section 8 of the DPA for this use.

Legislation	Main purpose of Legislation
The Children Act 2004	Under Sections 10 and 11 of the *Children Act 2004*, the police, local authorities and primary care trusts must co-operate with other relevant partners to safeguard and promote the welfare of children and ensure that arrangements are made to improve the wellbeing of children in their area. This regulation provides a general safeguarding and welfare power giving a legal basis under Section 8 of the DPA for this use

9. Appendix D: Information Sharing Checklist

The following questions must be considered when deciding whether to share information.

- Whose information is this?
- Is there a lawful basis to share the information? Justify the purpose and identify relevant legislation that applies.
- Can information be pseudonymised or anonymised ahead of sharing?
- How have individuals been informed that the information will be shared eg via a privacy notice? Will they have the expectation that their information will be shared? Consider whether notifying the individual of the sharing may place someone at risk or prejudice a police or safeguarding investigation.
- Have any requests not to share been received and considered?
- How much information is it necessary to share in this situation?
- Is the information accurate and up to date? Has the difference between fact and opinion been stated?
- Is access to the information limited to only those who need it? Is it being given to the right person?
- Is the information being shared in a secure way?
- Has the decision to share or not share been recorded?