

## GDPR Advice for Schools regarding sharing Personal Data during Covid 19 Track and Trace; Sharing Personal Data

### Sharing personal data with NHS Track and Trace

Schools are entitled (and have lawful basis) to share personal data with relevant authorities where necessary relating to employees, pupils, parents and visitors to school under the GDPR and Data Protection Act 2018.

In sharing this information, schools must take into account the risks of not sharing the information. The lawful basis for the processing of personal data by Public Health England (PHE) for the purpose of protecting public health is provided by the following two Articles of the GDPR:

- Article 6 (1) (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'; and
- Article 9 (2) (i) 'processing is necessary for reasons of public interest in the area of public health'.

This covers any special category data to be shared (Article 9). The first lawful basis (Article 6) covers personal information (names, DOB etc) whilst the second (Article 9) covers special category data such as health data.

The lawful basis for sharing information overrides consent therefore if a parent has withdrawn consent the school can still share the information with PHE.

### Telling people that their information is shared

Your existing Privacy Notice should already contain confirmation that, when required by law, personal information will be shared. This should be posted on your website and parents should be directed to it.

The Privacy Notice within the Nottinghamshire School's GDPR Toolkit states:

*"Sometimes we have a legal duty to provide information about people to other schools, e.g. Child Protection concerns or statutory returns to the Department for Education, for example the school census.*

*We may also share your personal information when we feel there is a good reason that is more important than protecting your confidentiality. This does not happen often, but we may share your information:*

- *To find and stop crime or fraud; or*
- ***if there are serious risks to the public, our staff or to other professionals; or***
- *to protect a child"*

Serious risks to the public include where processing is necessary for responding to threats to public health e.g. infectious disease outbreaks, epidemics, pandemics.

What the ICO says:

The ICO states "Where possible, organisations should have clear and accessible privacy information in place before processing begins. However, we recognise that in this exceptional period, this may not always be possible. Organisations should ensure that privacy notices are in place and updated as soon as reasonably practical." What is reasonably practical will vary from school to school. For reference see <https://ico.org.uk/global/data-protection-and-coronavirus-information-hub/data-protection-and-coronavirus/>

## Sharing Personal Data with NHS/Public Health Agencies

Where data needs to be shared with Health officials you should:

- limit the data shared to the minimum necessary
- only share data with the appropriate authorities
- share via secure methods (e.g. encrypted email)
- verify the identity of persons making phone calls/sending emails requesting personal data (be aware of the risk of cyber/impersonation crime)
- keep a record of all disclosures made, including when and the rationale for doing so. And notify any individuals whose data has been shared (if practicable).

## Sharing Data under the “Track and Trace” Scheme

Schools may be required to share Personal Data of individuals under the Track and Trace scheme. The scheme does have a Privacy Notice

<https://contact-tracing.phe.gov.uk/help/privacy-notice>

It would be best practice to publicise on your school website and at the entrances of school that personal data of those that attend/work at/visit the school may be shared under this scheme. Retain a note of which individuals' data is shared, what data is shared, and notify those individuals if practicable (i.e. so they know to expect a call from Track and Trace workers).

## Visitors' Information

For Track and Trace purposes you may now want to obtain visitors' telephone numbers. If this is done it is done so on a voluntary basis, there is no legal requirement for visitors to provide you with their telephone number.

Contact tracing details from visitors are to be kept for 21 days only, after which the data should be securely destroyed.

For ICO guidance on this:

<https://ico.org.uk/global/data-protection-and-coronavirus-information-hub/coronavirus-recovery-data-protection-advice-for-organisations/collecting-customer-and-visitor-details-for-contact-tracing/>

Please remember that if telephone numbers of visitors are obtained, they should be kept secure and not on public display within the visitors' book.

## Sharing Information with the School Community

It is unlikely that it will be necessary to share personal data relating to health with any other person or with the school community; it is sufficient to make a general statement e.g. “a parent of a child in your child's school 'bubble' has experienced COVID-19 symptoms...” or “a member of staff teaching another 'bubble' in school has developed COVID-19 symptoms...”. Names of individuals affected, or more detailed health details should not be shared.

## Further Advice for Schools

This is a rapidly developing area and new guidance for schools is published frequently. At the moment, the Department for Education guidance states ‘As part of the national test and trace programme, if other cases are detected within the child or young person's cohort or in the wider education or childcare setting, Public Health England's local Health Protection Teams will conduct a rapid investigation and will advise schools and other settings on the most appropriate action to take ‘