

# One Staffordshire Information Sharing Protocol

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## **Executive summary**

The 'One Staffordshire Information Sharing Protocol' deals with the emerging issues surrounding information sharing between agencies and organisations that are delivering services for the social, economic and environmental wellbeing of the community.

Promoting and achieving wellbeing is only likely to be successful where organisations work together to ensure that communities; are kept safe; participate in healthy lifestyle choices; are looked after; are provided with the opportunity to succeed; are part of a thriving economy; and live in and enjoy a protected and respected built and natural environment.

The protocol has been produced by a working group made up of representatives from various public bodies whose remit has been to review existing information sharing protocols and replace them with 'One Staffordshire Information Sharing Protocol' which accurately reflects the current information sharing climate, legislative requirements and best practice.

This Protocol includes information sharing between services commissioned to deliver health and social care services within the boundaries of Staffordshire (including Stoke-on-Trent) but may also include services delivered outside of the area.

Our aim is to enable partners to co-ordinate effort, collate and exchange information to achieve joint objectives, co-ordinate resources, support one another in addressing common and locally set priorities and comply with the law.

The protocol outlines the purposes for sharing information, the powers that organisations have to share information, the role of partners and what can be expected from them, the process for sharing and scheduled review dates. The protocol alone does not provide the legal right to share information, it sets out the boundaries and guides under which sharing can occur and shows a commitment from its signatories to uphold what is required of them.

**Important - Please note that except where legally bound, projects involving regular information sharing should have a specific Information Sharing Agreement (also known as a Tier 2 agreement) which has been approved by the Designated Officer of organisations involved in the specific sharing. See section 4 for full details on sharing under the protocol.**

## **1. Purpose**

1.1 Organisations throughout Staffordshire recognise that all individuals have a right to economic, social and environmental wellbeing.

1.2 Promoting and achieving wellbeing is only likely to be successful where organisations work together to ensure that communities; are kept safe by preventing crime and disorder; participate in healthy lifestyle choices and have access to health services; are protected and looked after by improving and joining up social care services; are provided with the opportunity to succeed through education, training and employment; and are part of a thriving economy where business has the ability to achieve.

1.3 Positive steps have already been taken by organisations across Staffordshire to ensure that these objectives can be met and to ensure that individuals receive the services that they require in a fast, efficient and personalised manner.

1.4 A number of multi-agency working arrangements have been put in to place throughout the County in order to allow representatives from statutory, voluntary and community sectors to work more closely with one another and to tailor the services that they provide to meet the needs and circumstances of each individual. These include but are not limited to; Community Safety Partnerships, Local Support Teams, Multi-Agency Safeguarding Hubs, Multi-Agency Risk Assessment Conferences, Multi-Agency Public Protection Arrangements and Children and Adults Safeguarding Boards. Sharing information between agencies is vital to the delivery of high quality, cost effective and seamless public services.

1.5 All authorities, bodies, organisations and groups will hereafter be referred to as Partners.

1.6 Persons signing the Protocol on behalf of Partners will be referred to as Signatories.

1.7 All Partners to this Protocol are committed to the partnership approach in dealing with community issues. This document will provide a robust framework for the exchange of information to support economic, social and environmental wellbeing and enable Partners to:

- a) co-ordinate effort to deal with crime and disorder and to support health and well-being, social care and education;
- b) collate and exchange relevant information to achieve joint objectives in line with government initiatives and public expectations;
- c) co-ordinate resources in respect of the same issue – joint case management;
- d) support Partners in addressing common and locally set priorities; and
- e) comply with the law.

1.8 The Protocol provides the basis upon which co-operating Partners will facilitate and govern the lawful sharing of information to ensure that agencies can work together to:

- prevent crime and disorder, bullying, discrimination and neglect in all sections of our communities,
- make our communities safer and provide support to the victims of crime,
- offer joined up health and social care services,
- identify and provide support for vulnerability in the community,

- ensure that access is available to education and training,
- allow greater individual choice of service access by community members.

1.9 The Protocol provides good practice for the sharing of information between Partners in line with relevant legislation and is an enhancement to other established working practices. It is not intended to restrict the exchange of information and intelligence between operational staff employed by the Partners. They will continue to interact by face to face, telephone and electronically in order to carry out their operational duties and responsibilities. Such collaborative working will usually require documented procedures in addition to this Protocol. This will ensure that such information is exchanged in a lawful manner. Documented procedures covering these circumstances must not circumvent this Protocol.

1.10 Partners will provide public support for this Protocol. The Protocol will be published so that the public can see that information is being shared for their benefit in an appropriate and lawful way.

1.11 This Protocol complies with the Management of Police Information (MOPI) standards for information sharing, the Information Commissioner's Office (ICO) data sharing code of practice and the principles set out in the Caldicott review.

## **2. Powers**

2.1 There is no general statutory power to share information however some statutes provide public bodies with an express power to share, i.e. Section 115 of the Crime and Disorder Act 1998 which permits sharing to help prevent or detect crime and Section 8 of the National Audit Act 1983 which imposes a legal obligation on public bodies to provide relevant information to the National Audit Office.

2.2 Where there is no express statutory power to share information it may be possible to imply such a power from other duties and powers which public bodies have, i.e. Section 1 of the Localism Act 2011 provides a new power available to local authorities allowing them to do “anything that individuals generally may do”.

2.3 Regardless as to whether an organisation has express or implied statutory powers, all personal data will be exchanged only as allowed by current law and only where justified, necessary and proportionate to meet the agreed objectives of this Protocol. In particular, organisations and employees will comply with:

- Data Protection Act 2018
- General Data Protection Regulation
- The Human Rights Act 1998
- The Common Law Duty of Confidentiality
- Data (Use and Access) Act 2025

2.4 The legislation above has been detailed further in [Appendix B](#) along with additional legislation which may need to be considered and referred to when sharing specific information.

### **3. Partners**

3.1 The signing of this Protocol by each Signatory reflects their organisations commitment to adopting and complying with the Protocol requirements.

3.2 Each party remains responsible for the data they hold and process (once safely received) from the other parties as data controller of that information. Specific data controller and processor arrangements must be set out in Tier 2 agreements.

3.3 This Protocol is signed by all statutory authorities and will govern the sharing of information between them. Other agencies and bodies that have a role in delivering the priorities identified by the One Staffordshire Information Sharing Protocol are also invited to sign and comply with this Protocol where required. Other agencies and bodies may include organisations outside of the public sector. The onus is on the agency to inform their staff of their agency's responsibilities, to monitor and take responsibility for compliance with the protocol.

3.4 Any organisation that requests to share information but are not yet Signatories to this Protocol will be required to become Signatories.

3.5 All Partners to this Protocol are independent Data Controllers (as defined by the Data Protection legislation). It is a legal requirement that any Signatory organisation to this Protocol must have paid the appropriate fee to the Information Commissioner.

3.6 It will be the responsibility of the Signatory to ensure that:

- Realistic expectations prevail from the outset
- Ethical and professional standards are maintained
- A mechanism exists by which the flow of information can be controlled, and confidentiality maintained in addition to ensuring that significant decisions made are recorded and documented
- Staff have appropriate skills and training
- Adequate arrangements exist within their organisation to test adherence to the Protocol
- Operational coordination in support of shared objectives is supported
- The legitimate and justifiable exchange of information is encouraged to an extent which is compatible with rights under the Human Rights Act 1998 and its supporting principles such as proportionality and subsidiary

3.7 Each Signatory will nominate a Designated Liaison Officer to facilitate the sharing of information between Partners. The Designated Liaison Officer will:

- act as a single point of contact for information requests
- understand the relevant legislation and be able to champion information sharing within their own organisations
- work with other Designated Officers to establish the best ways to share information
- act as the first point of contact for any technical problems with sharing the information that may arise and, where necessary, report findings to Partners
- initiate internal investigations where the Protocol has not been adhered to
- approve and maintain a record of any individual Information Sharing Agreements entered into under this Protocol

3.8 Any Signatory may terminate their involvement in this arrangement, with one or more Signatories, by the service of one month's written notice on the Signatories. The Signatory should inform the managing agent that this has been done.

3.9 Any organisation wishing to become a Signatory to this Protocol may obtain a copy online at [One Staffordshire Information Sharing](#). Compliance with the protocol must be signified by completing and returning an acceptance form to Staffordshire County Council at: [infogov@staffordshire.gov.uk](mailto:infogov@staffordshire.gov.uk) who will make the necessary amendments and inform other organisations of the updates. Becoming a Partner to this Protocol does not infer any right to exchange information with another Partner.

3.10 A full list of Signatories and Designated Officers is attached at [Appendix A](#).

#### **4. Process for Sharing**

4.1 Personal data will only be shared where it is necessary, proportionate and justified to do so and on a 'need to know' basis. Partners will always consider alternatives to sharing personal data in the first instance, e.g. statistical, anonymised or pseudonymised information.

4.2 This Protocol allows for the sharing of personalised and depersonalised information in the following circumstances. 4.34 states policies and procedures should be in place to support and ensure good practice.

- a. Written exchange of information between Partners
  - delivered and/or received in person
  - at formal meetings/case conferences, where minutes or notes are produced or actions are recorded
  - by recorded/special post
  - by secure fax
  - by electronic means, including secure email
  - shared via secure and encrypted portals
- b. Verbal exchange of information between Partners
  - in person
  - at formal meetings/case conferences, where minutes or notes are produced or actions are recorded
  - over the telephone

4.3 This Protocol does not give license for unrestricted access to information another Partner may hold. It provides the parameters for the safe and secure sharing of information for a justifiable 'need to know'.

4.4 Each Partner must take responsibility for its own decisions to share or not to share as well as what information is appropriate to share. Partners may choose to carry out risk assessments and/or data protection impact assessments (DPIA) to aid their decision. In addition to this, Partners will take into account the framework of the legislative background ([see Appendix B](#)), regional agreements, guidance in relation to their specific service area and their own professional judgement.

Where a Partner to this Protocol chooses not to share information, they must provide a full and clear written explanation of the reasons the sharing request has been refused, to the requesting Partner.

4.5 Information shared under this Protocol will only be used for the specific purposes for which it was disclosed. Partners will always retain ownership of the personal information disclosed to another Partner, therefore any Partner wishing to use the information for another purpose or who may wish to disclose that information to any other person (other than the data subject or where there are legal grounds to do so) must:

- Inform the provider of their intention to use the information for a different purpose
- Specify the legal basis permitting such processing
- Obtain explicit consent from the individual(s) concerned and provide a fair processing notice before processing such information

If the originator of the personal information considers that the purpose for which the information is proposed to be used is likely to be detrimental to their agency, or the individual(s) whose personal information it is proposed to use object, then that information should not be used for the proposed purpose.

4.6 Agencies wishing to use personal information that has been provided under this Protocol for research or statistical purposes should ensure that policies and procedures are in place to guarantee that such personal information is anonymised.

4.7 In requesting disclosure of personal information from another Partner to this Protocol, those concerned will respect this responsibility and not seek to override the procedures which each agency has in place to ensure that information is not disclosed illegally or inappropriately.

It is acceptable for a providing agency to obtain further details from the requesting organisation in order to satisfy them that the agency has the ability to appropriately handle the information.

4.8 The extent of disclosure must be restricted to only that personal information which is necessary to enable the Partner, or an individual or group acting on their behalf, to achieve its objectives outlined in [section 1](#) of the Protocol (purpose). The degree of disclosure that takes place must be necessary, proportionate and justified.

4.9 Except where legally bound, projects involving regular information sharing should have a specific Information Sharing Agreement (also known as a Tier 2 agreement) which has been approved by the Designated Officer of organisations involved in the specific sharing. The provisions which will be relevant to all agreements can be found at [Appendix D](#) and [Appendix E](#), an 'Information Sharing Agreement template' can be found in [Appendix H](#).

4.10 Where information is disclosed, received or requested all Partners will put in place procedures to record the following information:

- The date the information was requested
- Details of the person(s) making the request
- Details of the information requested
- The personal details of the person(s) who is the subject of the information (refer to the individual Information Sharing Agreement where there is a bulk transfer)
- Any restrictions placed on the information that has been given e.g. 'not to be disclosed to the service user'.
- Details of the person authorising the disclosure (where applicable)
- The grounds for disclosing (where applicable)
- Whether consent has been sought and received
- Details of the information disclosed/received (where applicable)

- The date the information was disclosed/received (where applicable)

A 'Decision to Disclose form' can be found in [Appendix H](#).

4.11 Where information is shared at meetings made up of organisations that may not be Signatories to the Protocol it is good practice to sign a Confidentiality Agreement. This may be considered good practice even for those members of the group that are Signatories to the Protocol. This will prohibit any unauthorised secondary disclosure of personal information. Decisions on disclosures reached at meetings should be recorded and documented in line with [paragraph 4.10](#).

Care should be taken not to include confidential personal information in minutes of meetings where copies of those minutes cannot be subject to the strict controls set out in this Protocol.

A 'Confidentiality Agreement template' can be found in [Appendix H](#).

4.12 Appropriate sharing of information shall be dealt with within agreed timescales. In the event of failure to agree on timescale, sharing shall take place as soon as practicable.

4.13 All Partners will ensure that the requirements for fair processing are met. Further details about fair processing are included at [Appendix E](#) and a 'Fair Processing Notice template' can be found in [Appendix H](#).

4.14 Providers of information will take reasonable steps to ensure that information shared will be accurate and up to date.

4.15 It is the responsibility of the person using information to ensure that it is fair, transparent, relevant and accurate. Reliance on the currency of that data will be a matter for the receiving party and if there has been any delay between receipt and use of information, the current accuracy of the information must be verified. Each supplying Partner accepts and understands that it may be requested to confirm changes to previously released information. The use of out of date information can have serious consequences.

4.16 Where information is discovered to be inaccurate or inadequate for the purpose, the receiving party agrees to notify the data owner. The data owner will be responsible for correcting the data and notifying all other recipients who must ensure that the correction is made or the inaccurate records are destroyed. After the correction is made or the records destroyed the data owner will be informed in writing.

4.17 As far as reasonably practicable all Partners will ensure that information shared will be recorded in a compatible format. Partners shall endeavour to adhere to the supplying Partner's security markings wherever possible.

4.18 The supplying Partner will ensure that the information is of good enough quality for the intended purpose before the information is shared. Partners agree to cooperate to ensure that all Partners meet agreed quality standards where appropriate.

4.19 Partners will ensure that they have a policy in place for the review and cleaning of data in accordance with the Data Protection Principles. In addition Partners will take into account any internal codes of practice, information security policy or sector guidance.

4.20 All Partners will put policies and procedures in place governing storage limitation, ensuring the retention and destruction of records containing personal information which is retained within manual and/or electronic systems.

4.21 Partners supplying information will specify the retention period relevant to the information supplied and whether the information will be deleted or returned to the supplier in the individual Information Sharing Agreement.

4.22 Retention of personal data must be for the minimum period required to achieve the purpose identified when requesting the information. After such period it is the responsibility of the information holder to either return the information to the supplier or to destroy the information securely. Partners will ensure that any out-of-date information that still needs to be retained, but is not permanently deleted, is safely archived or put “off-line”.

4.23 Records of disclosure must be retained for as long as they remain relevant and in any case, for a minimum of six years.

4.24 All Partners will ensure that their staff and officers have adequate knowledge, training and skills to enable them to share information legally, comply with any professional codes of practice and local policies and/or procedures, including this Protocol. Staff training should take place during induction period, before any access to personal data is granted and a refresher should be undertaken at least annually. Staff who are properly trained will understand their duty to share information. Issues that can arise if they do not take proper care of personal confidential information and understand what they are expected to do when:

- Sharing with other members of their team;
- They need to ask an individual for permission to share their data;
- They need to transfer personal data securely;
- An individual objects to the ways their personal data is being used or shared;
- In regards to health and social care, they are asked to share it with someone outside the health care team for an in-direct care purpose;
- They can share information without an individual’s consent or override their objection.

4.25 All Partners will ensure that their staff and officers who are involved in the information sharing process are aware of, and comply with, their responsibilities and obligations with regard to:

- The confidentiality of personal information
- The commitment of the relevant Partner organisation to only share information legally and within the terms of an agreed individual Information Sharing Agreement
- Information will only be shared where necessary, justified and proportionate, on a need to know basis only
- Disclosure of personal information which cannot be justified, whether inadvertently or intentionally, may be subject to disciplinary action

4.26 Partners will ensure staff and officers who are authorised to make disclosures of personal information, will clearly state whether the information that is being supplied is fact, opinion or a combination of the two.

4.27 All Partners will require their staff, officers and any other agency or contractor who have access to, or are likely to come into contact with, personal information will be required to sign a Confidentiality Agreement or include the necessary confidentiality clause, as part of the terms and conditions of employment and/or contract.

4.28 Each party shall ensure that any processor, agent or subcontractor instructed by them to process information to which this agreement relates, will not be instructed without the written permission of the sender of that information. A contract must be in place. The instructing party must also provide a plan of the technical and organisational means the third party have adopted to prevent unauthorised or unlawful processing or accidental loss or destruction of the information (to include confirmation that these processes have been successfully implemented by the third party and will continue to be monitored by the party instructing them).

4.29 All Partners will ensure that they have appropriate policies and procedures in place to deal with requests from data subjects in relation to their personal data, including the provision of advice and assistance to individuals wishing to make a request. Information that has been provided by another agency may be disclosed to the data subject without the need for obtaining consent with the following exceptions:

- Where the Partner agency has expressly stated they do not wish the information to be disclosed without being consulted first
- The information contains medical details
- The information is of a legal nature

4.30 Requests under the Freedom of Information Act 2000 which may involve policy documents and decision making processes in relation to this Protocol should be dealt with as per [paragraph 4.25](#). There are no limits placed on the public availability of this Protocol and associated appendices and organisations are encouraged to include this Protocol on their Publication Scheme.

4.31 Each Partner is responsible for complaints, queries and objections regarding information sharing, subject access and freedom of information and environmental information regulation (EIR) requests directed to their organisation in line with relevant Acts or policies in practice. Each Partner will ensure that they have effective procedures for dealing with complaints from individuals in relation to the use and disclosure of personal information. All Partners who are party to the information sharing will provide cooperation and assistance in order to resolve the complaint.

4.32 In relation to the sharing of health and social care data where a party is subject to the Data Security and Protection (DSP) Toolkit each party shall commit to achieving at least Satisfactory or Satisfactory with Improvement plan under an annual DSP Toolkit submission. See Appendix E for specific detail regarding sharing health and social data.

Note: Under 'Organisation' in Appendix A the DSP Toolkit reference is displayed as evidence of participation; however, it is the responsibility of organisations participating in sharing to check that the Toolkit submission is the latest version and rated satisfactory or 'satisfactory with improvement plan'. See [paragraph 4.32](#) and [Appendix E](#) for further details.

4.33 All Partners will put in place procedures governing the integrity and secure storage of all personal information retained within their manual or electronic systems to comply with the security principle of Data Protection legislation, taking into consideration both technical and organisational measures. Security requirements will include:

- Appropriate security management (e.g. policies, procedures, staff training)
- Appropriate access controls to electronic and manual systems
- Appropriate physical and environmental security to buildings and other hardware
- Appropriate back up and disaster recovery systems

4.34 All Partners will ensure the secure exchange of information. Partners will put in place policies and procedures that govern the secure transfer of personal information both internally and externally. Such policies and procedures must cover:

- Secure internal and external postal arrangements
- Verbally, face to face and telephone
- Secure facsimiles
- Electronic mail (secure network or encryption to minimum standards)
- Secure electronic network transfer

The method of transfer and subsequent security measures must be included on any individual Information Sharing Agreement (see Appendix D). When sharing Police information it would be expected that Baseline Security Controls as outlined in ISO27001/2 should be followed and/or the NCSC Cyber Essentials.

4.35 All Partners will have appropriate measures in place to investigate and deal with inappropriate or unauthorised access to, or use of, personal data whether accidental or intentional. If it is established that personal information has been shared inappropriately under this Protocol, the Partner making the discovery shall inform the information provider of the details.

Following this, the information provider shall:

- Take steps to investigate the cause of the disclosure
- Where appropriate, take disciplinary action against the person(s) responsible
- Take appropriate steps to avoid a repetition

The original provider will also assess any potential implications for the individual whose information has been compromised and if necessary:

- Notify the individual concerned
- Advise the individual of their rights
- Provide the individual with the appropriate support

4.36 Where a serious breach has occurred, it is mandatory for the provider to notify the Information Commissioner's Office within 72 hours and, where applicable, report on the online DSP Toolkit IG Incident Reporting Tool. It is the responsibility of the party managing an incident to investigate, report and escalate them as appropriate to the necessary regulatory bodies. Each partner must have processes in place to ensure incidents are identified and reported where applicable under Data Protection legislation.

4.37 If any partner wishes to utilise Artificial Intelligence (AI) for data sharing purposes (for example, using automated AI transcription tools at meetings or conferences) they should ensure that this is clearly outlined within an information sharing agreement, along with details of how the use of AI will meet the principles of the Data Protection

Legislation, as well as the principles laid out within the protocol. Partners should not use AI tools to process information shared with other partners without gaining the approval of the other partner(s) they are sharing with. Partners should complete a Data Protection Impact Assessment for initiatives involving the use of AI. The ICO has guidance to the use of AI, here: [AI and data protection risk toolkit | ICO](#)

4.38 Data shared under the One Staffordshire Information Sharing protocol should not transfer Shared Personal Data to any country or territory outside the United Kingdom or to any international organisation (as defined in the UK GDPR) without the Disclosing Party's prior written consent and knowledge. Any transfer of data outside the UK must involve adequate protections and safeguards as defined in Articles 44 and 45 of the UK GDPR. Any international transfers must follow the ICO guidance: [A guide to international transfers | ICO](#)

## 5. Review

5.1 Responsibility for maintenance of this Agreement lies with the Data Protection Officer (DPO) at Staffordshire County Council.

5.2 Review of this Protocol will be on a 12 monthly basis via email consultation with Signatories of the Protocol.

5.3 A relevant Partner can request an extraordinary review at any time where a joint discussion or decision is necessary to address local service developments.

5.4 Any Partner may make suggestions for amendments to the Protocol at any time. Unless urgent, amendments will be made on an annual basis. Requests for amendments should be made to the Information Governance Unit at Staffordshire County Council.

5.5 Suggested amendments may be discussed at any appropriate forums. This will enable Partners to exchange views prior to changes being made.

5.6 Information Governance at Staffordshire County Council will retain master copies of the Protocol, together with a list of current Signatories and will retain responsibility for co-ordination of the annual review.

5.7 Any review undertaken will take into account the following issues:

- That the contact list is current and up to date (as far as reasonably practicable)
- That the Protocol is still useful and fit for purpose
- That any emerging issues have been identified and if the information sharing is having the desired effect
- That the protocol reflects up to date legislation

5.8 If any party to this Agreement believes that any other Signatory is acting in breach of the Agreement the Designated Officers of the Partners directly responsible will discuss the issue and attempt to resolve it. If no solution can be found any agency may withdraw from this Agreement and cease to provide data until an acceptable framework for sharing can be established.

5.9 This Protocol will remain current until further notice. This Protocol can be terminated by mutual agreement at any time (see paragraph 3.8 ).

**Appendix A*****Signatories and Designated Officers***

\*DSP Toolkit code only required for health and social care information sharing. For more information see paragraph 4.32 and Appendix E within Protocol.

Organisation	DSP Toolkit Org. Code *	Name of Signatory	Designated Officer(s)
Accord Housing Association Ltd 178 Birmingham Road West Bromwich West Midlands B70 6QG	A5CV	Di Stirling-Chow Assistant Director of Care Services	Jan Paterson Head of Service – Older People North 01952 616011 / 07776 161180 <a href="mailto:Jan.paterson@accordgroup.org.uk">Jan.paterson@accordgroup.org.uk</a>
Action for Children Staffordshire Shared Care Church Street Chesterton Newcastle-under-Lyme ST5 7HJ		Jackie Topham Registered Manager	Caroline Leahy Cluster Service Manager 07780603449 <a href="mailto:caroline.leahy@actionforchildren.org.uk">caroline.leahy@actionforchildren.org.uk</a>
ADVOC8 30-32 Copeland Street Stoke-on-Trent Staffordshire ST4 1PR		Dann Partridge Director 07787378147 <a href="mailto:dann.partridge@advoc8.co.uk">dann.partridge@advoc8.co.uk</a>	Daniel Evans COO 07854256134 <a href="mailto:Daniel.evans@advoc8.co.uk">Daniel.evans@advoc8.co.uk</a>
Adullam Homes Walter Moore House 34 Dudley Street West Bromwich B70 9LS		Phil Gardiner Quality Assurance Manager and DPO	Jenny Morgan Head of Support Services 07917550504 <a href="mailto:jmorgan@adullam.org.uk">jmorgan@adullam.org.uk</a>

Advance Housing & Support 60 Ironstone Road Chase Terrace Burntwood Staffordshire WS7 1LY		Don Isaacs Services Manager	Don Isaacs Services Manager 01543 271212 <a href="mailto:don.isaacs@advanceuk.org">don.isaacs@advanceuk.org</a>
Affinity Sutton Level 6 6 More London Place Tooley Street SE1 2DA		Stephen Rawlinson Neighbourhood Housing Manager	Michele Elliott Neighbourhood Housing Officer 07715809274 <a href="mailto:michele.elliott@affinitysutton.com">michele.elliott@affinitysutton.com</a>
Age UK Staffordshire The Roller Mill Teddlesley Road Penkridge ST19 5BD		Carl Bennett Chief Executive	Wendy Botham Head of Operations 01785 788483 <a href="mailto:wendy.botham@ageukstaffordshire.org.uk">wendy.botham@ageukstaffordshire.org.uk</a>
All Saints CE Primary School Tatenhill Lane Rangemore Burton-on-Trent DE13 9RW		Charlene Gethin Headteacher	Charlene Gethin Headteacher 01283 712385 <a href="mailto:headteacher@allsaints-rangemore.staffs.sch.uk">headteacher@allsaints-rangemore.staffs.sch.uk</a>
Alleynes Academy Oulton Road Stone ST15 8DT		Mr Timothy Tweats Deputy Headteacher	Mr Craig Bailey Assistant Headteacher/SENCO 01785 337400 <a href="mailto:c.bailey@alleynes.staffs.sch.uk">c.bailey@alleynes.staffs.sch.uk</a>
Alice (relief of poverty and advancement of community) Unit 19 Whieldon Road Industrial Estate Fenton Stoke-on-Trent ST4 4JP		Heather Sheldon Chief Executive Officer	Heather Sheldon Chief Executive Officer 01782 614838 <a href="mailto:Heather.sheldon@alicecharity.org">Heather.sheldon@alicecharity.org</a>
Alpha Learning Staffordshire Gitana Street Hanley Stoke-on-Trent Staffordshire		Lindon Newbon Company Director	Nadine Wedgwood Designated Safeguarding Lead 01782 212807 <a href="mailto:nadine@alphalearningstaffordshire.co.uk">nadine@alphalearningstaffordshire.co.uk</a>

ST1 1DY			
Amington Heath Primary School Quince Amington Tamworth B77 4EN		Oliver Fordham Headteacher	Annette Burns Deputy Headteacher 01827 475161 <a href="mailto:deputyhead@amingtonheath.staffs.sch.uk">deputyhead@amingtonheath.staffs.sch.uk</a>
Anglesey Primary Academy (Academies Enterprise Trust) Clarence Street Burton-on-Trent DE14 3LG		Lynsey Hedley Headteacher	Lynsey Hedley Headteacher <a href="mailto:lhedley@angleseypriaryacademy.org">lhedley@angleseypriaryacademy.org</a>
Ankermoor Primary School Rene Road Bolehall Tamworth Staffordshire B77 3NW		Richard Burns Headteacher	Ella Price Deputy Headteacher 01827 475730 <a href="mailto:ella.price80@yahoo.com">ella.price80@yahoo.com</a>
Ark Housing Trust 3 Bath Road Buxton SK17 6HH		Jon Parsons Director	Karen Johnson Support Worker 07394 374525 <a href="mailto:k.johnson@arkhousingtrust.co.uk">k.johnson@arkhousingtrust.co.uk</a>
Ashcroft Infant and Nursery School Mildenhall Tamworth B79 8RU		Jayne Fellows Headteacher	Sam Bowyer Office Manager 01827 213760 <a href="mailto:office@ashcroft.staffs.sch.uk">office@ashcroft.staffs.sch.uk</a>
Aspire Housing Kingsley The Brampton Newcastle-under-Lyme ST5 0QW		Nina Johnson Compliance Delivery Manager	Izabella Martin Compliance Coordinator 01782 635200 <a href="mailto:lmartin@aspirehousing.co.uk">lmartin@aspirehousing.co.uk</a>
Base 25 Castle House Wheelers Fold Wolverhampton WV1 1HN		Janet Meredith Project Co-Ordinator	Jennie Watton BRFC Co-Ordinator 01902 572040 <a href="mailto:jennie.watton@base25.org">jennie.watton@base25.org</a>

The BAC O'Connor Centre Burton Addiction Centre 126 Station Street Burton-on-Trent Staffordshire DE14 1BX		Kendra Gray Chief Executive Officer	Donna Meredith Wood Operations Director 01283 537280 <a href="mailto:donna.meredithwood@bacandoconnor.co.uk">donna.meredithwood@bacandoconnor.co.uk</a>
Barnardos West Regional Office 7 Lineside Close Liverpool L25 2UD		Kathy Thomas Assistant Director Children's Services	Pat Greene Head of Business Support 07584 347286 <a href="mailto:pat.greene@barnardos.org.uk">pat.greene@barnardos.org.uk</a>
Beat the Cold The Bridge Centre Stoke on Trent ST12 8DD		Lesley Bentley Chair of Trustees	Martin Peake Business Development Manager 01782 683813 <a href="mailto:martinp@beatcold.org.uk">martinp@beatcold.org.uk</a>
Belgrave St Bartholomew's Academy Sussex Place Longton Stoke on Trent ST3 4TP		Kelly Deaville Principal	Lorraine Jones Extended Home School Links Worker 01782 235523 <a href="mailto:ljones@belgrave.stoke.sch.uk">ljones@belgrave.stoke.sch.uk</a>
Better Way Recovery 10 Peregrine Way Heath Hayes Cannock WS11 7JX		Peter Griffith Service Manager	Amy Moore Office Manager 07462657873 <a href="mailto:office@betterwayrecovery.org.uk">office@betterwayrecovery.org.uk</a>
Biddulph High School Conway Road Knypersley Biddulph ST8 7AR		Natalie Hart Business Manager	Natalie Hart Business Manager 01782 523977 <a href="mailto:Harten@biddulphhigh.co.uk">Harten@biddulphhigh.co.uk</a>
Birches Head Academy Birches Head Stoke on Trent ST2 8DD		Sarah Williams Vice Principal: Pastoral	Sarah Williams Vice Principal: Pastoral 01782 233595 <a href="mailto:sWilliams@bircheshead.org.uk">sWilliams@bircheshead.org.uk</a>
Bird's Bush Primary School Bird's Bush Road		Sharon Barnes Headteacher	Sharon Barnes Headteacher

Tamworth B77 2NE			01827 475170 <a href="mailto:office@birdsbush.staffs.sch.uk">office@birdsbush.staffs.sch.uk</a>
Blakeley Heath Primary School Sytch Lane Wombourne WV5 0JR		Charlotte Tong Leader for Inclusion	Amanda Gough Bursar 01902 803400 <a href="mailto:office@blakeleyheath.staffs.sch.uk">office@blakeleyheath.staffs.sch.uk</a>
Blessed Robert Sutton Catholic Sports College Bluestone Lane Burton-on-Trent Staffordshire DE15 9SD		Martin Cain Headteacher	Claire Mills Administrator 01283 749450 <a href="mailto:claire.mills@robertsutton.staffs.sch.uk">claire.mills@robertsutton.staffs.sch.uk</a>
Blythe Bridge High School and Sixth Form Cheadle Road Blythe Bridge Staffordshire ST11 9PW		Wendy Keeble Director of Business	Susan Owen Director of Progress / Special Educational Needs / Designated Safeguarding Lead 01782 392519 <a href="mailto:s.owen@bb-hs.co.uk">s.owen@bb-hs.co.uk</a>
Bromford Group 1 Exchange Court Brabourne Avenue Wolverhampton WV10 6AU		Donna Scott Community Safety Team Manager	Donna Scott Community Safety Team Manager 07866 857938 <a href="mailto:donna.scott@bromford.co.uk">donna.scott@bromford.co.uk</a>
Bridge Short Stay School Wissage Road Lichfield Staffs WS13 6SW		James Morris Headteacher	Lynette Abel Business Manager 01543 255872 <a href="mailto:office@bridge.staffs.sch.uk">office@bridge.staffs.sch.uk</a>
Brighter Futures 5 Whittle Court Town Road Hanley Stoke-on-Trent ST1 2QE		Daniel Baker Director of Operations	Gill Butler Operations Manager 01782 406 000 <a href="mailto:gill.butler@brighter-futures.org.uk">gill.butler@brighter-futures.org.uk</a>
British Transport Police 25 Camden Road London NW1 9LN		Simon Fuller Data Protection & FOI Manager	Inspector Philippa Smith Public Protection and Vulnerability <a href="mailto:Christopher.Sutherland@btp.police.uk">Christopher.Sutherland@btp.police.uk</a>

Budget Safe St Bernards Grange 95 Grange Road Solihull B91 1BZ		Michael Ibrahim Director	Michael Ibrahim Director 07841144195 <a href="mailto:mikeibrahim1@aol.com">mikeibrahim1@aol.com</a>
Burnwood Nursery School Chell Heath Road Chell Heath Stoke-on-Trent ST6 6PB		G James Headteacher	A Reid Teacher in Charge 01782 234416 <a href="mailto:areid@stmarysce.org.uk">areid@stmarysce.org.uk</a>
Burton Albion Community Trust Pirelli Stadium Princess Way Burton DE13 0AR		Lisa Beard Community Operations Manager	Sarah Evans Education and Learning Manager 07872 951706 <a href="mailto:sarah.evans@burtonalbionfc.co.uk">sarah.evans@burtonalbionfc.co.uk</a>
Burton & District Mind 67 Branston Road Burton-on-Trent Staffordshire DE14 3BY	ZA10 7567	Lynne Barrell Chief Officer	Lynne Barrell Chief Officer 01283 566696 <a href="mailto:lynne.barrell@burtonmind.co.uk">lynne.barrell@burtonmind.co.uk</a>
University Hospitals of Derby & Burton NHS Foundation Trust Belvedere Road Burton-upon-Trent Staffordshire DE13 0RB	RTG	Gavin Boyle Chief Executive	Mark Norwood Chief Information Officer <a href="mailto:Mark.norwood@nhs.net">Mark.norwood@nhs.net</a>  Magnus Harrison Caldicott Guardian <a href="mailto:Magnus.harrison@nhs.net">Magnus.harrison@nhs.net</a>  Anne Woodhouse Head of Information Governance/DPO <a href="mailto:Anne.woodhouse1@nhs.net">Anne.woodhouse1@nhs.net</a>
Burton PRU Church Hill Street Winshill Staffordshire DE15 0HR		Sarah Bamber Head of School	Lindsay Ward Data Manager 01283 247986 <a href="mailto:Lindsay.ward@burtonpru.staffs.sch.uk">Lindsay.ward@burtonpru.staffs.sch.uk</a>

CACH (Communities Against Crimes of Hate) c/o Civic Centre Riverside Stafford ST16 3AQ		Anna McLauchlan Chief Officer	Anna McLauchlan Chief Officer 07971497988 <a href="mailto:admin@cachpartnership.org.uk">admin@cachpartnership.org.uk</a>
Cannock Chase District Council Civic Centre Beecroft Road Cannock WS11 1BG		Gabrielle Whitehouse Head of Regulatory Services	Paul Beckley Service Manager <a href="mailto:civilcontingencies@cannockchasedc.gov.uk">civilcontingencies@cannockchasedc.gov.uk</a>
Cannock Chase High School Hednesford Road Cannock WS11 1JT		Clare Deavall Senior Assistant Headteacher – Behaviour and Safety	Jo Cartwright SIMS Manager 01543 502450 <a href="mailto:j.cartwright@cannockchase-high.staffs.sch.uk">j.cartwright@cannockchase-high.staffs.sch.uk</a>
Cannock and District Foodbank 521 Pye Green Road Hednesford Staffordshire WS12 4LP		Adam Tilsley Foodbank Admin/Manager	Adam Tilsley Foodbank Admin/Manager 01543 422394 <a href="mailto:Foodbank@pyegreen.co.uk">Foodbank@pyegreen.co.uk</a>
Care Plus (Staffordshire) Acton Court Acton Gate Stafford ST18 9AP		Janet Goode Director of Neighbourhoods	Sam Allcott Housing Services Manager 01785 312106 <a href="mailto:samantha.allcott@ssha.co.uk">samantha.allcott@ssha.co.uk</a>
Catch 22 Thomas Boughey Childrens Centre, College road Shelton, Stoke-on-Trent ST4 2DQ	8HY4 0	Nigel Sargeant Head of Service	Ben Wright Head of Information Security 01959578221 <a href="mailto:Ben.wright@catch-22.org.uk">Ben.wright@catch-22.org.uk</a>
CC Housing Management 7 Freeman Street Grimsby DN32 7AB		Kate Love Senior Service Manager	Leanne Simpson Supported Service Housing Manager 07456902885 <a href="mailto:jeanne.simpson@cchousing.co.uk">jeanne.simpson@cchousing.co.uk</a>
Cedars Short Stay School High Street		Pam Clulow Headteacher	Tracey Holdcroft Bursar

Knutton Newcastle Under Lyme ST5 6BX			01782 973760 <a href="mailto:bursar@cedarsnewcastle.staffs.sch.uk">bursar@cedarsnewcastle.staffs.sch.uk</a>
Chadsmead Primary Academy Friday Acre Lichfield Staffordshire WS13 7HJ		Gemma Grainger Headteacher	Vanessa Clarke Bursar 01543 421850 <a href="mailto:office@chadsmead.staffs.sch.uk">office@chadsmead.staffs.sch.uk</a>
Changes: Health & Wellbeing Changes Wellbeing Centre Victoria Court Booth Street Stoke-on-Trent ST4 4AL		Dave Wheat Chief Executive Officer	Lisa Tomkinson Community Development Worker 07792120541 <a href="mailto:lisa@mcmstoke.org.uk">lisa@mcmstoke.org.uk</a>
Changing Lives Suite 31 The Dudson Centre Hope Street Stoke-on-Trent ST1 5DD		Linda Clegg Service Manager	Nicola Dodd Project Coordinator/team lead 077066321236 <a href="mailto:Nicola.dodd@changing-lives.org.uk">Nicola.dodd@changing-lives.org.uk</a>
Chase Recovery 62-63 Foregate Street Stafford ST17 2PT		Cara Cox Service Manager	Cara Cox Service Manager 07507 148924 <a href="mailto:caracox@chaserecovery.co.uk">caracox@chaserecovery.co.uk</a>
The Cheadle Academy Station Road Cheadle Staffordshire ST10 1LH		Neil Jamieson Principal	Mrs S Atkinson 01538 483900 <a href="mailto:satkinson@thecheadleacademy.co.uk">satkinson@thecheadleacademy.co.uk</a>
Cherry Orchard Gardening Services (Behind) Burntwood Memorial Community Association Rugeley Road Burntwood WS7 9BE		Carl Ansell Financial Director	Rebecca Flynn Office Manager 01543 676443 <a href="mailto:enquiries@cogsgardening.co.uk">enquiries@cogsgardening.co.uk</a>
Choices Housing Association Northfield Centre		Claire Skelton	Claire Skelton Head of Care Operations

Magnolia Avenue (Off Cooperative Street) Stafford ST16 3DU		Head of Care Operations	07484001063 <a href="mailto:claire.skelton@wrekin.com">claire.skelton@wrekin.com</a>
Christ Church Academy Old Road Stone Staffordshire ST15 8JD		C Wright Principal	D Wilkinson Bursar 01785 354047 <a href="mailto:bursar@cca.staffs.sch.uk">bursar@cca.staffs.sch.uk</a>
Christ Church CE Primary William Street Fenton Stoke-on-Trent ST4 2JG		Paula Scattergood Principle	Tracey Pearce Executive SBM 01782 234834 <a href="mailto:tpeace@christchurchfenton.co.uk">tpeace@christchurchfenton.co.uk</a> <a href="mailto:mailto:gwilshaw@christchurchfenton.co.uk">mailto:gwilshaw@christchurchfenton.co.uk</a>
Chuckle Productions The Chuckle House Unit 10 Stone Enterprise Park Off Emerald Way Stone ST15 0SR		Sharon Hodson Director	Sara Christie Director 07837 741510 <a href="mailto:fun@chuckleproductions.org">fun@chuckleproductions.org</a>
Citizens Advice Mid Mercia 114 Church Street Church Gresley Swadlincote Derbyshire DE11 9NR		David Symox Chief Executive Officer	Sarah Brown Chief Operating Officer 01283 210108 <a href="mailto:sbrown@citizensadvicemidmercia.org.uk">sbrown@citizensadvicemidmercia.org.uk</a>
Citizens Advice Bureau – Staffordshire North and Stoke-on-Trent Advice House Cheapside Hanley ST1 1HL		Craig Browne Chief Executive	Craig Browne Chief Executive 01782 408650 <a href="mailto:craigbrowne@casns.org.uk">craigbrowne@casns.org.uk</a>
Citizens Advice Bureau – Staffordshire South West 1a and 1b St Marys Place Stafford ST16 2AR		Claire Davis Chief Executive	Lisa Hitchcock Head of Services 07736924923 <a href="mailto:lisa.hitchcock@citizensadvicessw.org.uk">lisa.hitchcock@citizensadvicessw.org.uk</a>

Citizens Advice Bureau – South East Staffordshire Wade House 7 Cannock Road Chase Terrace WS7 1JS		Sandra Cooper Chief Executive	Sandra Cooper Chief Executive 01543 254926 <a href="mailto:chief.executive@casestaffs.org.uk">chief.executive@casestaffs.org.uk</a>
City of Stoke on Trent 6 <sup>th</sup> Form College Leek Road Stoke on Trent ST4 2RU		Mark Kent Principle	Claire Gaygan Assistant Principle / Dsignated Safeguarding Lead 01782 848736 <a href="mailto:claire.gaygan@stokesfc.ac.uk">claire.gaygan@stokesfc.ac.uk</a>
Co-op Academy Clarice Cliff Goldenhill Road Fenton Stoke-on-Trent Staffordshire ST4 3DP		Jade Foxall Schools Business Manager	Jade Foxall Schools Business Manager 01782 881480 <a href="mailto:jade.foxall@coopacademies.co.uk">jade.foxall@coopacademies.co.uk</a>
Clarion Housing 37 Greasley Road Abbey Hulton Stoke on Trent ST2 8JD		Claire Sant Neighbourhood Response Manager	Michele Elliott Neighbourhood Response Officer 07715 809274 <a href="mailto:Michele.elliott@clarionhg.com">Michele.elliott@clarionhg.com</a>  Sue Davies Tenancy Specialist 07711 387967 <a href="mailto:Sue.davies@clarionhg.com">Sue.davies@clarionhg.com</a>
Co-operative Academy of Stoke on Trent Westport Road Tunstall Stoke on Trent Staffordshire ST6 4LD		Paul Faulkner IT, Site and Data Protection	Paul Faulkner IT, Site and Data Protection 01782 882300 <a href="mailto:Paul.faulkner@coopacademies.co.uk">Paul.faulkner@coopacademies.co.uk</a>
Community Engagement Support Services Sheepfair Community Centre Sheepfair Rugeley WS15 2AT		Julie Turner Vice Chair	Christine Leech Community Project Lead 07734 596693 <a href="mailto:Info.cess2017@gmail.com">Info.cess2017@gmail.com</a>

Community Together CIC Unit 3 Offa House Orchard Street Tamworth B79 7FE	DSP REC 01- 1.3.2	Lee Bates BEM, DL Chief Operating Officer	Lee Bates BEM, DL Chief Operating Officer 07496355946 / 08081754041 <a href="mailto:Lee@communitytogethercic.org">Lee@communitytogethercic.org</a>
Concrete (A trading name of Honeycomb Charitable Services) 308 London Road Stoke-on-Trent ST4 5AB		Kerry Birtles Executive Director of Support and Wellbeing	Steve Barkess Head of Homelessness, Housing & Complex Needs 0330 094 8878 <a href="mailto:Steve.Barkess@thisisconcrete.org.uk">Steve.Barkess@thisisconcrete.org.uk</a> .
Connected Youth CIC 34 Lotus Avenue Knypersley Biddulph Staffordshire ST8 6PS		Rachel Butcher Director / Programme Manager	Rachel Butcher Director / Programme Manager 07855 652753 <a href="mailto:Rachel.butcher35@gmail.com">Rachel.butcher35@gmail.com</a>
Corner Post Education Centre/Tamworth Boxing Club Orchard Street Tamworth Staffordshire B79 7RH		Alan Keast Centre Manager	Claire Keast Partnership Manager 01827 314111 / 07898952183 <a href="mailto:claire@tamworthboxing.com">claire@tamworthboxing.com</a>
Coton Green Primary School Kipling Rise B79 8LX		Richard Osborne Headteacher	Mrs Pursehouse Deputy Headteacher 01827 475667 <a href="mailto:office@cotongreen.staffs.sch.uk">office@cotongreen.staffs.sch.uk</a>
The Crescent Academy Pinewood Crescent Meir Stoke-on-Trent ST3 6HZ		Jackie Williams Head of School	Pam Cooper Inclusion and Safeguarding Manager 01782 318145 <a href="mailto:pcooper@thecrescentacademy.org.uk">pcooper@thecrescentacademy.org.uk</a>
Crossroads Care Staffordshire Environment House Werrington Road Stoke-on-Trent ST2 9AF	VN4J 7	Rebecca Bestwick Chief Officer	Rebecca Bestwick Chief Officer 01782 268391 <a href="mailto:r.bestwick@crossroadsstaffordshire.org.uk">r.bestwick@crossroadsstaffordshire.org.uk</a>

Crystal Care Solutions Ltd Nelson House Boathorse Lane Kidsgrove Stoke-on-Trent ST7 4JA		James O'Leary Operations Director	Kevin Hargreaves Finance Director 01782 777511 <a href="mailto:kevin.hargreaves@crystalcaresolutions.co.uk">kevin.hargreaves@crystalcaresolutions.co.uk</a>
Dawson Housing 124 City Road London EC1V 2NX		Chaun Wilson Chief Operating Officer	Chaun Wilson Chief Operating Officer 07861994823 <a href="mailto:chaun@dawson-housing.co.uk">chaun@dawson-housing.co.uk</a>
The de Ferrers Academy St Mary's Drive Burton-on-Trent Staffordshire DE13 0LL		Ali Bickle Principal	Kay Walsh Designated Safeguarding Lead 01283 247700 <a href="mailto:headteacher@deferrers.com">headteacher@deferrers.com</a>
Derventio Housing Trust 33 Boyer Street Derby DE22 3TB		Phil Rowland Strategic Operations Director	Jackie Carpenter Assistant Director Strategy 01332 292776 <a href="mailto:jackie.carpenter@derventiohousing.com">jackie.carpenter@derventiohousing.com</a>
Derwent Living No. 1 Centre Place Pride Park Derby DE24 8RF		Sharon Guest Head of Housing	Lee Brown Home Ownership Officer 01332 614933 <a href="mailto:leeb@derwentliving.com">leeb@derwentliving.com</a>
Diamond Families 20 Rosslyn Road Longton Stoke on Trent ST3 4JD		Sophie White Business Administrator	Emma Shutt Principle 01782 315758 <a href="mailto:emma@diamond-families.org.uk">emma@diamond-families.org.uk</a>
Discovery Academy College Academies Trust Discovery Drive Bentilee Stoke-on-Trent ST2 0GA		Simon French Principal	Karen Cummings Office Manager 01782 882100 ext 115 <a href="mailto:kcummins@thediscoveryacademy.co.uk">kcummins@thediscoveryacademy.co.uk</a>
Dosthill Primary Academy		Richard Gould	David Shakeshaft

High Street Dosthill Tamworth Staffordshire B77 1LQ		Head of School	Executive Headteacher 01827 214930 <a href="mailto:office@dosthill.org">office@dosthill.org</a>
The Dove Service Parklands 1 Lyme Drive Trent Vale Stoke-on-Trent ST4 6NW	N/a	Charlie O'Dell Chief Executive Officer	Sarah Knott Operations Manager 01782 683155 <a href="mailto:sarah.knott@thedoveservice.org.uk">sarah.knott@thedoveservice.org.uk</a>
Eagle's Nest Project The Old Vicarage 2 Main Street Branston DE14 3EX		Jan Appleton Head of Centre	Jonathan Horleston-Wilkes Deputy Head of Centre 07832 199921 <a href="mailto:JHW@eaglesnestproject.org.uk">JHW@eaglesnestproject.org.uk</a>
East Staffordshire Borough Council PO Box 8045 Burton Upon Trent DE14 9JG		Andy O'Brien Chief Executive	John Teasdale Head of Legal & Regulatory Services (Monitoring Officer) 01283 508267 <a href="mailto:John.Teasdale@eaststaffsbc.gov.uk">John.Teasdale@eaststaffsbc.gov.uk</a>
Emmaus North Staffs New Hall Street Hanley Stoke-on-Trent ST1 5HQ		John Webbe Executive Lead	John Webbe Executive Lead 07710 434025 <a href="mailto:johnwebbe@emmausnorthstaffs.org.uk">johnwebbe@emmausnorthstaffs.org.uk</a>
Empire of God 7a Green Street Burton-on-Trent East Staffordshire DE14 3RT		Theresa Takaona Minister of Religion and Snr Pastor	Theresa Takaona Minister of Religion and Snr Pastor 07935959777 <a href="mailto:theresablessed@outlook.com">theresablessed@outlook.com</a>
Empowering People Inspiring Communities (EPIC) Ltd 131-141 Ubberley Road Bentilee Stoke-on-Trent		Cindy Cleghorn Director of Housing Management	Chris Panting Housing Manager 01782 210685 <a href="mailto:c.panting@epichousing.co.uk">c.panting@epichousing.co.uk</a>

ST2 0EF			
Engage Communities CIC 31 William Coltman Way Tunstall Stoke on Trent ST6 5XB		Yaser Mir Director	Ben Gibson Operations Manager 07823 446652 <a href="mailto:ben.gibson@engagecommunities.org">ben.gibson@engagecommunities.org</a>
Entrust Support Services The Riverway Centre Riverway Stafford ST16 3TH		Claire McAnulty Lead Director	Sean Latham Director <a href="mailto:sean.latham@entrust-ed.co.uk">sean.latham@entrust-ed.co.uk</a>
Expert Citizens CIC The Dudson Centre Hope Street Hanley, Stoke-on-Trent ST1 5DD		Darren Murinas Chief Executive	Lee Dale Recovery Community Coordinator 07572631172 <a href="mailto:Lee.dale@expertcitizens.org.uk">Lee.dale@expertcitizens.org.uk</a>
E.Quality Training Ltd 27-28 Whitebridge Estate Stone ST15 8LQ		Robert Cocks Director	Majella Cocks Director 01785 815115 <a href="mailto:majellacocks@equality.training">majellacocks@equality.training</a>
Family Action The Annex York House Salisbury Square Hatfield Hertfordshire AL9 5AD		Nishma Shah Digital and Communications Officer	Louise Voyce Services Administrator 01707247032 <a href="mailto:LOUISEV@FAMILYLIVES.ORG.UK">LOUISEV@FAMILYLIVES.ORG.UK</a>
Family Focus Children and Families Staffordshire Family Focus (Trading Name) B14 The Bridges Centre, Birches Head Road, Stoke-on-Trent ST2 8DD		Natalie Ornelas CEO	Natalie Ornelas CEO 01782 863762 <a href="mailto:Natalie.ornelas@familyfocusstaffs.org.uk">Natalie.ornelas@familyfocusstaffs.org.uk</a>
Flaxhill Junior School Chestnut Avenue Gillway Tamworth		Richard Lane Executive Headteacher Flax Hill Junior Academy	Michelle Booth Head of Schools Lark Hall and Flax Hill 01827 215333 <a href="mailto:deputy@flaxhill.staffs.sch.uk">deputy@flaxhill.staffs.sch.uk</a>

Staffordshire B79 8QZ		and Lark Hall Infant and Nursery Academy	
Florendine Primary School Florendine Street Amington Tamworth Staffordshire B77 3DD		Jason Hudson Headteacher	Jason Hudson Headteacher 01827 429011 <a href="mailto:headteacher@florendine.staffs.sch.uk">headteacher@florendine.staffs.sch.uk</a>
Fortior Homes Ltd (Stoke-on-Trent City Council) Civic Centre Geleb Street Stoke-on-Trent ST6 4GA		Helen Horne Strategic Manager	Nicola MacKenzie Development Support Officer 01782 232821 <a href="mailto:enquiries@fortiorhomes.co.uk">enquiries@fortiorhomes.co.uk</a>
Fountains Primary School Bittham Lane Stretton Burton-on-Trent DE13 0HB		Nicola Price Executive Headteacher	Sally Millman Jones SEDIS Lead 01283 247600 <a href="mailto:smillmanjones@fountains.staffs.sch.uk">smillmanjones@fountains.staffs.sch.uk</a>
Fresh Start in Education Ltd Castle House Castle Hill Avenue Folkestone Kent CT20 2TQ		Debrah Wilson Business Relationship Manager	Sorrell Dowling Business Development Manager and DSL 0203 409 6410 <a href="mailto:Sorrell.dowling@freshstartedu.co.uk">Sorrell.dowling@freshstartedu.co.uk</a>
Fun Club 18 Thorpe Street Chase Terrace Burntwood WS7 1NE		Kerry McCabe- Crowley Manager	Liz Bacon Manager 07814318568 <a href="mailto:Funclubyp@gmail.com">Funclubyp@gmail.com</a>
Girica Community Interest Company PO Box 8352 Swadlincote Derbyshire DE11 1GR		Gina Barsby Director	Gina Barsby Director 07544113393 <a href="mailto:Girica.gina@gmail.com">Girica.gina@gmail.com</a>

Glascote Primary Academy Silver Link Road Tamworth Staffordshire B77 2EA		Michelle Powell Headteacher	Catherine Mortimer Office Manager 01827 213210 <a href="mailto:office@glascote.org">office@glascote.org</a>
Glow (a trading name of Honeycomb Charitable Services) 308 London Road Stoke-on-Trent ST4 5AB		Kerry Birtles Executive Director of Support and Wellbeing	Lucy Willis Head Domestic Violence & Abuse Services 01782697380 <a href="mailto:Lucy.Willis@findtheglow.org.uk">Lucy.Willis@findtheglow.org.uk</a>
Grange Community School Shobnall Close Burton-upon-Trent Staffordshire DE14 2HU		Jean Woolner Headteacher	Sharon Middleton Family Liaison Worker 01283 564325 <a href="mailto:office@grange-infants.staffs.sch.uk">office@grange-infants.staffs.sch.uk</a>
Grant Thornton UK LLP 30 Finsbury Square London EC2A 1AG		Phillip Wholley Partner	Simon Christian Associate Director 020 77282002 <a href="mailto:Simon.n.christian@uk.gt.com">Simon.n.christian@uk.gt.com</a>
Great Places Housing Group 2a Derwent Avenue West Didsbury Manchester M21 7QP		Anila Khalid Head of Neighbourhoods GM South	Colette Blease Area Services Manager 0161 4475114 / 07817108061 <a href="mailto:colette.blease@greatplaces.org.uk">colette.blease@greatplaces.org.uk</a>
Hanbury's Farm Primary School Derwent Off Field Farm Road Belgrave Tamworth B77 2LD		P Hollis Headteacher	P Hollis Headteacher 01827 214005 <a href="mailto:headteacher@hanburysfarm.staffs.sch.uk">headteacher@hanburysfarm.staffs.sch.uk</a>
Greenhall, part of The Creative Learning Partnership Trust Greenhall Second Avenue Holmcroft Stafford		Joanne di Castiglione Headteacher	Joanne di Castiglione Headteacher 01785 246159 <a href="mailto:headteacher@greenhall.staffs.sch.uk">headteacher@greenhall.staffs.sch.uk</a>

ST16 1PS			
Harvey Girls 73 Horninglow Road Burton on Trent DE14 2PT		Glenys Wallis Chair of Trustees	Ian North Chief Executive 01283 533449 <a href="mailto:ian@harveygirls.co.uk">ian@harveygirls.co.uk</a>
The Haven Wolverhampton Road Rising Brook Stafford ST17 9DJ		Jane Spensley Director	Natalie Spensley Office Manager 01785 214172 <a href="mailto:office@thehavenschool.com">office@thehavenschool.com</a>
Health Exchange CIC Ltd 27 Moseley Road Avoca Court Birmingham B12 0HJ		Stuart Brown Data Lead	Stuart Brown Data Lead 0121 663 0007 <a href="mailto:stuart.brown@healthexchange.org.uk">stuart.brown@healthexchange.org.uk</a>
Heron Cross Primary School Grove Road Heron Cross Stoke-on-Trent ST4 4LJ		Gemma Willdigg Headteacher	Natalie Clark School Business Manager 01782 233565 <a href="mailto:Fap@heroncross.org.uk">Fap@heroncross.org.uk</a>
HMP Brinsford New Road Featherstone Wolverhampton WV10 7PY		Amanda Hughes Governing Governor	Gemma Coleman Head of Business Assurance 01902 533586 <a href="mailto:Gemma.coleman@justice.gov.uk">Gemma.coleman@justice.gov.uk</a>
HMP Drake Hall Eccleshall ST21 6LQ		Darren Hudson Governor	Jade Beardmore Business HUB Manager 01785 774102 <a href="mailto:Jade.beardmore@justice.gov.uk">Jade.beardmore@justice.gov.uk</a>
HMP Featherstone New Road Featherstone Wolverhampton WV10 7PY		Neil O'Connor Governor	Pete Smith Deputy Governor 01902 703142 <a href="mailto:pete.smith@justice.gov.uk">pete.smith@justice.gov.uk</a>
HMP Hewell Hewell Lane		Ian Geddes	Lesley Cooper Performance Manager

Redditch Worcestershire B97 6QS		Head of Business Assurance	01527 785285 <a href="mailto:Lesley.cooper2@justice.gov.uk">Lesley.cooper2@justice.gov.uk</a>
HM Prison Service: West Midlands Prison Group West Midlands Regional Office Red Lion Street Stafford	YDE2 Q	Mark Greenhalgh West Midlands Prison Group Director	Birmingham Carl Hardwick <a href="mailto:carl.hardwickS01@justice.gov.uk">carl.hardwickS01@justice.gov.uk</a>  Stoke Heath: Rachel James <a href="mailto:Rachel.james2@justice.gov.uk">Rachel.james2@justice.gov.uk</a>  Swinfen Hall: Laura Whitehurst <a href="mailto:Laura.Whitehurst@justice.gov.uk">Laura.Whitehurst@justice.gov.uk</a>  Regional Office: Sarah Reynolds and Elle Vernon <a href="mailto:Sarah.Reynolds1@justice.gov.uk">Sarah.Reynolds1@justice.gov.uk</a> / <a href="mailto:Elle.Vernon2@justice.gov.uk">Elle.Vernon2@justice.gov.uk</a>
HMP Stafford 54 Gaol Road Stafford ST16 3AW		Tyrienna Greenslade Governing Governor	Teresa Wright Deputy Governor <a href="mailto:Teresa.Wright@justice.gov.uk">Teresa.Wright@justice.gov.uk</a>
HMP Werrington HMYOI Werrington Ashbank Road ST9 0DX		Jasmin Steadman Governing Governor	Wayne George Head of Business Assurance 01782 463306 <a href="mailto:Wayne.george@justice.gov.uk">Wayne.george@justice.gov.uk</a>
Holy Trinity CE(C) Primary School Wetmore Road Burton-on-Trent DE14 1SN		Nicola Oliphant Headteacher	Nicola Oliphant Headteacher 01283 247550 <a href="mailto:headteacher@holytrinity.staffs.sch.uk">headteacher@holytrinity.staffs.sch.uk</a>
Home Instead Senior Care 4-6 Offa House Orchard Street		Karen Wilkinson Community Liaison Officer	Karen Wilkinson Community Liaison Officer 01827 431002

Tamworth B79 7RE			<a href="mailto:karen.wilkinson@tamworth.homeinstead.co.uk">karen.wilkinson@tamworth.homeinstead.co.uk</a>
Home-Start Newcastle Borough Cornerstone High Street Knutton ST5 6BX		Sarah Jacobs Scheme Manager	Sarah Jacobs Scheme Manager 01782 938912 <a href="mailto:sarah.jacobs@hsnb.org.uk">sarah.jacobs@hsnb.org.uk</a>
Home-Start Tamworth 8 St John Street Tamworth B79 7EX		Dawn Candy Director of Operations	Dawn Candy Director of Operations 01827 62400 <a href="mailto:Homestart.tam@btconnect.com">Homestart.tam@btconnect.com</a>
Honeycomb Group (Trading as Staffs Housing) 308 London Road Stoke-on-Trent ST4 5AB		Mary Walker Director of Operations	Giles Parkyn Head of Customer and Neighbourhood 01782 743916 <a href="mailto:giles.parkyn@staffshousing.org.uk">giles.parkyn@staffshousing.org.uk</a>
Hope 4 U Anglesey House Anglesey Road Burton on Trent DE14 3NT		Luke Arnold Director	Carol Arnold Director 0330 320 2140 <a href="mailto:carol@hope4u.co.uk">carol@hope4u.co.uk</a>
House of Bread Romford Road Stafford ST16 3DZ		William Morris Director	William Morris Director 07720850720 <a href="mailto:Will@hobstafford.co.uk">Will@hobstafford.co.uk</a>
Housing Plus Group Action Court Action Gate Stafford ST18 9AP		Irene Molyneux Director of Legal and Governance	Kris Bolton Data Protection and Policy Officer 0800 048 8955 <a href="mailto:data.protection@housingplusgroup.co.uk">data.protection@housingplusgroup.co.uk</a>
The Huntercombe Group Ashley House Ashley Nr. Market Drayton TF9 4LX		John Keegan Hospital Manager	Aimee Huxley Hospital Manager 01630 674800 <a href="mailto:aimee.huxley@huntercombe.com">aimee.huxley@huntercombe.com</a>

Home Office Immigration Enforcement Melbourne House Etruria Valley Office Village Forge Lane Etruria Stoke on Trent ST1 5RQ		Anthony Sloan Chief Immigration Officer	Anthony Sloan Chief Immigration Officer 07867963169 <a href="mailto:Anthony.sloan3@homeoffice.gov.uk">Anthony.sloan3@homeoffice.gov.uk</a>
Innovating Minds CIC 81 The Green Kings Norton B38 8RU		Dr Asha Patel CEO	Dr Asha Patel CEO 07854585946 <a href="mailto:asha@innovatingmindscic.com">asha@innovatingmindscic.com</a>
The Inspirational Learning Group Stafford Education and Enterprise Park Weston Road Stafford ST18 0BF		Ben Dyer Director	Dan Mears Partnerships Manager 01785 875373 <a href="mailto:dan@tilg.co.uk">dan@tilg.co.uk</a>
Intuition 20 Rosslyn Road Longton Stoke on Trent ST3 4JD		Sophie White Business Administrator	Emma Shutt Principle 01782 315758 <a href="mailto:support@diamond-families.org.uk">support@diamond-families.org.uk</a>
Jake Mina Associates Ltd Methodist Church Buildings Dickson Road Blackpool Lancashire FY1 2AP		Jacob Adams CEO	Jacob Adams CEO 01253 749419 <a href="mailto:info@creativeprintnw.co.uk">info@creativeprintnw.co.uk</a> / <a href="mailto:jake.adams@minagroup.co.uk">jake.adams@minagroup.co.uk</a>
The Jigsaw Group 8 Leacroft Stone ST15 8GF		Machita Denny Chair	Machita Denny Chair 07882823954 <a href="mailto:machita_denny@btinternet.com">machita_denny@btinternet.com</a>
John of Rolleston Primary School Chapel Lane Rolleston-on-Dove Burton-on-Trent		Ian Bateman Headteacher	Ian Bateman Headteacher 01283 239200 <a href="mailto:headteacher@johnofrolleston.staffs.sch.uk">headteacher@johnofrolleston.staffs.sch.uk</a>

Staffordshire DE13 9AG			
JP Alternative Education Ltd Penkridge Bank Road Rugeley WS15 2UB		Julian Porter Head Teacher	Niall Ashford Director 01889 582864 <a href="mailto:Niall.ashford@jpae.uk">Niall.ashford@jpae.uk</a>
Jump 2 Independence Suite G46 The Old Post Office 4 Baker Street Fenton Stoke-on-Trent ST4 3AF		Julie Hope Director/Registered Manager	Dawn Hulme Manager 01782 756727 <a href="mailto:headoffice@jump2independence.co.uk">headoffice@jump2independence.co.uk</a>
Just Family CIC Drummond Street Goldenhill Stoke-on-Trent ST6 5RF		Janine Proctor Founder/Director/Pr actitioner	<a href="mailto:justfamilycic@gmail.com">justfamilycic@gmail.com</a> <a href="mailto:enquiresjustfamily@gmail.com">enquiresjustfamily@gmail.com</a>
Keele University Students Union Keele Road Keele Newcastle-under-Lyme ST5 5BJ		David Brown Chief Operating Officer	Matt Clutton Projects & IT Manager 01781 733717 / 07895927154 <a href="mailto:m.clutton@keele.ac.uk">m.clutton@keele.ac.uk</a>
Kettlebrook Short Stay School Tame Street Kettlebrook Tamworth B77 1AL		Sarah Bamber Executive Headteacher	Sam Goroll Finance Officer 01827 312840 <a href="mailto:office@kettlebrook.staffs.sch.uk">office@kettlebrook.staffs.sch.uk</a>
Kidsgrove Secondary School Gloucester Road Kidsgrove ST7 4 DL		Steven Frost Headteacher	Julie Allcock Operations Manager 01782948250 <a href="mailto:jallcock@kss.shaw-education.org.uk">jallcock@kss.shaw-education.org.uk</a>
Kinetic Academy Meir Youth Café Sandon Road Meir		Jamie Horton Director of Corporate Services	Nadine Harvey Head of School 01782 333344 <a href="mailto:nadineb@kineticmail.co.uk">nadineb@kineticmail.co.uk</a>

Stoke on Trent ST3 7DJ			
The Kings CE (A) School First Avenue Kidsgrove ST7 1DP		Michael Worthington Assistant Headteacher	Michael Worthington Assistant Headteacher 01782 783281 <a href="mailto:mworthington@thekings.staffs.sch.uk">mworthington@thekings.staffs.sch.uk</a>
King Edward VI High School West Way Stafford ST17 9YJ		J Christey Headteacher	Shona Christey Deputy Designated Safeguarding Lead 01785 258546 <a href="mailto:christey.s@kevi.org.uk">christey.s@kevi.org.uk</a>
Landau Forte Academy Amington Woodland Road Amington Tamworth Staffordshire B77 4FF		Diane Pickering Principal	Louise Martin Executive Principal and Chief Home Academic Executive 01827 301800 <a href="mailto:lmartin@lfata.org.uk">lmartin@lfata.org.uk</a>
Landau Forte Academy Greenacres Levett Road Amington Tamworth Staffordshire B77 4AB		Mrs Louise Bridge Principal	Rachel Smith Office Manager 01827 300490 <a href="mailto:post@lfatg.org.uk">post@lfatg.org.uk</a>
Lansdowne Infants School Goodman Street Burton-on-Trent Staffordshire DE14 2RE		Jackie Holmes Headteacher	Jackie Holmes Headteacher 01283 239141 <a href="mailto:headteacher@lansdowne.staffs.sch.uk">headteacher@lansdowne.staffs.sch.uk</a>
Larkhall Infant and Nursery Clifton Avenue Tamworth B79 8EF		Michelle Booth Head of School	Michelle Booth Head of School 01827 475720 <a href="mailto:deputy@larkhall.staffs.sch.uk">deputy@larkhall.staffs.sch.uk</a>
Liberty Jamboree Eastern House Eastern Avenue Lichfield WS13 6RH		Maggi Huckfield CEO	Maggi Huckfield CEO 07772749661 <a href="mailto:maggi@liberty-staffordshire.co.uk">maggi@liberty-staffordshire.co.uk</a>

Lichfield Churches Criminal Justice Forum 7 Adler Close Lichfield Staffordshire WS14 9UT		Geoffrey Parkinson Secretary	Geoffrey Parkinson Secretary 01543 252328 <a href="mailto:eparkinson1@sky.com">eparkinson1@sky.com</a>
Lichfield District Council Council House Frog Lane Lichfield WS13 6YY		Simon Fletcher Chief Executive	Kerry Dove Chief Operating Officer 01543 308068 <a href="mailto:Kerry.Dove@lichfielddc.gov.uk">Kerry.Dove@lichfielddc.gov.uk</a>
Lichfield District Crime Prevention Panel 34 Redwood Drive Chase Terrace Burntwood WS7 2AS		Christine Gillion Vice Chairperson	Christine Gillion Vice Chairperson 07721 010028 <a href="mailto:christinegillion@sky.com">christinegillion@sky.com</a>
Little Owl Childcare Ltd Head Office 113 Rugeley Road Burntwood Staffordshire WS7 9BW		Sarah McCormick Owner	Sarah McCormick Owner 07980733926 <a href="mailto:info@littleowlchildcare.co.uk">info@littleowlchildcare.co.uk</a>
Littleton Green Community School Alternative Provision Staffordshire University Academies Trust Colliers Way Huntington South Staffordshire WS12 4UD		Ms Lynn Thorneycroft Headteacher	Hope Kirkham Operations Manager 01782 969465 <a href="mailto:Hkirkham@suatrust.co.uk">Hkirkham@suatrust.co.uk</a>
Lorac Healthcare Limited 2 Parsons Street Dudley West Midlands DY1 1JJ	ATLH / N65D	Todd Maforimbo Quality Assurance Manager	Caroline Nyakudya Business Development Manager 07825648759 / 01384910963 <a href="mailto:caroline@lorachealthcare.co.uk">caroline@lorachealthcare.co.uk</a>
Lotus Sanctuary CIC 12-15 Chubb Building Fryer Street		Ruth Skillern Director of Phoenix Project	Gurpal Judge Managing Director 0800 0096623

Wolverhampton WV1 1HT			info@lotussanctuary.co.uk
The Lyme Trust 37 London Road Newcastle-under-Lyme Staffordshire ST5 1LN		Alexander Coombs Support and Referrals Coordinator	Alexander Coombs Support and Referrals Coordinator <a href="mailto:alex.coombs@Thelymetrust.co.uk">alex.coombs@Thelymetrust.co.uk</a>
Macari Centre Victoria Court 2 Fletcher Road Stoke-on-Trent ST4 4FE		Lou Macari CEO	Lesley Redfern Centre Manager 01782 845979 <a href="mailto:Lesley.redfern@macarifoundation.org.uk">Lesley.redfern@macarifoundation.org.uk</a>
Martec Training London Road Lyme Valley Newcastle Under Lyme ST5 1LZ		Donna Turkel Recruitment and Marketing Officer	Lynda Hassall Safeguarding/Welfare Officer 01782 717272 <a href="mailto:lyndahassall@martectraining.co.uk">lyndahassall@martectraining.co.uk</a>
Malachi Specialist Family Support Services Billesley Ark 725 Yardley Wood Road Birmingham B13 0PT		Julia Lee Managing Director	Michael York Quality & Delivery Director 07428 260717 <a href="mailto:Michael.york@malachi.org.uk">Michael.york@malachi.org.uk</a>
Manor Hall Academy Trust 10 John St, Uttoxeter ST14 7QT		Richard Redgate CEO	Paul Spreadbury Executive Headteacher, Ciceley Haughton School 01782 550202 <a href="mailto:P.Spreadbury@manorhall.academy">P.Spreadbury@manorhall.academy</a>
Maple Court Academy Beverley Drive Stoke on Trent ST2 0QD		Jonathan Baddeley Principle	Lesley Guard Designated Safeguarding Officer 01782 970293 <a href="mailto:lguard@maplecourt.uk">lguard@maplecourt.uk</a>
The Meadows Primary Academy Poplar Drive Blurton Stoke-on-Trent ST3 3AZ		Amy James Head of Support Services	Amy James Head of Support Services 01782 235025 <a href="mailto:ajames@tmpa.org.uk">ajames@tmpa.org.uk</a>
Metropolitan Housing Trust		Alison Williams	Sandra Gordon

The Grange 100 High Street Southgate London N14 6PW		ASB Manager	ASB Officer 0203 535 3896 <a href="mailto:sandra.gordon@metropolitan.org.uk">sandra.gordon@metropolitan.org.uk</a>
Midland Heart 20 Bath Row Birmingham B15 1LZ		Ruth Cooke Chief Executive Officer	Sue Caley Team Leader 0345 60 20 540 <a href="mailto:sue.caley@midlandheart.org.uk">sue.caley@midlandheart.org.uk</a>
Midlands Partnership NHS Foundation Trust Mellor House St George's Hospital Corporation Street Stafford ST16 3SR	RRE	Dr Abid Khan Caldicott Guardian / Medical Director	Tracie Bethell Information Security & Governance Manager 07860 734463 <a href="mailto:tracie.bethell@mpft.nhs.uk">tracie.bethell@mpft.nhs.uk</a>
Midlands Psychology The Hayes 19 Newport Road Stafford ST16 1BA		Jo Smolinski IT Manager	Jo Smolinski IT Manager 07905780835 <a href="mailto:jo.smolinski@midlandspsychology.co.uk">jo.smolinski@midlandspsychology.co.uk</a>
Mill Hill Primary Academy Sunnyside Avenue Tunstall Stoke-on-Trent ST6 6ED		Sharon Bates Headteacher	Jane Yates School Business Manager 01782 234466 <a href="mailto:sbates1@millhillprimaryacademy.coop">sbates1@millhillprimaryacademy.coop</a>
Mill House School Riverside Studios Coventry Road Kingsbury B78 2DE		Judith Little Deputy Headteacher	Judith Little Deputy Headteacher 07494 973915 Little.j@millhouseschool.co.uk
Monarch Intervention Services 5406 Leek Road Hanley ST1 3HH	N/a	Gaynor Burne Director	Tim Poole Support Worker 01782 284200 <a href="mailto:tim@monarchinterventions.co.uk">tim@monarchinterventions.co.uk</a>
Moorlands Homelink Black Horse House		Sharon Ball Executive Manager	Ellen Ball Office Manager

4 Tape Street Cheadle Staffordshire Moorlands ST10 1BD			01538 750511 <a href="mailto:office@moorlandshomelink.co.uk">office@moorlandshomelink.co.uk</a>
Nacro Education 54 – 58 Market Street Longton Stoke on Trent ST3 1BS		Caroline Strike Head of Curriculum – West Mids	Abbass Shah Head of Performance and Assurance <a href="mailto:Abbass.shah@narco.org.uk">Abbass.shah@narco.org.uk</a>
Nacro Housing 54-58 Market Street Longton Stoke-on-Trent ST3 1BS	N/a	Andy Jackson Service Lead	Andy Jackson Service Lead 07817848390 <a href="mailto:andy.jackson@nacro.org.uk">andy.jackson@nacro.org.uk</a>
National Institute of Conductive Education Cannon Hill House Russell Road Moseley Birmingham B13 8RD		Fiona Bilsborough Headteacher	Marie McCann Director of Staff and Organisational Development 0121 442 5556 <a href="mailto:mmcann@conductive-education.org.uk">mmcann@conductive-education.org.uk</a>
National Society for the Prevention of Cruelty to Children (NSPCC) Carole House 213 Basford Park Road Newcastle-under-Lyme ST5 0PG		Pete Turgoose Service Manager	Teresa Chatfield Team Manager 01782 958100 <a href="mailto:Teresa.chatfield@nspcc.org.uk">Teresa.chatfield@nspcc.org.uk</a>
Newcastle-under-Lyme BID Ltd The Guildhall High Street Newcastle-under-Lyme ST5 1PW		Alexandra Taylor BID Manager	Nicholas Colclough BID Ambassador 07876 342016 / 01782 922712 <a href="mailto:Nick.ambassador@nulbid.co.uk">Nick.ambassador@nulbid.co.uk</a>
Newcastle-under-Lyme Borough Council Castle House Barracks Road Newcastle-under-Lyme ST5 1BL		Gordon Mole Chief Executive	Jacqueline Johnston Information Governance Team Manager (DPO) 01782 742201 <a href="mailto:Jackie.Johnston@newcastle-staffs.gov.uk">Jackie.Johnston@newcastle-staffs.gov.uk</a> ; <a href="mailto:dataprotection@newcastle-staffs.gov.uk">dataprotection@newcastle-staffs.gov.uk</a>

Newcastle and Stafford College Group Knutton Lane Newcastle-under-Lyme ST5 2GB		Denise Haney Head of Student Services	Denise Haney Head of Student Services 01782 254219 <a href="mailto:denise.haney@nscq.ac.uk">denise.haney@nscq.ac.uk</a>
New Era Victim Service Victim Support Churchill House Regent Road Hanley Stoke on Trent ST1 3JJ		Chantelle Thompson Head of Service	Chantelle Thompson Head of Service 07843375646 <a href="mailto:Chantelle.thompson@victimsupport.org.uk">Chantelle.thompson@victimsupport.org.uk</a>
New Ford Academy Brownley Road Smallthorne Stoke-on-Trent ST6 1PY		Emma Ford Headteacher	Emma Ford Headteacher 01782 234605 <a href="mailto:eford@newford.org.uk">eford@newford.org.uk</a>
Nisai Virtual Academy Ltd 4 <sup>th</sup> Floor 28 Clarendon Road Watford WD17 1JJ		Dai Patel Chief Financial Officer	Laura Beech Commercial Co-Ordinator 02084248475 <a href="mailto:info@nisai.com">info@nisai.com</a>
North Staffordshire Carers Association Trent House 234 Victoria Road Fenton Stoke-on-Trent ST4 2LW		Julie Hammersley Chief Executive Officer	Anna Capper Deputy Chief Officer 01782 793100 <a href="mailto:annacapper@carersfirst.com">annacapper@carersfirst.com</a>
North Staffordshire Combined Healthcare Trust Lawton House Bellringer Road Stoke-on-Trent Staffordshire ST4 8HH	RLY	Dennis Okolo Medical Director/Caldicott Guardian	Sahra Smith Head of Information Governance and Data Protection Officer <a href="mailto:DPO@combined.nhs.uk">DPO@combined.nhs.uk</a>
North Staffordshire GP Federation 511 Etruria Road Basford	YO28 68	Ian Gibson Associate Director of Operational Services	Ian Gibson Associate Director of Operational Services 01782 987585

Stoke-on-Trent ST4 6HT			<a href="mailto:ian.gibson2@stokeccg.nhs.uk">ian.gibson2@stokeccg.nhs.uk</a>
North Staffordshire Mind 83 Marsh Street Hanley ST1 5HN		Kate Boundy Chief Executive	Deb Smith Service Manager 01782 262100 <a href="mailto:debsmith@nsmind.org.uk">debsmith@nsmind.org.uk</a>
Nova Training 3 Lower Lichfield Street Willenhall WV13 1PX		Scott Simpson Centre Manager	Samantha Palmer HR Manager 01902 366278 <a href="mailto:Samantha.Palmer@novatraining.co.uk">Samantha.Palmer@novatraining.co.uk</a>
Number 11 11 Chapel Lane Burslem ST6 2AB		Robyn Owen Administrator	Robyn Owen Administrator 01782961800 <a href="mailto:info@number11.org.uk">info@number11.org.uk</a>
Oakhill Primary School Hawkesworth Tamworth B77 2HH		Peter Hollis Headteacher	Irene Love/Yvonne Timson Office Manager/Clerical Assistant 01827 213960 <a href="mailto:office@oakhill.staffs.sch.uk">office@oakhill.staffs.sch.uk</a> <a href="mailto:admin@oakhill.staffs.sch.uk">admin@oakhill.staffs.sch.uk</a>
Offploy CIC 10-12 East Parade Leeds LS1 2BH		Joe Prest Operations Director	Joe Prest Operations Director 07398819994 <a href="mailto:Joe@offploy.org">Joe@offploy.org</a>
The O'Connor Gateway Trust c/o BAC O'Connor 126 Station Street Burton-on-Trent Staffordshire DE14 1BX		Noreen Oliver MBE Chief Executive	Donna Meredith-Wood Business Development Officer 01283 537280 <a href="mailto:donna.meredithwood@bacandoconnor.co.uk">donna.meredithwood@bacandoconnor.co.uk</a>
Optima Community Housing St Thomas House 80 Bell Barn Road Birmingham B15 2AF		Elizabeth Carroll Assistant Director	Ruth Bhullar Housing Manager 0121 687 3133 <a href="mailto:ruth.bhullar@optima.org.uk">ruth.bhullar@optima.org.uk</a>
Orbit Group Ltd Garden Court		Nicolas Kantas	Emily Burton Team Manager (Midlands)

Harry Weston Road Binley Business Park Coventry CV3 2SU		Head of Tenancy Management	07824 599016 <a href="mailto:Emily.burton@orbit.org.uk">Emily.burton@orbit.org.uk</a>
Ormiston Horizon Academy Turnhurst Road Tunstall Stoke-on-Trent ST6 6JZ		Andy Fitzgibbon Principal	Natalie Marshall Data & Exams Manager (DPL) 01782 883333 <a href="mailto:nmarshall@horizonoat.co.uk">nmarshall@horizonoat.co.uk</a>
Ormiston Meridian Academy Sandon Road Meir Stoke on Trent ST3 7DF		Gareth Jones Principal	Ann Berrisford Director of Inclusion 01782 377100 <a href="mailto:aberrisford@omera.co.uk">aberrisford@omera.co.uk</a>
Ormiston Sir Stanley Matthews Academy Beaconsfield Drive Blurton Stoke on Trent ST37TL		Angela Fleming Assistant Principal	Ian Wright Child Protection Officer/Designated Safeguarding Lead 01782 882200 <a href="mailto:iwright@ossma.co.uk">iwright@ossma.co.uk</a>
Outwoods Primary School Harehedge Lane Burton-on-Trent Staffordshire DE13 0AS		Lesley Wells Headteacher	Lesley Wells Headteacher 01283 529800 <a href="mailto:headteacher@outwoods.staffs.sch.uk">headteacher@outwoods.staffs.sch.uk</a>
PABCIS Partnerships Against Business Crime in Staffordshire (PABCIS) Hanley Police/Fire Station Lower Bethesda Street Hanley ST1 3RP		Paul Greenhough PABCIS Manager	Paul Greenhough PABCIS Manager 01785 233190 <a href="mailto:paul.greenhough@staffordshire.police.uk">paul.greenhough@staffordshire.police.uk</a>
Park Hall Academy Carberry Way Weston Coyney Stoke on Trent ST3 5QU		Georgina Frost Principle	Vicki Bunn SENCO 01782 312384 <a href="mailto:vbunn@parkhallacademy.co.uk">vbunn@parkhallacademy.co.uk</a>

Pathway Project 2/3 Quonians Way Lichfield WS13 7LB		Samantha Booth CEO	Wendy Dee COO 01543 442610 <a href="mailto:wendyd@pathway-project.co.uk">wendyd@pathway-project.co.uk</a>
Paulet High School Violet Way Stapenhill Burton-on-Trent DE15 9RT		Ian McArthur Deputy Headteacher	Nicola Bradley Inclusion Support Manager 01283 239710 <a href="mailto:n.bradley@paulet.co.uk">n.bradley@paulet.co.uk</a>
Pause Stoke The Civic Glebe Street Stoke-on-Trent ST4 1HH		Sara Brunskill Practice Manager	Sara Brunskill Pause Manager 07384235961 <a href="mailto:Sara.brunskill@pause.org.uk">Sara.brunskill@pause.org.uk</a>
People, Potential, Possibilities (P3) 43 School Street Wolverhampton West Midlands WV1 4LR		Kathy Kozlowski Director of Governance and Safeguarding/DPO	Lindsey Robinson Head of Community & Support 07971145057 <a href="mailto:Lindsey.robinson@p3charity.org">Lindsey.robinson@p3charity.org</a>
Phoenix U16 Independent School Unit E Metro Business Park Clough Street Hanley ST1 4AF		Shelley Jamieson Principle/ Director	Stephanie Hardman Vice Principle 01782 922306 <a href="mailto:shardman@phoenixlearning.co.uk">shardman@phoenixlearning.co.uk</a>
Places for People Tenancy Enforcement Team Saville House Ground Floor Saville Street Sheffield S4 7UD		Louise Dean Tenancy Enforcement Team Manager	Kareece Marzink Tenancy Enforcement Manager 01772 667002 / 07760 777471 <a href="mailto:Kareece.marzink@placesforpeople.co.uk">Kareece.marzink@placesforpeople.co.uk</a>
Platform Housing Group 1700 Solihull Parkway Birmingham Business Park		Marion Duffy Chief Operations Officer	Carole Smith/Nicola Smitham

Solihull B37 7YD		Sarah Sutton Director of New Customers & Specialist Housing	Head of Localities/Head of Empty Property Management /01217887651 <a href="mailto:Carol.smith@platformhg.com">Carol.smith@platformhg.com</a> <a href="mailto:/Nicola.Smitham@platformhg.com">/Nicola.Smitham@platformhg.com</a>
Populus Housing CIC Howsons, Winton House Stoke Road Stoke on Trent ST4 2RW		Georgia Smith Operations Director	Georgia Smith/Emily Kidd Operations Director/Operations Manager 07707010391/07775832524 <a href="mailto:georgia.smith@populushousing.co.uk">georgia.smith@populushousing.co.uk</a> / <a href="mailto:Emily.Kidd@populushousing.co.uk">Emily.Kidd@populushousing.co.uk</a>
Portland School Uttoxeter Road Blythe Bridge Stoke-on-Trent ST11 9JG		Miss Rachel Shaw Senior Deputy Designated Safeguarding Lead/Family Support Manager	Miss Rachel Shaw Senior Deputy Designated Safeguarding Lead/Family Support Manager 01782 882020 <a href="mailto:Rachel.Shaw@portland.set.org">Rachel.Shaw@portland.set.org</a>
Port Vale FC Foundation Vale Park Hamil Road Buslem Stoke on Trent Staffordshire ST6 1AW		Will Turner Head of Community	Will Turner Head of Community 07921071848 <a href="mailto:Will.turner@port-vale.co.uk">Will.turner@port-vale.co.uk</a>
Practice Plus Group Hawker House 5-6 Methodist Court Napier Road Reading RG1 8BW	NTP	Marjorie Gillespie Medical Director & Caldicott Guardian	Shepherd Makusha IG Lead and DPO 0333 999 2570 <a href="mailto:dpo@practiceplusgroup.com">dpo@practiceplusgroup.com</a>
Probation Service – Staffordshire North PDU Melbourne House Etruria Office Village Forge Lane, Festival Park, Hanley Stoke-on-Trent		Suzi Smith Head of Probation Delivery Unit	Suzanne Poynter Business Manager 07547 972420 <a href="mailto:suzanne.poynter@justice.gov.uk">suzanne.poynter@justice.gov.uk</a>

ST1 5RQ			
Probation Service – Staffordshire South PDU Units 8 & 9 Frank Foley Way Greyfriars Business Park Stafford ST16 2ST		Tony Kuffa Head of Probation Delivery Unit	Lindsay Campbell Business Manager 07591 994214 <a href="mailto:lindsay.campbell2@justice.gov.uk">lindsay.campbell2@justice.gov.uk</a>
Pye Green Christian Centre Housing 521 Pye Green Road Hednesford Cannock Staffordshire WS12 4LP		Dennis Spencer Chair of Trustees	Susan Harrell Support Worker 07480851050 / 01543 422394 <a href="mailto:housing@pyegreen.co.uk">housing@pyegreen.co.uk</a>
The Rawlett School (Academies Enterprise Trust) Comberford Toad Tamworth Staffordshire B79 9AA		Mrs Rebecca Walker Principal	Mrs Rebecca Walker Principal 0182757178 <a href="mailto:rwalker@rawlettschool.org">rwalker@rawlettschool.org</a>
Reflective School Support The Beehive Cabin 45 Dunston Business Village Stafford Road Penkridge ST18 9AB		Deborah Barnes Director	Kate McCormick Director 07340050235 <a href="mailto:kate@reflectiveschoolsupport.co.uk">kate@reflectiveschoolsupport.co.uk</a>
Remedy Education Ltd 99 Trent Valley Road Lichfield WS13 6EZ		Neil Best Company Director	Jennifer Best Company Director 01543 320359 <a href="mailto:jenniferbest@remedyeducation.org.uk">jenniferbest@remedyeducation.org.uk</a>
Rethink Mental Illness 15 <sup>th</sup> Floor 89 Albert Embankment London SE1 7TP	N06	Caroline Cannar Company Secretary	Sarah Lockley Service Manager 01538 399950 / 07815 806984 <a href="mailto:sarah.lockley2@rethink.org">sarah.lockley2@rethink.org</a>
The Right Stuff Project 1 Anglesey Hollow Hednesford		Stuart Ellis Trustee	Andy Whitehall MBE Project Manager 07779059375

Cannock Staffordshire WS12 1BX			<a href="mailto:rightstuffboxing@hotmail.co.uk">rightstuffboxing@hotmail.co.uk</a>
Rising Brook Baptist Church Burton Square Stafford ST17 9LT		Martin Young Senior Minister and Chair of Directors	Liz Dipple Centre and Community Director 01785 214750 <a href="mailto:liz.dipple@risingbrook.org">liz.dipple@risingbrook.org</a>
The Riverside Housing Group Estuary Commerce Park Estuary Blvd Liverpool L24 8RF		James Norfolk-Cinis Customer Safety Team Leader	Firoza Patel Customer Safety Officer 07967779894 <a href="mailto:Firoza.Patel@riverside.org.uk">Firoza.Patel@riverside.org.uk</a>
River View Primary and Nursery School Suffolk Road Stapenhill Burton-on-Trent DE15 9HR		Chris Willoughby Deputy Head	Chris Bell Headteacher 01283 239510 <a href="mailto:headteacher@riverview.staffs.sch.uk">headteacher@riverview.staffs.sch.uk</a>
Royal Wolverhampton NHS Trust Wednesfield Road Wolverhampton WV10 0QP		Brian McKaig Chief Medical Officer Caldicott Guardian	Raz Edwards Head of Data Security and Protection/DPO 01902 307999 <a href="mailto:raz.edwards@nhs.net">raz.edwards@nhs.net</a>
Ruff and Ruby Youth Charity The Ruff and Ruby Rooms Intu Potteries Quadrant Road Hanley Stoke on Trent ST1 1PS	N/a	Dawnie Deaville CEO	Dawnie Deaville CEO 07812 774632 <a href="mailto:info@ruffandruby.com">info@ruffandruby.com</a>
Ryecroft C.E. (C) Middle School Ashbourne Road Rocester Uttoxeter Staffordshire ST14 5PB		Matthew Hall Head of School	Stephen Bardon Deputy Headteacher 01889 590394 <a href="mailto:sbardon@ryecroft.staffs.sch.uk">sbardon@ryecroft.staffs.sch.uk</a>
Safe Sanctuary Living Ltd Operational Director		Charlotte Peacock Operations Director	Rahmeez Younas Director

Foxhall Business Centre Foxhall Lodge Foxhall Road Nottingham NG7 6LH			07540155388 <a href="mailto:ryounas@safesanctuaryliving.co.uk">ryounas@safesanctuaryliving.co.uk</a>
Restart Bemersley House Gitana Street Stoke-On-Trent ST1 1DY		Sam Taylor Restart Operations Manager	Matthew Hammond Restart Support Manager 07902 900588 <a href="mailto:matt@restart.saltbox.org.uk">matt@restart.saltbox.org.uk</a>
Samuel Allsopp Primary and Nursery School Victoria Road Burton upon Trent Staffordshire DE14 2LU		Lee Smith Head Teacher	Sarah Tompkinson Office Support Manager 01283 247420 <a href="mailto:office@victoria.staffs.sch.uk">office@victoria.staffs.sch.uk</a>
Sanctuary Chamber Court Castle Street Worcester WR1 3ZQ		Daren Nowlan Operations Director	Julia Brook Area Manager 0800 131 3348 <a href="mailto:julia.brook@sanctuary.co.uk">julia.brook@sanctuary.co.uk</a>
Saxon Hill Community School Kings Hill Road Lichfield Staffordshire WS14 9DE		Jon Thickett Headteacher	Helen Bowers Family Support Worker 01543 414892 <a href="mailto:hbowers@saxonhill.staffs.sch.uk">hbowers@saxonhill.staffs.sch.uk</a>
S.E.L.F.I.E Services c/o 9 Gaunt Street Leek Staffordshire ST13 8EB		Dean Goodwin Sole Trader / Owner	Dean Goodwin Sole Trader / Owner <a href="mailto:selfieservices@yahoo.co.uk">selfieservices@yahoo.co.uk</a>
Sexual Abuse and Rape Advice Centre (SARAC) PO Box 3 Burton on Trent DE14 1ZT		Amanda Baker Services Manager	Amanda Baker Services Manager 07889 416582 <a href="mailto:amandab@sarac.org.uk">amandab@sarac.org.uk</a>
Sir Graham Balfour High School North Avenue		Matthew Mason Headteacher	Sharon Metcalfe Deputy Headteacher

Stafford ST16 1NR			01785 223490 <a href="mailto:smetcalfe@sirghrahambalfour.staffs.sch.uk">smetcalfe@sirghrahambalfour.staffs.sch.uk</a>
Southern Housing 41 Poplar Road Kings Heath Birmingham B14 7AA		Louise Thomas Head of Region - Midlands	Gemma Edgington Area Housing Manager <a href="mailto:Gemma.edgington@southernhousing.org.uk">Gemma.edgington@southernhousing.org.uk</a>
South Staffordshire District Council Council Offices Wolverhampton Road Codsall Staffordshire WV8 1PX		David Pattison Corporate Director Governance	Lorraine Fowkes Assistant Director Democratic and Regulatory Services 01902 696469 <a href="mailto:l.fowkes@sstaffs.gov.uk">l.fowkes@sstaffs.gov.uk</a>
South Staffordshire Housing Association Acton Court Stafford ST18 9AP		Janet Goode Neighbourhoods Director	Sam Allcott Housing Services Manager 01785 312106 <a href="mailto:samantha.allcott@ssha.co.uk">samantha.allcott@ssha.co.uk</a>
Staffordshire Network for Mental Health Frog Lane Lichfield WS13 6HS		Ian Scott Chair	Beth Wilde 07591 924728 <a href="mailto:Beth.wilde@snfmh.org">Beth.wilde@snfmh.org</a>
Sporting Communities CIC 50 Burrington Drive Trentham Stoke on Trent Staffordshire ST4 8YD		Ross Podyma Strategic Director	Ross Podyma Director of Strategy 01782 646731 <a href="mailto:ross@sportingcommunitiescic.org">ross@sportingcommunitiescic.org</a>
Spring Housing Association 22 Old Walsall Road Hamstead Birmingham B42 1DT		Janette Beckett Director of Support Services and New Business	Ellie Thorne Head of SVPR Services 07821447456 <a href="mailto:ellie@springhousing.org.uk">ellie@springhousing.org.uk</a>
Stafford and Cannock League of Hospital Friends Caxton House North Walls Stafford		Martin Thornley Chief Executive	Zoe Pyatt Housing Manager 01785 250625 <a href="mailto:zoe.pyatt@sclohf.co.uk">zoe.pyatt@sclohf.co.uk</a>

ST16 3AD			
Stafford and Rural Homes 1 Parker Court Staffordshire Technology Park Beaconside Stafford ST18 0WP		Craig Jones Director of Finance and Commerce	Paul Robinson Governance Manager 01785 216741 <a href="mailto:paul.robinson@sarh.co.uk">paul.robinson@sarh.co.uk</a>
Staffordshire and Stoke-on-Trent Integrated Care Board (ICB) Stafford Education & Enterprise Park Weston Road Stafford ST18 0BF	QNC	Peter Axon Chief Executive Officer	Paul Winter Associate Director of Corporate Governance and DPO 07725214657 <a href="mailto:paul.winter@staffsstoke.icb.nhs.uk">paul.winter@staffsstoke.icb.nhs.uk</a>
Stafford Borough Council Civic Centre Riverside Stafford ST16 3AQ		Gabrielle Whitehouse Head of Regulatory Services	Paul Beckley Service Manager <a href="mailto:civilcontingencies@cannockchasedc.gov.uk">civilcontingencies@cannockchasedc.gov.uk</a>
Stafford Grammar School Burton Manor Stafford ST18 9AT		M Darley Head Master	Dawn Shaughnessy Child Protection Officer 01785 249752 <a href="mailto:d.shaughnessy@staffordgrammar.co.uk">d.shaughnessy@staffordgrammar.co.uk</a>
Staffordshire Chambers of Commerce and Industry Ltd Commerce House Festival Park Stoke-on-Trent ST1 5BE		Lorraine Green Director of Finance and Corporate Services	Tom Nadin Head of Projects and Business Services 01782 202222 <a href="mailto:Tom.nadin@staffordshirechambers.co.uk">Tom.nadin@staffordshirechambers.co.uk</a>
Staffordshire Civil Contingencies Unit c/o Staffordshire Fire and Rescue Headquarters Pirehill Stone Staffs ST15 0BS		Bethan Morgan Director	Michael Dodd Manager – Staffordshire Civil Contingencies Unit 01785 898756 <a href="mailto:michael.dodd@staffordshirefire.gov.uk">michael.dodd@staffordshirefire.gov.uk</a>
Staffordshire Commissioners Office for Police, Fire and Rescue and Crime Block 9		Louise Clayton Chief Executive	David Morris Data Protection Officer 07890 988167

Staffordshire Police HQ Weston Road Stafford ST18 0YY			<a href="mailto:david.morris@staffordshire-pfcc.gov.uk">david.morris@staffordshire-pfcc.gov.uk</a>
Staffordshire Council of Voluntary Youth Services 42a Eastgate Street Stafford ST16 2LY		Phil Pusey Chief Executive	Debbie Mason Operations & Contracts Manager 01785 240378 <a href="mailto:debbie@staffscvys.org.uk">debbie@staffscvys.org.uk</a>
Staffordshire County Council Staffordshire Place One Tipping Street Stafford ST16 2DH		Pat Flaherty Chief Executive	Hedda Motherwell Information Governance Manager 01785 278314 <a href="mailto:hedda.motherwell@staffordshire.gov.uk">hedda.motherwell@staffordshire.gov.uk</a>
Staffordshire Fire and Rescue Service Service HQ Pirehill Stone Staffordshire ST15 0BS		Glynn Luznyj Deputy Chief Fire Officer/Senior Information Risk Owner	David M Morris Data Protection Officer 07890 988167 <a href="mailto:David.morris@staffordshirefire.gov.uk">David.morris@staffordshirefire.gov.uk</a>
Staffordshire Moorlands District Council Moorlands House Stockwell Street Leek ST13 6HQ		Simon Baker Chief Executive	David Smith Community Safety and Enforcement Manager 01538 395692 <a href="mailto:david.smith@staffsmoorlands.gov.uk">david.smith@staffsmoorlands.gov.uk</a>
Staffordshire Police Police Headquarters PO Box 3167 Weston Road Stafford ST16 9JZ		Christopher Noble Chief Constable	Central Disclosure Unit 01785 232195 <a href="mailto:information.exchange@staffordshire.police.uk">information.exchange@staffordshire.police.uk</a>
Staffordshire University Flaxman College Road Stoke on Trent ST4 2DF		Dr Jim Pugh Director of the Institute of Education	Debra Hayes PA to the Director of the Institute of Education 01782 294308 <a href="mailto:d.l.hayes@staffs.ac.uk">d.l.hayes@staffs.ac.uk</a>
Staffordshire Women's Aid		Susan Lee	Susan Lee

2 <sup>nd</sup> Floor Civic Centre ST16 3AQ		Operations Manager	Operations Manager 07939227162 <a href="mailto:sue.lee@staffordshirewomensaid.org">sue.lee@staffordshirewomensaid.org</a>
Staffordshire Youth Offending Service Staffordshire Place 1 Tipping Street Stafford ST16 2DH		Hazel Williamson Head of Futures Matter	Simon Scott Lead for Youth Offending Service 07815827180 <a href="mailto:Simon.scott@staffordshire.gov.uk">Simon.scott@staffordshire.gov.uk</a>
St Elizabeth's Catholic Primary School Claremont Road Tamworth Staffordshire B79 8EN		Michelle Walsh Headteacher	Michelle Walsh Headteacher 01827 214000 <a href="mailto:headteacher@st-elizabeths.staffs.sch.uk">headteacher@st-elizabeths.staffs.sch.uk</a>
St Gabriel's Catholic Primary School Wilnecote Lane Belgrave Tamworth Staffordshire		John Hayes Headteacher	John Hayes Headteacher 01827 475045 <a href="mailto:headteacher@st-gabriels.staffs.sch.uk">headteacher@st-gabriels.staffs.sch.uk</a>
St Giles Catholic Primary School Charles Street Cheadle Stoke-on-Trent Staffordshire ST10 1ED		Claire Wilkin Acting Principle	Rebecca Simms School Administrator 01538 753220 <a href="mailto:office@st-giles.staffs.sch.uk">office@st-giles.staffs.sch.uk</a>
St John Fisher Catholic College Ashfields New Road Newcastle Under Lyme Staffordshire ST5 5LL		Garrett Murray Headteacher	Mark Stevens Assistant Headteacher 01782 307551 <a href="mailto:mstevens@ctkcc.co.uk">mstevens@ctkcc.co.uk</a>
St Joseph's Catholic Academy Mobberley Road Goldenhill Stoke-on-Trent ST6 5RN		Laura Hamilton Principal	Laura Hamilton Principal 01782 235393 <a href="mailto:lhamilton@sjnewman.co.uk">lhamilton@sjnewman.co.uk</a>
St Marys Catholic Primary School Hunter Road		James Shingler Headteacher	Clare Yates Bursar

Cannock WS11 0AE			01543 227440 <a href="mailto:office@st-marys-cannock.staffs.sch.uk">office@st-marys-cannock.staffs.sch.uk</a>
St Peters Catholic Academy Waterloo Road Cobridge ST6 3HL		Sarah Caton Academy Manager	Sarah Caton Academy Manager 01782 235040 <a href="mailto:stpeters@stpetersnewman.co.uk">stpeters@stpetersnewman.co.uk</a>
St Peters C of E Academy Fenton Manor Fenton Stoke on Trent ST4 2RR		Michael Astley Principle	Karin Porter Vice Principle / Designated Safeguarding Lead 01782 882500 <a href="mailto:kporter@spa.woodard.co.uk">kporter@spa.woodard.co.uk</a>
St Thomas Aquinas Catholic Primary North Street Stoke on Trent ST4 7DG		Catherine Sherratt Academy Manager	Shenade Moorhouse Headteacher 01782 307530 <a href="mailto:Office.sta@ctkcc.co.uk">Office.sta@ctkcc.co.uk</a> / <a href="mailto:smoorhouse.sta@ctkcc.co.uk">smoorhouse.sta@ctkcc.co.uk</a>
St Thomas More Catholic Academy Longton Hall Road Longton Stoke on Trent ST3 2NJ		Jamie Stubbs Assistant Headteacher	Jamie Stubbs Assistant Headteacher 01782 882900 <a href="mailto:jstubbs@stmca.org.uk">jstubbs@stmca.org.uk</a>
Stoke City Community Trust Bet365 Stadium Stanley Matthews Way Stoke on Trent Staffordshire ST4 4EG		Adrian Hurst Head of Community	David Bartrum Education Manager 01782 592267 <a href="mailto:david.bartrum@stokecityfc.com">david.bartrum@stokecityfc.com</a>
Stoke-on-Trent Community Night Shelter 9 Chapel Lane Burslem Stoke-on-Trent ST6 2AA		Kate Halliday Night Shelter and Outreach Coordinator	Jackie Ambler Coordinator 07974072933 <a href="mailto:stokewinternightshelter@gmail.com">stokewinternightshelter@gmail.com</a>
Stoke-on-Trent City Council Civic Centre Glebe Street Stoke-on-Trent	414 & VN0F W	James Doble SIRO	Louise Kelly Information Assurance Manager (Data Protection Officer) 01782 235965

ST4 1HH			<a href="mailto:dpo@stoke.gov.uk">dpo@stoke.gov.uk</a>
Stoke-on-Trent Combined Court Bethesda Street Stoke-on-Trent ST13 3BP		Jeanette Sutton Operations Manager	Rachel Cooke Care Team Leader 01782 854045 <a href="mailto:rachel.cooke@justice.gov.uk">rachel.cooke@justice.gov.uk</a>
Stoke-on-Trent Foodbank Magdalen Road Stoke-on-Trent ST3 3HS		Corrine Boden Operations Manager	Corrine Boden Operations Manager 07732351898 <a href="mailto:corrine@stokeontrent.foodbank.org.uk">corrine@stokeontrent.foodbank.org.uk</a>
Stoke-on-Trent Gingerbread Centre Ltd Rothsay Court Furnace Road Longton ST4 3LY		Wendy Hocking Chief Executive	Steph Hughes Operational Manager 01782 215656 <a href="mailto:steph.hughes@gingerbreadcentre.co.uk">steph.hughes@gingerbreadcentre.co.uk</a>
Stoke-on-Trent Housing Society The Trevor Jones Office Hammond House Ridgeway Road Stoke-on-Trent ST1 3AX		Sue Davies Housing Service Manager	Lisa Liston Housing Officer 01782 968566 / 07841 492984 <a href="mailto:lliston@stokeontrighthousingociety.org.uk">lliston@stokeontrighthousingociety.org.uk</a>
Stoke-on-Trent Youth Offending Services Liberty House Marsden Street Hanley Stoke-on-Trent ST1 2BW		Joy Molloy Lead of Service	Joanne Reader Office and Performance Manager 01782 235650 <a href="mailto:joanne.reader@stoke.gov.uk">joanne.reader@stoke.gov.uk</a>
Stoneydelph Primary School Crowden Road Wilnecote Tamworth Staffordshire B77 4LS		Jenny Wallbank Headteacher	Gemma Grainger Deputy Headteacher 01827 896666 <a href="mailto:deputy@stoneydelph.staffs.sch.uk">deputy@stoneydelph.staffs.sch.uk</a>
Street Whyze Project CIC 5, South Broadway Street Burton on Trent Staffordshire		Danny Mondesir Managing Director	Danny Mondesir Managing Director 07533 999 035 <a href="mailto:danny@streetwhyze-project.org.uk">danny@streetwhyze-project.org.uk</a>

DE14 3LZ			
Stretton Pre School Springs Children's Centre Bitham Lane Stretton Burton-on-Trent DE13 0HB		Sarah Evans Chariperson/Office Manager	Sarah Burnett Care Manager 01283 239708 <a href="mailto:strettonpreschool@yahoo.com">strettonpreschool@yahoo.com</a>
Support Staffordshire Stafford Civic Centre Riverside ST13 6AQ		Garry Jones Chief Executive	Jill Norman North Staffordshire Operations Manager 07495 736160 <a href="mailto:Jill.norman@supportstaffordshire.org.uk">Jill.norman@supportstaffordshire.org.uk</a>
Tamworth Borough Council Marmion House Lichfield Street Tamworth Staffordshire B79 7BZ		Andrew Barratt Chief Executive	Nicola Hesketh Project and Information Coordinator 01827 709266 <a href="mailto:nicola-hesketh@tamworth.gov.uk">nicola-hesketh@tamworth.gov.uk</a>
Tamworth Cornerstone Housing Association The New School House 2 Woodhouse Lane Amington Tamworth B77 3AE		Stephanie Hood Chief Executive	Stephanie Hood Chief Executive 01827 319918 <a href="mailto:stephaniehood@t-c-h-a.co.uk">stephaniehood@t-c-h-a.co.uk</a>
Tamworth Enterprise College (Academies Enterprise Trust) Birds Bush Road Belgrave Tamworth Staffordshire B77 2NE		Jonathan Spears Principal	Emma Mai PA 01827 285596 <a href="mailto:emai@tamworthenterprisecollege.org">emai@tamworthenterprisecollege.org</a>
Targeted Provision 4 Lonsdale Road London NW6 6RD		Josh Nieboer Director	Josh Nieboer Director 07494767077 <a href="mailto:josh@targetedprovision.com">josh@targetedprovision.com</a>

The Community Foundation for Staffordshire Communications House University Court Stafford ST18 0ES		Steve Adams Chief Executive	Leanne Macpherson Head of Programmes 01785 339540 / 01785 339456 (D) <a href="mailto:Leanne.macpherson@staffordshire.foundation">Leanne.macpherson@staffordshire.foundation</a>
Thomas Russell Infants School Station Road Barton Under Needwood Staffordshire DE12 8DS		Susan Shorten Office Services Manager	Lisa Farmer / Suzy Burton Co-Headteachers 01283 247930 <a href="mailto:tri-headteacher@tri.jtmat.co.uk">tri-headteacher@tri.jtmat.co.uk</a>
Three Peaks Primary School Fosse Dale Road Wilnecote Tamworth Staffordshire		Richard Penn- Bourton Headteacher	Richard Penn-Bourton Headteacher 01827 896424 <a href="mailto:headteacher@threapeaks.staffs.sch.uk">headteacher@threapeaks.staffs.sch.uk</a>
Tillington Manor Primary School Young Avenue Stafford ST16 1PW		Ian Goodwin Head Teacher	Katrine Martin Bursar 01785 337500 <a href="mailto:Office@tillingtonmanor.staffs.sch.uk">Office@tillingtonmanor.staffs.sch.uk</a>
Time 4 Sport UK Michelin Sports Centre Rosetree Avenue Stoke on Trent ST4 6NL		Wayne Glover Managing Director	Wayne Glover Managing Director 01782 409677 <a href="mailto:wdglover@time4sportuk.com">wdglover@time4sportuk.com</a>
Together We Make a Difference Roslyn Works Unit 3 36 Uttoxeter Road Longton ST3 1PQ		Trevor Molloy Managing Director / Founder	Trevor Molloy Managing Director / Founder 07523437845 <a href="mailto:trevor@twmad.co.uk">trevor@twmad.co.uk</a>
Tower View Primary School Vancouver Drive Winshill Burton-on-Trent DE15 0EZ		Graham Lobb Headteacher	Graham Lobb Headteacher 01283 247455 <a href="mailto:headteacher@towerview.staffs.sch.uk">headteacher@towerview.staffs.sch.uk</a>
Trent and Dove Housing		John Griffiths	Kam Gill

Trinity Square Horninglow Street Burton-on-Trent Staffordshire DE14 1BL		Head of Compliance, Health & Safety	Compliance Coordinator 01283 528528 <a href="mailto:Kam.gill@trentanddove.org">Kam.gill@trentanddove.org</a>
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Turning Point Unit 5 Rutherford Park Stafford Technology Park Beaconside Stafford ST18 0GP		Nick Bolger Operations Manager	Nick Bolger Operations Manager 01785 225071 / 07890 943559 <a href="mailto:Nick.Bolger@turning-point.co.uk">Nick.Bolger@turning-point.co.uk</a>
Two Rivers High School Torc Vocational Centre Silverlink Road Tamworth B77 2HJ		Gail Brindley Head of School	Gail Brindley Head of School 01827 426124 <a href="mailto:gail.brindley@tworiversschool.net">gail.brindley@tworiversschool.net</a>
Two Rivers Primary School Quince Amington Tamworth B77 4EN		Laura Slinn Head of School	Laura Slinn Head of School 01827 426123 <a href="mailto:laura.slinn@tworiversschool.net">laura.slinn@tworiversschool.net</a>
T3 Staffordshire Young Persons Substance Misuse Service Suite 1 7-8 Mill Street Stafford ST16 2AJ		Saima Habib Project Manager	Saima Habib Project Manager 01785 241393 <a href="mailto:saima.habib@cri.org.uk">saima.habib@cri.org.uk</a>
University Hospitals of North Midlands NHS Trust Royal Stoke Hospital Newcastle Road Stoke-on-Trent Staffordshire ST4 6QG		Zia Din Deputy Medical Director / Caldicott Guardian	Rachel Montinaro Data Security and Protection Manager - Records 01782 675519 <a href="mailto:Rachel.Montinaro@uhnm.nhs.uk">Rachel.Montinaro@uhnm.nhs.uk</a>
University of Keele Keele Staffordshire ST5 5BG		Clare Stevenson Director of Legal, Governance and Compliance	Anne-Marie Long Legal & Information Compliance Manager and Data Protection Officer 01782 734497 <a href="mailto:dpo@keele.ac.uk">dpo@keele.ac.uk</a>
Urban Outreach Homeless Network 66 Summerville Road		Stephen Beardmore Founder/Director	Stephen Beardmore Founder/Director

Stoke-on-Trent ST4 6LS			07562113638 <a href="mailto:Urbanoutreach.stoke@gmail.com">Urbanoutreach.stoke@gmail.com</a>
VAST The Dudson Centre Hope Street Stoke-on-Trent Staffordshire ST1 5DD		Lisa Healings Chief Executive	Ashley Hulme IT Systems Developer 01782 683030 <a href="mailto:ashley.hulme@vast.org.uk">ashley.hulme@vast.org.uk</a>
Victim Support Suite 3 St Johns House Weston Road Stafford ST16 3RZ		Melina Hancox Contract Manager	Chantelle Thompson Head of Service 07843 375646 <a href="mailto:Chantelle.thompson@victimsupport.org.uk">Chantelle.thompson@victimsupport.org.uk</a>
Victory Route 66 3 Wood View Rugeley WS15 1AT		Terence Pitt Trustee / Administration	Terence Pitt Trustee / Administration 01543 321430 / 07507114510 <a href="mailto:Terry_n_ange@sky.com">Terry_n_ange@sky.com</a>
Visionary Individual Pathways Ltd Brindley Court Unit 1 Dalewood Road Chesterton ST5 9QA		Gill Tellwright Senior Support	Matt Hogg Director 07753324577 <a href="mailto:matt@vipeducation.co.uk">matt@vipeducation.co.uk</a>
Voyage Limited t/a Voyage Care Wall Island Birmingham Road Lichfield WS14 0QP		Laura Jordan Legal Director & Company Secretary	Melonie Dilworth Paralegal 07929 799560 <a href="mailto:contracts@voyagecare.com">contracts@voyagecare.com</a>
Walk Ministries The Walk Centre Phoenix Street Tunstall Stoke on Trent ST6 5AQ		Karen Edwards Manager	Karen Edwards Manager 01782 870196 <a href="mailto:karen.edwards@walkministries.org.uk">karen.edwards@walkministries.org.uk</a>
Walsall Housing Group (WHG) Ltd 100 Hatherton Street		Sofia Ali	Suzanne Gill Data Governance Officer (DPO)

Walsall West Midlands WS1 1AB		Data Protection Officer (DPO)	01922 426953 <a href="mailto:Suzanne.Gill@whgrp.co.uk">Suzanne.Gill@whgrp.co.uk</a>
Walton High School Walton on the Hill Stafford ST17 0LJ		Andy Leese Headteacher	Alison Cashmore Assistant Headteacher 01785 334917 <a href="mailto:a.cashmore@walton.staffs.sch.uk">a.cashmore@walton.staffs.sch.uk</a>
West Chads Moor Family Centre 98 – 100 Princess Street West Chads Moor Cannock WS11 5JT		Heather Preece Family Centre Manager	Heather Preece Family Centre Manager 01543 571698 <a href="mailto:Wdfc_uk@hotmail.co.uk">Wdfc_uk@hotmail.co.uk</a>
Weston Coyney Infants School / Weston Heights Infants School West Street Weston Coyney Stoke-on-Trent ST3 0PT		Kathryn Oakley Headteacher	Glen Barber Business Officer 01782 319607 <a href="mailto:westonconeyi@wcinfants.co.uk">westonconeyi@wcinfants.co.uk</a>
Whitfield Valley Primary School Oxford Road Fegg Hayes		Jennifer Lomas Headteacher	Alison Edwards School Business Manager 01782 234570 <a href="mailto:aedwards@namt.org.uk">aedwards@namt.org.uk</a>
Wightwick Hall School Tinacre Hill Staffordshire WV6 8DA		Ceri Rowley Headteacher	Ceri Rowley Headteacher 01902 761889 <a href="mailto:c.rowley@wightwickhall.staffs.sch.uk">c.rowley@wightwickhall.staffs.sch.uk</a>
William MacGregor Primary School Glascote Road Tamworth B77 2AF		Suzie Norton Headteacher	Suzie Norton Headteacher 01827 475705 <a href="mailto:headteacher@williammacgregor.staffs.sch.uk">headteacher@williammacgregor.staffs.sch.uk</a>
William Shrewsbury Primary School Church Road Stretton Burton-on-Trent Staffordshire DE13 0HE		Bernadette Hunter Headteacher	Heidi Elsmore Inclusion Lead 01293 239131 <a href="mailto:senco@williamshrewsbury.staffs.sch.uk">senco@williamshrewsbury.staffs.sch.uk</a>

The Wilnecote School Tinkers Green Road Wilnecote Tamworth Staffordshire B77 5LF		Sian Hertle Headteacher	Jennie Marsland Deputy Headteacher 01827 831300 <a href="mailto:Jmarsland@wilnecotehighschool.org">Jmarsland@wilnecotehighschool.org</a>
We Are With You 76-82 Hope Street Hanley Stoke-on-Trent ST1 5BY		Tayler Bagnall Treatment and Recovery Manager	Vicki Nash Head of Service Delivery 07850184232 <a href="mailto:Vicki.nash@wearewithyou.org.uk">Vicki.nash@wearewithyou.org.uk</a>
Winshill Village Primary & Nursery School Brough Road Winshill Burton-on-Trent Staffordshire DE15 0DH		Gemma Claxton Acting Headteacher	Gemma Claxton Acting Headteacher 01283 247570 <a href="mailto:g.claxton@win.jmat.co.uk">g.claxton@win.jmat.co.uk</a>
WM Housing Group 4040 Lakeside Solihull Parkway Birmingham Business Park B37 7YN		Karen McDowall Group Head of Governance, Regulation & Audit	William Carter Neighbourhood Manager 0121 687 3148 <a href="mailto:william.carter@wmhousing.co.uk">william.carter@wmhousing.co.uk</a>
Woodlands Community Primary School Canning Road Glascote B77 3JX		Mr J Baker Headteacher	Mrs C Read Deputy Head 01827 429020 <a href="mailto:office@woodlands.staffs.sch.uk">office@woodlands.staffs.sch.uk</a>
The Wrekin Housing Group Colliers Way Old Park Telford TF3 4AN		Nick Grubb Head of Housing	Phil Heywood Neighbourhood Manager 07816 510152 <a href="mailto:phil.heywood@wrekin.com">phil.heywood@wrekin.com</a>
Yasha C/O VAST Dudson Centre		Catherine Murray Project Manager	Catherine Murray Project Manager 07823 695258

Hope Street Hanley ST1 5DD			<a href="mailto:catherine@relume.org.uk">catherine@relume.org.uk</a>
YMCA Burton-upon-Trent and District Northside House Northside Business Park Hawkins Lane Burton-upon-Trent Staffordshire DE14 1DB		Paul Laffey Chief Executive	Andrew Horsnail Operations Manager 01283 538802 <a href="mailto:Andy.horsnail@burtonymca.org">Andy.horsnail@burtonymca.org</a>
YMCA North Staffordshire Edinburgh House Harding Road Stoke on Trent ST1 3AE		Peter Flynn Associate Director of Facilities and Estates	John Beswick Operations Manager (Youth) 01782 222376 <a href="mailto:john.beswick@ymcans.org.uk">john.beswick@ymcans.org.uk</a>
Your Housing Group Youghle House 130, Birchwood Boulevard Birchwood Park Warrington WA3 7QH		Laura Hughes Data Protection LeadL	Dave Lovatt Regional Housing Manager 07515 050 434 <a href="mailto:dave.lovatt@yourhousinggroup.co.uk">dave.lovatt@yourhousinggroup.co.uk</a>
Your Emotional Support Service 23 Carter Street Uttoxeter Staffordshire ST14 8EY		Sarah Pritchard Development Officer	Sarah Pritchard Development Officer 01889 567 756 <a href="mailto:sarah.pritchard@yess.uk">sarah.pritchard@yess.uk</a>
The Youth Net Asbury Net Asbury House Merrey Road Stafford ST17 9LX		Sam Phillips Director	Sam Phillips Director 07913 079705 <a href="mailto:sam@thyouthnet.org.uk">sam@thyouthnet.org.uk</a>

## Appendix B

### ***Legislation Summary and Guidance***

#### **Introduction**

Legislation, under which most public sector agencies operate, defines the role, responsibility and power of the agency to enable it to carry out a particular function.

In many instances legislation tends to use broad or vague statements when it comes to sharing personal information i.e. ‘the agency is required to communicate...’, or ‘will co-operate with...’, without actually specifying exactly how this may be done. This is because legislation that specifically deals with the use of personal information already exists; namely, the Data Protection Act and General Data Protection Regulation; in most cases links into most other legislation.

Data Protection legislation sets out to govern the collection, use, storage, destruction and protection of a living person’s personal data. It does not set out to prevent the sharing of personal information. To the contrary, provided that necessary conditions are met, sharing is perfectly legal.

Legislation covered in this appendix:

- Data Protection Act 2018
- UK General Data Protection Regulation
- Data (Use and Access Act) 2025
- Human Rights Act 1998
- Common Law Duty of Confidentiality
- Digital Economy Act 2017
- Crime and Disorder Act 1998
- The Police and Justice Act 2006
- Statutory Instruments 2007 No. 1831 the Crime and Disorder (Prescribed Information) Regulations 2007
- Statutory Instrument 2007 No. 1830 the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007
- Anti-Social Behaviour, Crime and Policing Act 2014
- Regulation of Investigatory Powers Act 2000
- Access to Health Records Act 1990
- The Freedom of Information Act 2000
- The Local Government Act 1972
- Localism Act 2011
- Immigration and Asylum Act 1999
- Criminal Justice Act 2003
- The Children Act 1989
- The Children Act 2004
- Children (Leaving Care) Act 2000
- Protection of Children Act 1999
- Education Act 1996
- Education Act 2002
- Education (SEN) Regulations 2001
- Learning and Skills Act 2000
- National Health Service Act 1977
- Health Act 1999
- National Health Service and Community Care Act 1990
- National Health Service Act 2006
- Care Act 2015

- National Audit Act 1983
- Civil Contingencies Act 2004
- Caldicott
- Mental Capacity Act 2005 Code of Practice
- Every Child Matters (ECM) Initiative
- Safeguarding

**NB Staffordshire County Council is not responsible for the content of external websites linked from these following pages.**

### **Data Protection Act 2018**

<http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

The DPA 2018 is based on 6 principles set out in Section 86 to 91 of the Act.

1. Processing of personal data must be:

- (a) lawful, and
- (b) fair and transparent.

In order for processing of personal data to be lawful at least one of the conditions in Schedule 9 is met. In the case of sensitive processing, at least one of the conditions in Schedule 10 is also met. Section 86 also considers in determining whether the processing of personal data is fair and transparent, regard is to be had to the method by which it is obtained.

Section 86 also outlines “sensitive processing” meaning;

- (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 for the purpose of uniquely identifying an individual;
- (c)the processing of biometric data for the purpose of uniquely identifying an individual;
- (d)the processing of data concerning health;
- (e)the processing of data concerning an individual's sex life or sexual orientation;
- (f)the processing of personal data as to—
  - (i)the commission or alleged commission of an offence by an individual, or
  - (ii)proceedings for an offence committed or alleged to have been committed by an individual, the disposal of such proceedings or the sentence of a court in such proceedings.

2. The purpose for which personal data is collected on any occasion must be specified, explicit and legitimate, and personal data so collected must not be processed in a manner that is incompatible with the purpose for which it is collected.

Compatibility is subject to:

Personal data collected by a controller for one purpose may be processed for any other purpose of the controller that collected the data or any purpose of another controller provided that:

- (a) the controller is authorised by law to process the data for that purpose, and
- (b) the processing is necessary and proportionate to that other purpose.

Processing of personal data is to be regarded as compatible with the purpose for which it is collected if the processing consists of processing for archiving purposes in the public interest, or for the purposes of scientific or historical research, or for statistical purposes. There must also be regard for appropriate safeguards for the rights and freedoms of the data subject.

- 3. Personal data must be adequate, relevant and not excessive in relation to the purpose for which it is processed.
- 4. Personal data undergoing processing must be accurate and, where necessary, kept up to date.
- 5. Personal data must be kept for no longer than is necessary for the purpose for which it is processed.
- 6. Personal data must be processed in a manner that includes taking appropriate security measures as regards risks that arise from processing personal data.

## **UK General Data Protection Regulation**

[https://ec.europa.eu/justice/data-protection/reform/eu-data-protection-rules\\_en](https://ec.europa.eu/justice/data-protection/reform/eu-data-protection-rules_en)

The key principles of the UK General Data Protection Regulation (GDPR) are:

- 1. Personal Data must be processed (e.g. collected, held, disclosed) lawfully, fairly, transparently and must satisfy one of the conditions in article 6 of the Regulation. The processing of special category data is further protected in that processing must also satisfy at least one of the conditions in article 9 of the Regulation.
- 2. Personal Data shall be obtained and processed for one or more specific and lawful purpose(s) and not processed in any manner incompatible.
- 3. Personal Data shall be adequate, relevant and limited (not excessive) in relation to the specified purpose(s).
- 4. Personal Data shall be accurate and kept up to date.
- 5. Personal Data shall not be held for longer than is necessary for the purpose it was collected.

6. Processing of Personal Data must be in accordance with appropriate security, including appropriate technical and organisational measures.

Under article 5 (2) GDPR also requires Data Controllers to be responsible for and able to demonstrate compliance with the principles under article 5 (1), promoting a culture of privacy within organisations.

The first and second principles of GDPR are crucial when considering information sharing. In essence, these require that personal information should be processed lawfully, fairly and transparently and that personal information should only be used for the purpose(s) that it was originally obtained.

Articles 6 and 9 of the Regulation set out conditions that must be met before personal information can be processed lawfully, fairly and transparently. An article 6 condition must be met for all personal information and an article 9 condition must be met when processing special category information.

Article 6 specifies conditions relevant for the processing of any personal data, namely:

- The data subject has given his/her consent to the processing for one or more specific purposes; or
- The processing is necessary for the performance of a contract to which the data subject is party, or for the taking of steps at the request of the data subject prior to entering into a contract; or
- The processing is necessary for compliance with any legal obligation to which the data controller is subject; or
- The processing is necessary to protect the vital interests of the data subject or another natural person where consent cannot be sought physically or legally; or
- The 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; or
- The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party, or parties, to whom the data is disclosed, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

It is important to highlight, however, the final condition above does not apply to processing that is carried out by public authorities in the performance of their standard and statutory tasks.

Article 9 specifies additional conditions relevant for the processing of special category data, namely:

The data subject has given his/her explicit consent for one or more specified purposes; or

- 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 obligations; or
- Processing is necessary to protect the vital interests of the data subject or another natural person where consent cannot be given by or on behalf of the individual (physically or legally incapable of giving consent); or
- Processing is carried out in the course of legitimate activities with appropriate safeguards by a foundation association or any other not-for-profit body with a political, philosophical, religious or trade union aim; or
- Information already publicly released by the individual; or

- Processing necessary for the establishment, exercise or defence of legal claims; or
- Processing necessary for reasons of substantial public reason; or
- Processing necessary for the purposes of preventative or occupational medicine; or
- Processing necessary for reasons of public interest in the area of public health.

Special category data, as defined by the Regulation, includes information concerning a person's physical or mental health; sexuality; ethnicity or racial origin; philosophical beliefs; political opinion; trade union membership; genetic and biometrics.

Article 44 sets out that personal data should not be transferred to a Third Country without adequate protection as outlined by article 45. A Privacy Seal is required for countries outside of the EEA. Conditions (within Chapter 5 of the Regulation) must be met with to ensure compliance. The following should be taken into account:

- a) Rule of law
  - Respect for human rights and freedoms
  - Relevant legislation
- b) Independent supervisory authorities
- c) International commitments

In order for there to be no misunderstanding on anyone's part it is always advisable for the 'collector' of the information to ensure that the data subject is made fully aware of why the information is required, what it will be used for, who will have access to it and what their rights are. If appropriate, seek the fully informed consent of the individual concerned before sharing that information.

The Regulation requires Data Controllers to provide a distinct set of information to a data subject when their data is collected. The following should be provided within a Privacy Notice as part of a controllers fair processing obligations:

- The identity and contact details of the controller, and if applicable the representative
- Contact details of the Data Protection Officer (DPO)
- Purposes of the processing and the legal basis
- If applicable the legitimate interests pursued by the controller
- Recipients of the data, if applicable
- Whether the controller intends to transfer the data to a Third Country and if so what safeguards will be put in place

It should also be considered that the following is provided:

- The retention period of the data
- Existence of the data subject rights, including the right to access and the right to withdraw consent where applicable
- Information regarding the right to lodge a complaint with the Information Commissioners Office
- Whether the provision of personal data is a statutory or contractual requirement
- If there is any existence of automated decision making, including profiling.

The Regulation gives individuals specific rights in respect of their own personal data held by others, namely the right to:

- Access their information (subject access request)
- Rectify incomplete or inaccurate data

- Erasure (otherwise known as the right to be forgotten)
- Restrict processing
- Data portability
- Object to processing
- Be informed and not subject to decisions solely on automated processing
- Take action for compensation

The right of access gives an individual the right to access the information held about themselves, irrespective of when the information was recorded or how it is stored (manual or electronic). Disclosure of information held on an individual's record that identifies, or has been provided by, a third party is subject to certain restrictions.

### **Data (Use and Access) Act 2025**

<https://www.legislation.gov.uk/ukpga/2025/18/contents>

The DUAA, which received Royal Assent on 19 June 2025, introduces targeted reforms to the UK's data protection framework. It does not replace the UK GDPR, the Data Protection Act 2018, or the Privacy and Electronic Communications Regulations (PECR), but amends them. Certain changes are of particular note for signatories:

#### 1. New 'Recognised Legitimate Interests' Lawful Basis

The act introduces a seventh lawful basis for processing personal data: recognised legitimate interests. This differs from the traditional "legitimate interests" basis under UK GDPR by removing the need for a balancing test (Legitimate Interests Assessment) in specific scenarios:

- Disclosures to public bodies for public task performance.
- Safeguarding vulnerable individuals, including children.
- Crime prevention and investigation.
- National security, public security, and defence.
- Emergency response, as defined under the Civil Contingencies Act 2004.

This change simplifies compliance for organisations, especially those in the private and third sectors working with public bodies, by allowing data sharing based on confirmation from the public body that the data is needed for its task. However, it should be noted that public bodies can't rely on recognised legitimate interest if they want to use the personal information when performing their tasks – instead they should rely on other more suitable lawful bases such as Public Task.

#### 2. Data Protection Complaints

The act introduces a new statutory right for individuals to complain directly to data controllers before escalating to the ICO.

- Controllers must acknowledge complaints within 30 days and respond without undue delay.
- Organisations must implement formal complaint-handling procedures, including multiple submission channels (e.g. online forms, email, phone).
- This change shifts the burden of initial resolution from the regulator to the organisation, increasing the need for robust internal governance; including around data sharing.

#### 3. Transfers outside the UK

The Data Use and Access Act 2025 makes it easier for UK organisations to send personal data to other countries by replacing the old, strict rules with a new “data protection test.” Instead of proving that the other country’s laws are almost identical to the UK’s, organisations just need to show that the data will still be reasonably protected. Further guidance expected from the ICO.

### **Human Rights Act 1998**

<http://www.legislation.gov.uk/ukpga/1998/42/schedule/1>

Article 8(1) of the European Convention on Human Rights (given effect via the Human Rights Act 1998), provides that “everyone has the right to respect for his private and family life, his home and his correspondence.” This is, however, a qualified right i.e. there are specified grounds upon which it may be legitimate for authorities to infringe or limit those rights.

Article 8(2) of the European Convention on Human Rights provides “there shall be no interference by a public authority with the exercise of this right except as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

In the event of a claim arising from the Act that an organisation has acted in a way which is incompatible with the Convention rights, a key factor will be whether the organisation can show, in relation to its decision(s), to have taken a particular course of action:

- That it has taken these rights into account;
- That it considered whether any breach might result, directly or indirectly, from the action, or lack of action;
- If there was the possibility of a breach, whether the particular rights which might be breached were absolute rights or qualified rights;
- (If qualified rights) Whether the organisation has proceeded in the way mentioned below.

*“Evidence of the undertaking of a ‘proportionality test’, weighing the balance of the individual rights to respect for their privacy, versus other statutory responsibilities e.g. protection of others from harm, will be a significant factor for an organisation needing to account for its actions in response to claims arising from the Act”.*

This protocol is designed to comply with the provisions of the Human Rights Act 1998 in respect of Article 8 the right to respect for private and family life.

### **Common Law Duty of Confidentiality**

<https://www.health-ni.gov.uk/articles/common-law-duty-confidentiality>

All staff working in both the public, private and the third sector should be aware that they are subject to a Common Law Duty of Confidentiality, and must abide by this.

*‘In Confidence’... Information is said to have been provided in confidence when it is reasonable to assume that the provider of that information believed that this would be*

*the case, in particular were a professional relationship may exist e.g. doctor/patient, social worker/client; lawyer/client etc.*

The duty of confidence only applies to person identifiable information and not to aggregated data derived from such information or to information that has otherwise been effectively anonymised i.e. it is not possible for anyone to link the information to a specific individual.

The duty of confidentiality requires that unless there is a statutory requirement or other legal reason to use information that has been provided in confidence, it should only be used for purposes that the subject has been informed about and/or has consented to. This duty is not absolute, but should only be overridden if the holder of the information can justify disclosure as being in the public interest (e.g. to protect others from harm).

### **Digital Economy Act 2017**

<http://www.legislation.gov.uk/ukpga/2017/30/contents/enacted>

The Digital Economy Act 2017 makes provisions about electronic communications infrastructure and services. It contains a suite of measures that will support the digital transformation of government, enabling the delivery of better public services, world-leading research and better statistics.

The Act provides public authorities with new powers to share personal information so they can deliver better support and services which are more tailored to people's needs.

Part 5 Sections 35 – details the elements of this Act which affect Information Governance and data sharing and the disclosure of information to improve public service delivery. It states that three conditions must be met. A specified person may disclose information to another for the purposes of a jointly held objective. Schedule 4 of the Act describes who a 'specified person' is and includes:

- Central Government Departments
- Local Authorities, including County and district councils, Fire and Police
- Schools and Academies
- Gas and electric Markets Authority
- Chief Land Registry
- A person providing services to a Local Authority

The objective must comply with these conditions:

1. The first condition is the improvement or targeting of a public service provided to individuals or households, or the facilitation of the provision of a benefit (whether or not financial) to individuals or households.
2. The second condition is that the objective has as its purpose the improvement of the well-being of individuals or households.

Well-being meaning:

- their physical and mental health and emotional well-being,

- the contribution made by them to society, and
- their social and economic well-being.

3. The third condition is that the objective has as its purpose the supporting of the delivery of a specified person's functions, or the administration, monitoring or enforcement of a specified person's functions.

#### Code of Practice covering Part 5 of the Act

Part 5 of the Digital Economy Act 2017 introduces a number of new powers to share information to help make the digital delivery of government services more efficient and effective. Sections 35 to 39 (public service delivery), section 48 (debt owed to the public sector) and section 56 (fraud against the public sector) create specific gateways to share information for the purpose of improving public service delivery, and managing debt and fraud against the public sector respectively.

#### **Crime and Disorder Act 1998**

Section 115 – Disclosure of information

<http://www.legislation.gov.uk/ukpga/1998/37/section/115>

Section 17 – Duty to consider Crime and Disorder implications

<http://www.legislation.gov.uk/ukpga/1998/37/section/17>

Section 37 – Aim of the youth justice system

<http://www.legislation.gov.uk/ukpga/1998/37/section/37>

Section 39(5) – Youth offending teams

<http://www.legislation.gov.uk/ukpga/1998/37/section/39>

The Crime and Disorder Act 1998 introduces measures to reduce crime and disorder, including the introduction of local crime partnerships around local authority boundaries to formulate and implement strategies for reducing crime and disorder in the local area.

Section 115 of the Act provides that any person from a relevant organisation has the power to lawfully disclose information to the police, local authorities, probation service or health authorities (or persons acting on their behalf) where they do not otherwise have the power, but only where it is necessary and expedient, for the purposes of the Act. The purpose of the Act encompasses a wide range of measures and need not be restricted to cases where the end result is a prosecution under criminal law.

Whilst all agencies have the power to disclose, Section 115 does not impose a requirement on them to exchange information, and responsibility for the disclosure remains with the agency that holds the information. It should be noted, however, that this does not exempt the provider from the requirements of purpose limitation; ensuring data is only obtained for specified purpose and not processed in any manner incompatible.

It is recognised that the power under Section 115 of the Crime and Disorder Act can only be used to disclose information to an individual or group which is acting in support of the local strategy to reduce crime and disorder, the Youth Justice plan or any other provision of the Acts.

Section 17 recognises that key authorities have responsibility for the provision of a wide and varied range of services to and within the community. In carrying out these functions, Section 17 places a duty on them to do all they can to reasonably prevent crime and disorder in their area.

Section 37 sets out that the principal aim of the youth justice system is to prevent offending by children and young people and requires everyone carrying out youth justice functions to have regard to that aim.

Section 39(5) sets out the statutory membership of Youth Offending Teams reflecting their responsibilities both as a criminal justice agency and a children's service. The membership consists of the following:

- at least one probation officer;
- at least one police officer;
- at least one person nominated by a health authority;
- at least one person with experience in education;
- at least one person with experience of social work in relation to children.

Youth Offending Teams have a statutory duty to coordinate the provision of youth justice services including advising courts, supervising community interventions and sentences, working with secure establishments in respect of young people serving custodial sentences and also in the latter category of a children's service.

### **The Police and Justice Act 2006**

Schedule 9 Paragraph 5 – Sharing of information

<http://www.legislation.gov.uk/ukpga/2006/48/schedule/9>

The Police and Justice Act 2006 introduces a duty on certain agencies to disclose certain sets of depersonalised information at least quarterly in electronic form to the other section 115 relevant authorities. The relevant datasets are included in Statutory Instruments 2007 No. 1831 the Crime and Disorder (Prescribed Information) Regulations 2007. The purpose of sharing this information is to enable the profiling of crime and disorder trends and patterns within the area. For this reason, in most cases, it is the record level data that is specified rather than aggregate data or statistics.

This duty only applies when the authority holds the information so it does not require the collection of any additional information. In each case, the duty applies to information relating to the partnership area as defined by the district or unitary authority area. Analysis can then take place across a number of different datasets on at least a quarterly basis.

In order to satisfy the new requirements, information covered by the new duty relating to each quarter (for example July – September) must be shared by the end of the following quarter (for example, by the end of December). This means that the relevant authorities could share all the information once per quarter; on a monthly basis; or more regularly.

The Police and Justice Act 2006 specifically excludes any personal data from this duty to disclose. This means information which can identify a living individual, either by itself or in combination with other information held, or likely to be held, by the relevant authority. Where an incident is recorded as a domestic incident, for example, sharing precise location information may, in some circumstances, be sufficient to identify a living individual. In such instances, the duty does not apply. Subject to complying with

other legal obligations such as the Common Law Duty of Confidentiality for information from ambulance callouts, the authority may still choose to disclose this information to the other Section 115 relevant authorities, who should treat it as personal data. Alternatively, the authority may choose to share less specific location information so that the dataset contains exclusively depersonalised information. In the case of ambulance callouts, this should be the outward part of the postcode only.

This was strengthened by paragraph 5 of Schedule 9 to the Police and Justice Act 2006 that introduced Section 17A of the 1998 Act which is a duty to share certain sets of depersonalised information as prescribed by the Secretary of State.

**Statutory Instruments 2007 No. 1831 the Crime and Disorder (Prescribed Information) Regulations 2007**

Section 2, 3, 4 – Sharing of Information by Responsible Authorities  
[http://webarchive.nationalarchives.gov.uk/20100413151426/opsi.gov.uk/si/si2007/uksi\\_20071831\\_en\\_1](http://webarchive.nationalarchives.gov.uk/20100413151426/opsi.gov.uk/si/si2007/uksi_20071831_en_1)

Prescribes the information types outlined above, the intervals at which such information must be disclosed and the form of such disclosure.

**Statutory Instrument 2007 No. 1830 the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007**

Part 4(1) and 4(2) – Information Sharing  
<http://www.legislation.gov.uk/uksi/2007/1830/regulation/4/made>

Requires the drafting of an Information Sharing Protocol.

**Anti-Social Behaviour, Crime and Policing Act 2014**

Parts 1 - 6  
<http://www.legislation.gov.uk/ukpga/2014/12/contents>

In 2010, the Home Office carried out a review of the measures available to practitioners for responding to anti-social behaviour (ASB) which concluded that:

- there are too many tools and practitioners stick to the ones that they are most familiar with;
- some of the formal tools, particularly the Anti-Social Behaviour Order (or ASBO), are bureaucratic, slow and expensive, which puts people off using them;
- the growing number of people who breach their ASBO suggests the potential consequences are not deterring a persistent minority from continuing their anti-social or criminal behaviour; and
- the tools that were designed to help perpetrators deal with underlying causes of their anti-social behaviour are rarely used.

The Home Office subsequently consulted on proposals to reform the policy framework for dealing with ASB in 2011; leading to the publication of a White Paper, Putting Victims First – More Effective Responses to Anti-Social Behaviour, in 2012.

The Home Office indicated that the intention of its proposals was to "*move away from having a tool for every different problem*" to a new approach designed to ensure that

local authorities, the police and partners have "*faster, more flexible tools*" to respond to problems with "*victims at the heart of the response*".

The Anti-Social Behaviour, Crime and Policing Bill subsequently progressed through Parliament and the resulting Act received Royal Assent on 13<sup>th</sup> March 2014. The Act covers a range of matters:

- Parts 1 to 6 introduce new measures for responding to anti-social behaviour;
- Part 7 addresses dangerous dogs;
- Part 8 relates to firearms;
- Part 9 covers protection from sexual harm and violence;
- Part 10 relates to forced marriage;
- Part 11 deals with various policing matters;
- Part 12 amends the Extradition Act 2003;
- Part 13 introduces changes to criminal justice and court fees; and
- Part 14 is a general section covering amendments, commencement, etc.

### **Regulation of Investigatory Powers Act (RIPA) 2000**

Section 21 – Lawful acquisition and disclosure of communications data

<http://www.legislation.gov.uk/ukpga/2000/23/part/I/chapter/II>

The Regulation of Investigatory Powers Act 2000 primarily deals with the acquisition and disclosure of information relating to the interception of communications, the carrying out of surveillance and the use of covert human intelligence.

Sharing information within the restrictions of this Act is outside the scope of the One Staffordshire Protocol.

### **Access to Health Records Act 1990**

Section 3(1)(f) – Right of Access to health records

<http://www.legislation.gov.uk/ukpga/1990/23/section/3>

Current Data Protection legislation does not apply to information relating to a deceased person.

The Access to Health Records Act 1990 continues to provide a right of access to the health records of a deceased person made by their personal representatives and others having a claim on the deceased's estate.

In all other circumstances, disclosure of records relating to the deceased person should satisfy the Common Law Duty of Confidentiality. Whilst it is not entirely clear under law whether or not a common law duty of confidence extends to the deceased, the Department of Health and relevant professional bodies accept that there is an ethical duty to respect the confidentiality of the dead.

### **The Freedom of Information Act 2000**

Section 1 – General right of access to information held by public authorities

<http://www.legislation.gov.uk/ukpga/2000/36/section/1>

Section 19 – Publication schemes

<http://www.legislation.gov.uk/ukpga/2000/36/section/19>

The Freedom of Information Act 2000 gives the public a general right of access to information held by public authorities. The Act also requires public authorities to have an approved publication scheme, which is a means of providing access to information which an authority proactively publishes.

When responding to requests, there are procedural requirements set out in the Act which an authority must follow. There are also valid reasons for withholding information, which are known as exemptions from the right to know.

It is considered good practice to include information relating to information sharing on the publication scheme in each relevant authority. This does not mean that the information shared should necessarily be included but the reasons why information is being shared, which organisations are involved and the standards and safeguards that are in place.

### **The Local Government Act 1972**

Section 111 – Subsidiary powers of local authorities

<http://www.legislation.gov.uk/ukpga/1972/70/section/111>

Section 111 of the Act enables an authority to do anything which is intended to facilitate, or is conducive or incidental to, the discharge of any of its functions, providing that it has the specific statutory authority to carry out those functions in the first place.

Section 230 – Reports and returns

<https://www.legislation.gov.uk/ukpga/1972/70/section/230>

Section 230 requires Local Authorities to share data with government bodies, for example data on the Single Data List.

### **Localism Act 2011**

Section 1 – Local authority's general power of competence

<http://www.legislation.gov.uk/ukpga/2011/20/section/1/enacted>

The general power of competence provides a new power available to local authorities allowing them to do “anything that individuals generally may do”. There are conditions placed on the use of the Act in circumstances where what the Local Authority wants to do is prohibited by another statute.

The Information Commissioners Office has indicated that the legislation can be used as a basis to share information to identify and work with individuals and families to improve service provision and provide a more holistic approach to social care.

### **Immigration and Asylum Act 1999**

Section 20 – Supply of information to the Secretary of State

<http://www.legislation.gov.uk/ukpga/1999/33/section/20>

Section 20 provides that information may be supplied to the Secretary of State for use for immigration purposes, as follows:

- to undertake the administration of immigration controls to detect or prevent criminal offences under the Immigration Act;

- to undertake the provision of support for asylum seekers and their dependents.

### **Criminal Justice Act 2003**

Section 325 – Arrangements for assessing risks posed by certain offenders

<http://www.legislation.gov.uk/ukpga/2003/44/section/325>

Section 325 of the Act details the arrangements for assessing risk posed by different offenders:

- The “responsible authority” in relation to any area, means the chief officer of police, the local probation board and the Minister of the Crown exercising functions in relation to prisons, acting jointly.
- The responsible authority must establish arrangements for the purpose of assessing and managing the risks posed in that area by:
  - a) relevant sexual and violent offenders; and
  - b) other persons who, by reason of offences committed by them are considered by the responsible authority to be persons who may cause serious harm to the public.
  - In establishing those arrangements, the responsible authority must act in co-operation with the persons identified below.
  - Co-operation may include the exchange of information.

The following agencies have a duty to co-operate with these arrangements:

- a) every Youth Offending Team established for an area
- b) the Ministers of the Crown, exercising functions in relation to social security, child support, war pensions, employment and training
- c) every Local Education Authority
- d) every local housing authority or social services authority
- e) every registered social landlord who provides or manages residential accommodation
- f) every Health Authority or Strategic Health Authority
- g) every Clinical Commissioning Group (CCG) or Local Health Board
- h) every NHS Trust
- i) every person who is designated by the Secretary of State as a provider of electronic monitoring services

NB CCGs have been replaced with Integrated Care Boards (ICBs) – July 2022, Health & Care Act 2022.

### **The Children Act 1989**

Sections 17 – Provision of services for children in need, their families and others

<http://www.legislation.gov.uk/ukpga/1989/41/section/17>

Section 27 – Co-operation between authorities

<http://www.legislation.gov.uk/ukpga/1989/41/section/27>

Section 47 – Local authority’s duty to investigate

<http://www.legislation.gov.uk/ukpga/1989/41/section/47>

Schedule 2 – Local authority support for children and families

<http://www.legislation.gov.uk/ukpga/1989/41/schedule/2>

Section 47 of the Children Act 1989 places a duty on local authorities to make enquiries where they have reasonable cause to suspect that a child in their area may be at risk of suffering significant harm.

It states that unless in all the circumstances it would be unreasonable for them to do so, the following listed authorities must assist a local authority with these enquiries if requested, in particular by providing relevant information.

- local authority;
- local education authority;
- housing authority;
- health authority;
- person authorised by the Secretary of State.

A local authority may also request help from those listed above in connection with its functions under Part 3 of the Act. Part 3 of the Act, which comprises of Sections 17-30, allows for local authorities to provide various types of support for children and families.

Section 17 places a general duty on local authorities to provide services for children in need in their area.

Section 27 enables the authority to request the help of one of those listed above where it appears that such an authority could, by taking any specified action, help in the exercise of any of their functions under Part 3 of the Act. Authorities are required to co-operate with a request for help so far as it is compatible with their own statutory duties and does not unduly prejudice the discharge of any of their functions.

In practice, when required to help under Sections 47 or 17 of the Act, authorities may be approached by social services and asked to:

- provide information about a child, young person or their family where there are concerns about a child's well-being, or to contribute to an assessment under Section 17 or a child protection enquiry;
- undertake specific types of assessments as part of a core assessment or to provide a service for a child in need;
- provide a report and attend a child protection case conference.

The Act does not require information to be shared in breach of confidence, but an authority should not refuse a request without considering the relative risks of sharing information, if necessary without consent, against the potential risk to a child if information is not shared.

## **The Children Act 2004**

Section 10 – Co-operation to improve well-being

<http://www.legislation.gov.uk/ukpga/2004/31/section/10>

Section 11 – Arrangements to safeguard and promote welfare

<http://www.legislation.gov.uk/ukpga/2004/31/section/11>

Section 10 places a duty on children's services authorities to promote co-operation between itself, its partners and other appropriate bodies carrying out functions in relation to children in the area in order to; improve physical and mental health and emotional well-being; provide protection from harm and neglect; provide education,

training and recreation, promote their contribution to society; and social and economic well-being.

Section 11 places a duty on all relevant authorities to make arrangements to ensure that their functions are carried out with regard to the need to safeguard and promote the welfare of children.

An authority and its partners must have regard to any guidance issued to them by the Secretary of State when exercising their functions under this Section 10 and 11.

In order to safeguard and promote the welfare of children, arrangements should ensure that:

- all staff in contact with children understand what to do and are aware of the most effective ways of sharing information if they believe a child and family may require targeted or specialist services in order to achieve their optimal outcomes;
- all staff in contact with children understand what to do and when to share information if they believe that a child may be in need, including those children suffering or at risk of significant harm.

### **Children (Leaving Care) Act 2000**

Section 2 – Additional functions of local authorities in respect of certain children  
<http://www.legislation.gov.uk/ukpga/2000/35/section/2>

The main purpose of the Act is to improve the life chances of young people living in and leaving local authority care. Its aims are:

- delay young people's discharge from care until they are prepared and ready to leave;
- improve the assessment, preparation and planning for leaving care;
- provide better personal support for young people after leaving care; and
- improve the financial arrangements for care leavers.

To do this, the 2000 Act amends the leaving care provisions contained in Section 24 of Children Act 1989 (c.41). The Children Act 1989 and its underlying principles provide the overall legal framework.

### **Protection of Children Act 1999**

Section 1 – Duty of Secretary of State to keep list  
[http://www.legislation.gov.uk/ukpga/1999/14/pdfs/ukpga\\_19990014\\_en.pdf](http://www.legislation.gov.uk/ukpga/1999/14/pdfs/ukpga_19990014_en.pdf)

The Act creates a system for identifying persons considered to be unsuitable to work with children. It introduces a 'one stop shop' to compel employers designated under the Act (and allows other employers) to access a single point for checking people they propose to employ in a child care position.

This will be achieved by checks being made of criminal records with the National Criminal Records Bureau and two lists maintained by the Department for Education and Skills.

### **Education Act 1996**

Section 13 – General responsibility for education  
<http://www.legislation.gov.uk/ukpga/1996/56/section/13>

Section 408 – Provision of information

<http://www.legislation.gov.uk/ukpga/1996/56/section/408>

Section 434(4) – Registration of pupils

<http://www.legislation.gov.uk/ukpga/1996/56/section/434>

Section 13 provides that a Local Education Authority (LEA) shall (so far as their powers enable them to do so) contribute towards the spiritual, moral, mental and physical development of the community, by securing that efficient primary and secondary education is available to meet the needs of the population of the area.

Section 408 requires the LEA, governing body or head teacher to make available information relevant to the curriculum, educational provision, syllabuses, educational achievements and arrangements relating to external qualifications.

Section 434(4) requires schools to keep details of children registered at a school and to make provision for this to be available for inspection, to allow extracts to be taken by authorised persons and to provide details to the Secretary of State and the LEA.

## **Education Act 2002**

Section 175 – Duties of LEAs and governing bodies in relation to welfare of children

<http://www.legislation.gov.uk/ukpga/2002/32/section/175>

Section 21 – General responsibility for conduct of school

<http://www.legislation.gov.uk/ukpga/2002/32/section/21>

The duty laid out in Section 11 of the Children Act 2004 mirrors the duty imposed by Section 175 of the Education Act 2002 on LEAs and the governing bodies of both maintained schools and further education institutions. This duty is to make arrangements to carry out their functions with a view to safeguarding and promoting the welfare of children.

Section 21 of the Act, as amended by Section 38 of the Education and Inspections Act 2006, places a duty on the governing body of a maintained school to promote the well-being of pupils at the school. Well-being in this section is defined with reference to Section 10(2) of the Children Act 2004. The Act adds that this duty has to be considered with regard to any relevant children and young person's plan.

## **Education (SEN) Regulations 2001**

Regulation 6 – Notices relating to assessment

<http://www.legislation.gov.uk/uksi/2001/3455/regulation/6/made>

Regulation 18 – Reviews of statements

<http://www.legislation.gov.uk/uksi/2001/3455/regulation/18/made>

Regulation 6 provides that when the LEA is considering making an assessment of a child's special educational needs, it is obliged to send copies of the notice to social services, health authorities and the head teacher of the school and inform them of any assistance they are likely to require.

Regulation 18 provides that an authority shall serve a notice on the head teacher of every school listing pupils with statements registered at that school. They will do the

same for relevant careers service for their area listing pupils with statements who will be in year 10 in that school year, the school attended and educational provision provided and will also serve a notice on the health authority and social services listing pupils with statements and the school attended.

### **Education (Pupil Information) Regulations 2005**

Section 5(5) – Disclosure of curricular and educational records  
<http://www.legislation.gov.uk/uksi/2005/1437/regulation/5/made>

Section 5(5) provides that a governing body should transfer a pupil's curricular record to the responsible person where a pupil is transferring to another school or further/higher education institution.

### **Learning and Skills Act 2008**

An Act which makes provision for individuals beyond the statutory leaving age to continue to participate in education or training. Chapter 2 provides a right for local education authorities and educational institutions to request certain categories of data.

#### Section 14 Educational institutions: duty to provide information

Relevant information about a pupil or student (a) who is attending an educational institution in England, and (b) to whom this Part applies, must, on request by a local education authority in England, be provided by the responsible person to the authority.

#### Section 15 Supply of social security information

Social security information may be supplied to a local education authority in England for the purpose of enabling or assisting the authority to exercise its functions.

#### Section 16 Supply of information by public bodies

Any of the persons or bodies (as outlined in Section 2 of the Act) may supply information about a person to a local education authority in England for the purpose of enabling or assisting the authority to exercise its functions under the Act.

#### Section 17 Sharing and use of information held for purposes of support services or functions

### **National Health Service Act 1977**

Section 2 – Secretary of State's general power as to services  
<http://www.legislation.gov.uk/ukpga/1977/49/section/2>

Section 22 – Co-operation between health authorities and local authorities  
<http://www.legislation.gov.uk/ukpga/1977/49/section/22>

The Act provides for a comprehensive health service to England and Wales to improve the physical and mental health of the population and to prevent, diagnose and treat illness.

Section 22 states that "in exercising their respective functions NHS bodies and local authorities shall co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales."

## **Health Act 1999**

Section 27 – Co-operation between NHS bodies and local authorities  
<http://www.legislation.gov.uk/ukpga/1999/8/section/27>

Section 27 amends section 22 of the NHS Act 1977 and states that NHS bodies and local authorities shall cooperate with one another in order to secure the health and welfare of people.

## **National Health Service and Community Care Act 1990**

Provision of accommodation and welfare services  
<http://www.legislation.gov.uk/ukpga/1990/19/part/III>

Provides that when a local authority is assessing need and it appears that there may be a need for health or housing provision, the local authority shall notify the appropriate CCG, Health Authority or housing department and invite them to assist.

## **National Health Service Act 2006**

Section 82 – Co-operation between NHS bodies and local authorities  
<http://www.legislation.gov.uk/ukpga/2006/41/section/82>

Section 251 – Control of patient information  
<http://www.legislation.gov.uk/ukpga/2006/41/section/251>

Section 82 of the Act places a duty on NHS bodies and local authorities to “co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales” when exercising their respective functions.

## **Care Act 2014**

Section 6 – Co-operating generally  
<http://www.legislation.gov.uk/ukpga/2014/23/section/6/enacted>

Section 6 of the Act makes it clear that a local authority must co-operate with each of its relevant partners in order to protect the Adult. In turn, each relevant partner must also co-operate with the local authority.

Section 42 – Enquiry by Local Authority  
<http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted>

Section 42 of the Act places a duty on Local Authorities to make enquiries, or cause others to do so, if it believes an adult is experiencing, or is at risk of, abuse or neglect. An enquiry should establish whether any action needs to be taken to prevent or stop abuse or neglect, and if so, by whom.

Section 43 – Safeguarding Adults Board  
<http://www.legislation.gov.uk/ukpga/2014/23/section/43/enacted>

Section 44 – Safeguarding Adults Reviews  
<http://www.legislation.gov.uk/ukpga/2014/23/section/44/enacted>

Section 45 – Supply of information

<http://www.legislation.gov.uk/ukpga/2014/23/section/45/enacted>

Section 76 – Prisoners and persons in approved premises  
<http://www.legislation.gov.uk/ukpga/2014/23/section/76/enacted>

### **National Audit Act 1983**

Section 8 – Right to obtain documents and information  
<http://www.legislation.gov.uk/ukpga/1983/44/section/8>

The National Audit Office has a right of access to documents and materials which it reasonably requires to carry out its functions in relation to HMRC.

### **Civil Contingencies Act 2004**

Part 1 – Local arrangements for civil protection  
<http://www.legislation.gov.uk/ukpga/2004/36/part/1>

Part 2 – Emergency powers  
<http://www.legislation.gov.uk/ukpga/2004/36/part/2>

The Act places a statutory duty on all Category 1 and Category 2 Responders to share information with other local responders and defines Category 1 Responders as all local authorities, the Environment Agency, some NHS organisations and the emergency services. Category 2 Responders include utility companies and transport organisations.

### **Caldicott**

Although not a statutory requirement, NHS and Social Care organisations are committed to the Caldicott principles which encapsulate statutes such as Data Protection legislation, Human Rights Act 1998 and the Common Law Duty of Confidentiality when considering whether confidential information should be shared. The 8 principles are:

- Justify the purpose(s) for using personal information.
- Only use personal information when absolutely necessary.
- Use the minimum amount of personal information that is required.
- Access to personal information should be on a strict need to know basis.
- Everyone with access to personal information must be aware of his/her responsibilities.
- Everyone with access to personal information must understand and comply with legislation that governs personal information.
- The duty to share information can be as important as the duty to protect patient confidentiality.
- Inform patients and service users about how their confidential information is used.

Government Response to the Caldicott Review – Information: To share or not to Share (2013)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/251750/9731-2901141-TSO-Caldicott-Government\\_Response\\_ACCESSIBLE.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251750/9731-2901141-TSO-Caldicott-Government_Response_ACCESSIBLE.PDF)

## **Mental Capacity Act 2005 Code of Practice**

Chapter 4 – How does the Act define a person’s capacity to make a decision and how should capacity be assessed?

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/921428/Mental-capacity-act-code-of-practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/921428/Mental-capacity-act-code-of-practice.pdf)

## **Care Act 2015**

### Chapter 14 – Safeguarding

14.34 – Early sharing of information is the key to providing an effective response where there are emerging concerns. No professional should assume that someone else will pass on information which they think may be critical to the safety and wellbeing of the adult. If a professional has concerns about the adult’s welfare and believes they are suffering or likely to suffer abuse or neglect, then they should share the information with the Local Authority and, or, the Police if they believe or suspect that a crime has been committed.

14.55 – Partners should ensure that they have the mechanisms in place that enable early identification and assessment of risk through timely information sharing and targeted multi-agency intervention.

14.77 – Everyone involved in an enquiry must focus on improving the Adults wellbeing and work together to that shared aim.

14.104 – Each Local Authority must set up a Safeguarding Adults Board. The main objective of a SAB is to assure itself that local safeguarding arrangements and partners act to help and protect adults in its area.

14.106 – It is important that the SAB has effective links with other key partnerships in the locality and share relevant information and work plans.

14.153 – All agencies should identify arrangements, consistent with principles and rules of fairness, confidentiality and data protection for making records available to those Adults affected by, and subject to, an enquiry. If the alleged abuser is using care and support themselves, then information about their involvement in an Adult safeguarding enquiry, including the outcome, should be included in their case record. If it is assessed that the individual continues to pose a threat to other people then this should be included in any information that is passed on to service providers or other people who need to know.

14.154 – In order to carry out its functions, SABs will need access to information that a wide number of people or other organisations may hold. Some of these may be SAB members, such as the NHS and the Police. Others will not be, such as private health and care providers or housing providers/housing support providers or education providers.

14.155 – If someone knows that abuse or neglect is happening they must act upon that knowledge, not wait to be asked for information.

14.156 – An SAB may request a person to supply information to it or to another person. The person who receives the request must provide the information provided to the SAB If:

- the request is made in order to enable or assist the SAB to do its job;

- the request is made of a person who is likely to have relevant information and then either:
  - i. the information requested relates to the person to whom the request is made and their functions or activities or;
  - ii. the information requested has already been supplied to another person subject to an SAB request for information

#### Chapter 17 – Prisons, approved premises and bail accommodation

17.21. Local Authorities should ensure the security of information held on people who are in custodial settings, and should develop agreements consistent with policies and procedures of Ministry of Justice and the National Offender Management Service and with relevant.

17.22. If a local authority is providing care and support for a person in the community and that person is subsequently remanded or sentenced to custody, or bailed to an approved premises, or required to live in approved premises as part of a community sentence, the local authority should share details of the most recent assessment and care and support plan to the relevant custodial setting and the local authority in which it is based so that care and support may continue.

17.23. It is unlikely that local authorities will know when an individual is remanded or sentenced to custody in a new local authority area. Prisons and/or prison health services should inform local authorities when someone they believe has care and support needs arrives at their establishment. Either party may use the mechanism to require co-operation to support working in an individual case, set out in chapter 15. Local authorities may also receive requests for information from managers of custodial settings or probation services when an individual who has already received care and support in the community is remanded or sentenced to custody. Local authorities should take all reasonable steps to provide the information requested as soon as practicable after receiving the request.

Care and Support Statutory Guidance (DoHSC 2020)

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

#### **Every Child Matters (ECM) Initiative**

Every Child Matters

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/27206/4/5860.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/27206/4/5860.pdf)

#### **Safeguarding**

Safeguarding Children in Education (DfE 2019)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/372753/Keeping\\_children\\_safe\\_in\\_education.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/372753/Keeping_children_safe_in_education.pdf)

#### **Links to Information Governance Guidance**

There are also numerous sources of guidance relating to Information Governance, data sharing and information security. A selection of key sources is provided below. Please note some of the guidance below may be outdated due to General Data Protection Regulation and will be in the process of being replaced in order to reflect the changing legislation.

## General

HMG – Guidance for practitioners and managers

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721581/Information\\_sharing\\_advice\\_practitioners\\_safeguarding\\_service\\_s.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721581/Information_sharing_advice_practitioners_safeguarding_service_s.pdf)

Information Commissioner's Office – Data Sharing Code of Practice

<https://ico.org.uk/media/2615361/data-sharing-code-for-public-consultation.pdf>

HMG Security Policy Framework

<https://www.gov.uk/government/publications/security-policy-framework>

The National Cyber Security Centre

<https://www.ncsc.gov.uk/>

Cabinet Office – Data Protection and Sharing – Guidance for Emergency Planners and Responders

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60970/dataprotection.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60970/dataprotection.pdf)

GDPR Consent Guidance

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/consent/>

GDPR Data Protection Impact Assessment Guidance

<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/accountability-and-governance/data-protection-impact-assessments-dpias/>

## Health

UK Caldicott Guardian Council

<https://www.gov.uk/government/groups/uk-caldicott-guardian-council>

Department of Health – Confidentiality NHS Code of Practice

<https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice>

Department of Health – NHS Information Governance – guidance on legal and professional obligations

<https://digital.nhs.uk/article/1203/NHS-Information-Governance-Guidance-on-Legal-and-Professional-Obligations->

GMC – Confidentiality

[https://www.gmc-uk.org/guidance/ethical\\_guidance/confidentiality.asp](https://www.gmc-uk.org/guidance/ethical_guidance/confidentiality.asp)

Information to Share or not to Share – The Information Governance Review

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192572/2900774\\_InfoGovernance\\_accv2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192572/2900774_InfoGovernance_accv2.pdf)

NHSX – Guidance

[Information governance guidance - Information governance - NHS Transformation Directorate \(england.nhs.uk\)](Information governance guidance - Information governance - NHS Transformation Directorate (england.nhs.uk))

A Guide to Confidentiality in Health and Social Care

<https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/a-guide-to-confidentiality-in-health-and-social-care>

Review of Data Security, Consent and Opt Outs

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/535024/data-security-review.PDF](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/535024/data-security-review.PDF)

## **Adults**

DCA – Mental Capacity Act 2005 Code of Practice

<http://www.justice.gov.uk/downloads/protecting-the-vulnerable/mca/mca-code-practice-0509.pdf>

CQC – Guidance on the assessment of capacity

[https://www.cqc.org.uk/sites/default/files/documents/rp\\_poc1b2b\\_100563\\_20111223\\_v4\\_00\\_guidance\\_for\\_providers\\_mca\\_for\\_external\\_publication.pdf](https://www.cqc.org.uk/sites/default/files/documents/rp_poc1b2b_100563_20111223_v4_00_guidance_for_providers_mca_for_external_publication.pdf)

BMA – Mental Capacity Toolkit

<https://www.bma.org.uk/advice-and-support/ethics/adults-who-lack-capacity/mental-capacity-act-toolkit>

Department for Health – Care and Support Statutory Guidance

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

## **Children**

GDPR Guidance regarding Children

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/children-and-the-gdpr/>

Department for Education – Every Child Matters: Change for Children

<https://infed.org/mobi/every-child-matters-change-for-children/>

GMC – 0-18 years: guidance for all doctors

<https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/0-18-years>

HMG – National Standards for youth justice services

<https://www.gov.uk/government/publications/national-standards-for-youth-justice-services>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/577103/youth-justice-review-final-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577103/youth-justice-review-final-report.pdf)

Department for Education – Promoting the Health and Welfare of Looked After Children

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/412486/health\\_guidance\\_consultation\\_response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/412486/health_guidance_consultation_response.pdf)

[https://www.education.gov.uk/publications/eOrderingDownload/Promoting\\_Health.pdf](https://www.education.gov.uk/publications/eOrderingDownload/Promoting_Health.pdf)

Department for Education – Keeping Children Safe in Education

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/372753/Keeping\\_children\\_safe\\_in\\_education.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/372753/Keeping_children_safe_in_education.pdf)

Children (Leaving Care) Act 2000 Regulations and Guidance

[http://webarchive.nationalarchives.gov.uk/20121206162732/http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_4058600.pdf](http://webarchive.nationalarchives.gov.uk/20121206162732/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4058600.pdf)

Staffordshire & Stoke-on-Trent Safeguarding Boards – Information Sharing Guidance for Practitioners

*Staffordshire LSCB:* [Information Sharing Guidance for Practitioners](#)

*Stoke-on-Trent LSCB:* [Information Sharing Guidance for Practitioners](#)

## **Community safety**

Home Office – Information sharing for community safety

<http://www.homeoffice.gov.uk/publications/crime/info-sharing-community-safety/>

Ministry of Justice – MAPPA (Multi-Agency Public Protection Arrangements) guidance

[Multi-agency public protection arrangements \(MAPPA\): Guidance - GOV.UK \(www.gov.uk\)](#)

## **Families**

Department of Schools, Children and Families – Think Family Toolkit

<http://webarchive.nationalarchives.gov.uk/20130323053534/https://www.education.gov.uk/publications/eOrderingDownload/Think-Family.pdf>

## Appendix C

### ***Conditions of Consent***

This appendix contains:

1. When to obtain consent
2. Valid consent
3. Capacity
4. Obtained and recorded consent
5. Expiry of consent
6. Refusal and withdrawal of consent
7. Disclosing with consent
8. Disclosing without consent
9. Consent Checklist

#### **1. When to obtain consent**

1.1 Data Protection legislation states that organisations have to satisfy one or more conditions in order to legitimise their processing of personal data (unless an exemption applies). Consent is one condition that could be used to legitimise processing.

1.2 Although consent will provide a basis on which organisations can share personal data, it is not always achievable or even desirable and therefore organisations should consider which condition is most appropriate to the sharing that will be taking place. It is bad practice to offer individuals a choice if the sharing is going to take place regardless of their wishes, i.e. where it is required by statute.

1.3 The Information Commissioner's Office has provided that consent is most likely to be required when:

- No other lawful basis applies, for example you wish to use the data in a way that is incompatible with the original purpose;
- You are using special category and explicit consent is required to legitimise the processing;
- The individual would be likely to object if the data was shared without their consent;
- Under ePrivacy laws consent will be required for most marketing calls or messages, website cookies or other online tracking methods.

1.4 It will be the decision of the sharing Partners to identify which conditions will be relied upon for a particular sharing practice. Where that condition is consent Partners must be sure that individuals know exactly what information sharing they are consenting to and understand the implications for them. They must have genuine control over whether or not the data sharing takes place.

1.5 There must be no imbalance of power in the relationship between the data controller and the data subject, consent would not be freely given if so. Therefore public authorities and employers may need to consider alternative lawful basis to rely upon as they can be seen in a position of power.

## 2. Valid consent

2.1 Consent is defined in the General Data Protection Regulation (GDPR) as: 'any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by statement or by a clear affirmation action, signifies agreement to the processing of personal data relating to him or her'. Where relevant consent should also be granular, so separate consent for separate activities, not blanket or vague consent requests.

2.2 For consent to be valid and informed, the person concerned must:

- Not be acting under duress (see paragraph 2.3);
- Been given genuine choice and control;
- Truly understand and have received sufficient information to make a decision (see paragraph 2.4);
- Actively signify agreement; and
- Have the capacity to make the decision (see paragraph 3 below).

2.3 Consent must be given voluntarily and freely without any pressure or undue influence being exerted on the person by either those seeking consent or family and friends of the person whose consent is being sought.

2.4 Partners must ensure that the person concerned understands:

- Why their information needs to be shared;
- What type of information may be involved in the sharing;
- Who that information may be shared with; and
- How they can easily withdraw their consent.

2.5 The person should also be advised of their rights with regard to their information, namely:

- The right to withhold their consent
- The right to place restrictions on the use of their information
- The right to change their mind and easily withdraw their consent at any time
- The right to have access to their records

2.6 As well as discussing consent with the person, it is good practice to provide the person with information in written form, in an appropriate format i.e. language, Braille.

2.7 The key criterion that must be satisfied when obtaining consent is that the person concerned should be 'mentally and emotionally capable of giving informed consent of their own free will'.

2.8 Silence and inaction is not acceptable, there must be the ability to show that the data subject actively consented. Pre ticked boxes are not acceptable.

2.9 All Data Controllers must be able to demonstrate that there is a process in place and maintain records of consent. Consents should be organic and actively managed, not a one off compliance box to tick.

2.10 Recital 43 of GDPR makes clear that consent should only be used where appropriate, particularly in relation to public authorities where it is highlighted relying on consent can bring about an imbalance between the data controller and the data subject:

In order to ensure that consent is freely given, consent should not provide a valid legal ground for the processing of personal data in a specific case

where there is a clear imbalance between the data subject and the controller, in particular where the controller is a public authority and it is therefore unlikely that consent was freely given in all the circumstances of that specific situation.

Consent is presumed not to be freely given if it does not allow separate consent to be given to different personal data processing operations despite it being appropriate in the individual case, or if the performance of a contract, including the provision of a service, is dependent on the consent despite such consent not being necessary for such performance.

### 3. Capacity

3.1 For a person to have capacity to provide consent they must be able to comprehend and retain the information material to the decision and must be able to consider this information in the decision making process.

3.2 For processing children's data there must be a lawful basis. Consent is one possible basis but not the only option. If you are relying on consent as the lawful basis when offering an online service directly to a child only children aged 13 or over are able to provide their own consent. If this does not feel suitable consent should be sought from someone with parental responsibility. The key consideration is that valid, freely given and informed consent must be sought.

3.3 Following the case of *Gillick v West Norfolk and Wisbech AHA* [1986] AC 122, the courts held that young people (below the age of 16) who have sufficient understanding and intelligence to enable them to understand fully what is involved, will also have capacity to consent.

3.4 It should be seen as good practice to involve the parent(s) of the young person in the consent process, unless this is against the wishes of the young person.

3.5 The Children Act 1989 sets out persons who may have parental responsibility, these include:

- The child's parents if married to each other at the time of conception or birth;
- The child's mother, but not the father if they were not married, unless the father has acquired parental responsibility via a court order or a parental responsibility agreement, or the couple subsequently marry;
- The child's father, where the parents are unmarried but the father has registered the child with the mother, where the birth has been registered after 1<sup>st</sup> December 2003 (Children Act 1989 S4 (a)1A);
- The child's legally appointed guardian;
- A person in whose favour the court has made a residence order in respect of the child;
- A local authority designated in a care order in respect of the child;
- A local authority or other authorised person who holds an emergency protection order in respect of the child.

It should be noted that foster carers or guardians do not automatically have parental responsibility.

3.6 If a data controller decides to rely on children's consent age-verification measures should be implemented. Reasonable efforts to verify parental responsibility should also be made for those under the relevant age.

3.6 In circumstances where the individual is considered not capable of providing consent, it will usually be sought from someone acting on behalf of the individual in their best interests. A third party with a legal right to make decisions on an individual's behalf (e.g. Power of Attorney) can give consent.

3.7 The Mental Capacity Act 2005 provides the legal framework for acting and decision-making on behalf of individuals aged 16 and over who lack the mental capacity to make decisions on their own behalf.

3.8 Section 1 of the Act sets out the five 'statutory principles' which are the values that underpin the Act's requirements. The principles are as follows:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

3.9 The Act is intended to be enabling and supportive of people who lack capacity, not restrictive or controlling of their lives. The underlying philosophy of the Act is to ensure that any decision made, or action taken, is made in the best interests of the individual.

3.10 The BMA has published guidance on the assessment of capacity.

#### **4. Obtained and recorded consent**

4.1 In order for consent to be obtained lawfully it is essential that all persons who may be expected to obtain consent for the sharing of personal information receive appropriate training, and that under normal circumstances only those employees who have received training and been approved by management, should seek consent.

4.2 Consent may be given verbally, non-verbally or in writing. In order to avoid any confusion or misunderstanding at later date, non-verbal and verbal consent should be witnessed and the details of the witness recorded.

4.3 Data controllers must maintain clear records to demonstrate consent. Consent is unlikely to be deemed valid if these records do not exist.

4.4 All agencies should have in place a means by which an individual, or their guardian/representative, can record their explicit consent to personal information being disclosed and any limitations, if any, they wish to place on that disclosure.

4.5 The consent form should indicate the following:

- Details of the agency and person obtaining consent
- Details of the person whose personal details may/will be shared
- The purpose for the sharing of the personal information
- The type of personal information that will be shared
- Details of any sensitive information that will be shared
- The organisation(s) with whom the personal information may/will be shared
- Any time limit on the use of the consent
- The right to withhold their consent
- Any limits on disclosure of personal information, as specified by the individual
- The right to withdraw their consent at any time and how they can do so
- The right to have access to their records
- Details of the supporting information given to the individual
- Details of the person (guardian/representative) giving consent where appropriate
- Be separate from any other terms and conditions or a precondition of any service

A ‘Consent form template’ and ‘Consent checklist’ can be found in [Appendix H](#).

#### 4.6 The agency obtaining consent will:

- a) securely retain the consent form on the individual’s file/record and record any relevant information on any electronic systems used; and
- b) provide the individual or their guardian/representative, having signed the consent, a copy for their retention.

### 5. Expiry of consent

5.1 In general once a person has given consent, that consent may remain valid for an indefinite duration, unless the person subsequently withdraws that consent.

5.2 For the purpose of this Protocol the consent duration should be time limited to the specific ‘piece of work’ that is being proposed.

5.3 It should be considered good practice to seek ‘fresh’ consent once the original piece of work is completed or there are significant changes in the circumstances of the person or the work being undertaken.

### 6. Refusal and withdrawal of consent

6.1 If a person makes a voluntary and informed decision to refuse consent for their personal information to be shared, this decision must be respected unless there are sound legal grounds for not doing so.

6.2 A person, having given their consent, is entitled at any time to subsequently withdraw that consent. Like refusals, their wishes must be respected unless there are sound legal grounds for not doing so.

6.3 Partner agencies should remember that it is bad practice to offer individuals a choice if the sharing is going to take place regardless of their wishes, i.e. where it is required by statute.

6.4 If a person refuses or withdraws consent the consequences of doing so should be explained to them but care must be exercised not to place the person under any undue pressure.

## 7. Disclosing with consent

7.1 Only staff that have been authorised to do so should disclose personal information about an individual service user.

7.2 Prior to disclosing personal information about an individual, the authorised member of staff should check the individual's file/record in order to ascertain:

- That consent to disclose has been given;
- The consent is applicable for the current situation; and
- Any restrictions that have been identified by the individual.

7.3 Upon the first instance of disclosure with regards to a particular sharing situation, the Partner making the disclosure should forward a copy of the individual's consent form to the receiving Partner.

7.4 Sharing of personal information will be carried out in line with the process outlined in [section 4](#) of the Protocol (process for sharing) and in accordance with any agreed individual Information Sharing Agreement.

7.5 Where personal information has been disclosed to another agency, a record of that disclosure should be made on the individual's file/record, this should include:

- a) The date the information was disclosed
- b) Details of who made the disclosure
- c) Details of what information was disclosed
- d) Details of who the disclosure was made to
- e) Details of how the disclosure was made

7.6 Where a disclosure is made with consent the providing, and recipient, agency should have procedures in place to record information provided/received in line with [paragraph 4.10](#) of the Protocol:

- The date the information was requested
- Details of the person(s) that made the request
- Details of the information requested
- The personal details of the person(s) who is the subject of the information
- Any restrictions placed on the information that has been provided i.e. 'not to be disclosed to the service user'
- Details of the person that authorised the disclosure
- The grounds for disclosing
- Whether consent has been sought and received
- Details of the information provided/received
- The date the information was provided/received

A Decision to Disclose form' can be found in [Appendix H](#).

## 8. Disclosing without consent

8.1 Disclosure of personal information without consent must be justifiable where other statutory conditions, or the criterion for claiming an exemption under the Data Protection Act, can be met. Without such justification both the agency and the member

of staff expose themselves to the risk of prosecution, liability to a compensation order under the legislation or damages for a breach of the Human Rights Act.

8.2 All agencies who are party to this Protocol should set in place policies and procedures that deal specifically with the sharing of information in emergency situations e.g. major disaster.

8.3 Agencies should designate a person who has the knowledge and authority to take responsibility for making decisions on disclosure without consent. This person should hold sufficient seniority within the agency with influence on policies and procedures. Within the health and social care agencies it is expected that this person will be the Caldicott Guardian.

8.4 Where personal information has been disclosed to another agency without consent, a record of that disclosure should be made on the individual's file/record, this should include:

- a) The date the information was disclosed
- b) Details of who made the disclosure
- c) Details of what information was disclosed
- d) Details of who the disclosure was made to
- e) Details of how the disclosure was made

8.5 Where a disclosure is made without consent the providing, and recipient, agency should have procedures in place to record information provided/received in line with [paragraph 4.10](#) of the Protocol:

- The date the information was requested
- Details of the person(s) that made the request
- Details of the information requested
- The personal details of the person(s) who is the subject of the information
- Any restrictions placed on the information that has been provided i.e. 'not to be disclosed to the service user'
- Details of the person that authorised the disclosure
- The grounds for disclosing
- Whether consent has been sought and received
- Details of the information provided/received
- The date the information was provided/received

A 'Decision to Disclose form' can be found in [Appendix H](#).

8.6 It is essential that all agencies who are party to the Protocol have policies and procedures in place governing who may disclose personal information and that those policies/procedures are communicated to all of their employees.

## 9. Consent Checklist

When obtaining consent from a data subject, consider whether you can answer 'yes' to the following questions.

- a. Is consent required?
- b. Is the data subject acting voluntarily and of their own free will?
- c. Does the data subject understand why their information needs to be shared, what information will be shared and who their information will be shared with?
- d. Has the data subject signified their agreement to the sharing?
- e. Does the data subject have the capacity to provide consent?
- f. Have you suitably recorded whether consent was given and what information was provided to the data subject at the time?

If you have answered 'yes' to the above questions, ensure that you have considered the following:

- a. Are there any time limits on the use of the consent and have they been communicated to the data subject?
- b. Does the data subject understand that they can withhold or withdraw their consent at any time and how to request this?
- c. Has the data subject put any restrictions/limits on the use of their personal information?
- d. Has the data subject been made aware of their right to access to their records?

## Appendix D

### ***Information Sharing Agreement***

In order to maintain a consistent approach, all agencies who are party to the One Staffordshire Information Sharing Protocol will ensure that any individual Information Sharing Agreements contain the following information:-

- Basis for sharing – legal powers, processing conditions and fairness;
- Purpose(s) of the sharing;
- Data to be shared;
- Recipients or types of recipients;
- Data quality – accuracy, relevance, compatibility, usability, etc;
- Retention and destruction;
- Rights of the data subject – Subject Access Requests, Freedom of Information requests, queries and complaints;
- Security arrangements;
- Sanctions for failure to comply and/or staff breaches
- Review of effectiveness; and
- Termination of Agreement.

Please note, there should also be reference to the involved Parties status in regards to the Data Security and Protection Toolkit where the sharing of information relates to health and social care data and the organisations involved are subject to the Toolkit. See point 4.32.

All Individual Information Sharing Agreements will be approved by the respective Designated Liaison Officer nominated within each agency (see [paragraph 3.7](#)).

Where Information Sharing Agreements exist between agencies prior to signing up to the One Staffordshire Information Sharing Protocol, such Agreements will remain valid. However, those Agreements should be reviewed and if necessary brought into line with the One Staffordshire Information Sharing Protocol at the earliest opportunity in order to maintain a consistent approach.

Purposes for sharing data under an individual Information Sharing Agreement may be short term in the nature of a joint operation by Partner agencies or medium term to support the ongoing activities of a specific Partner or other group of Partners.

The individual Information Sharing Agreement in relation to a specific operation will be valid for the period of that operation only.

All Information Sharing Agreements will be governed by the principles set out in the One Staffordshire Information Sharing Protocol but each will declare its specifics on the template provided in [Appendix H](#). Signature, by participants, of the Agreement will imply acceptance of the provisions of all parts of the Protocol.

## Appendix E

### ***Information Sharing Health and Social Care Data***

This section relates to health and social care data. When sharing information for the purposes of health and social care there are additional factors to take into consideration. The information intending to be shared is about an individual who, in times of need, seeks help from a health and social care professional.

The individual has certain rights concerning their personal information, including a right to access that information and a right to object to it being used in certain ways. Respecting the individual's rights and expectations about confidentiality and telling them about how and why their personal information is used is a key principle to be maintained by all Parties.

For direct care, information will be shared between all of the health and social care professionals who work together in a multidisciplinary direct care team who plan, coordinate and provide care and treatment in accordance to an individual's needs taking into account their health condition and personal circumstances.

The direct care team may include a wide range of professionals not all of whom have direct contact with the individual. So, as well as doctors, nurses, social workers, social care staff etc. the team also includes laboratory staff, IT staff and administrative staff who provide support to help the team run efficiently and effectively. Members of the team may be staff from one organisation (e.g. a GP Practice team) or from different organisations (e.g. community healthcare staff, hospital staff, social workers and carers). These staff may work in public sector, non-public sector and 3<sup>rd</sup> sector (voluntary) organisations, all working together to provide health and social care services.

Whoever is using information about a person, they are bound by laws, contracts and professional codes of conduct to use it responsibly, hold it securely and keep it confidential.

#### **What information is being shared?**

All information about an identifiable person and their physical and mental health and condition is confidential. Relevant information about the person and their current care needs will only be shared by the health and social care professionals who are involved in the provision of care and treatment to the individual (the "direct care team") when it is:

- necessary for them to be able to do their job; and
- with the person's knowledge and agreement; and
- in accordance with the conditions set out in law.

"Relevant information" is information that may directly influence the health or social care professionals' decision over what care is given to a patient or service user, and how that care should be given (*Independent Information Governance Review/Caldicott 2*). It is not necessary for everybody to know everything. Some information will be relevant to certain professional groups but completely irrelevant to others and therefore should not be shared.

### Why is information shared?

Information is shared to support the **direct care** of patients. ‘**Direct care**’ meaning all activities that directly contribute to the diagnosis, care and treatment of the individual. Information is shared so that health and social care professionals in the direct care team can:

- design and implement a plan of care;
- provide continuous quality care;
- communicate with each other about the progress of the individual, developments, changes to the care plan.

### When is information shared?

The 7<sup>th</sup> Caldicott principle states: ‘The duty to share information can be as important as the duty to protect confidentiality. Health and social care professionals should have the confidence to share information in the best interests of their patient within the framework set out by these principles’.

When the individual agrees to being treated it creates a direct care relationship between them and the health or social care professionals in the direct care team. This is known as a “legitimate relationship”. As of October 2015 they will also have a legal duty to share information when:

- it will facilitate the provision of health and social care services to the individual; and
- it is in the individual’s best interest; and
- the individual has not objected and confidentiality requirements have been met.

The Health and Social Care (Safety and Quality) Act 2015 establishes this duty and puts the 7<sup>th</sup> Caldicott principle onto a legal footing. The Act applies to any organisation commissioning or providing health and social care services. If an individual has been told about how their information will be used and has not raised an objection, the direct care team can assume they have agreed their information being shared when they agree to receive care and treatment.

Where sharing involves health or adult social care data, to be used for purposes other than the direct care of individuals, the sharing and subsequent use must comply with the National Data Opt-out standards.

### Where information is shared

Information will be shared in the location where the individual sees the health or social care professionals and receives direct care and treatment. This could be a range of care settings or the individual’s home. Information may also be shared without the individual being present, for example in a laboratory where test results are being processed; or in an office administrative tasks are being processed to support the provision of direct care.

Specific Tier 2 agreements (see [Appendix H](#) for template) must set out the specific sharing being undertaken by parties in order to deliver health and social care services to the population of Staffordshire.

## Appendix F

### ***Fair Processing***

Data Protection legislation requires that personal data is processed fairly. This means that people should generally be aware of which organisations are sharing their personal data as well as what it is being used for.

Fairness also requires that where personal data is shared, that it is reasonable, and that individuals would be likely to expect the sharing and would not reasonably object to it if they were given the opportunity.

The most common method of satisfying the requirement of fairness is to provide the data subject with a privacy notice. In a sharing context, a privacy notice should at least tell a data subject:

- Who the Data Controller is
- Who the Data Protection Officer (DPO) is and their contact details
- Why you are going to share personal data and the legal basis to do so
- What the data is
- Who you are going to share personal data with
- Whether there will be any Third Country transfers

In addition to the above the following should also be considered:

- The retention of the information held
- What the legitimate interests of the Data Controller are, if applicable
- What the data subject rights are, including the right to withdraw consent at any time
- The right to lodge a complaint with the Information Commissioners Office
- The source of the data, if applicable
- Whether the data will be used for automated decision making, the logic behind and if there are any potential consequences

Where consent will be obtained in order to satisfy legal basis and conditions for processing a privacy notice should be provided to the data subject at the same time.

Where the data is not obtained directly from the data subject fair processing information should be provided to the data subject within a month of the information being collected.

A Data Controller does not have to provide this information if one of the following apply:

- The data subject already has the information.
- It would be impossible to provide or can be proved to disproportionate.
- It would breach confidentiality or secrecy obligations.

Responsibility for providing a fair processing generally falls to the organisation that collected the data originally; however it is good practice for all Partners that are involved in sharing to ensure that individuals remain aware of who has their personal data and what it is being used for.

A 'Privacy Notice template' can be found in [Appendix H](#).

## Appendix G

### ***Individual Information Sharing Agreements***

Household Support Fund  
[Household Support Fund](#)

Safer Communities Memorandum of Understanding  
[Safer Communities Memorandum of Understanding](#)

Safer Communities Appendix A Confidentiality Agreement  
[One Staffordshire Information Sharing Protocol](#)

Safer Communities Appendix B Formal Request Form  
[One Staffordshire Information Sharing Protocol](#)

## Appendix H

### ***Information Sharing Protocol templates***

Consent form template (Addition to Appendix C)  
[Consent form template](#)

Decision to Disclose form (Addition to Appendix D)  
[Decision to Disclose form](#)

Confidentiality Agreement template (Addition to Appendix D)  
[Confidentiality Agreement template](#)

Information Sharing Agreement template (Addition to Appendix D & E)  
[Information Sharing Agreement template](#)

Fair Processing Notice template (Addition to Appendix F)  
[Fair Processing Notice template](#)