



FAQs: London-wide Data Sharing Agreements

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Introduction

The London Multi-Agency Data Sharing Agreement for Safeguarding and Promoting the Welfare of Children is available on the Data Controller Console (DCC) for signature/agreement by all relevant parties.

The working group approach, led by Information Governance for London group (IGfL) and used for the MAS DSA, is also being used for a selection of other London-wide DSAs for processes relating to crime and safeguarding duties. These will come out for comments and signature shortly.

The aim is to have DSAs for the following areas of work in place by the end of March 2021:

- Gangs & Serious Youth Violence
- Integrated Offender Management (IOM)
- Domestic Abuse MARAC
- MACE (Child Exploitation)
- Youth Offending
- Troubled Families
- MAPPA
- Prevent/Channel
- ASB (Anti-social behaviour)
- Residual Crime (anything not already covered by the above)
- Licensing

Why have you done this work?

Historically there are many sharing agreements, all different, across London borough councils, police BCUs, CCGs, the Probation and London Ambulance Services, voluntary sector groups and more. There is pressure on national or London-wide groups who must agree multiple DSAs for the same purposes, and we are constrained by the fact that different organisations have different geographical boundaries.

Signatories to a DSA are equal parties, but succeeding with an agreed DSA across so many partners is a struggle all of us face regularly. It sometimes occurs that relevant professionals are missed when drafting an agreement, and frustration and confusion occurs.

To improve this, a working group of professionals has achieved an unprecedented level of collaboration to develop **one** agreement, for a selection of DSAs, that all parties across London will sign.

These agreements are the outcome of a multi-agency working group with representation from local authorities, health and police, who have engaged with front line practitioners and other local agencies, like the voluntary sector.

As with any DSA, it is an agreement between equal partners and each organisation has a responsibility to ensure it is correct and reflects their situation. We hope that all parties can feel confident that an experienced group of professionals from multiple specialisms have included all relevant information and requirements.

This agreement is endorsed by the professionals that worked on it, and, collectively, by the Information Governance for London group (IGfL), and the London Child Safeguarding Partnership.

Can my organisation propose changes?

We encourage you to do this **only** where you believe there are factual errors or developments in law, case law or official guidance.

The working group members put aside organisational preferences and worked to a structure and language that met the requirements of all and avoided any personal or organisational preference for structure, language or design.

There may be something you would normally word differently or want to make extra clear. However, unless you believe something to be factually wrong, or that there is a significant omission, we respectfully ask that you do not request changes. Managing comments from hundreds of organisations is not possible and would once again extend the period that we do not have suitable agreements in place.

Any changes requested outside of a formal review would need to be agreed by a working group set up for the purpose and featuring a similar cross section of representatives to the original group. Producing these documents is a careful balance of honouring and supporting the rights and responsibilities of all data controllers party to the agreement, and the need to deliver an agreement that fits so many parties across London.

What about Brexit?

Reference is made to UKGDPR, as this is the preferred title of the ICO. No other changes are expected in relation to Brexit as of 1 Jan 2020. Adequacy decisions for the UK that are made by the EU will be assessed to consider whether changes are necessary.

Can we add appendices or local procedures?

No. This agreement is for all parties across London and so local changes cannot be made. Each organisation is expected to have existing local procedures, protocols, processes and policies that cover the local specifics of its multi-agency safeguarding and crime prevention work. Local policies and protocols should refer to the relevant DSA.

What is the DCC and how do I sign the DSA?

The DSA is hosted on the Data Controller Console (DCC). This is a system hosted by the NHS and allows any party to virtually 'sign' the agreement. Local authorities and health organisations are already registered on the DCC as well as many social care organisations. When an organisation is registered on the DCC, the Data Protection Officer will be able to view the DSA at:

<https://app.datacontroller.org.uk/Hosted/Agreement/c205f33c-7a27-400e-a470-5f3b48e0c73e>

In order to find the agreement they should go to: ISA management, click "Available data sharing" and type "safeguarding" in the first box. The document title is London Multi-Agency Data Sharing Agreement for Safeguarding and Promoting the Welfare of Children.

More information about the DCC is available at: <https://www.healthylondon.org/our-work/digital/data-controller-console/>

When will the DSA be reviewed?

There is no centralised agency with responsibility for information sharing across London. These DSAs have been developed because a dedicated group of professionals chose to work on them in partnership. Those professionals endorse a collaborative approach going forward because of the huge saving of staff time across the public and voluntary sectors when this approach is taken, in contrast to every organisation writing their own version.

The formal review period within the agreement is 2 years, unless law or guidance changes require an earlier review.

Consent

It is important to recognise that consent is rarely the lawful basis condition for public bodies processing personal data.

Organisations will often work collaboratively with data subjects and aim for agreement with them on the actions to be taken. However, it is recognised that this is different to using consent (Article 6 (a)) or explicit consent (Article 9 (a)) as the lawful basis conditions. Medical treatment, social care interventions and witness support are all examples of situations where agreement is required from the individual to receive the stated intervention or support, but where the lawful basis condition is not consent. The delivery of intervention/support is separate to the conditions for processing the personal data.

We want clients to be engaged with our services but that's about transparency and not lawful basis. In very few circumstances do the clients of a public body have free choice, which is required for consent to be the lawful basis. Even in the voluntary sector, consent will rarely be lawful basis. Unless you can agree to delete all information held on an individual, then consent is not a suitable lawful basis condition.

Questions about sharing data with the Home Office

We received queries from some agencies about requests from the Home Office for data sharing for immigration purposes, from sources of personal data for safeguarding, rough sleeping or medical treatment. There was also a question about how these DSAs may be impacted by the agencies signed up to the DSA for CHAIN (Combined Homelessness and Information Network), run through the GLA.

Each organisation has a responsibility to ensure that its processing of personal data is lawful. It is up to each organisation to decide whether to share data with any organisation when it asks, including the Home Office.

At time of writing (Jan 2021), it is noted that the GLA does not believe that data received by organisations through the CHAIN DSA should be shared with the Home Office for immigration purposes. The DSAs described here, produced under the working group approach, are neither in conflict nor in support of the Home Office or GLA position.

It was not felt that these DSAs should specifically refer to Home Office sharing for immigration purposes as this was not the main purpose for the DSAs, and because requests, and guidance relating to them, change often. A DSA that outlawed a particular type of sharing may become out of date very quickly. As described in these DSAs, proportionality and necessity must be considered along with fairness and lawfulness when sharing personal data.

Any organisation that is a party to the Chain DSA with the GLA is responsible for ensuring its compliance with both DP law and that agreement.