

INFORMATION SHARING AGREEMENT



INFORMATION SHARING AGREEMENT (ISA)

BETWEEN

Hampshire Constabulary

AND

Youth Offending Teams Forcewide

Version 4.0

Date Agreement comes into force:

18.03.2019

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1. INTRODUCTION

- i. The Police are committed to tackling Crime and Disorder and safeguarding citizens across Hampshire and work, on a regular basis, with members of the Youth Offending Teams in order to make Hampshire safer.
- i. In line with legislation and the Youth Justice Board guidance, Youth Justice Services are supported through the partnership arrangements of the Youth Offending Teams (alternatively known elsewhere as Youth Offending Service or Youth Justice Services). The generic title YOT is used in this agreement to reflect all such bodies across Hampshire.

YOTs are made up of representatives from the police, national and probation services, social services, health, and education. Each YOT is managed by a Management Board which will include a senior Police Officer from each District.

Hampshire Constabulary, and the four YOTs of Hampshire are working together to prevent offending and re-offending by children and young people aged 10-17 years.

- ii. This agreement should also be used to further clarify any current arrangements.
- iii. The disclosures originating from this Agreement will comply with The General Data Protection Regulations (GDPR) (2016/679), the Data Protection Act 2018 and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner's Office. The schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement.

2. PURPOSE

- i. This agreement sets out the framework for the sharing of personal data between the parties. It defines the principles and procedures that the parties shall adhere to and the responsibilities the parties owe to each other.
- ii. This agreement is in place to inform the reasons and methods of sharing, sharing for other purposes and other information is not covered by this agreement.
- iii. The purpose of this agreement is to enable action to be taken against crime and anti-social behaviour within the local authority area. It will incorporate measures aimed at:
 - Identifying those children and young persons under the age of 18, who are actively engaged in criminal activity, or identified as being at a higher risk of offending, so that they may be diverted from committing crime and antisocial behaviour.
 - Reducing unnecessary criminalisation of children and young people through applying effective enforcement and justified, necessary and proportionate disposals.
 - Working with partners to identify and target the most prolific offenders and deliver positive enforcement where appropriate.
 - Providing the YOT with details of young people engaging in criminal activity, in order to identify and safeguard vulnerable and high risk individuals, and prevent, detect and reduce crime and disorder.
 - Enabling the YOT to make detailed assessments of the risks posed to staff to ensure they can carry out their functions safely.

- To enable action to be taken against crime and anti-social behaviour within the local authority area. It will incorporate measures aimed at:
 - Facilitating a coordinated approach that targets crime and anti-social behaviour.
 - Facilitating the collection and exchange of relevant information.
- iv. Data can only be used for the purpose shared and cannot be shared to third parties unless it is required by law.

3. STATUTORY POWERS TO PROCESS PERSONAL DATA

The principle legislative instruments that provide powers to lawfully share information under this agreement are:

- i. **The Human Rights Act 1998:** Hampshire Constabulary (HC) as a public authority is duty bound to act in compliance with the Act. Article 8 states that everyone has a right to respect for his private and family life, home and correspondence by a public authority. Interference of this right by HC is not in contravention of the Act if it is in accordance with the law and is necessary, justified and proportionate in a democratic society in the interests of:
- Public Safety;
 - National Security;
 - Prevention of crime and disorder;
 - Protecting the rights and freedoms of others.

- ii. **Code of Practice on the Management of Police Information (MoPI) 2005:**

4.8. Sharing of police information outside the UK police service:

“Chief Officers may arrange for other persons or bodies within the UK or overseas to receive police information where the chief officer is satisfied that it is reasonable and lawful to do so for the purposes set out at Section 2.2.2. In deciding what is reasonable, chief officers must have regard to any guidance issued under this Code.”

For the purposes of this Code, police purposes are:

- Protecting life and property,
- Preserving order,
- Preventing the commission of offences,
- Bringing offenders to justice, and
- Any duty or responsibility of the police arising from common or statute law.

- iii. **Sharing personal data under the General Data Protection Regulation (under Part 2 of the Data Protection Act 2018):**

Where the sharing of personal data is between the Hampshire Constabulary and other Non-Competent Authorities; or the sharing is for a non-law enforcement purpose, the following lawful bases apply for the processing of personal data:

- Safeguarding of children and of individuals at risk

Special categories of personal data and for non-Competent Authorities to process criminal data:

- Safeguarding children and adults at risk.

- iv. **Children Act 1989:** places a general duty on Local Authorities to safeguard and promote the welfare of children, and share information with partner agencies if it is necessary to meet statutory obligations in relation to this.
- v. **Children Act 2004:** Section 10 of the Act places a duty on each children's services authority to make arrangements to promote co-operation between itself and relevant partner agencies to improve the well-being of children in their area.
- vi. **Crime and Disorder Act 1998:** section 115 allows the disclosure of information, for the purposes of reducing crime and disorder to relevant authorities (as defined by the Act) or to a person acting on behalf of such an authority.
- vii. There are other pieces of legislation that place powers or duties to share information on public authorities – this list is not meant to be exhaustive. All information sharing must be conducted in accordance with one or more of the legal powers / duties.
- viii. Each party shall ensure that it processes the Shared Personal Data fairly and lawfully and ensure that it processes the Shared Personal Data on a lawful basis.

4. PROCESS

This agreement has been formulated to facilitate the exchange of information between partners. It is, however, incumbent on all partners to recognise that any information shared must be justified on the merits of each case.

4.1 THE AGREEMENT

- i. This ISA applies to any personal or confidential information, irrespective of the medium in which it is held e.g. paper based, electronic, images or disc. Legal advice on this agreement should be sought in any case of doubt. It should be applied while following established and agreed processes within the signatory organisations.
- ii. By signing up to this agreement, signatories are committed to a positive approach to information sharing, and agree to meet the outlined commitments and processes.
- iii. It is the responsibility of each signatory to ensure that:
 - Information shared is in accordance with the law.
 - Appropriate staff training and awareness sessions are provided in relation to this agreement, and that their organisation abides by the Golden Rules for information sharing (see **Appendix A**).
 - Information is shared responsibly and in accordance with professional and ethical standards.
 - Any restrictions on the sharing of the information contained in the disclosure, in addition to those contained within this agreement, should be clearly noted. Information exchanges and refusals are recorded in such a way as to provide an auditable record.
 - Each partner must appoint a Single Point Of Contact (SPoC). The sharing of information must only take place where it is proportionate, necessary and legally justified.

- Requests and replies may be communicated via e-mail should the recipient subscribe to an encrypted email server (pnn, gsi, cjsm, nhs.net and gcsx).
- This agreement does not give agencies an automatic right to receive or provide information. It is a process for information sharing in cases in where it is suitable to do so.
- The Police may request a copy of the partner's information security policy (where it exists) when sensitive personal data is to be shared.
- This agreement may be published on the Hampshire external websites for the purposes of openness regarding information sharing within the Police.

4.2 HOW / WHAT INFORMATION WILL BE SHARED

- i. Either Hampshire Constabulary or the Youth Offending Team may share:
 - Any information deemed proportionate, and necessary for the restorative justice decision making process, to include information regarding behavioural or lifestyle factors to be taken into account.
 - Any information deemed proportionate, and necessary in order to assist in the offender management, Multi Agency Public Protection Arrangements (MAPPA), and gang affiliation activities of those deemed at risk, to include information regarding behavioural or lifestyle factors.
- ii. Accordingly Hampshire Constabulary may share:
 - Offenders or alleged offenders: name, date of birth, gender, ethnicity, primary language, address, telephone number, doctors name and surgery, school or college attended, commission or alleged commission of offences.
 - Parent/Guardian/Representative /Appropriate Adult: name, address, telephone number, and relationship.
 - Victim: name, date of birth, gender, ethnicity, primary language, address, telephone number, school or college attended, vulnerability status, appropriate adult name and telephone number.
 - Offending history: including offences withdrawn, outstanding or dealt with.
 - Intelligence and information: about offending or lifestyle including, where appropriate, on family members and associations.
- iii. Accordingly the youth offending team may share:
 - Information held by the YOT for active and non-active cases as set out in the YJB information management guidance.

4.3 CONSTRAINTS ON THE USE OF INFORMATION

- i. Data will only be used for the specific purpose for which it is shared, and recipients will not release information to any third party without obtaining the written representations of the disclosing partner, including requests from the public, disclosure within judicial proceedings and safeguarding forums.
- ii. Once data has been provided, the recipient becomes the data controller for the copy held by them.
- iii. Information will not be shared where disclosure would prejudice ongoing criminal proceedings unless there is an overriding safety requirement to do so.
- iv. This Agreement does not constitute an overarching permission for the broad, comprehensive or unchallenged sharing of Personal Data. It provides a framework for the sharing of Information which aligns with the objectives set out below.

4.4 RESTRICTIONS ON INFORMATION SUPPLIED

- i. Personal data will only be used for the specific purpose for which it was obtained.
- ii. The recipient of the information is required to store records securely utilising current processes and should retain only as long as necessary. They should be securely destroyed after a period according to the protocols in section 4.4. iii below. Files containing information from partner sources will be reviewed and deleted in line with Force policy.
- iii. YOT retention time is in accordance with YJB protocols, ie Offender records will generally be kept in accordance with their stage:
 - Prevention – down to basic (stage 1) at programme completion. Deletion/disposal (stage 3) at 12 months post this date.
 - Pre court – down to stage 1 at completion, reduce non YOT information and retain YOT specific (stage 2) for 12 months. Delete/dispose at 3 years point or 18th birthday (whichever occurs first).
 - Court orders stage 1 at order completion stage 2 at 3 years. Delete/dispose at 5 years or 18th birthday (whichever occurs first)

4.5 REVIEW OF THE INFORMATION SHARING AGREEMENT

- i. This ISA will be reviewed, as a minimum, 6 months after its implementation and every two years thereafter. The ISA should always be reviewed if listed signatory organisations change. Any changes will be signed and verified by the Joint Information Management Unit.

5. BREACHES

- i. Any breaches of security, confidentiality or other violations of shared data must be reported to the owning agency as soon as possible and in any case within 24 hours.
- ii. Any breach of information by a signatory partner is their responsibility. Each agency is accountable for any misuse of information supplied and the consequences of such misuse. Any disclosure of

information by an employee made in bad faith, or for motives of personal gain, will be the subject of an internal inquiry and be treated as a serious matter.

- iii. The parties shall provide reasonable assistance as is necessary to each other to facilitate the handling of any data security breach. In the event of a dispute or claim brought by a data subject, or the Data Protection Authority, concerning the processing of Shared Personal Data against either or both parties; the parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.

6. SIGNATURES

- i. All agencies that are part of the information sharing process will be, upon signing this agreement, bound to comply with its terms.
- ii. Breaches of this agreement will lead to a review and possible termination of this agreement (including the destruction of all previously shared information).
- iii. The Police Information Management and Information Security Teams will be granted reasonable access to undertake an audit to ensure compliance with this agreement. The signatory can exercise its right under this agreement to audit compliance in relation to its own information shared with the Police.
- iv. Any signatory to this agreement may withdraw on giving written notice to the other signatories. The withdrawing signatory will be bound to comply with those relevant terms of this agreement, which remain effective following withdrawal.
- v. Where the Chief Executive or Director leaves the organisation, it is not a requirement to re-sign the ISA. If a signatory changes, contact details of the new SPoC must be circulated in writing to all parties.

APPENDIX A: GOLDEN RULES FOR INFORMATION SHARING

- Confirm the identity of the person you are sharing with
- Obtain consent to share if safe, appropriate and feasible to do so
- Confirm the reason the information is required
- Be fully satisfied that it is necessary to share
- Check with a manager/specialist or seek legal advice if you are unsure
- Do not share more information than is necessary
- Inform the recipient if any of the information is potentially inaccurate or unreliable
- Ensure that the information is shared safely and securely
- Be clear with the recipient how the information will be used
- Record what information is shared, when, with whom, and why; and if you decide not share record your reason.