

CHILDRENS SERVICES

DATA PROTECTION, GDPR, RESEARCH AND EVALUATION

1. Introduction

Due to some potential confusion regarding when and how we engage service users this paper seeks to clarify what we need to have in place to satisfy data protection requirements and research ethics for different types of 'engagement'.

2. Definitions

2.1 Local authority definitions

Following definitions are taken from Dorset Council website [found here](#).

- **Inform** - Sharing information about changes that could happen so people understand what they mean
- **Consult** – in a local authority LGA definition “The dynamic process of dialogue between individuals or groups, based upon a genuine exchange of views, with the objective of influencing decisions, policies, or programmes of action.” Some statutory consultations by law
- **Engage** – Developing and sustaining a working relationship between one or more public body and one or more community group, to help them both to understand and act on the needs or issues that the community experiences
- **Co-design** - Designing with people and bringing their ideas into the final approach
- **Co-production** - People with lived or learnt experience work in partnership with us, from start to finish on a project

2.2 Evaluation, audit, and research

Following definitions are taken from [Research, service evaluation or audit? \(nihr.ac.uk\)](#)

- **Research** is designed and conducted to generate new knowledge.
- **Service evaluations** are designed to answer the question What standard does this service achieve?
- **Audits** are designed to find out whether the quality of a service meets a defined standard.

Evaluation focuses on assessing the effectiveness of a specific program or intervention, while research aims to generate new knowledge and contribute to the academic discourse.

As a pretty rough rule of thumb – research (in generating new knowledge) would often need ethics approval whereas evaluation would not. (The Council has an ethics governance process [here](#) which has been used in Childrens services when external agencies have provided research).

3. When data collected is truly anonymous

If a survey is truly anonymous then there is no need for data protection as the data collected cannot be traced back to the individual. However, in order to collect data anonymously the study and method of data collection would need to be carefully designed to rule out the possibility that information provided by could be used to re-identify individuals. The legal

threshold in which data is considered truly anonymous is a high bar to meet. For example, an online survey using software that does not capture email address (for example the Councils citizen space software) can be said to be anonymous.

In circumstances where we are not gathering anonymous data as described above, then where we contact individuals using their personal data consent needs to be freely given.

3.1 Data retention

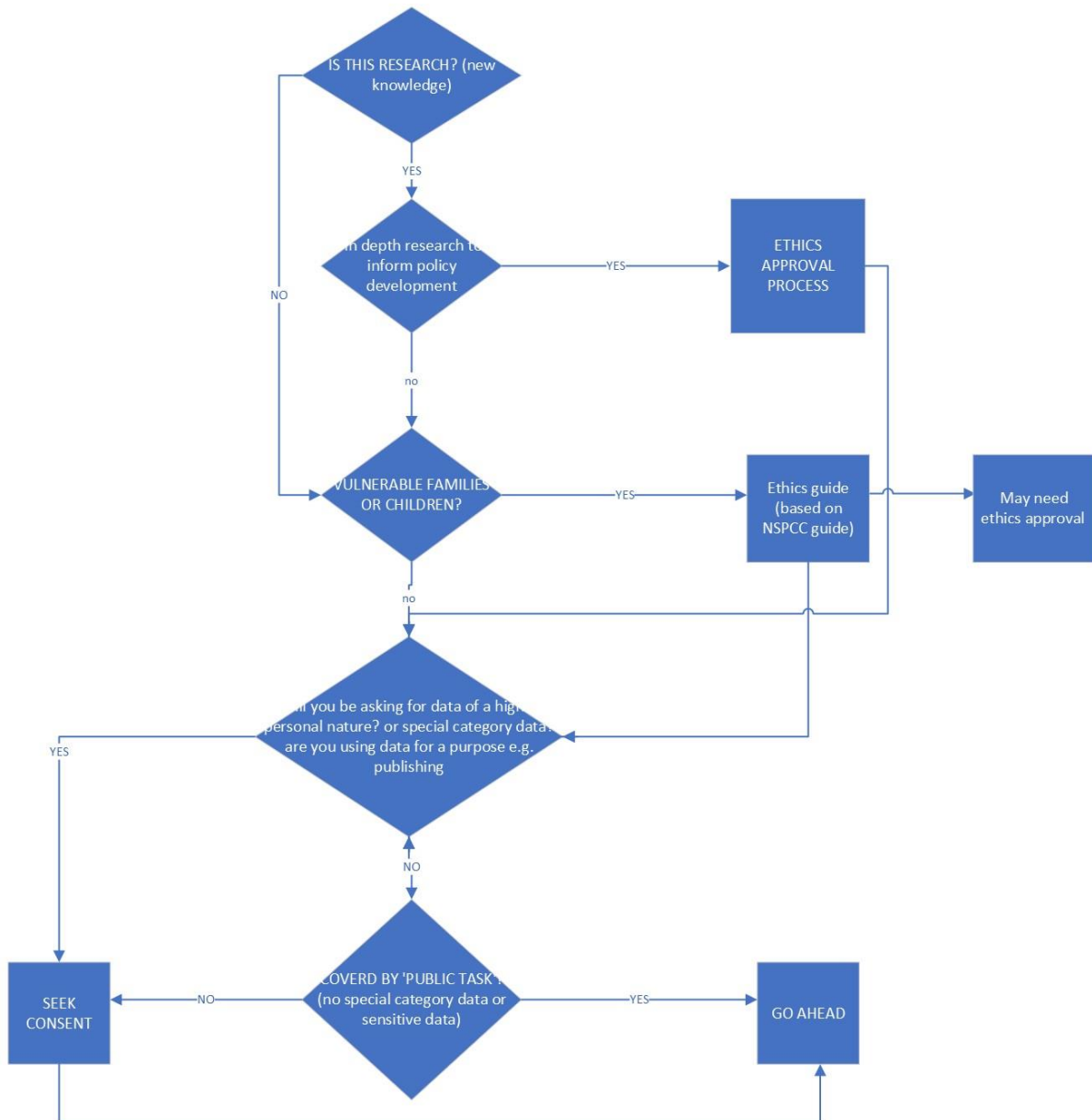
Data to be retained 12 months beyond the end of the project.

4. When data collected is not anonymous

The flow diagram below illustrates the decision process regarding seeking consent, ethics approval and whether 'public task' would be appropriate.

FLOW DIAGRAM: DATA PROTECTION AND CONSENT - WHEN NOT ANONYMOUS

CONSULTING/ENGAGING RESEARCHING WITH FAMILIES, STAFF, STAKEHOLDERS, PROVIDERS, GENERAL PUBLIC



4.1 Is this research?

Does the project involve seeking out new information that furthers the knowledge base? This is more than considering what has occurred in the past but now developing a new knowledge base.

4.2 Is this in depth research?

Does the work inform policy development, in which case ethics approval may be necessary. The council's ethics approval process is [here](#).

4.3 Are vulnerable children or families involved?

The council's current ethics approval process seeks ethics approval if children, vulnerable adults, or their parents/carers are involved.

4.4 Is the data that is being asked for of a highly personal nature, or special category data or using data for a purpose e.g. publishing it?

Data of a highly personal nature would include - name and surname, home address, an email address, an identification card number, location data or an Internet Protocol (IP) address among others. In addition, some qualitative opinion data would be described as highly personal.

Special category data would include racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data, health data, sex life and sexual orientation.

4.5 Ethics guide (based on NSPCC guide [here](#))

Ensure projects are:

- Voluntary participation is based on valid, informed, ethical consent
- Enabling participation where possible and seeking the inclusion of under-represented groups in research
- Avoidance of personal and social harm to participants and researchers
- Non-disclosure of identity and personal information
- Ethical application and conduct of research methods

4.6 Seeking consent

The following section outlines the steps that need to be taken when asking individuals to take part in any form of engagement where we use personal data (for example email/phone number/address to arrange to speak with them).

From the definitions above consultation and engagement along with research are the methods most likely to require consent.

Step 1 – approaching potential respondents

Children's services wouldn't need consent to use someone's email address or phone number held on Mosaic to request feedback (so for that initial contact asking if they would like to take part). For this we can rely on the public task lawful basis in UK GDPR, and our procedures for making privacy information available to the customer at the point we collect their personal data.

Consent is not the only lawful basis we can rely on to gather data however; it will generally be appropriate for any consultation or engagement with members of the public

However, before we contact potential respondents, we should keep a clear selection procedure in mind for who you contact, to ensure participants will reasonably expect to be

contacted by the council. For example a parent who has not had any contact with children's services for 12 months is unlikely to reasonably expect contact from children's services.

We should also be mindful about the method we use to contact people to ensure we do not unintentionally cause embarrassment or breach confidentiality – this would mean avoiding leaving messages on answerphone machines. Email addresses can also be shared, and it is important excessive information is not put in emails that may be shared with other people within the household. For example, if someone attended a course as a victim of domestic abuse, they may not want someone living with them knowing they had attended the course.

Consent must be freely given; this means giving people genuine ongoing choice and control over how Children's services use their data. Consent should be obvious and require a **positive action to opt in** (to be something they need to do e.g. tick a box). Consent requests must be prominent, unbundled from other terms and conditions, concise, easy to understand, and user-friendly.

If we are aiming to process personal data on the basis on that they have consented – which has to be sufficiently granular, clear, and easy for people to understand- then a consent form or a table is required.

A 'positive opt in' to the project, allows families to acknowledge that by accepting the meeting/phone call then they agree to our privacy notice ([Privacy notice](#) from Insights team), purpose of project (what the project is about, and what is expected of them), how long we will keep the data for, any risks and benefits and how we will use their data (an example of a [here](#) – informed consent)

Having this positive opt-in may well impact response rate and potentially skew results in that only those interested in taking part, and making the effort to read the consent documentation would take part. However, as long a positive opt in is used and this could be verbal, (for example, phone the service user, explain the items in the consent form then gain verbal consent and record when this was in place) then this satisfies data protection.

Sensitivity and judgement are key.

Step 2 - Collecting the responses

If personal data is being shared over the internet, then a secure platform is needed (Microsoft forms is a secure platform). If carried out by the telephone or by Teams, then interviews should be in a confidential space.

4.7 Public task basis

Public task basis is one of the 6 lawful basis for processing information. If the engagement exercise is not collecting sensitive information (e.g. **opinions of a personal nature** or special category data under GDPR – so racial or ethnic origin, political opinion, religious or philosophical beliefs, trade union membership, genetic, biometric data, health data, sex life or sexual orientation) then consent is not required.

However, everyone should be made aware of the privacy notice when we are collecting their data.

In this scenario, one can rely on the UKGDPR 'public task' as a means of collecting the information i.e.:

Carrying out a specific task in the public interest which is laid down by law

Exercising official authority (e.g. a public bodies tasks, functions, duties, or powers)
laid down in law.

However, it is advisable to:

Document decision that processing is necessary

Include basic information about purposes and lawful basis in privacy notice