



**Memorandum of Understanding between the Regulation
and Quality Improvement Authority and
The Northern Ireland Commissioner for Children and
Young People**

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Memorandum of Understanding between the Regulation and Quality Improvement Authority and The Northern Ireland Commissioner for Children and Young People .

1.0 Introduction

- 1.1** The purpose of the MoU is to set out a framework to support the working relationship between the Regulation and Quality Improvement Authority (RQIA) and The Northern Ireland Commissioner for Children and Young People (NICCY). It sets out the parties' respective responsibilities and identifies areas of collaboration and mechanisms for sharing information.
- 1.2** The working relationship between RQIA and NICCY is part of RQIA's maintenance of a regulatory system for health and social care in Northern Ireland which promotes individuals safety and high quality care transparent, accountable, proportionate, consistent, and targeted (the principles of better regulation). It also relates to NICCY's duty to keep under review law, practice and services for children and young people.
- 1.3** The MoU does not affect existing statutory functions or supersede any policies or agreements relating to the activities of RQIA or NICCY. It does not imply any transfer of responsibility from one organisation to the other, nor does it imply any sharing of statutory responsibilities.
- 1.4** The MoU is not enforceable by law, however, RQIA and NICCY agree to adhere to its principles and to show due regard for each other's activities.

Each organisation will ensure their staff are aware of the content of the MoU.

- 1.5** RQIA and NICCY acknowledge the responsibilities and functions of each other and will take account of these when working together.

2.0 Principles of Co-operation

2.1 RQIA and the NICCY intend that their working relationship will be characterised by the following principles:

- The need to make decisions which promote individuals' safety and wellbeing including high quality health and social care;
- Respect for each other's independent status;
- The need to maintain public and professional confidence in the two organisations;
- The need to use resources effectively and efficiently; and
- Openness and transparency between the two organisations, as to when cooperation is and is not considered necessary or appropriate.

3.0 Liaison and Information Sharing

3.1 The working relationship between RQIA and NICCY will be characterised by regular contact, exchange of information and liaison on issues of mutual interest or concern. Examples of how the two organisations will exchange information and co-ordinate their activities are as follows:

- The Chief Executive (or representative) of each organisation will meet at least annually to review the application of the MoU, share information, expertise and discuss any other relevant issues;
- Each organisation will inform the other of any issues that raise significant concerns which fall under their respective remits as / when appropriate;
- Each organisation will involve the other, as appropriate, in addressing potential areas of mutual concern.

Each organisation will involve the other as early as possible in the development of planned announcements and seek to give adequate warning, including the sharing of draft proposals and publications, which may affect both organisations.

The RQIA and NICCY will ensure wherever possible that each receives:

- Details of any planned publications with implications for each organisation approximately 48 hours before they are released to the media; and
- Details of any press releases with implications for each organisation approximately 24 hours before they are released to the media.

The RQIA and NICCY respect confidentiality of any documents shared in advance of publication and will not act in any way that would cause the content of those documents to be made public ahead of the planned publication date.

3.2 Both the RQIA and NICCY are subject to the Freedom of Information Act 2000. If one organisation receives a request for information that originated from the other, the receiving organisation will make the other aware before responding. However, the ultimate decision on the release of information will remain with the information owner (the organisation that has been requested to release it).

4.0 GDPR May 2018 and Human Rights

4.1 The Legal framework governing information sharing includes obligations under the GDPR May 2018, the Human Rights Act 1998, the Freedom of Information Act 2000, and the common law duty of confidentiality. Where any information about individuals is shared between RQIA and NICCY both organisations will act in accordance with their legal obligations.

4.2 Cooperation between RQIA and NICCY will often require the exchange of information. All arrangements for collaboration and exchange of information set out in this MoU, and any supplementary agreements will take account of and comply with the GDPR, May 2018, the Freedom of Information Act 2000 and any RQIA and NICCY codes of practice, frameworks or other policies relating to confidential personal information.

4.3 This MoU will be supplemented by a Data Access Agreement (**Appendix D**) which set out the detailed arrangements for sharing information between the parties.

5.0 Resolution of Disagreement

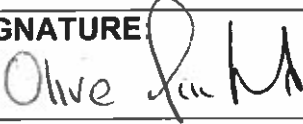
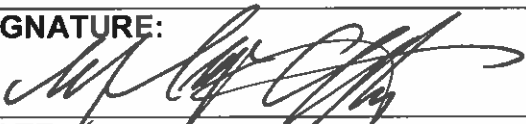
5.1 The Chief Executives of the two organisations will seek to resolve any disagreements amicably.

6.0 Duration and Review of the MoU

6.1 This MoU is not time-limited and will continue to have effect unless the principles described need to be altered or cease to be relevant. The MoU will be reviewed in three years although it may be reviewed at any time at the request of either party. Changes to the MoU will require both parties to agree.

Both organisations have identified a person responsible for the management of the MoU at Appendix C. They will liaise as required to ensure this MoU is kept up to date and to identify any emerging issues in the working relationship between the two organisations.

7.0 Signatures

RQIA Chief Executive	NICCY Chief Executive
NAME: Mrs Olive Macleod	NAME: Mairead McCafferty
SIGNATURE: 	SIGNATURE: 
DATE: 13/2/19	DATE: 18/2/19

Appendix A

The Role of RQIA

The Regulation and Quality Improvement Authority (RQIA) is the independent body responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland, and encouraging improvements in the quality of those services.

The RQIA was established under The Health and Personal Social Services (Quality Improvement and Regulation) (Northern Ireland) Order 2003. The Order also place statutory duty of quality upon health and social care organisations, and requires DHSSPS to develop standards against which the quality of services can be measured.

RQIA ensures that health and social care services in Northern Ireland are accessible well managed and meet the required standards. RQIA works to ensure that there is openness, clarity and accountability in the management and delivery of services.

RQIA registers and inspects and inspects a wide range of health and social care services inspection are based on minimum care standards and regulations, which ensure that both the public and the service providers know what is expected.

RQIA inspectors visit a wide range of services to ensure that all aspects of the care provided, is safe and to assure the comfort and dignity of those using the facilities.

RQIA also undertake a range of responsibilities for people with a mental illness and those with a learning disability following the transfer of duties from the Mental Health Commission to RQIA under the Health and Social Care (Reform) Act (NI) 2009. These include: preventing ill treatment: remedying any deficiency in care or treatment: terminating improper detention in a hospital or guardianship; and preventing or redressing loss or damage to a patient's property.

RQIA is designated as a national preventive mechanism (NPM) under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), an international human rights treaty designed to strengthen protection for people deprived of their liberty. OPCAT requires NPMs to carry out visits to places of detention, to monitor the treatment of conditions for detainees and to make recommendations regarding the prevention of ill-treatment.

More information on 'what we do' is available at <https://www.rqia.org.uk/what-we-do>

Appendix B

THE ROLE OF NICCY

The Commissioner for Children and Young People was established under The Commissioner for Children and Young People (NI) Order (2003).

The principal aim of the Commissioner is to promote and safeguard the rights and best interests of children and young people.

The legislation sets out a number of powers and duties of the Commissioner.

The Commissioner has a duty to:

- Promote an understanding and awareness of the rights and best interests of children and young people;
- Keep under review the adequacy and effectiveness of law and practice relating to the rights and welfare of children;
- Keep under review the adequacy and effectiveness of services provided for children by relevant authorities;
- Provide advice on matters concerning the rights and best interests of children;
- Take reasonable steps to ensure that children, young people and parents are aware of the functions of the Commissioner and are encouraged to communicate with the Commissioner and that the views of children and young people are sought concerning the exercise of the Commissioner functions.

The Commissioner also has the following powers to:

- Undertake, commission or provide assistance for research and educational activities concerning the rights and best interests of children and young people or the exercise of the Commissioner's functions;
- Issue guidance on best practice in relation to any matter concerning the rights or best interests of children and young people.
- Conduct such investigations as the Commissioner considers necessary or expedient, including formal investigations
- Compile information, provide advice or information or publish any matter concerning the rights and best interests of children and young people
- Make representations to any body or person about any matter concerning the rights or best interests of children or young people;
- Review the complaints, advocacy, inspection and whistle blowing arrangements of relevant authorities, including individual cases and in providing assistance to a child or person;
- Investigate complaints against relevant authorities;
- Bring, assist in or intervene in legal proceedings.

Appendix C

Contact details

**The Regulation and Quality
Improvement Authority (RQIA)**
9th Floor Riverside Tower
Belfast
BT1 3BT
Telephone 02890517500

**Northern Ireland Commissioner for
Children and Young People (NICCY)**
Equality House
7-9 Shaftesbury Square
Belfast
BT2 7DP

Named contact between the RQIA and the NICCY is as follows, Malachy Finnegan at malachy.finnegan@rqia.org.uk or 028 90517500 and Jacqueline Melville at jacqueline@niccy.org or 02890311616.



DATA ACCESS AGREEMENT

Personal Identifiable Data for Non-Direct Care Purposes

Introduction

All Health and Social Care organisations (HSC) must ensure that when sharing HSC data for non-direct care (secondary purposes), assurances are provided by the requesting organisations that they comply with GDPR, May 2018 and that staff are aware of the relevant DPA Policies and Procedures in place.

Researchers undertaking studies and who require access to patient identifiable information and / or anonymous HSC data should follow the research protocol (Research Governance Framework for Health and Social Care in Northern Ireland). RQIA had a Research Policy which we also are expected to follow.

Please be aware that it may be more appropriate to make use of the Honest Broker Service (HBS) rather than a Data Access Agreement. The HBS will enable the provision of anonymised, aggregated and in some cases pseudonymised health and social care data to the DHSSPS, HSC organisations and in the case of anonymised data for ethically approved Health and Social care related research.

Arrangement for access to personal data may already be covered by a contract (eg a contract for supplier support on an information system). Organisations need to be clear that any proposed data sharing is either covered adequately by that contract or make sure that a Data Access Agreement is completed.

The following Data Access Agreement must be completed by any organisation wishing to access HSC Trust data. It must be considered for approval and signed by the supplier organisation's Personal Data Guardian.

In the event of a breach of this agreement which results in a financial penalty, claim or proceedings, the parties agree to co-operate to identify and apportion responsibility for the breach and the defaulting party will accept responsibility for any such claim.

Please refer to Appendix 2, 'Principles Governing Information Sharing' for guidance.

The form is divided into Sections (A-I) as detailed below:

Section A: Details of Requesting Organisation

Section B: Commissioning Organisation

Section C: Details of data items requested

Section D: Consent issues

Section E: GDPR, May 2018

Section F: Measures to prevent disclosure of Personal Identifiable Information

Section G: Data Retention

Section H: Declaration: Requesting Organisation

Section I: Declaration: Owner Organisation

Appendix 1: Data Destruction Notification and checklist

Appendix 2: Principles Governing Information Sharing

Please ensure that this form is returned to: Olive Macleod
 Chief Executive RQIA

Internal Reference: Theresa Nixon

Internal Contact: Director of Assurance

Name Theresa Nixon

IAO Fiona Goodman

Service Group (if relevant):

Title of Agreement	NICCY and RQIA DAA
Date of Request	13.08.18

Please state if this is an update of a previous agreement or a new request for personal identifiable information

Date Access Begins: 01.09.18

Date Access Ends: 01.09.21

Review date if on-going agreement: 01.08.21

An update of an earlier extract New application

(A) Details of Requesting Organisation

Name of Requesting Organisation: Please note that the Data Access Agreement will be immediately returned unless the requesting organisation has signed section H.

Name of Authorised Officer Requesting
Access to Trust Data

(please print)

Position/Status

Address

Postcode

Sector of the requesting organisation eg
Voluntary, Public, Private etc

Telephone Number

Email Address

Name and Telephone Number of
Requesting Organisation or Personal
Data Guardian

If you require the data to carry out work on behalf of another organisation, please complete section (B) below.
If not, please go straight to section (C).

(B) Commissioning Organisation

Name of Commissioning Organisation

Contact Name

Title

Contact Number

Email Address

(C) Details of 'Data Items' Required: Please provide a list and description of the data to which the request applies, eg include all identifier attributes, (eg Name, Address, Postcode, Date of Birth, Gender, HSC Number, Diagnosis Code, Religion etc)	Rationale for data Items Please indicate the reasons for requiring each of these data items
1 _____	1 _____
2 _____	2 _____
3 _____	3 _____
4 _____	4 _____
5 _____	5 _____
6 _____	6 _____
7 _____	7 _____
8 _____	8 _____
Please state in as much detail as possible, the purpose for which the data are required by the organisation named in section (A) including any record linking or matching to other data sources.	
Please continue on a separate sheet if necessary or attach any relevant documentation.	

Processing of Data

<p>Please indicate how you propose to process the data once received (eg to extract and anonymise Service User information; for auditing and monitoring of Service User care and treatment.</p>	<p>Information will be confidential and transmitted over the secure HSC network in encrypted attachments and password protected.</p>
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System(s) from which Data is to be extracted (If Known)
 Please include sites or Geographical locations (If Known)

RQIA Systems

<p>Is the Data to be Viewed only (V); or Viewed and Updated (U); or Transferred and Viewed (T)?</p>	<p>Please specify: <u> T </u></p>
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<p>Will Data contain Client Identifiable Details?</p>	<p>(Please Tick) Yes <input type="checkbox"/> No <input type="checkbox"/></p>
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<p>If you have answered "No" to the question above have you considered whether the data could be released via the Honest Broker Service?</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
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<p>Frequency of transfers</p>	<p>Once Only <input type="checkbox"/></p> <p>Other <input type="checkbox"/> <u>case by case basis</u></p> <p>(Please specify)</p>
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(D) Consent Issues

<p>Do you have the individuals' consent?</p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
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<p>If yes please provide a copy of the consent form i.e Explicit consent should be obtained for the processing of sensitive personal data.</p>	
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<p>If no, why is it not practical to obtain consent?</p>	<p>This will be considered on a case by case basis</p>
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(E) GDPR, May 2018 (of Requesting Organisation)	
Do you have a confidentiality / privacy policy which complies with GDPR, May 2018?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Are confidentiality clauses included within contracts of all staff with access to the person identifiable information?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Are all staff trained and aware of their responsibilities under GDPR, May 2018 and adhere to the eight Data Protection Act Principles?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Provide details /copy of your ICT security policy for your organisation	
Provide confirmation that your organisation has GDPR, May 2018 notification for purposes of analysis. Please provide your ICO notification/registration number	Yes RQIAs ICO registration Z158869X NICCY's ICO registration: Z8816386
Have you conducted a Privacy Impact Assessment? If yes please include a copy with this form.	Yes <input type="checkbox"/> No <input type="checkbox"/>

(F) Measures to Prevent Disclosure of Person Identifiable Information (of Requesting Organisation)	
Will this data be accessed or transferred by you to another organisation?	Yes <input type="checkbox"/> No <input type="checkbox"/> (If Yes, please give details including in what country it will be stored)
If Yes, has your Data Controller/Data Processor granted permission for onward disclosure?	Yes
How will you secure the information provided being transferred?	As per section 'processing data'
If Applicable how will you secure information provided being transferred by you to an NICCY	As above
Describe the physical security arrangements for the location where person identifiable data is to be: - processed; and - stored (if different to above).	

System Information	
Provide details of access and/or firewall controls implemented on the system, and measures to encrypt which are in place.	As per BSO Network Arrangements

(G) Data Retention (of requesting Organisation)	
Please state the date by which you will be finished using the data.	On case by case basis
If the retention period which you require the data is greater than one year, please indicate the reasons. (The maximum data retention period is 2 years, after this time a review of this agreement is required)	On case by case basis
Describe the method of data destruction you will employ when you have completed your work using person identifiable data	Secure and confidential shredding

Please ensure that the Data Destruction Notification (Appendix 1) is completed within the specified retention period and returned to the contact person on the front of the form.

(H) Declaration: Requesting Organisation

GDPR, May 2018 Undertaking on Behalf of the Organisation Wishing to Access the Data

My organisation requires access to the data specified and will conform to GDPR, May 2018 and the guidelines issued by the DHSSPS Executive in January 2009 in *"The Code of Practice on Protecting the Confidentiality of Service User Information"*.

I confirm that the information requested, and any information extracted from it,

- Is relevant to and not excessive for the stated purpose
- Will be used only for the stated purpose
- Will be stored securely
- Will be held no longer than is necessary for the stated purpose
- Will be disposed of fully and in such a way that it is not possible to reconstitute it.
- That all measures will be taken to ensure personal identifiable data will not be disclosed to third parties.
- The Health and Social Care organisation will be informed of the data being deleted / destroyed.

I (*name:printed*) _____, as the Authorised Officer of (*Organisation*) _____, declare that I have read and understand my obligations and adhere to the conditions contained in this Data Access Agreement.

Signed: _____

(Personal Data Guardian)

(IAO/SIRO)

Signed:

Date: _____

(I) Declaration – Owner Organisation

DATA ACCESS AGREEMENT

I CONFIRM THAT:

1. _____ Organisation consents to the disclosure of the data specified, to the organisation identified in Section A of this form.
The disclosure of the data conforms to the guidelines issued by the DHSSPS NI Code of Practice on Protecting Confidentiality of Service User Information, 2009.
2. The data covered by this agreement are: **(*delete as appropriate)**
 - Either data which are exempt from GDPR, May 2018, or
 - Are notified under GDPR, May 2018 and their disclosure conforms to the current notification under The Act.

Signed: _____

(Personal Data Guardian) OR (Senior Information Risk Owner SIRO)

Date: _____

Please note that this organisation has the right to inspect the premises and processes of the requesting organisation to ensure that they meet the requirements set out in the agreement.

Any loss, theft or corruption of the shared data by the requesting organisation must be immediately reported to the Personal Data Guardian of the owning organisation. Please also note that any serious breaches, data loss, theft or corruption should also be reported to the ICO by the Data Controller.

Appendix 1

Data Destruction Notification and checklist

Authorised users of the person identifiable data have, under the terms and conditions of the Data Access Agreement, a requirement to destroy the data on or before the retention date stated in Section (H).

This form should be completed on destruction of the data and returned to the Personal Data Guardian.

This form should be completed on destruction of the data, and returned to:-

Data Destruction Notification	
Name of Organisation	
Name of Authorised Officer (please print)	
Position/Status	
Address	
Telephone Number	
Mobile Number (Optional)	
Fax Number	
Email Address	
Title of Agreement	
Date Declaration Signed	
Date Data Received	
Date Data Destroyed	

Signature	
Date	

Health and Social Care Checklist

Termination of Data Access Agreement - Trust / Other Checklist	
Name of Internal Trust Contact	
Position/Status	
IAO	
Telephone Number	
Mobile Number (Optional)	
Email Address	
Title of Agreement	
Can you confirm Data flow has stopped	
Have you advised IT to stop facilitating transfer	
Have you received confirmation from receiving organisation that all information has been destroyed or returned	
Signature	
Date	

Once the Destruction Notification Form and the Organisation Checklist has been completed please return both to the contact person detailed on the agreement.

Appendix 2 - Principles Governing Information Sharing¹

Code of Practice 8 Good Practice Principles ²	DPA Principles	Caldicott Principles ³
<ol style="list-style-type: none"> 1. All organisations seeking to use confidential service user information should provide information to service users describing the information they want to use, why they need it and the choices the users may have. 2. Where an organisation has a direct relationship with a service user then it should be aiming to implement procedures for obtaining the express consent of the service user. 3. Where consent is being sought this should be by health and social care staff who have a direct relationship with the individual service user. 4. 'Third Party' organisations seeking information other than for direct care should be seeking anonymised or pseudonymised data. 5. Any proposed use must be of clear general good or of benefit to service users. 6. Organisations should not collect secondary data on service users who opt out by specifically refusing consent. 7. Service users and/or service user organisations should be involved in the development of any project involving the use of confidential information and the associated policies. 8. To assist the process of pseudonymisation, the Health and Care Number should be used wherever possible. 	<ol style="list-style-type: none"> 1. Data should be processed fairly and lawfully. 2. Data should be processed for limited, specified and lawful purposes and not further processed in any manner incompatible with those purposes. 3. Processing should be adequate, relevant and not excessive. 4. Data must be accurate and kept up to date. 5. Data must not be kept longer than necessary. 6. Data must be processed in line with the data subject's rights (including confidentiality rights and rights under article 8 of the Human Rights Act). 7. Data must be kept secure and protected against unauthorised access. 8. Data should not be transferred to other countries without adequate protection. 	<ol style="list-style-type: none"> 1. Justify the purpose(s) for using confidential information. 2. Only use it when absolutely necessary. 3. Use the minimum that is required. 4. Access should be on a strict need-to-know basis. 5. Everyone must understand his or her responsibilities. 6. Understand and comply with the law.

¹ These principles must be followed by health and social care organisations when considering use and disclosure of service user information.

² Code of Practice, paragraph 3.17.

³ PDG Principles are adopted from the Caldicott Principles established in England and Wales.

