

DATA PROTECTION IMPACT ASSESSMENT

Data sharing in the context of the School's participation in the Covid-19 Saliva Testing in Schools

| Data Protection Impact Assessment | |
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| Name of controller | Cantell School |
| Contact | Keith Pinney (DPO) |
| Effective date | 15 September 2020 |

1. Summary of the Project and why we are carrying out a DPIA

This DPIA considers risks to the rights and freedoms of individuals whose personal data will be shared by Cantell School (the '**School**') with University Hospital Southampton NHS Foundation Trust (**UHS**) in the context of the joint initiative between Southampton City Council, University of Southampton, UHS and the NHS more broadly, to undertake a Covid-19 testing trial. This initiative will evaluate a home-testing model for coronavirus to assess the feasibility of a whole city integrated programme combining testing, tracing and isolation as a means of safely relaxing lockdown ('the Programme').

In respect of the Programme, the University of Southampton entered into an agreement with the Secretary of State for Health and Social Care acting on behalf of the Crown through the Department of Health and Social Care, dated 12 June 2020. UHS and the School (as well as three other schools in the Aspire Community Trust [Cantell School, Swaythling Primary School, Maytree Nursery and Infant School and Mount Pleasant Junior School]) agreed to assist the University of Southampton in the evaluation of the feasibility of testing pupils, teachers and other workers in schools. This cooperation is undertaken with the aim to suppress the spread of Covid-19 at schools and through that, to promote and safeguard the welfare of the pupils and the members of the school community and to enable all children to have the best outcomes. The School sees its participation in the Programme as the opportunity to make Covid-19 testing available to its pupils and staff, which is of great value given the national crisis around the testing and widespread difficulties with timely access to Covid-19 tests at the moment.

To enable the carrying out of the Covid-19 saliva testing at the School between [28 September – the end of the feasibility study], the School is required to share limited categories of personal data of its pupils (including pupils' parents or carers contact details) and staff with UHS/the NHS.

Taking the Covid-19 saliva test by pupils and staff is voluntary and the participants express their consent by submitting their saliva samples.

We do not consider the proposed sharing of the personal data to be likely to result in a high risk to the rights and freedoms of pupils, their parents or carers or staff. It is in this context that we do not consider this DPIA to be mandatory under Article 35 of the GDPR. However, motivated by the intention to uphold the best practice and the highest standards of accountability in relation to the personal data that the School processes, we have decided to carry out this DPIA, to document the relevant risks and the measures that we have implemented to mitigate them.

2. The processing

2.1 The context of the data sharing

2.1.1 The data subjects are pupils, their parents or guardians and staff at Cantell School. The data shared will therefore include personal data of groups considered to be vulnerable, such as children. The categories of personal data to be shared will include:

- pupil personal data- first and last name, address, including postcode, date of birth, gender, mobile phone number, school, class and for secondary school tutor and year group;
- parent or guardian of pupil - first and last name, address, including postcode, mobile phone number, e-mail; and
- staff member - first and last name, address, including postcode, date of birth, gender, mobile phone number, school, e-mail.

2.1.2 Covid-19 testing project is the first project of this kind carried out at the School. This means that the School has not previously shared the relevant personal data with UHS/the NHS in the same way as is proposed. This is because the proposed sharing of personal data has only become necessary in the context of Covid-19 pandemic. Although there is an element of novelty in relation to this sharing of personal data, data subjects affected would generally expect their data to be shared with the NHS in some circumstances.

2.1.3 To ensure that the proposed data sharing is carried out transparently and that the affected data subjects retain control over their personal data, the School has:

- (i) sent a series of communications to parents and to staff, describing the school's participation in the Covid-19 testing programme and the way that the school will share personal data with UHS/the NHS to enable the testing at schools
- (ii) the School has circulated to parents and to staff a joint privacy notice published by all parties taking part in the Feasibility Study
- (iii) amended both its staff and pupil privacy notices to reflect the proposed data sharing and has drawn parents' and staff's attention to the updated privacy notice in a letter referred to above;
- (iv) included the information about the right to object to the processing in the letter to parents and to staff and also in the relevant privacy notices;
- (v) sought legal advice and has made the relevant staff aware of how to handle any potential objections and queries from data subjects; and
- (vi) addressed the issue of dealing with data subjects' objections and requests in a data sharing agreement between the School and UHS.

2.1.4 The School has also considered the current state of technology in this area and has selected a method of transfer of the data sets that will meet the requirements of data protection law, including Article 32 of GDPR (transferring an encrypted file, with the password being supplied separately to UHS to a nominated person). Encrypted internet transfer using the NHS platform was the School's preferred option but we have been advised that it was not available. We have also considered delivering an encrypted file on encrypted USB data storage but have been advised by UHS that due to the logistics and the requirements for scalability, this would not be a workable solution.

2.1.5 The School has entered into a data sharing agreement with UHS on 15 September 2020 (the '**Data Sharing Agreement**'). A variation to the Data Sharing Agreement was created on the 22nd October 2020.

2.1.6 The School is aware that the processing of personal data in the context of Covid-19 pandemic attracts public attention, including concerns. We have ensured that only the minimum

amount of personal data necessary to achieve the purpose will be shared with UHS/NHS, that the data sharing, necessary for the performance of the School's public task, will be lawful, fair and proportionate and that the individuals affected will know that they have the opportunity to object.

2.2 **The purposes of the data sharing**

2.2.1 The School has decided to take part in the Programme with the objective of suppressing the spread of Covid-19 at the School (and to assist with the potential roll out of a broader testing programme in further schools). The School intends to facilitate the carrying out of Covid-19 saliva testing at the School to promote and safeguard the welfare of the pupils and the members of the school community, including their health and to avoid closing down of the School due to a potential spread of Covid-19. The School believes that its participation in the Programme will enable children to have the best outcomes (health-wise and education-wise). The sharing of personal data is necessary to enable the NHS to deploy test kits to pupils and staff at the School, which will support the participation by all those individuals who are interested but may otherwise not be able to take part in the testing due to various logistic difficulties.

2.2.2 The proposed data sharing as a part of the School's participation in the Programme will therefore benefit those individuals whose data will be shared and will have broad benefits for the pupils and staff at the School. It may also assist with a roll-out of the Programme nationally, resulting in benefits for pupils and school communities at other schools in protecting them from the consequences of the Covid-19 pandemic.

2.3 **The nature and scope of the processing**

- 2.3.1 The categories of personal data to be shared have been set out in 2.1.1 above. Only those categories of personal data that are necessary to enable the carrying out of the testing in the School between [28 September – the end of the feasibility study], will be included in the data sharing. No special categories of personal data will be shared.
- 2.3.2 The data will be transferred from the School to UHS using a method of transfer that meets the requirements of data protection law, including Article 32 of GDPR (transferring an encrypted file, with the password being supplied separately to UHS to a nominated person).
- 2.3.3 The School has restricted the way in which UHS will be allowed to use the personal data, under the Data Sharing Agreement. This agreement is a way in which the School aims to contractually bind UHS (who, on receipt of the shared personal data will become an independent controller) to only use this data for the purpose of the Programme, which safeguards and promotes the welfare of children who are pupils at the School. The Data Sharing Agreement specifically prevents UHS from using personal data shared by the School to contact those individuals who have not consented to taking part in the Covid-19 saliva testing at School, without first obtaining agreement to such contact from the School's Headteacher.
- 2.3.4 The Data Sharing Agreement prevents UHS from transferring shared personal data outside the United Kingdom without the School's consent and it requires that UHS deletes the shared personal data at the end of the Programme, i.e. on or before the end of the feasibility study.

3. **Lawfulness, necessity and proportionality of the processing - compliance measures**

3.1 **The lawful basis for processing**

The School has carefully considered potential lawful bases for the governing bodies of the schools to be able to share the data of the data subjects with UHS for the purpose of the Programme. The School relies on Article 6 (1)(e) of the GDPR, as the proposed sharing of personal data is

necessary for the performance of a task carried out by the School in the public interest. The relevant task is set out in law, in particular in s175 of the Education Act 2002, which states as follows:

The governing body of a maintained school shall make arrangements for ensuring that their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school.

To enable the Covid-19 saliva testing to commence at the School, the School has to undertake certain steps, including the sharing of personal data (which is the 'conduct' of the School). The sharing of the personal data is necessary to allow the pupils and staff members to take part in a pilot testing scheme at the School, which will assist in identifying and suppressing Covid-19 infection, and therefore will both safeguard and promote the welfare of those pupils. In allowing the conduct to proceed, the governing bodies are discharging their functions in a way that safeguards and promotes the welfare of the pupils and in particular will benefit the more vulnerable pupils.

Ancillary to the above is the governing bodies' requirement to have regard to the statutory guidance Keeping Children Safe in Education (2020) ("Guidance"). The Guidance is issued under s175 of the Education Act 2002, and defines safeguarding and protecting the welfare of pupils as:

- protecting children from maltreatment;
- preventing impairment of children's physical health or development;
- ensuring children grow up in circumstances consistent with the provision of safe and effective care; and
- taking action to enable all children to have the best outcomes.

The governing bodies are seeking to ensure that the children's physical health is not impaired, through providing them with access to free Covid-19 tests. In addition, this action is going to assist in keeping schools open, enabling children to have fewer interruptions to their education and therefore enabling children to have the best outcomes.

Supporting the above is also s10 of the Children Act 2004. This requires the local authority to promote co-operation between the authority and 'relevant partners' to improve the well-being of pupils in the local authority's area (the Schools is a relevant partner in this regard). The governing body's facilitating the sharing of the data as required is a manifestation of the School's co-operation with the local authority in order to improve the well-being of its pupils at the school (i.e. in the authority area).

The lawful basis relied on by the School for this sharing of personal data have been discussed with Alexander Hall at the Information Commissioner's Office to ensure that the School has robust lawful basis for the intended processing.

- 3.2 The sharing of personal data achieves the intended purpose (safeguarding and promoting the welfare of children who are pupils at the School) and, given the scale of the testing, the logistic, time constraints and the fact that the infection rate has been increasing sharply since the end of August, there is no other feasible way to achieve the same outcome, i.e. enable the Covid-19 saliva testing to take place at the School between [14 September – the end of the feasibility study].
- 3.3 The proposed data sharing will comply with the principle of data minimisation (see paragraphs 2.1.1 and 2.3) and the Data Sharing Agreement mitigates the risk of the data being used by UHS for purposes other than those necessary for the Programme.
- 3.4 The individuals have been provided with comprehensive information about the intended sharing of their data with UHS and have been informed about their rights, including the right to object (see para 2.1.3).

- 3.5 The Data Sharing Agreement includes provisions intended to safeguard and support data subjects' rights, including their right to object.
- 3.6 No processors will be involved in the data sharing and pursuant to the Data Sharing Agreement, the data will not be processed outside the United Kingdom without the School's consent.

4. Assessment of risks and measures to mitigate risks

4.1 Identified risks

| | Description | Condition for approval | Level of residual risks to data subjects' rights |
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| 1. | The School needs to have lawful basis for the intended sharing of personal data | Lawful basis established – see paragraph 3.1 | Low |
| 2. | Data sharing needs to be carried out transparently and fairly in a way that respects data subjects' rights, e.g. gives individuals the right to object. | (i) Transparency requirements have been satisfied through communications with parents/carers and staff and through the provision of an updated privacy policy – see paragraph 2.1.3. (ii) The School has given the individuals as much time to object prior to the sharing of the data, as is reasonably possible, given the tight timescales of the Programme and balanced against the objectives of the data sharing exercise. (iii) The Data Sharing Agreement includes provisions intended to safeguard and support data subjects' rights, including their right to object, following the sharing of the personal data. | Low |
| 3. | Loss of control by individual data subjects over their personal data | (i)The School has taken the steps to ensure that the individuals are aware of the data sharing (see paragraph 2.1.3) and can exercise their right to object (as above). (ii)The Data Sharing Agreement expressly provides that UHS may not process the shared personal data for the purposes of communicating | Low |

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| | | with individuals who have not consented to take part in the Programme without the consent of the Head Teacher at the School. | |
| 4. | Personal data being used in a way that data subjects would not normally expect | <p>(i) The School has taken the steps to ensure that the individuals are aware of the data sharing and can exercise their right to object (as above)</p> <p>(ii) The Data Sharing Agreement contractually limits the scope of permitted use by UHS.</p> <p>Ultimately, given that UHS will become an independent controller of the shared personal data, the School will not be able to retain control over the use of this data by UHS, but by entering into the Data Sharing Agreement the School has taken steps available to it to ensure that that data will be processed lawfully, fairly and securely.</p> <p>However, pursuant to the Data Sharing Agreement, UHS will be required to delete personal data of any person who does not or whose child does not participate in the provision of saliva samples from the UHS database at the end of the Programme, i.e. on or before the end of the feasibility study.</p> | Low/Medium |
| 5. | Risk of a data breach during transfer | The School has considered security measures adequate for this transfer – see paragraph 2.1.4 | Low/Medium |

6. Sign off

| Item | Name/position/date | Notes |
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| Measures approved by: | Harry Kutty Headteacher 15 September 20 | |
| Residual risks approved by: | Harry Kutty Headteacher 15 September 20 | |
| DPO advice provided by: | Keith Pinney School Business Manager 15 September 20 | |
| <p>Summary of DPO advice:</p> <p>None required after completion of DPIA, which covers any areas of concerns in respect of the sharing of data.</p> | | |
| DPO advice accepted or overruled by: | Yes | If overruled, you must explain your reasons |
| <p>Comments:</p> | | |
| This DPIA will kept under review by: | <ul style="list-style-type: none"> • Headteacher • School Business Manager (DPO) | The DPO should also review ongoing compliance with DPIA |