

PFCC Decision Report

<p>Report reference number: 028/2020</p> <p>Classification (e.g. Not protectively marked/restricted): Not protectively marked</p>
<p>Title of report: Essex Restorative and Mediation Service Confidentiality and Consent Form</p>
<p>Area of county / stakeholders affected: All residents of Essex and other partaking in the Essex Restorative and Mediation Service</p>
<p>Report by: Anna Hook (Head of Performance and Scrutiny - Policing and Crime, DPO)</p> <p>Date of report: 20 February 2020</p> <p>Enquiries to: Anna Hook (Head of Performance and Scrutiny - Policing and Crime, DPO), Emma Goddard (Essex Restorative and Mediation Service Manager)</p>

1. Purpose of the report

To approve for adoption the Essex Restorative and Mediation Service Confidentiality and Consent Form attached at Appendix 1.

2. Recommendations

That the Police, Fire and Crime Commissioner (PFCC) for Essex approves and adopts the Essex Restorative and Mediation Service (ERMS) Confidentiality and Consent Form attached at Appendix 1.

That the Essex Restorative and Mediation Service (ERMS) Manager ensures that this form is used from this point and included in any case files.

3. Benefits of the proposal

Implementation of the recommendations above will ensure the PFCC's compliance with their mandatory obligations under the General Data Protection Regulation (GDPR) and in this case ensures that consent is captured, where appropriate, and provides service users with specified information relating to the collection and processing of their personal data in order to receive this service.

4. Background and proposal

The PFCC has a suite of policies, forms and notices which provide residents and service users with information about how the organisation collects and processes their personal data. This includes the general Privacy Notice on our website (<https://www.essex.pfcc.police.uk/contact-us/privacy-notice/>) and policies including the Data Protection Policy and the Access to Information Policy (<https://www.essex.pfcc.police.uk/finance-reporting/publications/>).

The proposed ERMS Consent Form attached at Appendix 1 is specifically for the ERMS and explains to service users that should they consent to participate in the service:

- what information we would hold;
- why we would hold that information and what we would do with it;
- why we would share it;
- who we would share it with, and
- implications of not providing consent for processing their information.

5. Alternative options considered and rejected

As an employer and service provider, the PFCC is under a mandatory obligation under the GDPR to provide information to service users regarding, and to ensure a lawful basis for, the processing of their personal data.

Whilst a lawful basis may include consent, contract, legal obligation, vital interest, public task or legitimate interest, the most appropriate lawful basis must be applied. The ERMS looks to obtain consent from participants as the lawful basis for processing.

6. Police and Crime Plan

The ERMS supports the 'prevention' building block outlined in the Police and Crime Plan. It also supports a number of Police and Crime Plan priorities, including 'crack down on anti-social behaviour' and 'protecting children and vulnerable people'.

7. Police operational implications

There are no operational implications on Essex Police. Essex Police is a key agency which refers into the Essex Restorative and Mediation Service and provides case information, often through the Athena system.

8. Financial implications

There are no financial implications arising from this report.

9. Legal implications

The PFCC's mandatory obligations in respect of the lawful basis for processing personal data are set out in the General Data Protection Regulation (GDPR) 2016, which came into effect in the UK on 25 May 2018.

10. Staffing implications

There are no staffing implications arising from this report.

11. Equality and Diversity implications

This consent form applies to all service users of the ERMS, and takes steps to ensure fair and lawful treatment when processing data of all users.

12. Risks

If the ERMS does not have a clearly documented record of the lawful basis for processing the personal data of service users and is either subject to an Information Commissioner's Office (ICO) inspection or dealing with the ICO for some other reason, a failure to provide this information will likely adversely affect the ICO's assessment of the ERMS's overall compliance with data protection legislation and regulations. The recommendations set out within this report mitigate against this risk.

13. Governance Boards

The ERMS Confidentiality and Consent Form attached at Appendix 1 was discussed at the PFCC's SMT meeting on 18 February 2020. At this meeting it was agreed that this form should receive minor amendments and be presented for adoption via a decision sheet.

14. Background papers

Appendix 1 – ERMS Confidentiality and Consent Form

Treasurer / Chief Executive Sign Off – for Redactions only

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

Sign:

Print:

Chief Executive/Treasurer

Decision and Final Sign Off

I agree the recommendations to this report:

Sign: *J Gardner*

Print: JANE GARDNER

PFCC/Deputy PFCC

Date signed: 28/02/2020

I do not agree the recommendations to this report because:

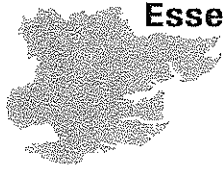
.....
.....
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Sign:

Print:

PFCC/Deputy PFCC

Date signed:



Restorative and Mediation Service Confidentiality & Consent Form

The Essex Restorative and Mediation Service (ERMS) is provided by the Police, Fire and Crime Commissioner for Essex and aims to facilitate effective communication between those involved in crime or conflict to help find a positive resolution and repair harm that has been caused. We need your permission to hold and share information about you. We always act responsibly with your information, as explained below. Please read this form carefully before you sign and date at the bottom.

Our full privacy notice outlines your rights and our obligations to handle your data correctly, please visit the website: <https://www.essex.pfcc.police.uk/contact-us/privacy-notice/>

What information we would hold:

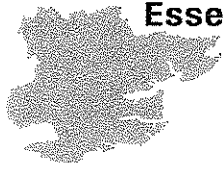
- Personal information such as your name, contact information, date of birth, gender, criminal records and relevant warning markers and notes of our discussions with you. This information ensures that we are able to maintain contact with you, and that facilitators, staff and participants in the process are kept safe.
- Such information is held electronically or, where appropriate, in hard copy with appropriate technical and organisational measures in place to ensure it is retained securely.

Why we will hold your information and what we would do with it:

- We will use your information to progress the service we have agreed with you. This may include making referrals to agencies you have agreed we can contact and generally to make sure that your case is progressing. We may also use your contact details to follow up after the process has closed, or to enquire whether you wish to tell your story further such as in the media or at relevant events or opportunities.
- Your information will only be seen by those who provide the service to you, or our partners, with whom there is a confidentiality agreement in place.

Why we would share your information:

- Your information will only be shared when we have a legal basis (for example, to comply with the law), vital interest (to protect your life or the life of someone else), public interest (to perform a task in the public interest or for its official functions) or your consent to do so *and* where this is relevant to the service that we have agreed with you.
- There are exceptional circumstances where we may have to disclose information without your permission. These are
 - **If we believe that either you or someone else is at risk of significant harm. ERMS staff and facilitators have a duty to report any issues relating to child protection or adult safeguarding**
 - **Where there is another legal reason or requirement to disclose your information.**



Essex Restorative & Mediation Service

Who we may share your information with:

There may be other agencies that we share your information with in order to provide you the most effective, safe and efficient service. These agencies include:

- Essex Police
- Essex County Fire and Rescue Service
- Community Safety Partnerships
- Community Rehabilitation Company
- Her Majesty's Prison and Probation Services
- RJ providers across the country where one or more parties in the process is, or has been, residing outside of Essex.

What if you don't provide your information?

Should you not provide consent for us to process your information, we may not be able to continue to work with you.

You have a right to request that your information is erased at any time or to request the information we hold about you (Subject Access Request) -

<https://www.essex.pfcc.police.uk/wp-content/uploads/2019/03/Access-to-Information-Policy.pdf>

I.....(name of participant) would like to take part in the restorative justice or mediation process. I am happy for my details to be shared with partners of the ERMS where appropriate to ensure that I receive an efficient and safe service. I understand that information may be shared if I give facilitators a reason to believe that I, or someone else, is at risk of significant harm. Where possible and safe, this will be discussed with me before anything is disclosed.

Signed..... Date.....

You have a right at any time to remove consent and to ask that information about you be removed from our systems. There are occasions where we may need to retain sufficient information to, for example, evidence what services we provided to you but we will ensure that we comply with data protection and other legal requirements. For more information about your rights under data protection laws and how we process your data, please visit our website <https://www.essex.pfcc.police.uk/contact-us/privacy-notice/>

