

## PFCC Decision Report

**Please ensure all sections below are completed**

<b>Report reference number:</b> 110-21
<b>Classification</b> (e.g. Not protectively marked/restricted): <b>Not protectively Marked</b>
<b>Title of report:</b> Restorative Justice Data Protection Documentation
<b>Area of county / stakeholders affected:</b> Countywide
<b>Report by:</b> Suzanne Humphreys <b>Date of report:</b> 27/7/2021 <b>Enquiries to:</b> Suzanne.humphreys@essex.police.uk

### 1. Purpose of the report

Having undertaken a thorough review of the way the Restorative Justice Team handle data, including sensitive data, this report seeks approval for the revised documentation which sets out the revised processes, procedures, and risks of the function in terms of data handling. These documents are listed under point 2.

### 2. Recommendations

That the Commissioner agrees the updated documents listed below.

Document	DPO action	SMT action
ERMS Consent & Confidentiality Form	Reviewed and amended	Sign off
ERMS Data Protection Impact Assessment	Reviewed and amended	Sign off
ERMS Information Sharing Agreement	Reviewed and amended	Sign off
ERMS Privacy Notice	Reviewed and amended	Sign off
ERMS Volunteer Application Form	Reviewed and amended	Sign off

### 3. Benefits of the proposal

This update is part of a regular annual plan looking at data handling across the Commissioner's office. As such the latest revised document and update will provide reassurance to both the Commissioner and their team that data is being managed

appropriately within the office, that the Senior Management Team has adequate visibility of this and any risks that do arise are understood and mitigated effectively.

#### **4. Background and proposal**

The Data Protection Act 2018 regulates the processing of information relating to individuals. This includes the obtaining, holding, using or disclosing of such information and covers computerised records as well as manual filing systems and card indexes.

The General Data Protection Regulation (GDPR) was applied from 25 May 2018 (replaced by UK GDPR in January 2021). The UK GDPR places greater emphasis on the documentation that data controllers must keep in order to demonstrate their accountability. This Regulation is inherent in the requirements of the Data Protection Act 2018.

The PFCC for Essex is a registered Data Controller (registration no. Z3451171). The PFCC, in providing a service as a public authority, collects, stores and processes personal information. The PFCC must comply with the provisions of the Data Protection Act, UK GDPR and other relevant legislation when processing personal information.

All data controllers have a responsibility to make sure they protect personal data and keep it secure. All team members who manage personal data have a personal responsibility to do so appropriately.

Significant work was undertaken prior to the introduction of the GDPR in May 2018. An internal audit was also commissioned by the PFCC shortly after these regulations came into force and undertaken by RSM. The purpose of the internal audit was to provide a *“factual analysis of data protection controls framework against GDPR requirements and obligations introduced in May 2018.”*

A follow up audit was undertaken in 2020 and the final report published in July 2020. Through this process several areas for improvement were identified and implemented. In the follow up review only three recommendations were identified

- The Data Asset Register will be reviewed and updated in line with the Records Retention and Disposal Policy and a review history will be added.
- All current records will be aligned with the Records Retention and Disposal Policy and Data/Information Asset Owners will at the same time be identified.
- The PFCC Policies and Review Schedule will be reviewed and approved by the SMT and items on this schedule will be reviewed by the Strategic Head of Policy and Public Engagement on a monthly basis.

These recommendations were accepted, actioned and closed by August 2020 and the learning from these recommendations are reflected in the proposed action plan.

In December 2020 the Information Commissioner's Office published the *Office of the Police and Crime Commissioner's Project Overview Report*. This was made available to PFCC three months prior to publication. The report followed an

APCC supported project undertaken by the ICO Assurance department “to gain a more in-depth understanding of working practices and data protection concerns across the sector, as well as within individual OPCCs.”

While not specifically focused on the PFCC’s office in Essex it provides some useful insight into the view ICOs have of PFCC offices and areas of improvement some of which can be applied to Essex. It is also important to note that now that this level of expectation has been published it is clear to all PFCC the expectations on them as Data Controllers.

The recommendations from this report were outlined in the previous SMT report titled “Data Protection” dated 20.02.21 under the following categories:

- Data mapping and documentation
- Controller and processor contracts
- Data protection impact assessments (DPIAs)
- Lawful, fair and transparent processing and privacy notices
- Compliance checks
- Data protection officers (DPOs)
- Assurance
- Training and awareness
- Data sharing
- Information security
- Records management
- Requests for personal data

Following the reorganisation of the PFCC’s office in 2019/2020 a new DPO and SIRO were appointed. This resolved some of the legacy issues around clarity of responsibilities raised in earlier audits.

SMT also committed, in their annual plan, to the development and implementation of a data protection action plan as an additional part of their data protection framework. Additionally, in the earlier report, the following existing policies, processes, checks and balances of our approach set out against the ICO’s accountability framework headings were referenced.

**In the last quarter a thorough review of the Restorative Justice data handling processes and procedures has been undertaken which has resulted in the review of the following documents.**

Document	DPO action	Requested action
ERMS Consent & Confidentiality Form	Revised form produced	Sign off
ERMS Data Protection Impact Assessment	Produced for ISA	Sign off
ERMS Information Sharing Agreement	Revised agreement produced	Sign off
ERMS Privacy Notice	Reviewed / amended	Sign off
ERMS Volunteer Application Form	Reviewed / amended	Sign off

## **5. Alternative options considered and rejected**

It was possible for the DPO to focus on a different area of the PFCC's office before looking at Restorative Justice or to not consider the data handling of this function at all. However, given the level of sensitive personal data being handled by this function on a daily basis and the level of risk this presents to the Commissioner compared to the risk of all the data handled by the Commissioner's team it was agreed that a focus on the Restorative Justice team early on in the Data Protection Plan was a sensible approach and one that effectively balanced risk and benefit.

## **6. Police and Crime Plan**

Public confidence is a key performance indicator for both the Police and Crime Plan and Fire and Rescue Plan. Effective data management is a prerequisite of maintaining public confidence and as compliance with legal responsibilities. This quarterly review helps support the Commissioner in complying with their legal duty, maintaining public confidence and being a trusted partner within the wider Essex system.

## **7. Police operational implications**

The documentation covers how police officers and other professionals provide documentation to refer people to the Restorative Justice Service. This has been changed to make the system more secure and as such will have a very small operational implication. These have been discussed with the Force lead.

## **8. Financial implications**

There are no direct financial implications of this decision.

## **9. Legal implications**

This will help the Commissioner fulfil their legal obligation.

## **10. Staffing implications**

There are no direct staffing implications from this decision.

## **11. Equality and Diversity implications**

There are no direct equality and diversity implications from this decision.

## **12. Risks**

The review of this function and the attached documentation highlights the data handling risks undertaken in performing the function and works to mitigate these risks wherever possible. The documentation does this by following practice guidance and ensure the Commissioner fulfils their legal obligations to handle sensitive data carefully and in line with legislation.

## **13. Governance Boards**

This decision was discussed at the Commissioner's Senior Management Team meeting on the 20<sup>th</sup> of July 2021.

**14. Background papers**

- ERMS Consent & Confidentiality Form
- ERMS Data Protection Impact Assessment
- ERMS Information Sharing Agreement
- ERMS Privacy Notice
- ERMS Volunteer Application Form

**Report Approval**

The report will be signed off by the OPFCC Chief Executive and Treasurer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O.

Sign:  .....

Print: Darren Horsman - Deputy MO .....

Date: 27/7/2021 .....

Chief Finance Officer / Treasurer

Sign:  .....

Print: Julia Berry .....

Date: 6 September 2021 .....

**Publication**

Is the report for publication?

YES

NO

**If 'NO', please give reasons for non-publication** (*Where relevant, cite the security classification of the document(s). State 'None' if applicable*)

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If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

**Redaction**

If the report is for publication, is redaction required:

1. Of Decision Sheet?	YES	<input type="checkbox"/>	2. Of Appendix?	YES	<input type="checkbox"/>
	NO	<input checked="" type="checkbox"/>		NO	<input checked="" type="checkbox"/>

If 'YES', please provide details of required redaction:

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Date redaction carried out: .....

**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**

Date signed: .....

**Decision and Final Sign Off**

I agree the recommendations to this report:

Sign: 

Print: Roger Hirst

**PFCC**

Date signed: 9 September 2021

I do not agree the recommendations to this report because:

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Sign:

Print: