

Joint controller arrangement for section 255 Request from Digital Health and Care Wales to NHS Digital to provide NHS login services for the NHS Wales App

1. Introduction

This Table sets out the roles and responsibilities under Article 26 of the UK General Data Protection Regulation (**UK GDPR**) of the following parties:

- Digital Health and Care Wales (**DHCW**), a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006 (**the 2006 Act**) and by the Digital Health and Care Wales (Establishment and Membership) Order 2020 (**Establishment Order**).
- NHS Digital

in relation to the processing of Personal Data by NHS Digital when Requested by DHCW under section 255¹ of the Health and Social Care Act 2012 (**the 2012 Act**), specifically for providing NHS login as an authentication and identification method for residents of Wales to access services in the NHS Wales App (**the Requested Activity**).

2. The UK GDPR

The purpose of this Table is to set out the Joint Controller Arrangement between DHCW and NHS Digital in relation to the Requested Activity in order to clarify roles and responsibilities for the purposes of Article 26 of the UK GDPR.

Article 26 of the UK GDPR governs the relationship between Joint Controllers. Article 26(1) of the UK GDPR provides that

“where two or more controllers jointly determine the purposes and means of processing, they shall be joint controllers. They shall in a transparent manner determine their respective responsibilities for compliance with the obligations under this Regulation, in particular as regards the exercising of the rights of the data subject and their respective duties to provide the information referred to in Articles 13 and 14, by means of an arrangement between them unless, and in so far as, the respective responsibilities of the controllers are determined by Union or Member State law to which the controllers are subject. The arrangement may designate a contact point for data subjects.”

Under Article 26(2) of the UK GDPR:

“the arrangement referred to in paragraph 1 shall duly reflect the respective roles and relationships of the joint controllers vis-à-vis the data subjects. The essence of the arrangement shall be made available to the data subject”.

¹ S255 Request known as the ‘**NHS login for the NHS Wales App Request 2022**’.

2.1 Transparent Manner

The Table below can be referred to in relevant Data Protection Impact Assessments (**DPIAs**). It will also stand as a stand-alone document which can be issued to anyone who requests it. It transparently sets out each party's respective obligations and responsibilities as Joint Controllers for the Requested Activity.

2.2 Respective Responsibilities for Compliance, in particular with regard to exercise of Data Subject rights and duties to provide information in Articles 13 and 14

The Table below sets out each Controller's responsibilities for:

- compliance with the obligations under UK GDPR which apply to Controllers
- compliance with Article 13 and Article 14 (which is a responsibility of NHS Digital)

This Table constitutes the arrangement referred to in Article 26.

2.3 The arrangement may designate a contact point for Data Subjects

NHS Digital is designated as the contact point for Data Subjects in the Table below and in Transparency Notices relevant to the Requested Activity. NHS Digital's Data Protection Officer is also named as a contact point.

2.4 The arrangement will reflect the respective roles and relationships of the Joint Controller vis-à-vis the Data Subjects

The Table and Transparency Notices reflect these roles. NHS Digital is identified as the Controller who processes Personal Data for the purposes of the Requested Activity issued by DHCW, including collecting and analysing the Personal Data and who is the person designated as the contact point for Data Subjects to exercise their rights.

2.5 The essence of the arrangement shall be made available to the Data Subject

The essence of this arrangement is described in the Transparency Notices for the Requested Activity under which Personal Data is collected by NHS Digital. This document can also be provided to Data Subjects on request by NHS Digital.

3. Key to roles and responsibilities

To assist, where a party:

- has compliance responsibilities, this has been identified with a ✓
- does not have compliance responsibilities, this has been identified with a ✗

UK GDPR Requirement	Digital Health and Care Wales (DHCW)	NHS Digital
Contact Details		
The Controllers	Digital Health and Care Wales DHCW.InformationGovernance@wales.nhs.uk Tŷ Glan-yr-Afon 21 Cowbridge Road East Cardiff CF11 9AD ICO Registration No: ZA919139 https://ico.org.uk/ESDWebPages/Entry/ZA919139	The Health and Care Information Centre, known as NHS Digital. enquiries@nhsdigital.nhs.uk NHS Digital, 7 and 8 Wellington Place Leeds West Yorkshire LS1 4AP ICO Registration No: Z8959110 https://ico.org.uk/ESDWebPages/Entry/Z8959110
Data Protection Officer (DPO)	Darren Lloyd - Data Protection Officer Email: DHCW.InformationGovernance@wales.nhs.uk Post: Data Protection Officer and Associate Director of Information Governance and Patient Safety Digital Health and Care Wales Tŷ Glan-yr-Afon 21 Cowbridge Road East Cardiff CF11 9AD	Jon Moore - Data Protection Officer Email: nhsdigital.dpo@nhs.net Post: DPO and Compliance Privacy, Transparency & Ethics NHS Digital, 7 and 8 Wellington Place Leeds West Yorkshire LS1 4AP

Accountability Requirements			
<p>Accountability</p>	<p>✓</p>	<p>DHCW is the sole Controller for determining the overall purpose of processing Personal Data through requesting and funding NHS Digital to deliver the Requested Activity to residents in Wales.</p> <p>DHCW is Joint Controller for determining the purposes and means of processing personal data to the extent set out in the NHS login for the NHS Wales App Request 2022 ('the Request').</p> <p>DHCW is responsible for complying with the following provisions of UK GDPR in relation to the provision by NHS Digital of the Requested Activity:</p> <ul style="list-style-type: none"> • Article 5(2) (Accountability) • Article 5(1)(a) and Articles 12-14 (Transparency) • Article 25 (Data protection by design and default) • Article 30 (Records of processing activities) • Article 31 (Co-operation with the supervisory authority) • Article 33 (Personal Data breach reporting to the ICO) • Article 34 (Personal Data breach notification to data subjects) • Article 35 (Data Protection Impact Assessment) • Articles 37-39 (DPO) 	<p>✓</p> <p>NHS Digital is the Joint Controller responsible for determining the purposes and the means of processing as set out in the Request but is also the only Controller responsible for processing Personal Data under the Request and is responsible for complying with:</p> <ul style="list-style-type: none"> • Article 5(2) (Accountability) • Article 5(1)(a) and Articles 12-14 (Transparency) • Article 24 (Responsibility of the Controller) • Article 25 (Data protection by design and default) • Article 28 (Processors) • Article 30 (Records of processing activities) • Article 31 (Co-operation with the supervisory authority) • Article 32 (Security of processing) • Article 33 (Personal Data breach reporting to the ICO) • Article 34 (Personal Data breach notification to data subjects) • Article 35 (Data Protection Impact Assessment) • Article 36 (Prior consultation) • Articles 37-39 (DPO) • Articles 44 – 49 (Transfers of Personal Data to third countries or international organisations)

Compliance with Data Protection Principles			
<p>Article 5(1)(a) Lawfulness - personal data is processed lawfully in relation to the Data Subject</p>	✓	<p>DHCW is solely responsible for determining the overall purposes of, and jointly responsible for determining the means for the collection and analysis of personal data by issuing NHS Digital with the NHS login for the NHS Wales App Request 2022. DHCW has in accordance with section 255 of the 2012 Act considered that:</p> <p>(a) the information which could be obtained by complying with the Request is information which it is necessary or expedient for DHCW to have in relation to the exercise of its functions in connection with the provision of health care in Wales, and in particular to enable the DHCW to comply with its functions pursuant to the Digital Health and Care Wales (Establishment and Membership) Order 2020.</p> <p>The lawful basis for determining the purposes and means of processing Personal Data as set out in the Request is:</p> <ul style="list-style-type: none"> Article 6(1) (e) - performance of task in the public interest or the exercise of official authority, supplemented by Data Protection Act 2018 (DPA 2018) section 8(c) - processing that is necessary for the exercise of a function conferred by enactment, namely the functions of DHCW under section 3 of the Digital Health and Care Wales (Establishment and Membership) Order 2020. 	<p style="text-align: center;">✓</p> <p>NHS Digital is also jointly responsible for determining the means for the collection and analysis of the personal data as set out in the Request through the consultation process undertaken by DHCW before issuing the Request and as the Controller with the legal obligation to comply with the Request to collect and analyse personal data to provide the Requested Activity.</p> <p>The lawful basis for processing Personal Data in accordance with the Request is:</p> <ul style="list-style-type: none"> Article 6(1) (e) – processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

<p>Article 5(1)(a) Lawfulness - special categories of personal data² are processed lawfully in relation to the Data Subject</p>	<p>✓</p>	<p>To the extent that the Request involves the processing of Special Category Personal Data, the lawful basis for determining the purpose and the means of processing this data as set out in the Request by DHCW is:</p> <ul style="list-style-type: none"> • Article 9(2)(g) - substantial public interest, supplemented by DPA 2018 Schedule 1, Part 2, paragraph 6 - statutory and government purposes; and/or • Article 9(2)(h) - the management of health and social care systems supplemented by DPA 2018, Schedule 1, Part 1, paragraph 2 - health or social care purposes. <p>DHCW is responsible for ensuring its Request to NHS Digital is lawful and NHS Digital's processing is also lawful under the Request, the common law duty of confidence and UK GDPR to the extent determined by DHCW.</p> <p>DHCW will not process any Personal Data, including Special Category Personal Data, in relation to the Requested Activity.</p>	<p>✓</p>	<p>To the extent that the Request involves the processing of Special Category Personal Data, the lawful basis for determining the purpose and the means of processing this data as set out in the Request and as may be determined by NHS Digital is the exercise of its statutory functions, including under s260 and s261 is:</p> <ul style="list-style-type: none"> • Article 9(2)(g) - substantial public interest, supplemented by DPA 2018 Schedule 1, Part 2, paragraph 6 - statutory and government purposes; and/or • Article 9(2)(h) - the management of health and social care systems supplemented by DPA 2018, Schedule 1, Part 1, paragraph 2 - health or social care purposes.
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² If there is no SCPD then state N/A

<p>Article 5(1)(a) and Articles 12-14 - Fairness and transparency - Personal Data is processed fairly and in a transparent manner in relation to the Data Subject</p>	<p>✓</p>	<p>In relation to the Requested Activity:</p> <p>The Personal Data to be collected and analysed is determined by DHCW and set out in the Request.</p> <p>The overall purpose of collecting and analysing the Personal Data is determined by DHCW and set out in the Request.</p> <p>The means by which Personal Data will be processed is determined by DHCW to the extent set out in the Request.</p> <p>It is also responsible for ensuring that NHS Digital's processing to the extent determined by DHCW, is fair under UK GDPR.</p> <p>Digital Health and Care Wales will be responsible for signposting the user to the Transparency Notice provided by NHS Digital in respect of Personal Data processed by it under the Request which has been published here: https://access.login.nhs.uk/privacy</p>	<p>✓</p>	<p>The Personal Data to be collected and analysed is also jointly determined by NHS Digital and is set out in the Request.</p> <p>The means by which Personal Data will be processed is also jointly determined by NHS Digital as set out in the Request and is as otherwise solely determined by NHS Digital.</p> <p>NHS Digital is solely responsible for the publication and dissemination of Personal Data to the extent not set out in the Request, in accordance with its own statutory functions.</p> <p>NHS Digital is solely responsible for providing a Transparency Notice in respect of the Personal Data processed by it under the Request which has been published here: https://access.login.nhs.uk/privacy</p>
<p>Article 5(1)(b) - Purpose limitation - Personal Data is collected for specified, explicit and legitimate purposes and is not further processed in a manner incompatible with those purposes</p>	<p>✓</p>	<p>The purposes of collecting and analysing the Personal Data are determined by DHCW and set out in the Request.</p>	<p>✓</p>	<p>The purposes of collecting and analysing the Personal Data are also jointly determined by NHS Digital and are as set out in the Request and as otherwise permitted by NHS Digital in the exercise of its statutory functions.</p>

<p>Article 5(1)(c) – Data minimisation - Personal Data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed</p>	<p>✓</p>	<p>The data to be collected and analysed to achieve the purpose is determined by DHCW and is set out in the Request.</p>	<p>✓</p>	<p>The data to be collected and analysed to achieve the purpose is also jointly determined by NHS Digital and is set out in the Request and Requirements Specification and as may otherwise be agreed with the DHCW.</p>
<p>Article 5(1)d) - Accuracy - Personal Data must be accurate and where necessary kept up to date; reasonable steps must be taken to rectify or erase inaccurate data</p>	<p>✓</p>	<p>DHCW is responsible for determining how information is to be kept accurate to the extent specified in the Request.</p>	<p>✓</p>	<p>NHS Digital is also jointly responsible for determining how information is to be kept accurate to the extent specified in the Request and as it otherwise determines to be appropriate in the exercise of its statutory functions.</p>
<p>Article 5(1)(e) - Storage limitation - Personal Data must be kept in identifiable form for no longer than necessary for the purpose for which the Personal Data are processed</p>	<p>✓</p>	<p>DHCW is responsible for determining how long information is to be kept to the extent specified in the Request.</p>	<p>✓</p>	<p>NHS Digital is jointly responsible for determining how long information is to be kept to the extent specified in the Request, and is otherwise responsible for determining how long information is otherwise kept in the exercise of its statutory functions and in accordance with its Records Retention Policy https://digital.nhs.uk/about-nhs-digital/corporate-information-and-documents/records-and-document-management-policy/records-and-document-management-policy</p>
<p>Article 5(1)(f) - Integrity and confidentiality - Personal Data will be processed in a manner that ensures appropriate security, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage</p>	<p>✓</p>	<p>DHCW is responsible for determining how information is to be kept secure to the extent specified in the Request.</p>	<p>✓</p>	<p>NHS Digital is jointly responsible for determining how information is to be kept secure to the extent specified in the Request and is otherwise responsible for keeping information secure in the exercise of its statutory functions.</p>

Data Subjects' Rights and Contact Details				
Article 12 – Transparent information, communication and modalities for the exercise of the rights of the Data Subject	✗	N/A	✓	NHS Digital is solely responsible for compliance with the obligations in Article 12 in relation to the processing of all Personal Data it has obtained through the provision of the Requested Activity.
Article 13 – Information to be provided where Personal Data are collected from the Data Subject	✗	N/A	✓	NHS Digital is responsible for providing Data Subjects with the information required in Article 13 in relation to the processing of all Personal Data it has obtained through the provision of the Requested Activity.
Article 14 – Information to be provided where Personal Data has not been obtained from the Data Subject	✗	N/A	✓	NHS Digital is solely responsible for providing Data Subjects with the information required in Article 14 in relation to the processing of all Personal Data it has obtained through the provision of the Requested Activity other than from the Data Subject.
Article 15 - Data subject Access Request	✗	N/A	✓	<p>NHS Digital is solely responsible for compliance with Data Subject Access Requests regarding the processing of Personal Data under the Request.</p> <p>Information about how to make Subject Access Requests can be found here:</p> <p>https://digital.nhs.uk/about-nhs-digital/corporate-information-and-documents/publication-scheme/how-to-make-a-subject-access-request</p> <p>Subject Access Requests can be made by sending a completed Subject Access Request form to:</p> <ul style="list-style-type: none"> Email: enquiries@nhsdigital.nhs.uk

				<ul style="list-style-type: none"> Post: IG Services team Privacy, Transparency, Legal and Ethics NHS Digital 7 and 8 Wellington Place Leeds West Yorkshire LS1 4AP
Articles 16 – 22 - Other applicable Data Subject rights	✗	N/A	✓	<p>NHS Digital is solely responsible for complying with the exercise of any other Data Subject rights regarding the processing of Personal Data under the Request.</p> <p>These rights are explained in the Transparency Notice and can be exercised in accordance with the Transparency Notice by contacting: enquiries@nhsdigital.nhs.uk</p>
Complaints	✗	N/A	✓	<p>NHS Digital as the Controller processing Personal Data is responsible for investigating any complaints regarding the processing of Personal Data under the Request. Details of how to make a complaint are set out in the Transparency Notice at https://www.nhs.uk/nhs-app/nhs-app-legal-and-cookies/nhs-app-privacy-policy/privacy-policy/</p> <p>Complaints can also be made by contacting the DPO at: enquiries@nhsdigital.nhs.uk</p>
Contact Point for Data Subjects	✗	N/A	✓	<p>NHS Digital is the contact point for Data Subjects referred to in the Transparency Notice in relation to any processing of Personal Data through the provision of the Requested Activity.</p>