

Statement of Data Protection Roles and Responsibilities

Purpose

This statement sets out the roles and responsibilities of the NHS Business Services Authority (NHSBSA) under Data Protection Legislation as it relates to the NHS Pension Schemes and the NHS Injury Benefit Scheme.

The NHSBSA will not enter into individual agreements for data protection with Employing Authorities. This statement coupled with the use of the NHS Pensions Schemes and the NHS Injury Benefit Scheme gives effect to the data processing relationship between the parties.

This statement meets the requirements of Data Protection Legislation and sets out the following: -

- Roles of the NHSBSA and an NHS Pension Scheme Employing Authority (Employing Authority)
- The legal basis for processing
- The subject matter processed
- The duration of the processing
- The type and categories of personal data held and processed
- The responsibilities for Data Subject Rights Requests
- The process for handling breaches
- The process for attributing liabilities

Please note the terms used in this statement are defined in the definitions section at the end of this document.

NHSBSA and Employing Authority Roles

The NHSBSA and the Employing Authorities have the following roles, as defined by Data Protection Legislation: -

Party	Role
NHSBSA	Joint Controller
Employing Authority	Joint Controller

NHSBSA and Employing Authority Responsibilities

The Joint Controllers have the responsibilities detailed in the table below to comply with the GDPR Article 26 transparency requirement: -

Responsibility	Details
<p>Determine the legal basis of processing (GDPR Article 6)</p>	<p>NHSBSA:</p> <p>GDPR Article 6(1)(b) necessary for compliance with legal obligations and Data Protection Act (DPA) 2018 section 10 and the Applied GDPR Article 9(2)(g) as inserted by DPA 2018 Schedule 6 paragraph 12(c) <i>“processing is necessary for reasons of substantial public interest and is authorised by domestic law.”</i></p> <p>The authorised law is DPA 2018 Schedule 1 Part 2 paragraph 21 <i>“processing is necessary for the purpose of making a determination in connection with eligibility for, or benefits payable under, an occupational pension scheme.”</i></p> <p>Employing Authority:</p> <p>The NHSBSA understands that the Employing Authority has the following legal basis:</p> <p style="padding-left: 40px;">GDPR Article 6(1)(a) necessary for the performance of a contract with the data subject;</p> <p style="padding-left: 40px;">GDPR Article 9(2)(a) and DPA 2018 Section 10(1)(a) necessary for UK employment and social security and social protection law.</p>

Responsibility	Details
Document the subject matter of the Processing (GDPR Article 30 (b))	<p>NHSBSA will centrally administer the NHS Pension Schemes and NHS Injury Benefit Scheme in England and Wales.</p> <p>The Employing Authority will locally administer the NHS Pension Schemes and NHS Injury Benefit Scheme. They shall enrol their relevant employees and provide relevant information about these Schemes.</p>
Document the duration of the Processing (GDPR Article 30 (f))	<p>NHSBSA will process the data as detailed in the NHS Pensions Privacy Policy and NHS Injury Benefits Scheme Privacy Notice</p> <p>The Employing Authority will determine their own duration and retention in line with their own policies and procedures.</p>
Document the nature and purpose of the Processing (GDPR Article 30 (b))	<p>NHSBSA will centrally administer the:</p> <ul style="list-style-type: none"> • NHS Pension Schemes as shown in the Pensions Service Charter • NHS Injury Benefit Scheme as set out in the NHS (Injury Benefit) Regulations 1995 (as amended) <p>The Employing Authority will locally administer the:</p> <ul style="list-style-type: none"> • NHS Pension Schemes as outlined in the Employer's Charter. • The NHS (Injury Benefit) Regulations 1995 regulation 18A(3) (as amended).
Document the type of Personal Data (GDPR Article 30 (c))	<ul style="list-style-type: none"> • Family, lifestyle and social circumstances • Financial details • Employment and education details • Visual images, personal appearance and behaviour • Physical or mental health details • Case file information

Responsibility	Details
Document the categories of Data Subjects (GDPR Article 30 (c))	<ul style="list-style-type: none"> • Pension Scheme Members • NHS Injury Benefit Scheme applicants • Employees and ex-employees • Family members of Applicants, include partners, children • Connected Persons • Other individuals details held in the patients record • Medical Practitioner details • Pensioner • Pension administration • NHS Injury Benefit Scheme recipients
<p>Responding to Data Subject Rights Requests:</p> <p>Right of Access (GDPR Article 15)</p> <p>Right to Rectification (GDPR Article 16)</p> <p>Right to Erasure (GDPR Article 17)</p>	<p>NHSBSA will action these rights for the requests it receives based on the personal data it holds.</p> <p>The Employing Authority will action these rights for the requests it receives and the personal data it holds rather than what is held by the NHSBSA.</p>
Providing Privacy Notices to Data Subjects (GDPR Articles 13 - 14)	<p>NHSBSA has provided a privacy notice at www.nhsbsa.nhs.uk/yourinformation and will remind members of this in correspondence and forms that NHS Pension members and NHS Injury Benefit applicants complete.</p> <p>The Employing Authority will provide details of the:</p> <ul style="list-style-type: none"> • NHS Pension Schemes to relevant employees using information made available by NHSBSA as detailed in the Employer's Charter. • NHS Injury Benefit Scheme to relevant employees using information made available by NHSBSA.

Responsibility	Details
<p>Handling Personal Data Breaches (GDPR Articles 33 - 34)</p>	<p>If a personal data breach takes place for information held by the NHSBSA we will ensure that all necessary actions are taken to meet our legal obligations including, where appropriate, contacting the Information Commissioners Office (ICO).</p> <p>If the NHSBSA becomes aware that a breach was caused by the actions or omissions of the Employing Authority then the NHSBSA will advise the Employing Authority. Should such a breach result in compensation claims then the NHSBSA Data Protection Officer (DPO) will discuss this with the Employing Authority's DPO.</p> <p>The Employing Authority will handle personal data breaches relating to the relevant employee data they hold.</p>
<p>Data Subjects right to compensation and liability (GDPR Article 82)</p>	<p>The NHSBSA and the Employing Authority will initially aim to agree who is responsible, and the responsible party will need to determine and pay any compensation. Where there is shared responsibility, the parties will aim to agree the proportions of responsibility attributed to each party and any liability or compensation payment will be shared in such proportions.</p> <p>The parties will also agree who is responsible for defending any claim from a Data Subject. If responsibility cannot be agreed between the parties then reference to the Data Protection Legislation will determine who is responsible and the value of any liability or compensation to be paid.</p>
<p>Contact point for Data Subjects (GDPR Article 38)</p>	<p>The Data Protection Officer of either NHSBSA or the Employing Authority will be the contact points.</p>

Definitions

Connected Persons	a person authorised in writing by a Data Subject to act on their behalf; or a person appointed under a valid power of attorney to act on behalf of a Data Subject;
Controller	has the meaning given in Data Protection Legislation and "Joint Controllers" has the meaning given in Article 26 GDPR;
Data Protection Legislation	the Data Protection Act 2018 (DPA), the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council (GDPR), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to Processing of Personal Data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
Data Subject	has the meaning given in Data Protection Legislation;
Data Subject Rights Request	a request made by a Data Subject in accordance with rights granted pursuant to Data Protection Legislation to access his or her Personal Data as set out in Articles 15 to 22 of GDPR;
European Law	European Union or European Member State law (as referred to in the GDPR) or such other law as may be designated in its place when England (whether with Scotland, Wales and/or North Ireland or not), leaves the European Union;
GDPR	the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council);
Personal Data	has the meaning given in Data Protection Legislation;
Process	has the meaning given in Data Protection Legislation and "Processed" and "Processing" shall be construed accordingly;