

## Information Sharing in Fostering for Adoption and Early Permanence Placements

### GDPR advice

The DPA 2018 and the GDPR 2018 protect individuals with regard to the processing of their personal data. This legislation needs to be complied with when processing data relating to not only the children for whom we are seeking adoption but also their parents and other family members.

“Processing” of data for the purposes of this legislation covers a wide range of operations performed on personal data, including by manual or automated means. It includes the collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of personal data.

When processing personal data the GDPR 2018 provides that certain principles are followed:

- **Lawfulness, fairness and transparency:** you must identify valid grounds (known as “lawful basis”) for collecting and using personal data. You must ensure that you do not do anything within the data in breach of any other laws. You must use personal data in a way that is “fair”- this means that you must not process the data in a way that is unduly detrimental, unexpected or misleading to the individuals concerned. Further, you must be clear, open and honest with people from the start about how you will use their personal data.
- **Purpose limitation:** you need to have in mind the purpose for which you are processing the personal data and if that purpose changes you need to record the new purpose and carefully consider if you need to obtain new consent for processing the data (or if you have another “legitimate basis” for processing the data).
- **Data minimisation:** you should only process data that is “necessary”
- **Accuracy:** you must ensure that the data you are processing is accurate.
- **Storage limitation:** once data is no longer needed it should no longer be retained
- **Integrity and confidentiality:** your data processing systems must have appropriate security measures to protect the data that is held (for instance, the data only being accessible to those who have a legitimate purpose for accessing it)

The GDPR 2018 requires organisations, including Councils, to have a lawful basis for each and every instance of data processing. Lawful basis includes:

- (1) **Consent-** the person to whom the data relates has freely given consent for their information to be processed for a specific purpose. It should however be born in mind that the imbalance of power between Local Authorities and individuals is such that Local Authorities should be cautious relying on this basis.
- (2) **Processing the data is “necessary” for:**
  - (a) **Contact-fulfilment of a contract with the individual**
  - (b) **Legal obligation-compliance with the law**
  - (c) **Vital interests-** to save or protect an individual’s life
  - (d) **Public interest/official duty-**processing is necessary to perform a public interest in official functions (such functions may include Local Authorities’ statutory duties)