

# Data Protection Impact Assessment (DPIA)

## DPIA for:

- Your Care Connected

## Reasons for the DPIA:

- Compliance with GDPR and DPA 2018



## Contents

Contents .....	2
Document History .....	2
Step 1: Identify the need for a DPIA .....	3
Step 2: Describe the processing .....	4
Step 3: Consultation process .....	7
Step 4: Assess necessity and proportionality .....	8
Step 5: Identify and assess risks .....	10
Step 6: Identify measures to reduce risk .....	11
Step 7: Sign off and record outcomes .....	12

## Document History

This section should only be used when a new version of an existing document is created. Newer versions should detail which sections have been amended/added.

Version	Review date	Reviewed by
0.5	26 <sup>th</sup> October 2018	██████████
0.6	8 <sup>th</sup> November 2018	██████████
0.7	9 <sup>th</sup> November 2018	YCC team review
0.8	22 <sup>nd</sup> November 2018	IG review
0.9	28 <sup>th</sup> November 2018	██████████
1.0	1 <sup>st</sup> May 2019	YCC Programme Board

## Step 1: Identify the need for a DPIA

Explain broadly what project aims to achieve and what type of processing it involves. You may find it helpful to refer or link to other documents, such as a project proposal. Summarise why you identified the need for a DPIA.

Your Care Connected (YCC) aims to improve the care patients receive through providing authorised health and care staff with secure, seamless and swift access to relevant and important information.

### Background and current status

The programme was established in 2014 and is currently hosted by NHS Birmingham and Solihull CCG in partnership with Sandwell and West Birmingham CCG, on behalf of healthcare providers and GP practices across the Birmingham, Solihull and Sandwell areas, covering a population of 1.8 million.

The first phase of the programme has been to enable doctors, nurses and other authorised health and care staff providing direct patient care to electronically view real-time and relevant information from a patient's GP record. Information shared includes coded details of medications, allergies, conditions, procedures, investigations, examinations. Certain sensitive information codes are excluded as is free text comments and documents. More recently, a supportive care/palliative care dataset was introduced, displaying specific supportive care codes to help communicate important aspects of frailty and end of life care wishes.

The programme has required intense engagement with patients, GP Practices and hospital providers. To-date, over 1.5m patients, aged 16 and above, have had an individualised letter from their GP Practice explaining the purpose and value of sharing their information and providing details of how they can opt-out of the service, should they wish to do so. So far, the opt-out rate at 1.2% is low compared to other national programmes. All 256 practices across the two CCGs have been provided with advice, information and support about the programme. Each practice is required to meet minimum standards of data quality, sign a Data Sharing Agreement and configure their clinical system to allow information to flow through to the providers that are connected to the service. As of October 2018, 240 GP Practices are fully enabled for sharing.

Currently, six major provider trusts have enabled their clinical systems to connect to YCC service which means they already have access to over 1.7m GP patient records: Birmingham and Solihull Mental Health NHS Foundation Trust (BSMHFT); University Hospitals Birmingham NHS Foundation Trust Queen Elizabeth hospital (UHB QE) and Heartlands, Good Hope and Solihull Hospitals (UHB HGS); Birmingham Women's and Children's NHS Foundation Trust (BWCH); Birmingham Community Healthcare NHS Foundation Trust (BCHC); and Sandwell and West Birmingham Hospitals NHS Trust (SWBH). These providers between them are making over 10,000 enquiries per month to the YCC service.

### Data Sharing Agreement

The Your Care Connected (YCC) Data Sharing Agreement (DSA) is dated September 2016 when the 1998 Data Protection Act (DPA98) was in force. On May 25th 2018 the General Data Protection Regulation (GDPR) came into force across the European Union and was enacted in the UK as the Data Protection Act 2018 (DPA18). Having received advice from internal IG and legal teams as well as from NHS England, YCC believes that the current DSA is compliant with GDPR, but there is an opportunity to take advantage of the new provisions enabled by the GDPR regulations. Our DSA also stipulates an expectation to review the DSA regularly in light of any new national guidance. This document should be read alongside the existing DSA and also provides the basis for updating public facing information to reflect the changes under GDPR (see appendix 1).

### Current DSA under GDPR

Much of the content of the current DSA still directly applies under GDPR. Most importantly the purpose for data sharing has not changed and is still for direct care only. The scope of sharing also hasn't changed and is still a local shared care record. The principles of fairness and transparency, data minimisation and accuracy

are already covered adequately. Data storage is not a concern for YCC as no data is stored outside of the current systems. YCC provides a real time view (look-up) of the GP record without local or remote storage. Integrity and Confidentiality (Security) have always been a key priority for YCC and the existing DSA clearly details the safeguards, both technical and organisational, that are in place. Individual organisations are of course responsible for compliance with GDPR but the YCC team has done due diligence in checking this compliance

### Need for a DPIA

This DPIA reviews the impact of complying with the GDPR/DPA18.

## Step 2: Describe the processing

**Describe the nature of the processing:** how will you collect, use, store and delete data? What is the source of the data? Will you be sharing data with anyone? You might find it useful to refer to a flow diagram or other way of describing data flows. What types of processing identified as likely high risk are involved?

YCC draws upon information already available and collected by all partners as part of their business as usual using their existing systems. Key information is currently gained from GP systems for each patient. There are specific roles for users and the access and security of information will continue to be available to each user according to the role they undertake. The current list of authorised health and care staff include: Clinical Psychologist, Dietician, Doctor, Health visitor, Occupational therapist, Nurse, Orthoptists, Orthotists, Paramedic, Pharmacist, Pharmacy technician, Physiotherapist, Podiatrist, Prosthetist, Midwives and Speech and language therapist. rent partners in scope for data sharing: total population circa 1.8 million

### **Clinical commissioning groups**

NHS Birmingham and Solihull CCG  
NHS Sandwell and West Birmingham CCG

### **Secondary care providers**

Birmingham and Solihull Mental Health (BSMHFT)  
Queen Elizabeth hospital (UHB QE)  
Heartlands, Good Hope and Solihull Hospitals (UHB HGS)  
Birmingham Women's and Children's (BWCH)  
Birmingham Community Healthcare (BCHC)  
Sandwell and West Birmingham Hospitals (SWBH)  
Royal Orthopaedic Hospital (ROH)

### **Urgent care services**

West Midlands Ambulance Service (WMAS)  
111, Walk in centres, Out of hours providers

### **Local authorities**

Birmingham Local Authority  
Solihull Local Authority  
Sandwell Local Authority

### **GP practices**

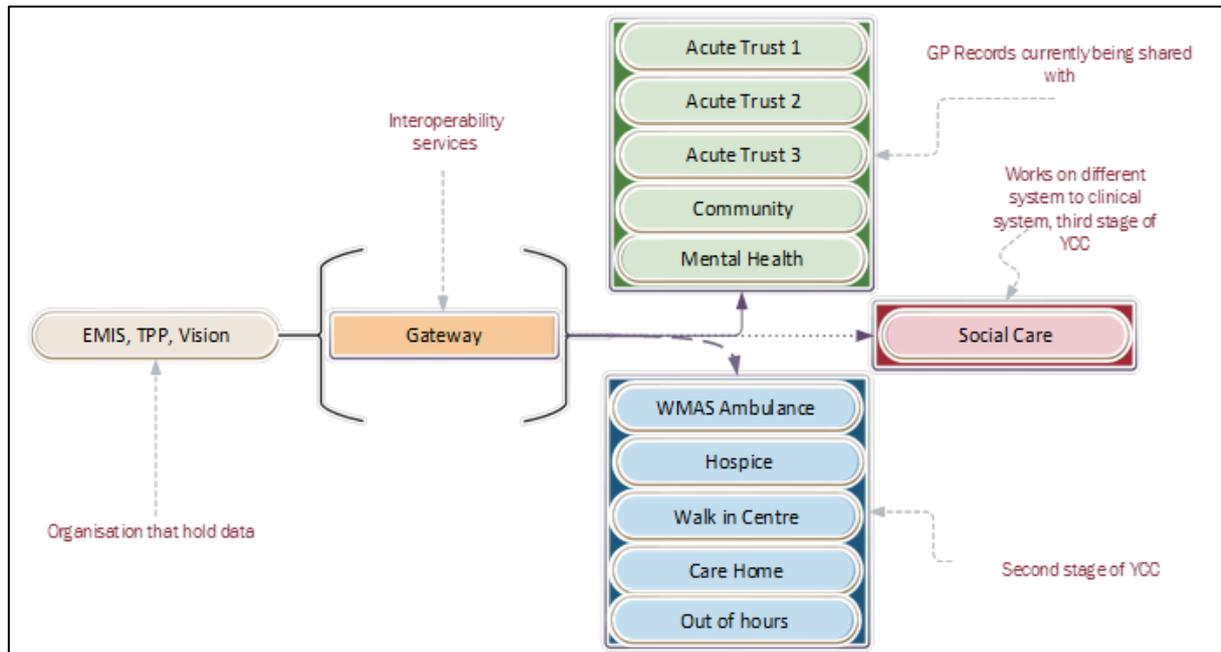
256 practices

### **Hospices**

St Mary's Hospice  
John Taylor Hospice  
Marie curie Solihull

### Current YCC data sharing arrangements

**YCC Phase 1:** GP patient record sharing to healthcare providers for direct patient care.



**Describe the scope of the processing:** what is the nature of the data, and does it include special category or criminal offence data? How much data will you be collecting and using? How often? How long will you keep it? How many individuals are affected? What geographical area does it cover?

Current scope of processing

YCC is currently live, sharing GP record data from 240 practices for 1.7 million patients across Birmingham, Sandwell and Solihull. It includes personal information (such as name, address and date of birth) as well as more sensitive personal information about someone’s health (such as conditions, medications, allergies, investigations, procedures, encounters and examinations). A subsection of sensitive and legally restricted codes are not shared (IVF treatment, sexually transmitted infections, gender realignment and termination of pregnancy). The data is sourced from the GP record in real time using “look up” technology and is currently “view only”.

**Describe the context of the processing:** what is the nature of your relationship with the individuals? How much control will they have? Would they expect you to use their data in this way? Do they include children or other vulnerable groups? Are there prior concerns over this type of processing or security flaws? Is it novel in any way? What is the current state of technology in this area? Are there any current issues of public concern that you should factor in? Are you signed up to any approved code of conduct or certification scheme (once any have been approved)?

Authorised health and care staff accessing information in YCC will continue to have a legitimate relationship with the person whose information they are accessing, i.e. they are directly responsible for providing direct care for that person. Sharing for direct care purposes is limited to authorised health and care staff.

Patients generally expect their information to be shared between health and care staff who are responsible for their care. Many shared health records exist across the country. Patients are able to opt out YCC, currently this is by informing their registered GP practice. Where this is a child or vulnerable patient, a best interest decision may decline the request to opt out.

To date patients have been asked for their explicit consent at the point of care prior to viewing the record. This has caused difficulties where record access is needed before or after a patient has attended and led to system inefficiencies due to repetitive permissions being sort. Patients that have regular visits to health care providers have expressed concern about being repeatedly asked for consent. There has been an allowance to “break glass” in an emergency should the patient lack capacity for example if unconscious.

With the change in the legal basis for sharing information, there is no longer a legal requirement to obtain explicit patient consent before viewing information in the patient record. The requirement to document access to the patient record using the normal controls in the provider organisation will remain and be available for audit purposes. In addition, and in the interests of transparency, it is advisable to let patients know that their record is being viewed and providers should consider adopting this as best practice.

**Describe the purposes of the processing:** what do you want to achieve? What is the intended effect on individuals? What are the benefits of the processing – for you, and more broadly?

#### **Improves the safety and quality of care**

- YCC allows authorised health and care staff to access important and potentially life-saving information such as a penicillin allergy recorded in the GP record.
- YCC improves continuity of care across healthcare boundaries and settings such as helping a hospital doctor view care provide from the GP record.
- YCC provides better coordination of care around the patient from knowing more about who is involved in providing care such as information to supporting end of life and palliative care.
- YCC provides real time up-to-date information to improve the reliability of information that might otherwise be out-of-date such as referrals letters sent 3 months prior to an outpatient appointment.
- YCC helps to provide a more complete picture of the patient history to improve care and decision making.
- YCC can help reduce harm and clinical negligence if errors are averted from having better access to information.

#### **Improves efficiency and saves time**

- YCC provides fast access to medical information much quicker than having to phone or fax another provider such as a GP surgery
- YCC enables secure access to records 24-7 even when a service is closed such as on weekends or overnight.
- YCC helps reduce the burden of patients having to tell their story to each authorised health and care staff.
- YCC can help reduce the number of forms to complete, reduce waiting times and reduce unnecessary stays in hospital.
- YCC can help reduce unnecessary repeat tests, such as blood tests and X-rays.
- YCC can be integrated into the provider clinical system to quickly and securely authenticate access.

#### **Protects information and privacy**

- Only authorised health and care staff can view the medical records for direct care purposes
- Access is provided through a secure network ensuring your information is always secured to the highest possible standards.
- More secure than current alternatives such as sending records via fax, recorded delivery or email to the participating organisations.

### Step 3: Consultation process

Consider how to consult with relevant stakeholders: describe when and how you will seek individuals' views – or justify why it's not appropriate to do so. Who else do you need to involve within your organisation? Do you need to ask your processors to assist? Do you plan to consult information security experts, or any other experts?

Extensive work has been undertaken since 2014 to engage stakeholders and significant progress has been made. Through this engagement the service is being frequently reviewed. This has led to the commitment to expand and enhance the service together with responding to recent legislative changes. Consultation is ongoing to seek the views of all relevant stakeholders. Views are being sort from providers, LMCs, NHS England and patient participation groups.

The current list of YCC stakeholders below is maintained and updated on our website:

- NHS Birmingham and Solihull CCG
- NHS Sandwell and West Birmingham CCG
  
- Patient participation group
- Patient representative on programme board
  
- Birmingham Local Medical Committee
- Sandwell Local Medical Committee
- Solihull Local Medical Committee
  
- Birmingham Local Authority
- Sandwell Local Authority
- Solihull Local Authority
  
- Birmingham and Solihull Mental Health Foundation Trust (BSMHFT)
- Queen Elizabeth hospital (UHB QE)
- Heartlands, Good Hope and Solihull Hospitals (UHB HGS)
- Birmingham Women's and Children's Foundation Trust (BWCH)
- Birmingham Community Healthcare Foundation Trust (BCHC)
- Sandwell and West Birmingham Hospitals Trust (SWBH)
- Royal Orthopaedic Hospital
  
- West Midlands Ambulance Service (WMAS)
- 111, Walk in centres, Out of hours providers
  
- St Mary's Hospice
- John Taylor Hospice
- Marie Curie Hospice

## Step 4: Assess necessity and proportionality

Describe compliance and proportionality measures, in particular: what is your lawful basis for processing? Does the processing actually achieve your purpose? Is there another way to achieve the same outcome? How will you prevent function creep? How will you ensure data quality and data minimisation? What information will you give individuals? How will you help to support their rights? What measures do you take to ensure processors comply? How do you safeguard any international transfers?

<p>What is your lawful basis for processing?</p>	<p>The lawful basis for processing information within YCC is based on the following legislation:</p> <p><u>Health and Social Care Act 2012</u></p> <p>All health and adult social care providers are subject to the statutory duty under section 251B of the Health and Social Care Act 2012 <b>to share information about a patient for their direct care</b>. This duty is subject to the common law duty of confidence, the Data Protection Act 2018 and the General Data Protection Regulation (GDPR).</p> <p><u>Common Law Duty of Confidence</u></p> <p>For common law purposes, <b>sharing information for YCC is on the basis of implied consent</b>.</p> <p>Implied consent to access relevant information about the patient, or to share it with those who provide (or support the provision of) direct care to the patient can be relied on as a legal basis if the following conditions are met:</p> <ul style="list-style-type: none"> <li>• The information being shared or accessed is to provide or support the patient’s direct care.</li> <li>• Information is readily available to patients, explaining how their information will be used and that they have the right to object.</li> <li>• There is no reason to believe the patient has objected.</li> <li>• The information is shared in confidence.</li> </ul> <p>YCC meets the above conditions.</p> <p><u>GDPR / DPA 2018</u></p> <p>Under GDPR there must be a valid lawful basis to process personal data. <b>For GDPR sharing information for YCC is on the basis of public task</b> where “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”. Article 6(1)(e) of the GDPR is the condition for lawfully processing data for delivering direct care as part of YCC:</p> <p><b>6(1)(e) ‘...for the performance of a task carried out in the public interest or in the exercise of official authority...’</b></p> <p>Article 9(2)(h) of the GDPR is the condition for processing ‘data concerning health’ (personal data relating to the physical or mental health of a natural person, including the provision of health care services, which reveal information about his or her health status) for direct care as part of YCC:</p> <p><b>9(2)(h) ‘...medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems...’</b></p>
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	<p>With the GDPR regulatory change in the legal basis for sharing information, there is no longer a legal requirement to obtain explicit patient consent before viewing information in the patient record. The requirement to inform the patient and document access to the patient record using the normal controls in the provider organisation will remain and be available for audit purposes. For unscheduled care the treating clinician will still ask for permission to view the GP record where possible. For scheduled care, on referral, the patient has given permission through implied consent to share relevant information, as outlined in the GMC guidance on confidentiality. Patient still have the right to restrict and object to processing through opting out via their registered GP practice.</p>
Does the processing actually achieve your purpose?	<p>Yes, this processing enables Your Care Connected(YCC) aims to improve the care patients receive through providing authorised health and care staff with secure, seamless and swift access to relevant and important information.</p>
Is there another way to achieve the same outcome?	<p>The status quo is not fit for purpose and unsatisfactory, which is to collate paper records and request providers to post or fax information.</p>
How will you prevent function creep?	<p>YCC is committed to enhancing and expanding the service to improve patient care. Each development will be done in a transparent manner with robust governance through the YCC programme board and accountability to stakeholders and undertaking any necessary data privacy impacts assessments.</p>
How will you ensure data quality and data minimisation?	<p>All participating organisations will continue to ensure that they have processes in place to ensure the accuracy of information that they share. Data minimisation is ensured through defined data sets to extract relevant and important information. For example, for GP record sharing only coded data is shared, which excludes the consultation journal free text.</p>
What information will you give individuals?	<p>YCC will fulfil its obligations for informing patients, both those already enrolled in the YCC scheme and those that will join in the future, through updated privacy notices available at practices and providers, displaying patient posters and leaflets at practices and providers and publishing information on the YCC website.</p>
How will you help to support their rights?	<p>YCC will continue to help patients be aware of their rights such as opting out of the scheme via the website and leaflets. Patients can download and complete an opt out form and give to their registered GP practice.</p>
What measures do you take to ensure processors comply?	<p>YCC seeks assurance that data processors systems used are ISO 20000 &amp;ISO 27001 certified and are regularly audited internally and externally</p>
How do you safeguard any international transfers?	<p>YCC ensures that technologies procured only process data via secure NHS networks that are limited to the United Kingdom.</p>

## Step 5: Identify and assess risks

Describe source of risk and nature of potential impact on individuals. Include associated compliance and corporate risks as necessary.

Risk and nature of potential impact on individuals (including associated compliance and corporate risks as necessary)	Likelihood of harm	Severity of harm	Overall risk
	Remote Possible Probable	Minimal Significant Severe	Low Medium High
1. <b>Risk that the shared record may not be available and affect health care provision.</b> Failure due to technical or user difficulties may prevent viewing of the shared record. A minority of patients have opted out of the scheme preventing sharing.	Possible	Minimal – quality of health and care provision not dependent on YCC	Low
2. <b>Risk that misuse of data could cause distress and damage to individuals.</b> Inappropriate, unauthorised, unlawful and intercepted access to data could cause distress and possible damage to individuals.	Possible	Significant	Medium
3. <b>Risk that partners may be fined, may be subject to legal challenge or civil action, or may face reputational damage</b> due to breaches in compliance and/or distress and damage to individuals.	Remote – based on 4 years YCC experience	Significant	Low
4. <b>Risk that inaccurate information shared affects health and care provision</b> due to absent or erroneous information recorded on the source data	Possible	Significant	Medium
5. <b>Risk that patients will expect explicit consent</b> due to previous mail out and communications in contrast to the new updated GDPR changes to the legal basis	Remote	Minimal – best practice to still inform patient, new privacy communications will be made available	Low

Risk Matrix

Score	Likelihood	Severity
1	Remote	Minimal
2	Possible	Significant
3	Probable	Severe

Risk Grade

Score	Overall Risk
1-3	Low
4-6	Medium
7-9	High

## Step 6: Identify measures to reduce risk

Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk in step 5

Risk	Options to reduce or eliminate risk	Effect on risk Eliminated Reduced Accepted	Residual risk Low Medium High	Measure approved Yes/no
<p><b>2. Risk that misuse of data could cause distress and damage to individuals.</b></p>	<p>Robust legal basis for sharing in place and all partners adhere to information governance standards. Accreditation is through the new Data Security and Protection Toolkit (DSP Toolkit). Role based access limits access to authorised health and care staff and assurances are in place to ensure legitimate relationships. Data processing solutions run over the secure NHS network and are compliant with the ISO 27001 for Information Security Management Systems and ISO 9001 for Quality Management Systems.</p>	<p>Possible</p>	<p>Low</p>	<p>Yes</p>
<p><b>4. Risk that inaccurate information shared affects health and care provision</b></p>	<p>All partners have legal obligation to maintain accurate records and assure data quality. Agreements are in place that each viewing partner remains responsible for any decisions taken and it is incumbent upon the viewing authorised health and care staff to validate the information with the patient or otherwise as appropriate, as information is provided in good faith but its accuracy, as with any health record, cannot be guaranteed.</p>	<p>Possible</p>	<p>Low</p>	<p>Yes</p>

## Step 7: Sign off and record outcomes

Item	Name/date	Notes
Measures approved by:	<b>YCC IG steering group</b>	Integrate actions back into project plan, with date and responsibility for completion
Residual risks approved by:	<b>YCC Programme Board</b>	If accepting any residual high risk, consult the ICO before going ahead
This DPIA will kept under review by:	<b>YCC Programme Board</b>	The DPO should also review ongoing compliance with DPIA