

DoH DATA PROTECTION IMPACT ASSESSMENT SCREENING EXERCISE

Please read chapter 4 of accompanying guidance before completing this exercise

Project Name:

The Foster Placement and Fostering Agencies Regulations (Northern Ireland) 2023

Business Area:

**Family and Children's Policy
Directorate**

Branch:

**Looked After Children and Adoption
Policy**

1. PROJECT SUMMARY

Briefly describe your project, plan or proposal. Set out its purpose and any projected benefits.

The new Regulations have been drafted with the intention of revoking and replacing the Foster Placement (Children) Regulations (NI) 1996.

A fostering agency is a body which discharges functions on behalf of an authority in connection with the placing of children with foster parents.

The introduction of new Foster Placement and Fostering Agencies Regulations will allow HSC Trusts to make arrangements with fostering agencies to engage in the activities of assessing and approving foster parents on their behalf subject to a written agreement. The aim is to help meet the increasing demand for fostering placements by increasing capacity for approval of foster parents and, minimising delay in the process to approve foster parents.

The introduction of the new Regulations will bring Fostering Agencies within the scope of inspection and regulation by the Regulation and Quality Improvement Authority (RQIA) to ensure that all fostering agencies are operating in the best interests of children in foster placements and foster parents.

2. STAKEHOLDERS

Identify your data subjects and also the main stakeholders or bodies involved and their role in the project.

- Main data subjects are prospective foster parents

- looked after child whose personal data may need to be shared with foster agency and foster parent
- Fostering Agencies staff

Main stakeholders are the HSCTs and Fostering Agencies as the bodies responsible for ensuring relevant checks and data is held securely for the required retention period.

3. BRIEF DESCRIPTION OF PERSONAL DATA INVOLVED

Personal data that is collected includes:

- information enabling assessments of prospective foster parents by panel including sensitive and special category data such as enhanced disclosure checks (for foster parent, members of their household and family), medical records and personal references;
- information in relation to looked after children contained within foster placement agreements, which may also include their personal history, state of health and educational needs;
- Fostering Service Providers – checks on provider, manager and staff. Details of staff records must be kept for 15 years

4. PRIVACY ASSESSMENT

Use this checklist to assess the project for privacy risks. The questions below will help you consider whether a DPIA is necessary.

(i) Does the project/activity involve any of the following high risk processing?	Yes	No	If yes, explain your response
Systematic or extensive profiling, evaluation or scoring	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Large scale processing of sensitive data	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Systematic monitoring of individuals	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Use of new technology or novel use of existing technology	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Denial of an individuals' access to a service	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Profiling of individuals on a large scale	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Processing of biometric data	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Processing of genetic data	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Processing of sensitive data or data of a highly personal nature	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The new Regulations will allow HSC Trusts to make arrangements with fostering agencies to engage in the activities of recruiting and approving foster parents on their behalf subject to a written agreement.</p> <p>Fostering agencies and HSC trusts will maintain records of assessments, approvals and reviews of foster parents and placements.</p>
Combining, comparing or matching data obtained from multiple sources	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Invisible processing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Tracking geolocation or behaviour	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Targeting of children or other vulnerable individuals	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Risk of physical harm	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>If you answer yes to any of the questions in section 4 (i) above, it is likely that a DPIA will be automatically required. Consult the DoH Data Protection Officer for further advice.</p>			
(ii) Does the project involve any of the following?	Yes	No	If yes, explain your response
Automated decision-making with a legal or similar significant effect.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Processing of data on a large scale.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
A change to an existing policy, process or system that involves personal data (e.g. new legislation or policy that makes it compulsory to collect or disclose information).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The new Regulations will allow HSC Trusts to make arrangements with fostering agencies to engage in the activities of recruiting and approving foster parents on their behalf subject to a written agreement.</p> <p>This requires data to be collected in relation to prospective foster parents by fostering agencies.</p>

A change in location of a business area or branch (e.g. plans to centralise a service or an office move).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
A practice or activity that is listed on a risk register (e.g. activities listed on your business area's risk register or health and safety register).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Collecting new information about an individual (e.g. gathering information about an individuals' location).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
A new way of gathering personal information (e.g. collecting information online rather than on paper forms).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
A change in the way personal information is stored or secured (e.g. cloud storage).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
A change to how sensitive personal information is managed (e.g. moving health records to a new database).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Transferring personal information offshore (e.g. using a cloud based application to store data).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
A decision to retain personal information for longer than previously kept (e.g. keeping information for 10 years when you previously only held it for 7).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>The retention period for foster parents' records have also been increased from 10 years to at least 40 years (and may be extended further to 75 years dependent on outcome of consultation exercise) from the date on which approval / placement is terminated, or until foster parent's death, if earlier.</p> <p>The retention period has been increased to a minimum of 40 years in line with the Good Records Good Management Guidance produced by the Department. There may be a further increase in retention period to 75 years which will bring fostering regulations in line with adoption legislation.</p>

Using information classed as 'special category data' (e.g. information about an individual's health).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Information regarding an application to become a foster parent includes details on health and religion of applicants.
Using personal data already held for a new purpose (e.g. to obtain customer profiles).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Disclosing information to a third party (e.g. following a request from a law enforcement agency to provide information for a particular purpose).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Sharing or matching personal information held by different organisations or in different datasets (e.g. combining data with other information held on systems or sharing information to enable organisations to provide services jointly).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
A change in policy that results in people having less access to information that you hold about them (e.g. archiving documents after 6 months into a facility from which they cannot be easily retrieved).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Establishing a new way of identifying individuals (e.g. a unique identifier, a biometric, or online identity system).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Introducing a new system for searching individuals' property, persons or premises (e.g. adopting a new policy of searching data on mobile phones that have been returned for upgrading).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Surveillance, tracking or monitoring of movements, behaviour or communications (e.g. installing a new CCTV system or monitoring a member of staff's email account).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Changes to premises impacting on private spaces where clients/staff may discuss personal data (e.g. changing the location of a reception desk where people may disclose personal details or relocating a branch where sensitive personal data is processed).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
New regulatory requirements that could lead to compliance action against individuals on the basis of information about them (e.g. adding a new medical condition to the requirements of a licence).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Other privacy intrusions such as body searches, or intrusion into physical space.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Additional Comments/Notes

5. INITIAL RISK ASSESSMENT

If you answered 'Yes' to any of the questions in section 4, use the table below to give a rating - either Low (L), Medium (M), or High (H) – to each of the aspects of the project set out in the first column. If you answered 'No' to all the questions in section 4, move on to section 6.

Aspect of the Project	Rating (L, M or H)	
Level of personal data handling	L – Minimal personal information will be handled	<input type="checkbox"/>
	M – A moderate amount of personal information (or information that could become personal information) will be handled	<input checked="" type="checkbox"/>
	H – A significant amount of personal information (or information that could become personal information) will be handled	<input type="checkbox"/>
Sensitivity of information	L – The information is not sensitive	<input type="checkbox"/>
	M – The information may be considered to be, or may become, sensitive	<input checked="" type="checkbox"/>
	H – The information is highly sensitive	<input type="checkbox"/>
Significance of the changes	L – Only minor change to existing functions/activities	<input checked="" type="checkbox"/>
	M – Substantial change to existing functions/activities; or a new initiative	<input type="checkbox"/>
	H – Major overhaul of existing functions/activities; or a new initiative that's significantly different	<input type="checkbox"/>
Interaction with third parties	L – No interaction with other agencies	<input type="checkbox"/>
	M – Interaction with one or two other agencies	<input checked="" type="checkbox"/>
	H – Extensive cross-agency (government) interaction or cross-sectional (non-government and government) interaction	<input type="checkbox"/>
Public impact	L – Minimal impact on the organisation and individuals	<input type="checkbox"/>
	M – Some impact on individuals is likely due to changes to the handling of personal information; or the changes may raise public concern	<input checked="" type="checkbox"/>
	H – High impact on individuals and the wider public; concerns over aspects of project or negative media interest is likely.	<input type="checkbox"/>

6. SUMMARY OF PRIVACY IMPACT

The privacy impact for this project has been assessed as:

Low – There is little or no personal information involved; or the use of personal information is uncontroversial; or the risk of harm eventuating is negligible; or the change is minor and something that the individuals concerned would expect; or risks are fully mitigated.

Medium* – Some personal information is involved, and several low to medium risks have been identified

High* – Sensitive personal information is involved, and several medium to high risks have been identified

Reduced risk – The project will lessen existing privacy risks

Inadequate information – More information and analysis is needed to fully assess the privacy impact of the project.

Briefly summarise reasons for the rating given

This information is already collected by HSC Trusts in relation to approval of foster parents.

The new Regulations will allow HSC Trusts to make arrangements with fostering agencies to engage in the activities of recruiting and approving foster parents on their behalf subject to a written agreement.

Information in relation to looked after children contained within foster placement agreements, may also include their personal history, state of health and educational needs.

Fostering Agencies will be required to follow Standards (to be developed by the Department which will include requirements in respect of data processing and retention of records) and will be subject to inspection by RQIA.

*** If you have assessed the privacy impact as medium or high, a DPIA must be carried out.**

7. RECOMMENDATION

A full data protection impact assessment **is** required

A full data protection impact assessment **is not** required

Reasons

Given the assessment of privacy impact as medium it is considered that a full data protection impact assessment is required.

8. SIGN OFF

Project Manager

Name: Christine Henderson

Date: 01/10/22

Signed:

Senior Responsible Owner/Information Asset Owner

Name:

Jennifer Mooney

Date:

01/10/22

Signed:

Department of Health

DATA PROTECTION IMPACT ASSESSMENT REPORT

DPIA Ref No.	
Project Name	
The Foster Placement and Fostering Agencies Regulations (Northern Ireland) 2023	
Business Area	
Family and Children's Policy Directorate Looked After Children and Adoption Policy Unit	
Information Asset Owner	Project Manager
Jennifer Mooney	Christine Henderson

1. Identify the need for a DPIA - outline the purpose for processing the data and the scope of processing

i) Explain broadly what the project aims to achieve and what type of processing it involves.

The Foster Placement and Fostering Agencies Regulations (Northern Ireland) is secondary legislation and has been drafted with the intention of revoking and replacing the Foster Placement (Children) Regulations (Northern Ireland) 1996.

The main change to be made by the new Fostering Regulations is to allow HSC Trusts to make arrangements for fostering agencies to approve foster parents on their behalf subject to a written agreement; and to bring fostering agencies within the scope of registration and inspection by the RQIA.

ii) Outline the scope and purpose of the processing. *What is the nature of the data? Does it include special category 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? What do you want to achieve? What is the intended effect on individuals? 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? What is the current state of technology in this area? Are there any current issues of public concern that you should factor in?*

Personal data that is collected includes:

- information enabling assessments of prospective foster parents including enhanced disclosure checks (for foster parent, members of their household and family), medical records and personal references. This information must be kept a minimum of 40 years (and potentially up to 75 years depending on outcome of consultation)
- information in relation to looked after children contained within foster placement agreements, which may also include their personal history, state of health and educational needs,
- Fostering Service Providers - details of staff records must be kept for 15 years
- Data will cover all of Northern Ireland and prospective foster parents would expect checks to be made as this is part of their approval process

2. Consult with Relevant Stakeholders

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 the Department or ALBs? Have you consulted with the Data Protection Officer (DPO)? Do you plan to consult with the Assistant Departmental Security Officer (ADSO) regarding information security risks? Do you need to consult with any other experts?

- The Foster Placement and Fostering Agencies Regulations (Northern Ireland) [the new Fostering Regulations], public consultation took place in 2014.
- It is intended to carry out a consultation in 2022 given the time lapse since last public consultation.
- This form will be checked by Departmental DPO.
- The ICO will also be informed via an Article 36(4) Enquiry Form.

3. Assess Compliance and Proportionality

Describe compliance and proportionality measures. *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 ensure data quality and data minimisation? What information will you give individuals? How will you help to support individuals' rights? What measures will you take to ensure data processors comply? How will you safeguard any international transfers?*

UK GDPR, Article 6 – Lawful Basis for Processing

The lawful bases for processing is 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;

UK GDPR, Article 9 - Processing of Special Categories of Personal Data

(2)(h) **Health or social care (with a basis in law)** – processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union or Member State law or pursuant to contract with a health professional subject to conditions and safeguards referred to in paragraph 3;

Data Protection Act 2018, Schedule 1, Part 1(2) - Health or Social Care Purposes applies.

Art 6(1) (e) and Art 10 UK GDPR applies to processing of personal data relating to criminal convictions, for the purposes of carrying out enhanced criminal records checks.

Regulation 5 and Schedule 2 of the draft Foster Regulations require an enhanced criminal records checks on prospective foster parent and any other member of this household.

Regulations 28, 32 and 34 and Schedule 5 also require the registered provider, manager and staff to undergo checks related to criminal convictions).

4. Identify and Assess Risks

The risk matrix below will help you to assess the level of risk associated with processing the data.

Severity of impact	Serious harm	Low risk	High risk	High risk
	Some impact	Low risk	Medium risk	High risk
	Minimal impact	Low risk	Low risk	Low risk
		Remote	Reasonable possibility	More likely than not
		Likelihood of harm		

Describe source of risk and nature of potential impact on individuals. <i>Include associated compliance and corporate risks as necessary.</i>	Likelihood of harm	Severity of harm	Overall risk
<p>Inappropriate access of records by Fostering Agency staff. <u>Fostering Agency Standards will require mandatory Information Governance and IT security training for all staff. This will be inspected by RQIA</u></p> <p>Information which is collected is not properly stored. <u>Fostering Agency Standards will require mandatory Information Governance and IT security training for all staff. This will be inspected by RQIA</u></p> <p>Communication between Trusts and Fostering Agency via e-mail, there is a risk of unauthorised individuals receiving the e-mail. <u>Fostering Agency Standards will require mandatory Information Governance and IT security training for all staff. Organisations will be required to have appropriate policies and guidance for staff on secure email processes and will be responsible for ensuring appropriate organisational and technical security when processing personal data. This will be inspected by RQIA</u></p>	<p><i>Remote, possible or probable</i></p> <p><i>Remote</i></p> <p><i>Remote</i></p> <p><i>Remote</i></p>	<p><i>Minimal, significant or severe</i></p> <p><i>Some Impact</i></p> <p><i>Some Impact</i></p> <p><i>Some Impact</i></p>	<p><i>Low, medium or high</i></p> <p><i>Low</i></p> <p><i>Low</i></p> <p><i>Low</i></p>

5. Identify Measures to Reduce Risk

Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk at 4.				
Risk	Options to reduce or eliminate risk	Effect on risk	Residual risk	Measure approved
n/a	n/a	<i>Eliminated reduced accepted</i>	<i>Low medium high</i>	Yes/No

6. Information Asset Owner (IAO) Sign Off and Outcomes

	Name & Date	Notes
Measures approved by (IAO):		<i>Integrate actions back into project plan, with date and responsibility for completion</i>
Residual risks approved by:		<i>*If accepting any residual high risk, consult the ICO before going ahead*</i>
DPO advice provided:	Charlene McQuillan – October 2021	<i>DPO should advise on compliance, measures to reduce risk and whether processing can proceed</i>
Summary of DPO advice: General advice on developing some of the detail around the DPIA.		
DPO advice accepted or overruled by:	Christine Henderson	<i>If overruled, you must explain your reasons</i>
Comments: Advice accepted		
Consultation responses reviewed by:		<i>If your decision goes against individuals' views, you must explain your reasons</i>
Comments:		
This DPIA will be kept under review by:	Christine Henderson	<i>The DPO should also review ongoing compliance with the DPIA</i>

