

Amendment of The Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012

Privacy Impact Assessment (PIA)

January 2016

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1. Introduction

The purpose of this document is to report on and assess against any potential Privacy Impacts as a result of the implementation –

Amendment of The Children’s Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012

2. Document metadata

2.1 Name of Project –

Amendment of The Children’s Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012

2.2 Date of report –

23 December 2015

2.3 Author of report –

Thekla Garland

2.4 Information Asset Owner (IAO) of relevant business unit –

Robert Marshall

2.5 Date for review of Privacy Impact Assessment (PIA) –

July 2017

3. Description of the project

3.1 *To amend the existing regulations to ensure they offer the right support to the expectations associated with the standards and the Performance Support and Monitoring Framework (PSMF) for safeguarders and to remove the presumption of reappointment. This PIA is specifically focused on the data sharing element of the amendment regulations (at Annex A).*

*The sampling of safeguarder reports is a core element of the PSMF to provide assurance that safeguarders are consistently meeting all Practice Standards for Safeguarders, and in particular **Standard 4** which clearly sets out the expectations required for reports. The purpose of sharing this information would be for the proper investigation of a complaint, for monitoring the performance and for auditing payments of fees and expenses of safeguarders in line with statutory functions. As well as the essential monitoring of the Practice Standards, the exercise of sampling*

two reports annually for safeguarders presents a new opportunity and tool for support and learning for safeguarders.

The Scottish Government requires a power for the Scottish Children's Reporters Administration (SCRA), to share safeguarder reports with Scottish Ministers for complaints, auditing and performance monitoring purposes.

An exercise was carried out to test the requirement for the power above and it was concluded that redacted reports render scrutiny and review of these reports invalid. There is no other workaround or remedy for the report reviewer to obtain the redacted information other than asking the safeguarders which would then undermine the robustness and fairness of the report sampling process which is a critical element in improving performance and hence the quality and consistency of the safeguarder discipline.

A data sharing agreement will follow at implementation.

3.2 Describe the personal data to be processed:

The reports will contain the child's name, address and date of birth (DOB) and details of their personal lives, possibly including medical histories. Reports will also contain names and personal details of Relevant Persons (e.g. parents, carers) and professionals' names and opinions.

3.3 Describe how this data will be processed:

- How will it be gathered? –

Data will initially be gathered and compiled into reports by safeguarders. SCRA hold copies of safeguarder reports when a safeguarder is required to produce a report and they will send the relevant reports to CHILDREN 1ST electronically. CHILDREN 1ST are the data processor, processing on behalf of Scottish Ministers under contract.

- Who will have access? –

The Safeguarders Panel Team within CHILDREN 1ST or any subsequent managing contractor. The Safeguarder who wrote the report for the purposes of performance monitoring.

- How will it be transmitted? –

Electronically.

- How will it be stored, and disposed of when no longer needed? –

The information will be stored electronically and deleted immediately after either the complaint/audit has been dealt with or the performance monitoring completed.

- Who will own and manage the data? –

The data will be managed by CHILDREN 1ST whilst it is in their possession.

- How will the data be checked for accuracy and kept up to date? –

Part of the performance management process will be to check reports for accuracy. The reports are backward looking so it will not be necessary to keep data up to date. The reports will be deleted when the process is complete.

3.4 If this data is to be shared with internal or external partners, explain the legal basis for the sharing. –

Under the proposed amendment regulations SCRA must share safeguarder reports with Scottish Ministers for complaints, auditing and performance monitoring purposes. In practice this means with CHILDREN 1ST, on behalf of Scottish Ministers, or any subsequent managing contractor of the National Safeguarders Panel.

4. Stakeholder analysis and consultation

4.1 List all the groups involved in the project, and state their interest. –

- *The Scottish Government*
- *SCRA – Administer Children’s Hearings*
- *CHILDREN 1ST - contracted by the Scottish Government to assist Scottish Ministers with the management and operation of the National Safeguarders Panel in terms of the Children’s Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012.*
- *Safeguarders – appointed to safeguard the interests of the child referred to a children’s hearing. A safeguarder can be appointed by either a children’s hearing or a Sheriff at any time during the proceedings. The role includes the provision of a report for the hearing and attendance at the hearing. It may also include attending and taking part in any related children’s hearings court proceedings. Safeguarders are self-employed and independent from all other agencies involved in the children’s hearings system and that independence is a crucial aspect of the role. It is the reports they produce that are the subject of this PIA.*
- *Partners within the Children’s Hearings System, including SCTS, CHS, SLAB, Education Scotland, Police Scotland, NHS, CELCIS, CYCJ, COPFS, Judicial Institute, Law Society, COSLA, ADES, SWS and Includem.*

4.2 Detail the method used to consult with these groups when making the PIA -

Both SCRA and CHILDREN 1ST, on behalf of Scottish Ministers, received draft copies of the PIA electronically and provided comments. All the above groups were consulted on the principle of seeking feedback on safeguarder performance from system partners. Of 37 responses, 32 (86.49%) agreed.

4.3 Discuss the means used to communicate the outcomes of the PIA with the stakeholder groups. –

The PIA was shared with SCRA and CHILDREN 1ST so they are aware of and able to mitigate any risks identified as far as they are able.

5. Questions to identify privacy issues

5.1 Involvement of multiple organisations

- Will the initiative involve multiple organisations, whether they are public service partners, voluntary sector organisations or private sector companies?

Yes – this initiative will involve SCRA and CHILDREN 1ST (on behalf of Scottish Ministers).

5.2 Anonymity and pseudonymity

- If the project requires the matching of data sources together, would it become possible to identify an individual? –

N/A

5.3 Technology

- Will there be new or additional information technologies that have substantial potential for privacy intrusion? –

No

5.4 Identification methods

- Will there be the creation of new identifiers or re-using of existing identifiers?

No

- Will there be new or substantially changed identity authentication requirements that may be intrusive or onerous?

No

- What type of unique identifiers will be used in the project? These might have the effect of enabling identification of persons who were previously anonymous. –

N/A – there will be no requirement for a unique identifier as the information in the report includes full personal details and will not be redacted in any way.

5.5 Personal data

- Will there be new or significant changes to the handling of types of personal data that may be of particular concern to individuals? This could include information about racial and ethnic origin, political opinions, health, sexual life, offences and court proceedings, finances and information that could enable identity theft. –

There will be changes in that sample reports, and reports subject to complaints and auditing, will now be sent to CHILDREN 1st and seen by members of the Safeguarders Panel Team. This is a new activity.

- Will the personal details about each individual in an existing database be subject to new or changed handling? –

As above –some reports containing personal details will now be examined by the Safeguarders Panel Team.

- Will there be new or significant changes to the handling of personal data about a large number of individuals? –

This process will only involve handling data of a small number of individuals at any one time. Over time overall numbers will increase.

- Will there be new or significantly changed consolidation, inter-linking, cross-referencing or matching of personal data from multiple sources? –

No

- Will the project involve the linkage of personal data with data in other collections, or any significant change to existing data links or holdings? –

No

5.6 Changes to data handling procedures

- Will there be new or changed data collection policies or practices that may be unclear or intrusive? –

No – The data involved has already been collected in the form of the safeguarders' reports.

- Will there be changes to data quality assurance or processes and standards that may be unclear or unsatisfactory? –

CHILDREN 1st already manage data by very stringent processes and will continue to do so.

- Will there be new or changed data security access or disclosure arrangements that may be unclear or extensive? –

No – as above.

- Will there be new or changed data retention arrangements that may be unclear or extensive?

No – as above.

- Will there be changes to the medium of disclosure for publicly available information in such a way that the data becomes more readily accessible than before? –

This information will not be publicly available.

5.7 Statutory exemptions/protection

- Will the data processing be exempt in any way from the Data Protection Act or other legislative privacy protections? This might apply in areas such as law enforcement or public security. –

No

- Does the project involve systematic disclosure of personal data to, or access by, third parties that are not subject to comparable privacy regulation? –

No

5.8 Justification

- Does the project's justification include significant contributions to public security measures? –

No

- Is there to be public consultation? –

There has been a public consultation on the amendment regulations which received 37 responses which were overwhelmingly supportive of the proposals.

- Is the justification for the new data handling unclear or unpublished? –

No

5.9 Other risks

- Are there any risks to privacy not covered by the above questions? –

No

6. Risks identified and appropriate solutions or mitigation actions proposed

Is the risk eliminated, reduced or accepted?

Risk	Ref	Solution or mitigation	Result
<i>Information sent to wrong person.</i>		<p><i>This involves only a small amount of reports which will be sent electronically directly from one organisation to the other. SCRA and CHILDREN 1st already send such types of information to each other regularly. One mailbox will be identified for all such email traffic.</i></p> <p><i>CHILDREN 1ST will also send reports on occasion to the safeguarder who wrote it for performance monitoring purposes. CHILDREN 1ST will take all appropriate measures that the right report goes to the right safeguarder.</i></p>	<i>Reduced risk.</i>
<i>Information not destroyed/deleted when task complete.</i>		<i>Timescales will be established for the destruction/deletion of the reports. Reminders can be set up to appear automatically after a certain time period.</i>	<i>Reduced risk.</i>
<i>Non-compliance with the Data Protection Act</i>		<i>Data sharing agreement, controller processing contract and privacy notice will be in place to enable systems and processes to facilitate compliance.</i>	<i>Reduced risk.</i>

7. Incorporating Privacy Risks into planning

Explain how the risks and solutions or mitigation actions will be incorporated into the project/business plan, and how they will be monitored. There must be a named official responsible for addressing and monitoring each risk.

Risk	Ref	How risk will be incorporated into planning	Owner
<i>Information sent to wrong person.</i>		<p><i>A specific secure mail box will be used to receive these reports and anyone who will be involved in the sending or receiving will be fully informed of where reports should be sent and the secure basis under which they should be sent, held or shared. The number of people with access to this mail box will be restricted. All information will be encrypted. Confirmation of receipt will occur.</i></p> <p><i>Timescales for destruction will be in place and automatic reminders set up to do this and confirmation of destruction or return will occur and be recorded. Specific named individuals will be given the task of ensuring this is done.</i></p>	<i>CHILDREN 1st and SCRA</i>
<i>Information not destroyed/deleted when task complete.</i>		<p><i>Timescales for destruction should be decided and automatic reminders set up to do this.</i></p> <p><i>Specific named individuals should be given the task of ensuring this is done.</i></p>	<i>CHILDREN 1st</i>

8. Authorisation and publication

The PIA report should be signed by your Information Asset Owner (IAO). The IAO will be the Deputy Director or Head of Division.

Before signing the PIA report, an IAO should ensure that she/he is satisfied that the impact assessment is robust, has addressed all the relevant issues and that appropriate actions have been taken.

By signing the PIA report, the IAO is confirming that the impact of applying the policy has been sufficiently assessed against the individuals' right to privacy.

The results of the impact assessment must be published in the eRDM with the phrase "Privacy Impact Assessment (PIA) report" and the name of the project or initiative in the title.

Details of any relevant information asset must be added to the Information Asset Register, with a note that a PIA has been conducted.

I confirm that the impact of the amendment of The Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Regulations 2012 has been sufficiently assessed against the needs of the privacy duty:

Name and job title of a Deputy Director or equivalent Robert Marshall Deputy Director Care and Justice.	23 December 2015
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Extract from Amendment Regulations

“Sharing of safeguarder reports

12.—(1) The Principal Reporter must provide to the Scottish Ministers any report of a type described in paragraph (2) held by the Principal Reporter which the Scottish Ministers request for the purpose of—

- (a) monitoring the performance of a member of the Safeguarders Panel; or
- (b) investigating a complaint against a member of the Safeguarders Panel about the performance of that member’s functions;
- (c) auditing a request for payment of fees, expenses and allowances submitted by a member of the Safeguarders Panel.

(2) The reports referred to in paragraph (1) are reports prepared by a safeguarder—

- (a) in accordance with the requirement in section 33(1)(a) or (c) of the Act;
- (b) such other reports as a safeguarder may provide to a children’s hearing or sheriff whether at the request of the children’s hearing or sheriff, or otherwise.”.



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