

# Data Protection Impact Assessment – Feasibility analysis of a sample of Education, Health and Care Plans (EHCPs)

## 1. Identifying the need for a DPIA

Project title	Feasibility analysis of a sample of Education, Health and Care Plans (EHCPs)
Project aims	<p>The Children’s Commissioner has a statutory responsibility to protect and promote the rights of children, including the most vulnerable.</p> <p>The Department for Education is conducting a review into the provisions for children with Special Educational Needs or Disability (SEND). The findings of this review will shape the policy and service provision for children with SEND across England, thus it is essential that the review and recommendations are based in empirical evidence and review.</p> <p>Currently, there is a dearth of data available on the functioning of the Education, Health and Care Plan (EHCP) system. Annually, schools report the number of children who hold an EHCP and their primary need to DfE through the School Census. However, there is currently no analysis at the national level of the detail of EHCPs which might enable assessment of the functioning of the system.</p> <p>The EHCP forms are largely unstructured, free-text data which creates a technical challenge for performing quantitative analysis which might meet the needs of the SEND review. Thus, the CCO will support the SEND review by conducting a study into the feasibility of using EHCP data in a mixed-methods analysis project to provide evidence to support policy review and recommendations for improvements to the SEND system. The project will provide two outputs:</p> <ol style="list-style-type: none"> <li>1. An assessment of the feasibility of using EHCP records to conduct research on the SEND system. This will include recommended processing and analytical methods and will be made available to other researchers such as local authorities who can use the findings to inform their own analytical plans – making data more available to relevant decision makers locally and nationally.</li> <li>2. A research report detailing the findings from analysis of the EHCPs to inform the SEND review.</li> </ol>

<p><b>What type(s) of data processing will be undertaken</b></p>	<p>EHCPs are partially-structured free-text forms. The CCO will collect the EHCPs issued by Knowsley, Lambeth, Telford and Wrekin, Southampton, Peterborough and Cambridgeshire local authorities for the 2018/19, 2019/20 and 2020/21 academic years.</p> <p>The forms will be processed into a structured database using software packages to read the text into a database. The data will then be analysed using analytical approaches developed for managing large samples of qualitative data, for example, identification of keywords and classifying the data into themes or topics. The data will also be explored using descriptive statistics, for example looking at types of need by the child’s demographic characteristics.</p> <p>The data will be collected directly from the local authorities using a secure transfer mechanism.</p> <p>Further information on the methodology and research questions is provided in later sections.</p>
<p><b>Why this project needs an impact assessment</b></p>	<p>Under the UK- General Data Protection Regulations (GDPR 2018) a DPIA must be completed if the processing of data involved processing special category data on a large scale. The Information Commissioners Office (ICO) recommends that a DPIA is carried out where the processing of data concerns vulnerable data subjects, including children<sup>1</sup>. The data collected by CCO is child-centric, contains special category data including ethnicity and information on health/disability and will cover all children issued an EHCP between 2018/19 and 2020/21, so a DPIA is required.</p>

## 2. Describing the data processing in more detail

<p><b>Describe the nature of the processing</b> <i>How will you collect, use, store and delete data? What is the source of the data? Will you be sharing data with anyone? You</i></p>	<p>Data will be supplied to CCO using Galaxkey or PGP, a secure online encryption system provided by DfE for the transfer of files securely.</p> <p>The CCO will collect the EHCPs issued by Knowsley, Southampton, Peterborough, Cambridgeshire, Telford and Wrekin and Lambeth local authorities for the 2018/19, 2019/20 and 2020/21 academic years. The CCO will complete a Data</p>
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<sup>1</sup> ICO guide to data protection: data protection impact assessments (<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/data-protection-impact-assessments/>)

<p><i>might find it useful to refer to a flow diagram or another way of describing data flows. What types of processing identified as likely high risk are involved?</i></p>	<p>Sharing Agreement with each local authority to agree the legal basis for the share and document how the parties will comply with the principles of UK-GDPR.</p> <p>Data is stored by CCO within the CCO network which is a restricted part of the Department for Education’s IT infrastructure and therefore conforms to government security standards. Access to the file store is restricted to approved members of the Evidence team who have undergone a DBS check within the past two years and have received relevant responsible for information and data handling training.</p> <p>The CCO does not share identifiable or personal micro-data with any other entity. The CCO publishes aggregate tables and analysis which have undergone disclosure control checks prior to publication to ensure that individuals cannot be re-identified from aggregate tables.</p> <p>The CCO does not use any external processors for the processing and analysis of personal micro-data. Aggregate tables which have undergone disclosure control checking may be shared with external organisations who are under contract with the CCO. Only data which is deemed to be non-identifiable will be shared.</p> <p><u>Criteria flagged as ‘likely to result in high risk’:</u></p> <p>Article 35(3)(b) of the UK-GDPR sets out that any “processing on a large scale of special categories of data referred to in Article 9(1)” requires a DPIA as it may result in high risk. Whilst the collection is limited to three years of data from only three local authorities, the depth of personal and special category data to be collected warrants the completion of a DPIA. The details of data to be collected are documented in the next section.</p>
<p><b>Describe the scope of the processing</b> <i>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</i></p>	<p>The EHCP form records the following personally identifiable data from the child:</p> <ul style="list-style-type: none"> <li>● Full name (first name, surname, other names)</li> <li>● Address including postcode</li> <li>● Date of birth</li> <li>● Religion*</li> <li>● Gender</li> <li>● Ethnicity*</li> <li>● Home language</li> <li>● Unique Pupil Number</li> <li>● Primary special educational need*</li> </ul>

<p><i>affected? What geographical area does it cover?</i></p>	<ul style="list-style-type: none"> <li>• Additional needs*</li> <li>• Diagnoses*</li> <li>• Legal care status</li> </ul> <p>* indicates special category data</p> <p>In addition to the personally identifiable data, the EHCP form records the following sections. The complete EHCP templates are provided in Appendix A:</p> <ul style="list-style-type: none"> <li>• Section A – details of the child’s views and their responses to questions such as ‘tell us about your family, school and friendships’, ‘what do you enjoy?’, ‘what do you find difficult?’ Details of the parent or carer’s views in response to questions such as ‘what is your child good at?’</li> <li>• Section B – special educational needs identified by the following domains: communication and interaction, cognition and learning, social, emotional and mental health, sensory and physical</li> <li>• Section C – Health needs related to the child’s SEN by the same domains as section B.</li> <li>• Section D – social care needs related to the child’s SEN by the same domains as section B.</li> <li>• Section E – Outcomes by the same domains as section B</li> <li>• Section F – Provision agreed by the same domains as section B</li> <li>• Section G – Health provision agreed by the same domains as section B</li> <li>• Section H1 – SEN related social care need including who will provide support and frequency of provision, where provision is under the Chronically Sick and Disabled Persons Act 1970</li> <li>• Section H2 - SEN related social care need including who will provide support and frequency of provision, where provision is any other social care provision needs related to the child’s SEN</li> <li>• Section J – Personal budget including details of agreed payments</li> </ul> <p>The EHCP form also records the following personal data for the parent:</p> <ul style="list-style-type: none"> <li>• Surname and title</li> <li>• Other names</li> <li>• Address including postcode (where different from the child’s address)</li> <li>• Home tel. number</li> <li>• Mobile tel. number</li> <li>• Work tel. number</li> <li>• Email address</li> </ul>
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	<ul style="list-style-type: none"> <li>• Home language</li> <li>• Communication needs e.g., interpreter, BSL</li> </ul> <p>As the data are to be provided as free-text, unstructured data as word or pdf documents it is not feasible for the data to be pseudonymised prior to provision to the CCO in all cases as this would involve extensive manual input from the local authority to go through each record and delete the data which is disproportionate to the risk. To minimise the risk to the individual the CCO will use bespoke software to create an analytical database from the original data which will minimise researcher exposure to any personally identifiable data. This will be achieved by automatically calculating age in years from the date of birth and lower super output area and local authority district from the postcode for the analytical database. The child’s name, date of birth and full address will not be processed into the analytical database. The CCO will use the parent/carer postcode to derive the same broad geographic variables and will not include, address, telephone numbers and email address in the analytical database as these are not required to complete the analysis.</p> <p>Once the original EHCP forms have been processed they will be securely stored for a period of 2 months to enable quality assurance checking of the processed data should this be required. After this time, the original EHCP forms will be securely destroyed and only the analytical database will be retained.</p> <p>Data is retained by the CCO for two years as standard. After two years, data assets are reviewed, and a decision is made whether to delete or extend retention of the data. Data may be retained if it is proportionate to do so.</p> <p>Once data is no longer required or it is no longer proportionate to hold the data it will be securely destroyed in line with the CCO Data Protection Policy.</p>
<p><b>Describe the context of the processing</b></p> <p><i>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</i></p>	<p>The CCO has no direct relationship with the data subjects.</p> <p>The subjects of the data collection do include children and vulnerable groups as the statutory remit of the Children’s Commissioner is to “have particular regard to children who are within section 8A (children living away from home or receiving social care) and other groups of children who the Commissioner considers do not have adequate means by which they can make their views known.”</p> <p>The CCO privacy notice on the use of data for research purposes is published on the CCO website <a href="#">here</a>.</p>

<p><i>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)?</i></p>	<p>The CCO is registered with the Information Commissioners Office (ICO) as a data controller as a public authority under the Freedom of Information Act.</p> <p>The CCO will use natural language processing to process the qualitative data returned. To our knowledge, there has never been any attempt to analyse EHCP forms using this methodology on this scale. The CCO will follow methods developed through the analysis of 'The Big Ask' survey which were reviewed by independent experts. The CCO will seek external review from subject experts to inform the methodology and analysis.</p> <p>There are currently no relevant issues of public concern or security flaws in this form of data collection and analysis.</p>
<p><b>Describe the purposes of the processing</b></p> <p><i>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?</i></p>	<p>The Children's Commissioner's statutory primary function is to promote and protect the rights of children in England. In the discharge of the primary function the Children's Commissioner may advise the Secretary of State on the rights, views and interests of children and consider the potential effect on the rights of children of government policy proposals and government proposals for legislation. The Commissioner must also have particular regard to the rights of children who are within Section 8A of the Children Act 2004 (children living away from home or receiving social care) and other groups of children who the Commissioner considers to be at particular risk of having their rights infringed<sup>2</sup>.</p> <p>This research sits firmly within the statutory remit of the Children's Commissioner to consider the potential effects on the rights of children of government policy proposals and provide advice to the Secretary of State. Children in receipt of EHCPs are particularly vulnerable by nature of their SEND status and there is extremely limited information available currently on how the EHCP system is functioning or upholding their rights under the Children and Families Act 2014.</p> <p>In 2021 there were 430,637 EHCP children and young people with an EHCP, an increase of 10% from 2020 where 390,100 children and young people had an EHCP. During 2020, 60,100 new EHCPs were made, an increase of 11% from 2019<sup>3</sup>. The number of children with an EHCP has been increasing since their introduction yet little is currently known about how the system is performing, what systems of support are actually put in place, how these differ by type of SEND need and what outcomes the system is working towards for the child. What we do know is that children with SEN have poor outcomes, for example in 2019, just 26.7% of children with SEN passed English and Maths GCSE compared to 71% of children without SEN. Children with SEN are disproportionately more likely to be excluded from school, in 2018/19 they accounted for 44% of permanent exclusions overall as well as 82% of permanent exclusions</p>

<sup>2</sup> [Children Act 2004 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>3</sup> <https://explore-education-statistics.service.gov.uk/find-statistics/education-health-and-care-plans>

from primary schools, in addition to the significant numbers of children with SEN who are withdrawn into home education<sup>4</sup>.

This research will improve the evidence base on EHCPs and how they are used to identify and define support as well as set outcomes for children and young people with SEND. This will contribute to the government's SEND review which aims to improve the services available to families who need support, equip staff in schools and colleges to respond effectively to their needs as well as ending the 'postcode lottery' they often face. The intention of the review is that it will conclude with action to boost outcomes and improve value for money, so that vulnerable children have the same opportunities to succeed as well as improving capacity and support for families across England<sup>5</sup>.

By providing a robust evidence base for the review of the EHCP system, the Children's Commissioner will ensure that the SEND review is able to reflect the needs of these vulnerable children, ensure that it takes their rights into account and recommends policy changes which will improve the service delivery offered to them. The overall aim of this project is to work collaboratively with the Department for Education on a review which should have wide-ranging positive impacts on the thousands of children with SEND and provide the support they need to experience parity of outcomes with their peers.

This research will address the following research aims:

1. Area of interest: **Understanding the information contained in the EHCP forms.**

1. Sub-questions:

1. What key words are included in the narrative about what prompted the assessment plan (placement, specific types of provision)?
2. What are the demographic characteristics of our sample and how do these compare to national distributions?

2. Area of interest: **Understanding the support frameworks being provided to children through an EHCP**

1. Sub-questions:

1. What kinds of support are being provided for different needs? |
2. Can SL&C, MLD and ASD needs that are leading to an EHCP in primary be met by an enhanced entitlement to mainstream support, rather than requiring an EHCP?
3. How does support differ for children with the same need, between LAs?

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<sup>4</sup><https://www.childrenscommissioner.gov.uk/wp-content/uploads/2021/02/cco-five-things-you-need-to-know-about-sen-in-schools.pdf>

<sup>5</sup> <https://www.gov.uk/government/news/major-review-into-support-for-children-with-special-educational-needs>

	<p>4. What proportion of SEMH plans are issued to ensure health and care provision?</p> <p>3. Area of interest: <b>Outcomes and timelines</b></p> <p>1. Sub-questions:</p> <ol style="list-style-type: none"> <li>1. What types of outcomes are being recorded in the EHCP, and how do these differ by need?</li> <li>2. How many EHCPs issued to primary age children are intended to be closed within the primary phase?</li> <li>3. When are EHCPs issued throughout the year?</li> </ol> <p>4. Area of interest: <b>Drivers of placements into specialist and independent provision</b></p> <p>1. Sub-questions:</p> <ol style="list-style-type: none"> <li>1. What is the relationship between parental preference for placement and the final recommendation/outcome for placement?</li> <li>2. Are certain needs resulting in placement in specialist and independent provision more than others?</li> </ol>
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### 3. Consulting stakeholders

<p><b>Whether and how to consult with relevant stakeholders</b></p> <p><i>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?</i></p>	<p>The DfE has carried out extensive engagement with a range of stakeholders over the course of the Review to date, including – among others – Council for Disabled Children, Local Government Association, National Network of Parent Carer Forums, and the Association of Directors of Children's Services, in addition to engagement with children and young people with SEND. This has consisted of discussions, as well as submissions directly to the Review.</p> <p>The CCO has discussed the SEN system with several groups who represent the interests of children with SEND across England including the Disabled Children's Partnership, the Council for Disabled Children and Ambitious about Autism and found that they have concerns about how the system is functioning for children with SEND and how EHCPs are functioning to provide the right level of support for the children and young people who are issued them.</p> <p>In addition, Telford and Wrekin Council have consulted with their Parent and Carer Forum who recognize the importance of the research and were supportive of the information being shared with CCO for this purpose.</p> <p>The CCO has provided a privacy notice update to local authorities who have agreed to share the information to be disseminated to data subjects to inform them of the processing of their data and their rights under UK-GDPR.</p>
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## 4. Lawful basis for, and proportionality, of the processing

<p><b>Lawful basis for processing</b></p> <p><i>What is your lawful basis for processing?</i></p> <ul style="list-style-type: none"> <li>• <i>Article 6 lawful basis for processing personal data</i></li> <li>• <i>(if applicable) Article 9 condition for processing special category data</i></li> </ul>	<p>This data collection is necessary to the Children’s Commissioner for England’s statutory functions as set out by the Children Act 2004.</p> <p>The Children’s Act 2004 <a href="#">Section 2</a> sets out the statutory role of the Children’s Commissioner for England:</p> <p><u>Primary function: children's rights, views and interests</u></p> <p>(1) The Children's Commissioner's primary function is promoting and protecting the rights of children in England.</p> <p><b>(2) The primary function includes promoting awareness of the views and interests of children in England.</b></p> <p>(3) In the discharge of the primary function the Children's Commissioner may, in particular—</p> <ul style="list-style-type: none"> <li>a) advise persons exercising functions or engaged in activities affecting children on how to act compatibly with the rights of children;</li> <li>b) encourage such persons to take account of the views and interests of children;</li> <li><b>c) advise the Secretary of State on the rights, views and interests of children;</b></li> <li><b>d) consider the potential effect on the rights of children of government policy proposals and government proposals for legislation;</b></li> <li>e) bring any matter to the attention of either House of Parliament;</li> <li>f) investigate the availability and effectiveness of complaints procedures so far as relating to children;</li> <li>g) investigate the availability and effectiveness of advocacy services for children;</li> <li><b>h) investigate any other matter relating to the rights or interests of children;</b></li> <li>i) monitor the implementation in England of the United Nations Convention on the Rights of the Child;</li> </ul>
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j) publish a report on any matter considered or investigated under this section.

Section 2B of the Children Act confers a further responsibility upon the Children’s Commissioner:

Involving children in the discharge of the primary function

(1) The Children's Commissioner must take reasonable steps to involve children in the discharge of the primary function.

(2) The Commissioner must in particular take reasonable steps to—

(a) ensure that children are aware of the Commissioner's primary function and how they may communicate with him or her, and

(b) consult children, and organisations working with children, on the matters the Commissioner proposes to consider or investigate in the discharge of the primary function.

(3) The Children's Commissioner must for the purposes of this section have particular regard to children who are within **section 8A (children living away from home or receiving social care)** and **other groups of children who the Commissioner considers do not have adequate means by which they can make their views known.**

This statutory function to consult children when carrying out the primary function of the Children’s Commissioner as set out in the legislation, relates directly to Articles 6(1)(e) of the UK-GDPR:

**Article 6:**

1. Processing shall be lawful only if and to the extent that at least one of the following applies:

(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;**

Section 2 of the Children Act sets out that it is necessary for the Children’s Commissioner to promote and protect the rights of children in England. In doing so, the Children’s Commissioner may advise the Secretary of State on the rights, views and

interests of children and consider the potential effect on the rights of children of government policy proposals and government proposals for legislation. Further, the Commissioner has particular responsibility to children who are living away from home or who are otherwise vulnerable. This analysis will form a significant contribution to the SEND review which will impact the lives of thousands of vulnerable children who rely on the Children’s Commissioner to represent their rights and interests to government, thus the data analysis is necessary for the Children’s Commissioner to carry out their statutory function.

Additional steps have also been taken to ensure this collection is proportionate and that the minimum amount of data is being collected to address this project’s aim:

- Each child characteristic being collected has a clear purpose and benefit.
- Reflecting proportionality, the Children’s Commissioner will not process any personally sensitive data which is not required for the analysis.
- The data collection is limited to only three local authorities, as this is a feasibility study, rather than requesting the data from all 151 local authorities in England.
- The CCO has explored alternative methods for collecting this data, with particular regard to the most sensitive variables. Thus, the final variable set has been determined to be proportionate to this request.

The data will not be shared internationally. The CCO will reserve the right as data controller to share the data with other agencies where there is an appropriate legal gateway to do so and sharing the data is proportionate and necessary. If the data is shared beyond the CCO this will be reflected in our privacy notice.

Access to the data within CCO will be limited to staff who have received the appropriate civil service training for handling sensitive data. All staff within the CCO have passed the appropriate level of security clearance for handling this kind of data. Processing will be carried out under supervision from the Head of Data Science and the Director of Evidence.

This data collection involves the collection of information on ethnicity, religion, and health which is considered to be special category data under GDPR (see ICO guidance on special category data [here](#)). In order to process special category data, the CCO must demonstrate that it has met at least one of the specific conditions set out in Article 9 of the GDPR.

**Article 9 2(g):**

“g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;”

In relying on the substantial public interest condition in Article 9(2)(g) the CCO must also demonstrate that it meets one of the 23 specific substantial public interest conditions set out in Part 2 of Schedule 1 of the [Data Protection Act \(DPA\) 2018](#).

There are two substantial public interest conditions which are relevant to this data collection. The first is Schedule 1, Part 2(6), 'statutory and government purposes'.

Schedule 1 Part 2,6(1) sets out that:

6 (1) This condition is met if the processing—

- a) **is necessary for a purpose listed in sub-paragraph (2),** and
- b) is necessary for reasons of substantial public interest.

(2) Those purposes are—

- a) **the exercise of a function conferred on a person by an enactment or rule of law;**
- b) the exercise of a function of the Crown, a Minister of the Crown or a government department.

See above the highlighted sections from Section 2(2),(3) of the [Children Act 2004](#) which establish the legal basis for processing the special category data collected in this request.

The second substantial public interest condition is Schedule 1, Part 2(8), 'equality of opportunity or treatment'.

Schedule 1, Part 2(8) sets out that:

8 (1) This condition is met if the processing—

- (a) is of a specified category of personal data, and

	<p>(b) is necessary for the purposes of identifying or keeping under review the existence or absence of equality of opportunity or treatment between groups of people specified in relation to that category with a view to enabling such equality to be promoted or maintained,</p> <p>Previous research by the CCO has shown that there are disparities in experience between children and young people of different ethnicities<sup>6</sup> and has produced a substantial body of work demonstrating the negative impact of poor health or disability and the need for greater provision of health services for children and young people<sup>7</sup>. Additionally, the CCO has documented specifically the disparity in outcomes for children with SEND<sup>8,9</sup>, which are extensive.</p> <p>This research provides a unique opportunity for children and young people in England with SEN to have their rights, represented to government and policy makers. Whilst other organisations collect data on SEND, either through administrative data or surveys, from children and young people the Children’s Commissioner is uniquely placed to ensure that their views are carried over to policy action.</p> <p>The special category data which will be collected will not be shared beyond the Office of the Children’s Commissioner except in aggregate, disclosure controlled, statistical tables as part of the Commissioners report on the issue.</p> <p>The issue of potential disparities in treatment and outcomes has been shown to be in the interest of the public through the creation of the <a href="#">Ethnicity Facts and Figures website</a>, a service run through Cabinet Office. The service was created following instruction from the then Prime Minister Teresa May who recognised that ethnic disparities in public service access and outcomes was an issue which urgently needed to be addressed by Central Government. The Children’s Commissioner for England has previously been called to provide evidence to the Women and Equalities Select Committee to give evidence on the disparities in outcomes experienced by children of different ethnic backgrounds which furthers the case that there is public interest in these issues.</p>
<p><b>Compliance and proportionality measures</b></p>	<p><i>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?</i></p>

<sup>6</sup> [Vulnerable children | Children's Commissioner for England](#)

<sup>7</sup> [Mental health and wellbeing | Children's Commissioner for England](#)

<sup>8</sup> <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2021/02/cco-five-things-you-need-to-know-about-sen-in-schools.pdf>

<sup>9</sup> <https://childrenscommissioner.github.io/buildingbackbetter/>

<p>The Principles GDPR Article.5 or The Bill Section.32</p> <ul style="list-style-type: none"> <li>• Lawful</li> <li>• Specific</li> <li>• Limited</li> <li>• Accurate</li> <li>• Time-Bound</li> <li>• Secure</li> </ul>	<p>Lawful:</p> <ul style="list-style-type: none"> <li>• What is the legal basis for processing the data?</li> <li>• Does this require the data to be processed, or simply allow it?</li> </ul>	<p>See above section 4.</p>
	<p>Specific:</p> <ul style="list-style-type: none"> <li>• What is the business use/purpose for processing the data?</li> </ul>	<p>The Children’s Commissioner is responsible for promoting the views and interests of children in England thus this processing enables the Commissioner to fulfil her statutory function and provide vulnerable children in England with representation within a major review into support for children with SEND. See above for demonstration of how the research will deliver against this aim.</p>
	<p>Adequate:</p> <ul style="list-style-type: none"> <li>• What assessment has been made on the adequacy of the data being processed in relation to the purpose?</li> </ul>	<p>As the focus of the research is to explore the feasibility of the use of EHCPs for analysis, it has been designed around the EHCP form and thus the data is the only adequate source for this analysis.</p>
	<p>Limited:</p> <ul style="list-style-type: none"> <li>• What assessment has been made on the relevance of the data being processed to the purpose?</li> <li>• Will the data be used for any other purpose?</li> </ul>	<p>There is no other dataset which could fulfil the aims of this research, the EHCP form is the single source for detailed information on the needs, support framework and outcomes for children with SEN in England.</p> <p>In order to ensure efficiency in data collection the CCO may repurpose this data if there is a clear requirement to do so and it can be carried out under the legal basis set out in section 4. For example, if the CCO conducts a deeper investigation into one of the issues identified through the feasibility analysis this data may be used to inform that work.</p>
	<p>Accurate:</p> <ul style="list-style-type: none"> <li>• How will the accuracy of the data be checked?</li> <li>• How will inaccurate data be corrected?</li> </ul>	<p>The CCO is not able to assess the accuracy of the information recorded in the EHCP form as this would require in-depth review of the EHCP forms and assessment from the local authority and an educational psychologist, which is out of scope for this project.</p>

	<ul style="list-style-type: none"> <li>• How will it be kept up to date?</li> <li>• What processes will be in place to manage requests for rectification?</li> </ul>	<p>The CCO does not currently plan to repeat this data collection with further years of EHCP forms. As this is a feasibility study, one of the expected outcomes is a recommendation as to whether this research should be carried out on a wider sample in the future, which would require a new data collection.</p> <p>As the CCO is not the original collector of this information, requests for rectification would be addressed to the local authority who keep the original record. The local authority will inform the CCO if this should occur for any of the records provided to CCO and will provide the updated records.</p>
	<p>Time-Bound:</p> <ul style="list-style-type: none"> <li>• How long will the data be kept?</li> <li>• Is the data covered by an existing retention and deletion schedule? If not will one be agreed with the Departmental Records Officer?</li> <li>• Will you be able to delete the data when you no longer need it?</li> <li>• If you can't delete it, can you anonymise it partly or wholly?</li> <li>• What processes will be in place to ensure the data is securely destroyed/deleted?</li> </ul>	<p>Data is retained by the CCO for two years as standard. After two years, data assets are reviewed and a decision is made whether to delete or extend retention of the data. Data may be retained if it is proportionate to do so.</p> <p>Once data is no longer required or it is no longer proportionate to hold the data it will be securely destroyed in line with the CCO Data Protection Policy. Secure deletion of data is managed by the Department for Education as all CCO data assets are stored on secure DfE servers.</p> <p>Aggregate tables produced from the individual level data are ILO and can be retained indefinitely.</p>
	<p>Secure:</p> <ul style="list-style-type: none"> <li>• How will the data secured and kept safe?</li> <li>• What technical / operational security</li> </ul>	<p>The data security arrangements for the Children's Commissioner have been formally assessed and assured as appropriate and proportionate using the HMG Information Assurance (IA) process (as described in HMG IA standards No. 1 and No. 2). The assessment process has been led by an independent security specialist registered under the CESG Listed Adviser Scheme (CLAS), and IA Accreditation expertise has been provided to Children's Commissioner by the DfE IA Accreditation</p>

	features and/or policies protect it?	<p>Team and Departmental Security Officer. In addition, the privacy impact assessment (PIA) analysis has concluded that the steps taken are appropriate and adequate.</p> <p>All information held by the Children’s Commissioner’s Office is stored in accordance with our Data Protection Policy and Information Risk Management Policy, both available on request. The organisation also has a dedicated Data Protection Officer who ensures that all data held is registered properly in an Information Asset Register, and processed safely, securely, legally and proportionally.</p>
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## 5. Identified risks and mitigations

Source of risk	Level of risk before mitigation (High, medium, low)	Mitigation(s) (required for medium/high risks)	Risk of harm after mitigation applied (High, medium, low)	Risk acceptable?
Risk of harm to the individual from identification in the data.	Medium	<p>The CCO will limit the amount of personally identifiable information in the dataset by removing identifiers such as name, date of birth and address. Access to the identifiable data will be limited to a single analyst on a secure network. The analyst will have no connection to the individuals in the data.</p> <p>All staff working with data have received appropriate responsible for information training so understand how to work with data to avoid identification or re-identification of data subjects. Staff have undergone relevant security clearance before accessing the data. Only aggregate data which is ILO is shared beyond the evidence team within CCO.</p>	Low	Yes
Children identifiable in publication	Low	Published analysis will be national or regional so small cell sizes are very unlikely. Counts suppressed in line with ONS disclosure control procedures, further statistical non-disclosure procedures applied to any outputs as appropriate (in line with ONS approved researcher training).	Low	Yes
Risk in transferring data securely – information lost or breached	Medium	The data will be shared through encryption services such as Egress, Galaxkey or PGP encryption (preferred). The data will be downloaded directly to a restricted CCO folder. Once downloaded to the CCO secure servers the data will not be shared or transferred to any other organisations and the encrypted files will be deleted from the encryption service.	Low	Yes

## 6. DPIA sign-off and outcomes

Item	Job title / date	Notes
Measures approved by:		<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:	Jonathan Gladwin, Practitioner in Data Protection	<i>DPO should advise on compliance, step 6 measures and whether processing can proceed</i>
<p><b>Summary of DPO advice:</b> TIAA provides advice to the CCO including the interpretation and application of the data protection rules and UK data protection law and draws to the CCO attention any failure to comply with the applicable data protection rules.</p> <p>The DPO agrees with the requirement to conduct a DPIA, details of which are detailed above.</p> <p>The DPO is satisfied that there is a Lawful basis for processing personal data as stated in the DPIA above and that the proposed processing is compliant with the applicable of data protection rules and the CCO's wider data protection obligations and responsibilities.</p>		
DPO advice accepted by:	Donna Phillips Senior Information Risk Officer, Office of the Children's Commissioner	<i>If overruled, you must explain your reasons</i>