NHS DIGITAL HES DATA SHARING AGREEMENT DATA PROTECTION IMPACT ASSESSMENT "LITE"

This should only be completed after agreement from IG

Name of project: NHS Digital Local Authority HES Extract Service Hospital Episode Statistics (HES) Data Extract Service for Local Authority (LA) public health teams – Cambridgeshire County Council (CCC)	**Expected project implementation date**: Already live - this is not a new project. CCC has been approved to receive HES data from NHS Digital since May 2016
Department contact: David Lea, Assistant Director Public Health Intelligence, Cambridgeshire County Council	**Submission date**: Already live - this is not a new project. CCC has been approved to receive HES data from NHS Digital since May 2016
Project Manager: David Lea, Assistant Director Public Health Intelligence, Cambridgeshire County Council	**Project Sponsor**: Dr Liz Robin, Director of Public Health, Cambridgeshire County Council and Peterborough City Council
Information Asset Owner: Dr Liz Robin, Director of Public Health, Cambridgeshire County Council and Peterborough City Council	**Business Case Reference No (if applicable):** n/a

1. Project Outline *Explain what the aims are, the benefits to all parties and why a DPIA has been completed.*

⇨ The aim of the work is to provide CCC Public Health access to record level data via a data feed from NHS Digital. The dataset is known as Hospital Episode Statistics (HES). The funding for this is provided by Public Health England, via an arrangement with NHS Digital.

⇨ The full list of benefits of receiving these data are outlined in the Data Sharing Agreement held with NHS Digital – reference DARS-NIC-07763-M5K6S-v4.4; expiry 31.03/2019.

The benefits can be summarised as follows:

- Cambridgeshire County Council has the following statutory and regulatory duties and functions, which are relevant to the use of the HES data received under this HES data sharing agreement (DSA) with NHS Digital:
  - ⇨ To improve public health in Cambridgeshire by commissioning services or working with partners to commission services that maintain or improve population health. In practice this involves the production of a local health and wellbeing strategy, which is based on a local joint strategic needs assessment (JSNA).
  - ⇨ To provide a public health advice service to the local CCG.

⇨ Analysis of hospital related activity for the local population is enabling of these statutory requirements as it allows us to:

- Identify the extent and patterns of disease in the population using disease diagnosis in secondary care as a proxy.
- Identify levels, patterns and outcomes related to the population's access to hospital services.
- Identify local health inequalities in the distribution of disease, outcomes or in hospital treatment.
- All of these activities may form part of the local JSNA and hence may inform the local health and wellbeing strategy.
- To provide benchmarked information to the local CCG comparing hospital service utilisation in Cambridgeshire and Peterborough to that nationally or in comparator CCGs.

- The need for a DPIA was identified during a NHS Digital audit of NHS Digital Data Sharing Agreement (DSA) for the HES data during October 2017. We have been authorised for access to the HES data service since May 2016. The data are record level and, while not containing any identifiable data, require a DPIA for that reason.

Data Flows and Consultation	Response
Confirm which internal and external partners have been informed of the project.	A consultation was not required. CCC ICT, CCC IG, CCC and Peterborough City Council and NHS Cambridgeshire and Peterborough Clinical Commissioning Group have been notified that we receive the HES data.
Provide details of : what data will be collected, (personal and/or special) how the data will be collected, who it will be shared with who it will be received from (internal and external) how will it be used how it will be deleted/retained describe how this will be done securely	There are no personally identifiable or sensitive data fields received as part of the HES DSA. Record level data are received. Cambridgeshire's Public Health Intelligence Team is able to access de-identified HES records through this service. We receive access to record-level pseudonymised data. The extracts provided by the NHS Digital will contain full individual HES records but with all identifiable information removed and certain fields replaced with derived data. As part of this agreement we receive data for the following HES datasets: • Hospital Episode Statistics Admitted Patient Care • Hospital Episode Statistics Critical Care • Hospital Episode Statistics Outpatients • Hospital Episode Statistics Accident and Emergency We receive the HES data from NHS Digital via a secure file transfer system known as SEFT. Access to the SEFT download process is restricted to named officers within CCC Public Health Intelligence. Data are updated on a monthly basis. The data are processed by PHI staff and are held securely in a network folder that is restricted to CCC employed PHI staff and Peterborough City Council employed (PCC) staff conducting CCC public health business using CCC laptops. This folder is located at:. The record level data are not shared with any other party. The aggregated results of analyses may be made available to other parties in line with NHS Digital guidance, the DSA and other relevant regulations, guidance and legislation. The embedded data flow diagram and processing guide outline the process involved in receiving, processing and storing the HES data.

	 PHI HES Data Flows_JM_20170922 Data are currently retained for the purposes of statistical analysis, statistical robustness and the monitoring of trends. The HES extract service allows for a 10 year rolling set of the HES data to be retained. As the data rolls forward the data for the initial year must be deleted. However, as we only extract and store data for the latest complete 3 years deletion does not apply at the current time. The processed and cleaned data will be used by CCC employed PHI staff and Peterborough City Council employed (PCC) staff conducting CCC public health business using CCC laptops to analyse hospital based activity for the purposes outlined in the project outline above. Routine outputs of analysed data are held within Microsoft Excel and are held securely at \\ccc.cambridgeshire.gov.uk\data\CFA Public Health\PHI\Restricted\Care settings\Secondary Care\HES. These routine outputs allow easy access to PHI staff for known subjects of analysis. The cleaned record level data are also queried directly PHI staff using the Stata software package. Aggregated and non-disclosive analytical outputs are likely to be stored, manipulated and distributed using Microsoft Excel, Microsoft Word, Microsoft PowerPoint Adobe PDF and MapInfo. They may also be stored on CCC and PCC internet based websites in publications, e.g. on Cambridgeshire Insight. The embedded analysis guide is available to PHI analysts to enable them to analyse the data easily, safely and securely. In addition the DSA and all relevant documentation is available to PHI analysts and they are required to read and understand this. A log of analytical uses of the HES data is maintained.
How many data subjects will this affect?	The currently downloaded data, which are cleaned and stored for analysis, for Cambridgeshire and Peterborough are for the financial year period 2011/12 to month 6 2017/18 and amounts to 4,846,527 total inpatient and A&E records (excludes outpatients as no outpatient data have been extracted to date). Additionally we have downloaded and stored but not cleaned approximately 250,000,000 records for England for the same period and hospital activity types mentioned above for Cambridgeshire and Peterborough.
What categories of data subjects are they?	Patients/Service users

On what basis are you undertaking the project?	The legal basis for the dissemination of these data from NHS Digital to CCC is the Health and Social Care Act 2012 s261(1) and s261(2)(b)(ii).
Does the use of data need consent to take place?	No.
Will there be any consultation of affected individuals and if so how will you conduct this consultation?	No.

Risks and Benefits			
What are the risks to the individual(s) and how will you mitigate these? Provide a list of risks and how you will manage these. For example, how will you limit the exposure of a data subject and limit the invasion into privacy? What are the benefits to the subjects? Are there any risks for the council?			
Issue/Risk (indicate whether a risk to the individual or the council)	**Solution/Mitigation**	**Expected Outcome**	**How will this be monitored/evaluated**
a) Inappropriate access to the source record level data and/or inappropriate distribution of the record level data (individual and council risk).	Data are held on a restricted network drive and are only distributed in an analysed aggregated format in line with relevant data protection regulations and law. The DSA and the key guidance and regulations are saved on the CCC ICT network and are available to those individuals who have access to the record level data. A log of data uses is maintained.	Record level data will not be accessed or distributed inappropriately and if it is in error there are processes in place to spot this so it can be dealt with.	A monthly check on who has access to the network location where the record level data is carried out and documented. A log of data uses is maintained.
b) Inappropriate disclosure of small numbers of aggregated records during analyses (individual and council risk).	The DSA provides a link to the appropriate guidance on disclosure and this is also saved on the PHI area of the network. PHI analysts are told to read the DSA and the guidance.	There will not be inappropriate disclosure of disclosive records.	Regular emphasis on the need to understand the terms by which we access and use the data at PHI team meetings.

			A log of data uses is maintained.
c) CCC does not continue to have the adequate IG and/or ICT processes, procedures or policies required by the NHS Digital DSA and therefore could not continue to hold or receive the HES data. This would mean that the Council could not benefit from the HES data in meeting its statutory PH duties (council risk and population risk).	IG and ICT have recently (October 2017) participated in an audit of the DSA by NHS Digital and are aware of NHS Digital's requirements under the terms of the DSA. As part of the findings of this audit we have worked to ensure that the appropriate IG/ICT elements are in place. There will be a follow-up to this audit by NHS Digital to cover the findings and out position going forward will be clear at that point. If CCC no longer received the HES data directly we would need to explore alternative data sources, most likely with the CCG.	In the main the appropriate IG/ICT elements will be in place and we will continue to be able to receive the HES data.	Under the work that continues as part of the NHS Digital DSA audit and subsequently by involving IG/ICT in the DSA renewal process each year.
d) If issued with a NHS Digital data destruction notice, CCC ICT is unable to destroy the data on back-ups to NHS Digital standards (council risk).	Regular liaison with NHS Digital to discuss the back-ups issue, which emerged as part of the October 2017 NHS Digital audit of the HES DSA. Advice at May 2018 from NHS Digital is that guidance will be provided soon to deal with the back-up deletion issue, as it is a known problem for many local authorities.	Clarity over the known issue with back-ups and deletion, in the event if receiving a NHS Digital data destruction notice, is imminent.	In liaison with our named NHS Digital DARS contact and with CCC ICT.
e) CCC/PCC PHI does not have the capacity or skills to process the data (council and population risk).	Continued training of PHI staff in Stata software to build capacity and resilience and good processing documentation. Alternatives are sought – e.g. arrangements with other local authorities for the processing and delivery of the data or use of NHS Digital's HDIS SQL data query interface.	PH continues to receive, process, store and analyse the data.	Regular discussion with PHI staff.

FOR INFORMATION GOVERNANCE USE ONLY

Processing personal data

Can we legitimise processing of personal data in accordance with the terms of data protection legislation? If yes - legitimate process (Please tick – at least one of the terms opposite MUST apply)

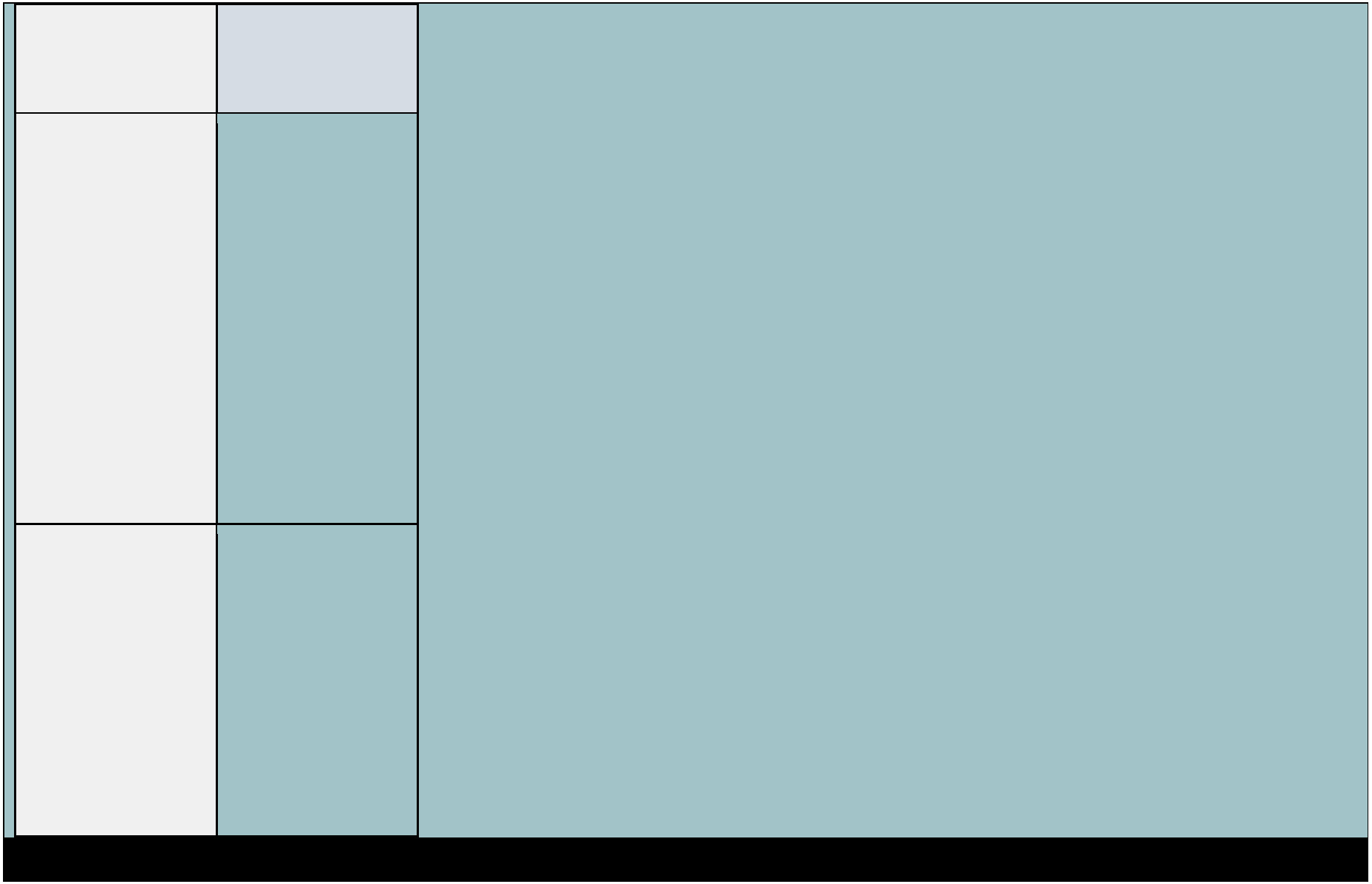
Recorded consent	
Contract	
Compliance with a legal obligation	
Vital interests	
Statutory duty/Justice/enactment	*X*
Legitimate interests (cannot be linked to our statutory duties)	

Sensitive personal data

Can we legitimise processing of sensitive personal data in accordance with the terms of DP legislation? If yes – terms need to be satisfied (Please tick all that apply)

Explicit consent of the data subject	
Processing is necessary for carrying out obligations under employment, social security or social protection law, or a collective agreement	
To protect the vital interests of a data subject or another individual where the data subject is physically or legally incapable of giving consent	
The person has already made the	

data public themselves	
We need it for the establishment, exercise or defence of legal claims	
It is in the substantial public interest as defined in the new Bill and includes a function required of the authority	*X*
The purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of	



	Sections	Comments

1	**Project Outline -** are the aims and outcomes clear	Yes, clear and established project that is already ongoing
2	**Organisational Level –** all relevant services/teams have been identified and informed	Yes, relevant people have been part of the process.
3	**Data Protection** Identify any concerns as regards purpose, training, policies, privacy notices, location of data, training	No specific concerns have been identified. There is a defined business reason for using the data, a very clear process behind the handling of the data and appropriate training is in place.
4	**Systems** Does the system have sufficient capability, controls, and security? Does it enable rights to be met e.g. access Is it a new asset? Has a secure means of sharing been found?	Yes, NHS Audit highlighted some areas that could be improved upon and these are part of the Audit action plan being implemented. There is a secure process around access to data and how it is handled and stored. In respect of DP rights, the data is provided to us as pseudonymised data and therefore we could not identify the data subjects.
5	**Data** Is level of data appropriate? are the types set out? Are data flows and processes described Is purpose clear? Is data quality addressed? Are standards being used?	The data is provided to the Council by NHS Digital designed to meet the statistical analysis requirements whilst minimising the privacy impact. From the point at which data is received, there are clear and appropriate data flows in place and the staff members involved in the process are fully aware of them.
6	**Information Processing** Is an ISA needed? Has the basis for processing been identified? Is consent required? Are subjects aware? Has a consultation been done	This is covered in the DSA with NHS Digital, clearly outlining the basis for processing and that consent is not required. Our Public Health Privacy Notice is published clearly on our website and contains specific details about the processing of data for statistical analysis. This wording is checked by NHS Digital as part of their processes in continuing to provide us with the data.
7	**Risks and Benefits** Have all risks been identified? are risks sufficiently mitigated? What controls need to be introduced? Has a balance between the two been found? Is there a plan for monitoring?	As the work has been ongoing for some time, there is a clearly formed understanding of the processes involved and the risks that arise from them, with technical and organisational measures in place to manage them. The NHS audit has been helpful in providing an external check on these processes and highlighting areas of improvement that are being taken forward. Therefore we have not identified any specific additional controls that need to be introduced beyond those already implemented or are part of the audit action plan. The process around NHS Digital supplying data will allow for a regular check to monitor ongoing compliance.

8	**Records Management** Are sufficient processes in place?	There is a clear retention in place to retain records for 10 years. At this stage the need to delete records has not arisen, but staff involved in the process are fully aware of this responsibility.
IG	**Overall assessment** What needs to change? if anything	The ongoing status of the work means that many of the potential changes or issues that may have arisen have already been thought through and addressed. No additional changes are therefore proposed following the completion of our assessment. As with all assessments, it is important to be aware of any significant changes in the process or requirements around this work that occur in future and that a reassessment may be needed at that point to consider if any additional risks need to be looked at.

SIGN OFF				
Sign off	**Title**	**Name**	**Signature**	**Date**
	Project Owner	David Lea	[signed]	13/07/2018
	Head of Service/Senior Manager	Liz Robin	[signed]	17/07/2018
	Data Protection Officer	Dan Horrex	[signed]	17/07/2018