

The Whitehorse Practice

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Information Governance

Children - Guidance on Processing or Access to Data

- Children need particular protection when collecting and processing personal data because they may be less aware of the risks involved.
- When processing children's personal data care needs to be taken in order to protect them from the outset, and practice systems and processes are designed with this in mind.
- Compliance with the data protection principles and in particular fairness is to all processing of children's personal data.
- There needs to be a lawful basis for processing a child's personal data. Consent is one possible lawful basis for processing, but it is not the only option. Sometimes using an alternative basis is more appropriate and provides better protection for children.
- If relying on consent as lawful basis for processing personal data, when offering an online service directly to a child, only children aged 13 or over are able to provide their own consent. (This is the age proposed in the Data Protection Bill and is subject to Parliamentary approval).
- For children under this age consent needs to be obtained from whoever holds parental responsibility for the child - unless the online service you offer is a preventive or counselling service.
- Decisions based solely on automated processing about children should not be made if this will have a legal or similarly significant effect on them.
- Clear privacy notices for children so that they are able to understand what will happen to their personal data, and what rights they have.
- Children have the same rights as adults over their personal data. These include the rights to access their personal data; request rectification; object to processing and have their personal data erased.
- An individual's right to erasure is particularly relevant if they gave their consent to processing when they were a child.

Bases for processing a child's personal data

When relying on consent, we make sure that the child understands what they are consenting to, and we do not exploit any imbalance in power in the relationship between us.

When relying on 'necessary for the performance of a contract', we consider the child's competence to understand what they are agreeing to, and to enter into a contract.

When relying upon 'legitimate interests', we take responsibility for identifying the risks and consequences of the processing, and put age appropriate safeguards in place.