

Guidance on the sharing of pupil information for the purposes of immunisation for school-aged children

Legislation in place to support the administration and management of vaccination programmes in England

Background

Child Health Information Services (CHIS)¹ are local active clinical care records of all the children in an area, ideally containing information about an individual child's public health interventions, particularly screening, immunisations and outcomes of the 0 to 5 healthy child programme (including the mandated review points), and where relevant, information for use in the safeguarding of children. The cohort includes all babies, children and young adults aged 0-19 years old and up to 26 years for those with special educational needs.

NHS England (via its 13 regional teams and heads of public health commissioning) commissions the overall CHIS as part of the **Public Health Section 7a Agreement** – service specification 28.

Summary

- NHS England has a duty to collect pupil data to deliver the school immunisation programme (achieved via their contract with CHIS service providers).
- Schools have a duty to support the school immunisation programme.
- Schools have a duty to provide pupil data to the local authority for the school census.
- Local authorities have a duty to undertake actions necessary for the purposes of public health, which includes controlling infection and supporting school nursing services.
- There is a reduced burden on schools, NHS England and the public sector as a whole if school census data held by the local authority is provided to NHS England (via CHIS service providers) for child immunisation purposes.

¹<https://www.local.gov.uk/topics/social-care-health-and-integration/public-health/children-public-health-transfer/child-health-information-services>

Duties and delegations

The Secretary of State for Health & Social Care has a duty to provide immunisation services, which is set out in the **Health and Social Care Act 2012**, Section 11 paragraph 2A in that:

‘The Secretary of State must take such steps as the Secretary of State considers appropriate for the purpose of protecting the public in England from disease or other dangers to health. The steps that may be taken include (c) providing vaccination, immunisation, or screening services.’

Under the **NHS Act 2006** section 7a, The Secretary of State has asked NHS England to fulfil this specific responsibility to commission services to vaccinate children and young people in schools. This is documented in the annual NHS public health functions (section 7A) agreement and annex A lists the immunisations to be provided.

- [NHS public health functions agreement 2022 to 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/104222/nhs-public-health-functions-agreement-2022-to-2023-annex-a-services-to-be-provided-2022-to-2023.pdf)
- [Annex A: services to be provided 2022 to 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/104222/nhs-public-health-functions-agreement-2022-to-2023-annex-a-services-to-be-provided-2022-to-2023.pdf).

The need for pupil information

NHS England needs information on pupils to run the school immunisation programme. Local authorities hold this data because it is a statutory requirement² under section 537a of the **Education Act 1996**³ that schools provide this data to the local authority.

Legal basis

The Health and Social Care Act 2012 and the NHS Act 2006 provide justification for processing young people’s information for vaccinations under the UK GDPR lawful basis conditions of:

- exercise of official authority⁴
- provision of healthcare⁵
- public interest in the area of public health⁶

Consent is not the lawful basis under the UK GDPR or the CLDC for processing children's personal information for the purpose of vaccinations.

² <https://www.gov.uk/guidance/complete-the-school-census/statutory-requirement-data-sharing-and-regulations>

³ <https://www.legislation.gov.uk/ukpga/1996/56/section/537A>

⁴ UK GDPR 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

⁵ UK GDPR Article 9(2)(h) - processing is necessary for medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems

⁶ UK GDPR Article 9(2)(i) - processing is necessary for reasons of public interest in the area of public health

Common Law Duty of Confidentiality (CLDC)

The CLDC must also be satisfied, for the processing of personal and confidential data. This is satisfied by a secondary piece of legislation called a Statutory Instrument. The relevant one for this processing is **The Health Service (Control of Patient Information) Regulations 2002**.

Regulation 3 states that in relation to Communicable disease and other risks to public health, subject to **paragraphs (2) and (3)** and **regulation 7**, confidential patient information may be processed with a view to (d) monitoring and managing (iii) the delivery, efficacy and safety of immunisation programmes.

In addition, **regulation 4** – Modifying the obligation of confidence states that anything done by a person that is necessary for the purpose of processing confidential patient information in accordance with these Regulations shall be taken to be lawfully done despite any obligation of confidence owed by that person in respect of it.

Vaccination in schools

Agreement to be vaccinated is different to sharing information to invite pupils for vaccination. The legislation described above means that schools **do not** have to obtain the prior consent of children or their parents or guardians to lawfully share personal information from school rolls with school-aged immunisation services providing vaccinations.

The role of schools

The school-aged immunisation service team will try and keep disruption to a minimum and will only ask schools to do the things that they cannot do themselves.

Schools are asked to:

- work with the school-aged immunisation service to agree the best approach for implementing the programme in your school
- nominate a named contact for the school-aged immunisation service to liaise with
- agree a date(s) for the vaccination session
- **provide class lists with contact details to the school-aged immunisation service (SAIS)**

See also

- [Flu vaccination programme 2022 to 2023: briefing for primary schools - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/briefing-papers/flu-vaccination-programme-2022-to-2023-briefing-for-primary-schools), there are specific roles for schools.
- [Supporting immunisation programmes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/briefing-papers/supporting-immunisation-programmes), where providing a list of eligible children and young people and their parent or carer's contact details to the SAIS team is listed as a key component by the UK Health Security Agency (UKHSA).

The role of the local authority

The **NHS Act 2006**, Part 3 describes the **exercise of public health functions of local authorities: further provision**. This states that:

(1) A local authority must, in the exercise of any functions mentioned in subsection (2), have regard to any document published by the Secretary of State for the purposes of this section. (2) The functions mentioned in this subsection are —

- (a) the exercise by the authority of its functions under section 2B, 111 or 249 or Schedule 1,
- (b) the exercise by the authority of its functions by virtue of section 6C(1) or (3),
- (c) **anything done by the authority in pursuance of arrangements under section 7A,**

The documents issued to fulfil the requirements of section 7a are the functions agreement listed in paragraph 2 and the public health outcomes framework.⁷

Statutory public health functions of a local authority include:

- Planning and commissioning services
- Improving the quality and effectiveness of commissioned services
- Reviewing and assessing the performance of the local health and care system and to evaluate and develop them
- Investigating incidents and in the management of risks to public health
- Approving evidence-based interventions
- **Controlling infection**
- The National Child Measurement Programme
- The NHS Health Check Programme
- **Supporting health visiting and school nursing services**

⁷ <https://fingertips.phe.org.uk/profile/public-health-outcomes-framework>

Reducing the burden of sharing information for vaccinations

The local authority can reduce the burden on both schools and NHS England (via the CHIS service providers) by sharing the school roll data that they hold, rather than requiring NHS England (via CHIS service providers) to locate schools in each borough and collect it directly.

Given the duty of schools to support child health and immunisation, it is considered that schools would expect that local authorities would share data originating from schools for these public health purposes.

Communicating with schools

The local authority is the data controller for the school census data it holds and does not need the permission of schools to share this data for public health purposes. However, to enable schools to understand the data sharing and, where necessary, update their privacy notices, local authorities can provide information to schools through their Schools Circular, to explain the sharing of this data with NHS England (via CHIS).

This guidance can be provided to schools to explain the lawful basis and purposes.

Privacy Notices

Local authorities can remind schools to check their privacy notices to ensure that suitable information is provided about the processing and sharing of personal data for public health and pupil health purposes. This could be included in the information about the healthy child programme of activities for school nursing services.

Sources of suitable language:

- <https://www.achievingforchildren.org.uk/pages/privacy-and-data-protection/privacy-notices-list/privacy-notice-health-visiting-school-nursing>
- <https://www.nes.scot.nhs.uk/legal-and-site-information/scottish-vaccinations-privacy-notices/child-vaccination-privacy-notice/>
- <https://www.gov.uk/government/publications/health-protection-in-schools-and-other-childcare-facilities/supporting-immunisation-programmes>