

This policy provides information about how MindSenseAbility Ltd will use (process) personal data about young people and families using our service. This is to comply with the General Data Protection Regulation (EU) 2016/679 (GDPR) and the Data Protection Act 2018 (DPA).

Staff, parents, individuals/young people and external organisations working with us are encouraged to read this policy and understand our data protection obligations.

## **1. Personal data – what is it?**

1.1. Personal data relates to a living individual who can be identified from that data. Identification can be by the information alone or in conjunction with any other information in the data controller’s possession or likely to come into such possession. The processing of personal data is governed by the General Data Protection Regulation (the “GDPR”) and the Data Protection Act.

1.2. Data that MSA normally collect, use and retain includes:

- Name, email address, postal address, phone details and other contact details
- An individual/young person’s education records and social history
- Sensitive information including – ethnicity, gender, religion, health and therapeutic records, developmental history, previous safeguarding records, sexual orientation
- Details of professionals/organisations involved in an individual/young person’s care
- Details of individuals who have employed MSA to provide services
- Images of young people engaged in activities with MSA staff (in accordance with MSA policy on taking, storing and using images of young people)
- CCTV images

## **2. Who are we?**

2.1. MindSenseAbility Ltd. is the data controller (contact details below). This means it decides how personal data is processed and for what purposes. An MSA Director oversees our GDPR obligations.

## **3. How do we process personal data?**

3.1. MSA complies with its obligations under the data protection legislation by keeping personal data up to date; by storing and destroying it securely; by not collecting or

retaining excessive amounts of data; by protecting personal data from loss, misuse, unauthorised access and disclosure and by ensuring that appropriate technical measures are in place to protect personal data.

- 3.2. Generally MSA receives personal data from the individual directly (including, in the case of children from their parents). This may be via a form, telephone call, or simply in the ordinary course of interaction or communication (such as conversation, email or written reports/referrals). However, in some cases personal data may be supplied by third parties (e.g. a school, other professionals or authorities working with an individual) or collected from a publicly available resource.
- 3.3. **Stored data:** MSA stores your personal data within an electronic patient record and diary system that is fully password protected and is in a secure building. Anti-virus/security protection software is used and updated on all electronic devices used by MSA staff. Where any paper records are kept, these are done so in a secure building in a secure filing cabinet.
- 3.4. **Collecting data over the telephone:** When staff record information that is personal or sensitive in nature, they will explain to the data subject that this information will be shared with the appropriate professionals as previously agreed/requested. When appropriate a Telephone Log of the conversation will be included in the data subject's file.

#### 4. Why do we process personal data?

- 4.1. In order to carry out its ordinary duties to young people, parents and other individuals using our services, MSA may process a wide range of personal data about individuals (including current, past and prospective young people or parents) as part of its daily operation.
- 4.2. Some of this activity MSA will need to carry out to fulfil its legal rights, duties or obligations – including those under a contract with its staff, professionals/external organisations, individuals, families and young people.
- 4.3. We use personal data for the following purposes: -

#### Management and Administration

- For the purpose of establishing if a young person/individual can access MSA services.
- To communicate with you (this may be in form of emails, post, telephone communication to include calls or messages) in relation to:

- Appointment confirmation
- General communication between appointments
- Sending reports (password protected for confidentiality purposes)
- Copying you into written correspondence with other professionals (if requested on your consent form)
- Sharing resources with you
- Sending invoices and receipts
- To inform you of news, events, activities and services running at MSA or relevant external agencies (if you have consented to our mailing list);
- To contact individuals via surveys to conduct research about their opinions of current services or of potential new services that may be offered.
- For clinical audit to assess and improve our service. Client identities will be removed in the process of presenting this information
- General administration, for example, passwords for protected documents are made based on address information of the client

#### **Service Provision**

- To provide the specialist education, health, therapeutic or outreach interventions that we are contracted to provide by professionals, individuals and their families;
- To enable young people to take part in national or other assessments
- To undertake consultancy activities with external organisations
- To enable relevant authorities to monitor our performance and to intervene or assist with incidents as appropriate

#### **Safeguarding**

- To safeguard the welfare of young people and their families

### **5. What is the legal basis for processing personal data?**

5.1. The law on data protection under the GDPR and DPA sets out a number of different reasons for which personal data can be processed. Data Processors are required to inform you what the legal basis is for processing personal data (GDPR Article 6), and if special category data is being processed (e.g. health data) further conditions must be met (GDPR Article 9).

5.2. MSA's legal basis for processing personal data is outlined below:

**(Article 6 (1)(f) of the GDPR) Legitimate interests:** the processing is necessary for your legitimate interests or the legitimate interests of a third party, unless there is a good reason to protect the individual's personal data which overrides those legitimate interests. (This cannot apply if you are a public authority processing data to perform your official tasks.)

We process data in relation to the services we provide under this lawful basis. A Legitimate Interest Assessment is required where this is the reason for processing; this is completed by providing reasons to the three-part test, as outlined below:

*1. The purpose test (identify the legitimate interest)*

Our legitimate interest is that we are providing a health/social care and education service to individuals and processing data is a necessary part of providing this service.

*2. The necessity test (consider if the processing is necessary)*

In order to provide a complete and efficient service we must process this data. Our staff are all registered with relevant professional bodies whose standards of conduct state that sharing data is necessary as part of their role, for example; HCPC (Health and Care Professions Council) - Standards of Conduct, Performance and Ethics point 2.6 says we must share relevant information with colleagues involved in client care, and point 10.1 obliges us to keep full, clear and accurate records for everyone we care for, treat, or provide other services to. The GMC (General Medical Council) also provides guidance for doctors in relation to handling patient information which can be accessed via their website <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/confidentiality/managing-and-protecting-personal-information>

*3. The balancing test (consider the individual's interests)*

A person entering into a service with us would reasonably expect their data to be processed in this way. Due to the sensitive nature of the data we collect there are measures in place to reduce the likelihood that the data collection will have any impact on the individual.

- 5.3. In order to process special category data we need to meet separate conditions, namely:

**(Article 9 (2)(h) of the GDPR)**

That processing is necessary for the purposes of preventive or occupational medicine, the provision of health or social care or treatment or the management of health or social care systems.

5.4. Purposes other than Legitimate Interests (secondary use):

5.4.1. Safeguarding

**(Article 6 (1)(c) of the GDPR) Legal obligation:** the processing is necessary for you to comply with the law (not including contractual obligations).

**(Article 6 (1)(e) of the GDPR) Public task:** the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.

GDPR does not prevent, or limit, the sharing of information for the purposes of keeping children safe. Lawful and secure information sharing between schools, Children's Social Care, and other local agencies, is essential for keeping children safe and ensuring they get the support they need.

5.4.2. Marketing & Use of Photo/Video Recording

**(Article 6 (1)(a) of the GDPR) Consent:** the data subject has given consent to the processing of his or her personal data for one or more specific purposes

With your consent, MSA may use photographs or video recordings of the young person/individual in your care for clinical and educational purposes. With additional consent, we may use your contact information to send you occasional news and information about relevant events. You may inform us of your wish to unsubscribe from this mailing list at any time. Explicit consent will be obtained for any public marketing use.

6. **Sharing personal data:**

6.1. Information about the young people and families that use our service is important to our business, and this personal data will be treated as strictly confidential. For the most part, personal data collected by MSA will remain within MSA, and will be processed by appropriate individuals in accordance with access protocols.

6.2. However, we will share personal data for very limited reasons and in limited circumstances including:

1) Health, Education and Social Care professionals –we may be required to share information to allow continuity of therapy, care and education.

2) Service providers – we engage certain trusted third parties to perform

functions and services for our business, such as external speech and language and occupational therapy services. We will share information with these third parties but only to the extent required to perform these services and this would be done in discussion with families/young people.

- 3) Compliance with laws – we may be required to collect, use, retain and share your information if we have to comply with a legal obligation or court order.
- 4) Safeguarding concerns – MSA have duties imposed by law and statutory guidance (including Keeping Children Safe in Education) to record or report incidents or concerns that arise or are reported to it, in some cases regardless of whether they are proven, if they meet a certain threshold of seriousness in their nature of regularity. This may include file notes on personnel or safeguarding files, and in some cases referrals to relevant authorities such as MASH teams, LADO or police. For further information about this, please refer to MSA’s Safeguarding policy.

## **7. How long do we keep personal data?**

- 7.1. In accordance with law, all records will be kept securely until a child is 25 years old or 8 years from discharge from the service (whichever is appropriate). For people with a mental health condition this will be 20 years. After this time all records relating to the individual will be destroyed securely i.e. shredding or incineration.
- 7.2. For individuals who are not direct clients we will keep any data you have provided for a minimum of 6 years in line with tax legislation.

## **8. Monitoring of MSA Information Technology provision**

- 8.1. MSA will monitor the IT provision through annual reviews with an Information technology service to ensure we provide a secure method of processing and storing personal data.

## **9. Rights of the individual with regards personal data**

- 9.1. Unless subject to an exemption under the GDPR and DPA, individuals have the following rights with respect to personal data:
  - The right to request a copy of your personal data which MSA holds about them;
  - The right to request that MSA corrects any personal data if it is found to be inaccurate or out of date;

- The right to request personal data is erased where it is no longer necessary for MSA to retain such data (necessary storage by law is outlined in 7.1);
- The right to withdraw consent to the processing of data at any time
- The right, where there is a dispute in relation to the accuracy or processing of personal data, to request a restriction is placed on further processing;
- The right to lodge a complaint with the Information Commissioners Office.

9.2. Parents/Carers and Legal Guardians hold the responsibility of informing MSA about changes to their circumstances.

## **10. How to request to see Personal Data**

10.1. Individuals who request disclosure of their own personal data held by MSA must place the request in writing. This letter must be returned with evidence of identification to 'The Director responsible for Data Protection', and the information will be supplied within 30 working days.

## **11. Further processing**

11.1. If we wish to use your personal data for a new purpose, not covered by this Data Protection Notice, then we will provide you with a new notice explaining this new use prior to commencing the processing and setting out the relevant purposes and processing conditions. Where and whenever necessary, we will seek your prior consent to the new processing.

## **12. Breach in Data Protection**

12.1. MSA will notify the Information Commissioners Office of a breach in data protection where it is likely to result in a risk to the rights and freedom of individuals – if for example it could result in discrimination, damage to reputation, financial loss, loss of confidentiality or any significant economic or social disadvantage.

12.2. In other circumstances internal procedures are in place to effectively detect, report and investigate a personal data breach.

## **13. Confidentiality**

13.1. To ensure all those working with MSA adhere to the principles of good practice within their professional roles, it is the responsibility of employees to respect the confidentiality of the clients attending MSA and their colleagues.

13.2. Individuals using MSA services need to be clear that employees cannot offer unconditional confidentiality in accordance with the MSA Safeguarding Policy. Should any Safeguarding issues occur, all correct procedures will be followed.

**14. Contact Details**

14.1. To exercise all relevant rights, queries or complaints please in the first instance contact The Director responsible for Data Protection, MindSenseAbility Ltd, Beck Farm Studios, St. Leonard's Road, Sowley, Lymington, Hampshire. SO41 5SR

14.2. You can contact the Information Commissioners Office on 0303 123 1113 or via email <https://ico.org.uk/global/contact-us/email/> or at the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF.

<b>Designated Directors Signature:</b>	
<b>Date:</b>	12/02/2020
<b>Review Date:</b>	12/02/2021