

A4C Banding No: P2234

Job Description

TITLE: Data Protection Officer (DPO) and Head of

Legal Services

DEPARTMENT: Corporate Governance

LOCATION: Priestly Wharf

PROFESSIONALLY ACCOUNTABLE TO: Corporate Governance Director

The DPO will have a direct reporting route to the Trust Board and Chief Executive Officer as mandated by GDPR with high level acumen enabling the post holder to work with the Trust

Board.

BAND: 8C

HOURS: 37.5

Job Purpose

A: Data Protection Officer

The Data Protection Officer is a legally required position within all public authorities. The role of Head of Information Governance has been incorporated into the DPO position. This is an essential role in facilitating 'accountability' and BCHC's ability to demonstrate compliance with the GDPR in meeting its statutory functions and legal obligations.

The DPO will develop and implement data security and protection to support the national, regional and local data protection and information governance strategies throughout the organisation, relating to information, data governance and information security i.e. General Data Protection Regulation (GDPR), Data Security and Protection Toolkit (DSPTK), and all Information Commissioner's Office (ICO) guidance.

The DPO will act as the specialist and Trust Lead on all matters pertaining to information governance, data protection and security, providing expert guidance and interpretation to senior management and staff on:

- Confidentiality / Data Protection
- GDPR
- Information Governance
- Freedom of Information (FOI)
- Subject Access Request (SAR)











- National Data Security Standards
- Data Protection Law Enforcement Directive (DPLED)
- Data Protection Act 2018 (DPA 2018)

The DPO will ensure that the Trust has a managed and coordinated approach to the implementation of all aspects of data protection, GDPR and information governance, including monitoring and reporting on compliance. Will also, lead, co-ordinate and embed any changes necessary to ensure the successful implementation of GDPR and DPA 2018.

Support the Senior Information Risk Owner (SIRO) to achieve the key responsibilities of the post.

Support the Caldicott Guardian and make recommendations and advise on requests for information sharing.

B: Trust Legal Lead

As the Trust's senior legal officer, the post holder will also oversee the in-house legal services function for the Trust and will be responsible for providing strategies legal advice to the Board and other senior managers of the Trust on a range of matters, utilising both internal and external legal support where appropriate. The post holder will manage a team to deliver an effective in-house legal services function which is cost-effective, responsive and identifies innovative solutions for its internal clients.

Responsible for

The post-holder will have the ability to direct Trust staff as necessary to fulfil the duties as described within this Job Description. This may include allocation of actions / responsibility to staff outside the DPO's official span of control / line management jurisdiction. The post holder will also have responsibility for supervising the workload of the in-house Legal Services team and will oversee expenditure against the Information Governance budget and the legal budget and be an authorised signatory for up to £50,000.

Main Duties

1. **As DPO:**

- To be the first point of contact and Lead within BCHC for all data protection and information governance matters.
- To provide support, specialist advice and assurance of compliance across BCHC on data protection matters.
- To support programmes of work from inception to ensure that data protection is addressed by default and in the design of new systems and information processes.











- To be the first point of contact for the ICO and be available to be contacted directly by data subjects. The contact details of the DPO will be published in the BCHC privacy notice.
- To develop /advise senior management on the development of policies, procedures, guidelines, protocols, processes and other measures to ensure compliance with the GDPR and Information Governance, including but not limited to:
 - records of processing activities
 - data protection by design and default
 - data protection impact assessment
 - fair processing
- To monitor compliance with the above measures and provide reports to Senior Management.
- Maintain oversight of information security and systems relating to Trust-wide data protection, and provide legal and information governance advice to technical implementations which may be proposed by the Information Security Specialist, and the Trust IT function.
- To support programmes and initiatives that involve the development of new or innovative information processes on the need for data protection impact assessment.
- To support and advise programmes and initiatives in conducting data protection impact assessments, and to assure the proposed mitigations.
- To consult with the Information Commissioner's Office (ICO), where proposed processing poses a high risk in the absence of proposed mitigations, on Data Protection matters and ensure that the ICO's guidance is made available to Trust employees.
- To ensure that the Trust is adequately providing advice on Privacy Impact Assessments (PIA) and ensure that PIAs are carried out on strategic information systems projects.
- Manage information systems central to the management of Data Protection/GDPR requests, ensuring they are working and accessible to the Care Records and Corporate functions.
- Monitor arrangements to ensure that data access information requests, including requests for access to health records, are processed within the permitted timescales and assurance can be provided to the Trust as to compliance.
- To cooperate with the ICO and manage complaints raised by the Information Commissioner's Office where alleged breaches of legislation have occurred on behalf of BCHC Service Users and/or trust employees.
- Review, maintain and update the Trust's Data Protection Registration entry, as required by the Information Commissioners Office.











- Contribute to the development of a culture of openness allowing appropriate information to flow freely
- Be the recognised authority on all Information Governance matters within the Trust and as such provide an organisational wide advisory and guidance service on highly complex information legislation matters where there can be differing opinions.
- Use Health Service policy and legislation and interpret them to advise on policy, goals and standards within the organisation.
- Responsible person for producing Trust wide work plans on an annual basis to meet policy, procedure and legislation requirements.
- Corporate responsibility for advising the Trust on how to meet information governance policy requirements when working with external organisations.
- Manage and monitor completion of the Data Security and Protection Toolkit (DSPTK) (previously known as IG Toolkit) and associated evidence portfolio.
- Assess the impact of changes to national IG initiatives and advise the Information Governance Steering Group (IGSG) of such changes, making recommendations to the Trust and ensuring that actions plans are prepared, agreed and implemented in order for the Trust to meet national IG requirements.
- Proactively produce, maintain and monitor the Trust's Information Governance action plan and report regularly on progress to the Information Governance Steering Group (executive reporting level).
- Provide specialist advice on all IG matters eg Data Protection to IGSG and relevant subcommittees and across the whole Trust.
- Develop and supply options to the business to resolve issues of non-compliance in the Trust offering a range of options which are suitable both for service provision and for legislative compliance.
- Monitor and audit compliance with policies and procedures across the Trust through site
 visits, including inpatient and forensic wards, initiating actions to address areas of noncompliance and reporting on progress and risks to the IGSG and/or its sub-committees.
- Manage and co-ordinate completion of the annual Trust Information Governance assessment with Trust leads, using the Data Security and Protection Toolkit (DSPTK), and obtain sign-off by IGSG before submission.
- Responsible for maintaining an IG risk and assurance register, ensuring that all major risks are brought to the attention of IGSG and appropriate senior managers for action.
- Responsible for ensuring the Trust's Data Protection registration is maintained and all other external IG regulatory or audit requirements are completed and reported in a timely and efficient manner to the appropriate monitoring body.
- Oversee maintenance of an appropriate, up-to-date Information Governance evidence portfolio so that it is available to support Care Quality Commission reviews and/or internal and external audits.











- Present implementation plans and progress reports to the IGSG and relevant subcommittees on a regular basis.
- Prepare and present, where applicable, regular Information Governance reports to Trust Board/ Audit Committee.
- Trust representative on all local, regional and national Information Governance related groups on behalf the Trust, in determining and implementing national and local policies, protocols and procedures and providing feedback to relevant Trust working and steering groups.
- Trust representative responsible for engagement with service users, family members
 and service user contact groups on information governance matters including subject
 access requests, breaches in confidentiality, and handling complaints in a sensitive
 manner due to the potentially distressing situations that may result from breaches in
 confidentiality.
- Investigate complex complaints in relation to Information Governance on behalf of the Trust ensuring a thorough and fair assessment in relation to highly sensitive information.
- Collate and analyse performance statistics on aspects of information governance to identify trends and areas for action and improvement.
- Take corporate responsibility for Information Governance compliance in the provision of new goods and services in the Trust from the Tender phase to the final contract signing.
- Provide assurance and assistance for site moves through manual checking of sites and all record containers within any area of a building and regardless of condition, sometimes in unpleasant conditions where containers and surroundings are dusty or dirty.
- Review, with legal and procurement, all proposed Data Sharing Agreements (DSA) and Information Sharing Agreements (ISA) prior to their sign off.
- Work closely with and support the Trust's Caldicott Guardian in promoting the safe use
 of patient information and the production of Trust and national reports as necessary.
- Support the legal team with 3rd party contracts.

Information Asset Ownership

- Implement and maintain the Trust Information Asset Register of systems and files containing personal information and associated security arrangements.
- Provide leadership, support and guidance to the Trust's Information Asset Owners to ensure that IG provision is clearly understood and enables full integration across the whole Trust.









Care and Corporate Records Management

 Support subject matter experts in the development and delivery of the Trust's Records Management policy to ensure legislative compliance and in support of strategic objectives.

Training

- Responsible for identifying, developing, delivering and evaluation of Trust-wide GDPR and Information Governance (IG) training needs, ensuring that statutory and mandatory, as well as recommended, learning requirements are clearly defined, that training courses and information material available to staff meet those needs, and that the Trust meets its associated performance targets.
- Responsible for the development, maintenance and delivery of the GDPR and IG component of the Trust Induction Programme.

Managerial and Administrative

- The Data Protection Officer has line manager responsibility for the Information Governance and Trust Legal functions, ensuring that the team are deployed appropriately; all aspects of performance, attendance, training and appraisal are addressed in accordance with Trust Policy.
- Oversee and manage the administration of the Information Governance Steering Group and other subgroups
- Responsible for overseeing the work of administrative support staff and subject matter leads as appropriate.
- Act as a topic expert for serious incidents that involve IG, ensuring appropriate action is taken and advising on breaches of policy for disciplinary action.

2. Legal Responsibilities

2.1 Legal Advice /support

- To take lead responsibility for all legal matters on behalf of the Trust and act as the main point of liaison for all legal issues;
- Providing strategic legal advice to the Board and senior managers within both Corporate services and the Divisions seeking assistance and guidance from the Trust's External Solicitors as appropriate to resolve complex, wide-ranging and sensitive issues;
- To support the Trust's strategic aims and work with both internal and external stakeholders to advance the Trust's strategic and commercial interests within a legal framework;











- Ensure that appropriate arrangements are in place for seeking external legal advice, acting as a gatekeeper to the Trust's external legal advisors.
- Drafting and reviewing internal governance policies and managing the impact of external factors, identifying any legislative changes and advising accordingly
- Provide advice and support with technical legal issues as required;
- Liaise with internal and external organisations in negotiations and achieve settlements which achieve the Trust's commercial aims and are in line with its values.

2.2 Inquests

- Liaise effectively with other stakeholders across the Trust to deliver effective representation at inquest and other hearings;
- Ensuring that the Trust complies with its duties in relation to the Coroner's Act 1988 (Amended) and also the Coroner's Rules; reviewing clinical reports and statements produced by clinicians for the Coroner and raising any issues as necessary with the Corporate Governance Director;
- Ensuring the smooth organisation of complex multi-disciplinary inquests involving the Risk and Complaints Departments, Medical staff, Nursing staff, Directors and Communications staff:
- Working closely with the in-house legal team and Trust's external legal advisors as appropriate in determining the Trust's actions when dealing with involved and complex inquests.

2.3 Litigation

- Manage the Trust's in-house Legal Services team to deliver cost-effective outcomes in litigation cases and provide advice and support to managers in delivering settlements where required.
- Liaising with external legal services providers and NHS Resolution to manage claims against the Trust under the Pre-Action Protocols
- To deliver a triangulated service with other corporate areas to achieve internal learning and minimise the risks around future claims
- Assist in the management of litigation claims against the Trust for clinical negligence and employer/public liability cases where there may be uncertainty in accordance with pre-action protocols;
- Ensuring that all disclosure deadlines are met (in terms of discoverable information) in line with the Data Protection Act, Access to Health Records Act and the Civil Procedure Rules:
- Responsible for assessing claims for approximate value, percentage of liability and subsequently for ensuring that all claims deemed 'reportable' under the CNST (Clinical Negligence Scheme for Trusts) Reporting guidelines are reported expeditiously to NHS Resolution with a full Preliminary Analysis assessing breach of duty, causation, quantum and any risk management lessons;
- Responsible for ensuring that Directors, Managers and Clinicians are kept informed of new and resolved claims;











- Providing full briefings for the Trust's Head of Communications on any legal matters which may attract press attention;
- To ensure that lessons learned from claims investigation are formally reported and promoted to 'close the feedback loop';
- Responsible for ensuring that all claims where complex issues arise are brought to the attention of the Corporate Governance Director for advice and direction;
- Using initiative to identify ways of improving departmental processes, policies and systems to enhance the smooth running of the function and deliver improved claims management.

2.4 Analysis and data management

- Responsible for maintaining the Trust's claims database and ensuring that it is accurate and up-to-date;
- Responsible for generating reports from the system to assist in reporting to the committees, operational/clinical/nursing staff and the Trust Board. To provide additional reports/information as required by Trust colleagues on an 'ad hoc' basis.

2.5 General

- Ensure that the Legal Services function maintains an appropriate paper and electronic filing system is in place within the department which is information law compliant;
- Ensure that arrangements are in place for monitoring compliance with codes of practice, regulation and corporate law;
- Secure and provide in-house training for managers and staff on legal issues and legislative changes on a rolling basis.

Knowledge

- Maintain expert knowledge of healthcare and information law and practices, how they apply to BCHC and provide specialist advice on compliance obligations (particularly the GDPR, Freedom of Information Act and Data Protection Bill)
- Maintain a detailed working knowledge of current NHS Information Security and Confidentiality policy and developments.

Communication and Other Responsibilities

- Initiate and lead projects to address information governance requirements, producing detailed project briefs, plans and progress reports as appropriate.
- The DPO role requires influencing and achieving results through others outside of the direct span of control.
- The DPO must communicate complex legal and ethical issues to staff throughout the Trust at all levels, and liaise with patients who may have had their confidentiality breached.











 The DPO will act as the Trust's external representative on all data protection and security matters.

Management, Leadership and General Responsibilities

- Have an understanding of the national perspective and future strategy for the NHS and related areas of health to ensure that staff in your team/s are fully aware of the implications and can contribute effectively to service improvement.
- Develop and empower all members of your team to perform to high standards and innovate.
- Ensure supportive staff management arrangements are in place and carry out personal development reviews for direct reports. Ensure all staff in your team/s have annual PDR's resulting in specific objectives and effective personal development plans in line with the Knowledge and Skills Outline Framework.
- Develop staff knowledge and skills to promote equality and diversity and address inequalities both in employment and service delivery. Ensure specific equality objective are included in PDR's.
- Develop a culture that ensure that the standards of Improving Working Lives and Investors in People are achieved and maintained for all staff and that staff's perception about their working lives are measured and improvements made.
- Responsible for undertaking appraisal of identified staff, including identifying the learning and development needs of individuals in line with the Knowledge and Skills Outline Framework.
- Responsible for leading in training and development of identified staff. Attend and contribute to departmental and other relevant meetings.
- Maintain effective working relationships with user departments.
- Develop and maintain effective working relationships with external suppliers of systems and services.
- Promote Trust wide good practice in the use of IT hardware and software.
- Store, install and operate all ICT equipment safely when under own control.
- Participate in other departmental projects and undertake any other duties appropriate to the grade, as agreed with line manager.

To undertake other duties commensurate with this grade of post in agreement with the relevant line manager.

To minimise the Trust's environmental impact wherever possible, including recycling, switching off lights, computers, monitors and equipment when not in use. Helping to reduce paper waste by minimising printing/copying and reducing water usage, reporting faults and heating/cooling concerns promptly and minimising travel. Where the role includes the ordering and use of supplies or equipment the post holder will consider the environmental impact of purchases.









Key Relationships

To establish effective working relation with the following:

Internal: Caldicott Guardian (Medical Director), Trust Senior Information Risk Owner (SIRO) (Executive level), Executive Directors, Chief Clinical Information Officer, Head of Care Records and Clinical Coding, Corporate Records and FOI lead, Divisional Management Teams/Representatives; Clinical, Service and Administration Managers and Clinicians involved in clinical systems projects; modernisation and re-design staff; ICT managers and staff; other Trust staff as appropriate.

External: Service users, Solicitors, Local Authorities, CCGs/CSUs, Information Governance audit staff within other NHS organisations and regulatory bodies, the Office of the Information Commissioner, auditors and suppliers of software, systems and services.

Performance Management

All employees have a responsibility to participate in regular appraisal with their manager and to identify performance standards of the post. As part of the appraisal process every employee is responsible for participating in identifying their own training and development need

Health & Safety at Work

Attention is drawn to the responsibility of all employees to take reasonable care for the health & safety of themselves and other people who may be affected by their actions at work.

Equal Opportunities

Birmingham Community Healthcare NHS Foundation Trust is committed to being an equal opportunities employer and welcomes applicants from people irrespective of age, gender, race and disability.

Safeguarding

It is the responsibility of all staff to safeguard and protect children and adults at risk at all times and staff must report any concerns as per Safeguarding Children and Safeguarding Adults polices, which are available on the Trust's intranet. Every member of staff must undertake regular mandatory safeguarding training at a level relevant to the role.

Smoking

The Trust operates a No Smoking policy.









Mobility

Whilst the postholder will be based at **Priestley Wharf** this is a Trust wide appointment and travel around the Trust may be required.

Confidentiality

Your attention is drawn to the confidential nature of information collected within the National Health Service. The unauthorised use or disclosures of patient or other personal information is regarded as gross misconduct and will be subject to the Trust's Disciplinary Procedure and, in the case of both computerised and paper-based information, could result in a prosecution for an offence or action for civil damages under the Data Protection Act 1998.

Sustainability

The Trust attaches great importance to sustainability and Corporate Social Responsibility. It is therefore the responsibility of all members of staff to ensure that the Trusts resources are used efficiently with minimum wastage throughout their daily activities

Dignity in Care

Birmingham Community Healthcare NHS Foundation Trust (BCHC) is committed to providing dignity in care for all our patients and service users across the Trust.

All staff, workers, volunteers, students and individuals undertaking work experience/shadowing, irrespective of the role they specifically undertake, are required to adhere to BCHC's vision, values and professional standards. This also involves working with and alongside colleagues and partners, demonstrating a duty of candour (i.e. honesty and straightforwardness), openness and accountability in order to achieve high quality and the best possible care outcomes for our patients, service users and the local community.

Infection Prevention and Control

The Trust is committed to minimising any risks of healthcare associated infection to patients, visitors and staff. All employees must attend Infection Prevention and Control training as required for their post. Employees must be familiar with and comply with Infection Prevention and Control policies available on the Intranet.

Job Description

This job description will be subject to discussion and reviewed on an annual basis within the appraisal process.

POST HOLDER'S SIGNATURE:	
DATE:	











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A4C Banding No: P2234

PERSON SPECIFICATION

Title	Data Protection Officer (DPO) and	Band	8C
	Head of Legal Services		

Example key areas	Job requirements	W	How identified	Candidate score	Comments
Qualifications / training	Degree level qualification or relevant experience, and,	Е	AF/I/P		
Level of education; Professional qualifications; Vocational training; Post basic qualifications; Training and learning	 Information Systems Examinations Board (ISEB) Data Protection, or equivalent relevant experience or other qualification, and, Evidence of continued 	E	AF/I/P AF/I		
programmes/courses	professional development in relation to Data Protection, IG and Freedom of Information and changes in legislative requirements	D	AF		
	 Post-graduate in related subject. 	D	AF/I		
	Other relevant IG qualification in Freedom of Information/ Corporate Records Management	D	AF/I		







Example key areas	Job requirements	W	How identified	Candidate score	Comments
	ISO 17024- accredited GDPR Foundation and Practitioner certificate	D	AF/I		
	 Evidence of further education in the application of ISO/IEC 27002:2013 and other associated standards. 	E	AF		







Example key areas	Job requirements	W	How identified	Candidate score	Comments
Experience Length and type of experience Level at which experience gained	Extensive experience of working in the field of information governance including practical implementation of the Data Protection Act 1998, the Freedom of Information Act 2000 and the NHS Governance framework at senior level. Experience of developing and implementing information governance training and awareness programmes for staff.	E	A/I		
	Experience of developing/writing and implementing organisation wide strategies, policies and procedures. Expert knowledge of the Data Protection and Freedom of Information Acts.	E	AF/I		
	Relevant experience in data privacy impact assessments	E	AF/I		
	Experience in the application	E	AF/I		







Example key areas	Job requirements	W	How identified	Candidate score	Comments
	of project management principles and the successful management of change with demonstrable outcomes, • Experience of processing	Е	AF/I		
	Freedom of Information requests.				
	 Relevant experience of working effectively across organisational professional boundaries in complex 	Е	AF/I		
	 organisations Experience of representing local organisation at regional or national events. 	Е	AF/I		
	 Experience of working with internal auditors 	D	AF		
	 Understanding of information technologies and data security 	D	I		







Example key areas	Job requirements	W	How identified	Candidate score	Comments
Skills/knowledge Range and level of skills Depth and extent of knowledge	 Excellent understanding of confidentiality issues in relation to personal data Ability to communicate effectively with the highest level of management 	E	P		
	including Board members and ICO Office.Awareness of information system security issues/standards and	E	AF/I/P		
	techniquesSupervisory/ management experience. Cross team and	E	AF/I		
	multi-disciplinary workingKnowledge of NHS information and technology	E	AF/I		
	strategiesKnowledge of corporate records management and	D	AF/I		
	data quality issues Excellent presentation and interpersonal skills	Е	I/P		
	Ability to negotiate complex situations	E	AF/I		







Example key areas	Job requirements	W	How identified	Candidate score	Comments
	Ability to resolve conflicting interests in a pragmatic way and motivate others.	E	I/P		
	 Ability to make judgements based on highly complex facts/situations. 	E	I/P		
	 Ability to write concise, well- structured policies, reports, guidelines and operating 	E E	AF/I		
	 procedures Good all round IT skills including email, internet, Microsoft suite of 	Е	AF/I		
	applications and presentations.Experience of preparing reports for board level meetings.	Е	I		
Personal qualities	High levels of personal	Е	I		
	integrity and reliabilityAbility to work on own initiative but also to work in a	Е	AF/I		
	teamAbility to negotiate complex situations.	Ш	AF/I		







Example key areas	Job requirements	W	How identified	Candidate score	Comments
	 Ability to produce high quality work under time pressure Ability to demonstrate evidence of leadership competencies in the following areas: vision, delivery, control and decision making Ability to demonstrate and evidence management skills in the following areas: recruitment & selection, management performance, financial and risk 	E E	I AF/I AF/I		
	management, workforce planning, coaching and mentoring • Ability to see opportunities for development of role, self, staff and service	D	AF/I		







Example key areas	Job requirements	W	How identified	Candidate score	Comments
Other job requirements	Must be able to concentrate for extended periods on VDU and other detailed and complex work	E	ı		
	Flexible attitude in the work environment	Ε	I		
	Must be able to occasionally work out of hours	Е	I		
	Moderate physical effort required e.g. to lift boxes of	D	I		
	records.Able to travel and work across Trust sites.	Е	I		
Overall Candidate score					

W (Weighting) - E = Essential D= Desirable

How identified = Application = AF; Interview = I; Test = T; Presentation = P.





