**Motional Consent Form/Info Sheet**

**GUIDANCE NOTES**

This document and the red notes in it are primarily aimed at Data Protection Officers, SLT and/or Directors. It requires someone who has authority to make decisions on behalf of your organisation about the legal basis upon which you rely in order to use Motional.

* All text in red should be removed before you send this form to children or parents. It’s here for your information.
* Items highlighted in yellow require you to make decisions. Remove the highlighting when you have chosen.
* When you’ve finished, the whole document should fit on one sheet of A4.
* THIS DOCUMENT DOES NOT CONSTITUTE LEGAL ADVICE

Hi there,

We are using Motional (you can visit their website at motional.io) to help us support the mental health and wellbeing of children and young people. As such we produce and store certain information about children which could be used to identify them. Some of it is also classed as “Special Category Data” which in this case means it’s to do with mental health and wellbeing. There are some technical terms in here. Please ask us or search online if there’s anything you don’t understand.

This document explains the legal rights you have, and how you can exercise them.

**Data that identifies you**

* Name, date of birth, class, UPN number, gender, school census categories

The legal basis for collecting this information is [insert legal basis here]. There are 6 legal bases you can insert here: Consent, Contract, Legal Obligation, Vital Interests, Public Task, Legitimate Interests. More info at <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/> As you can see – using a consent form is not the only way. And in fact, the ICO says *“You need to have 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 the child.”*

Our lawyer suggested that for organisations that are publicly funded you use “Public Task - Article 6, para 1(e) ”

**Special Category Data**

Special category data is specific types of data – the only one Motional might fall into is ‘health’

* answers to questions about emotional and executive functioning systems in your/your child’s brain

The legal basis for collecting this information is [insert legal basis here]. There are 10 legal bases for processing special category data. See here: <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/special-category-data/>

Our lawyer suggested that if the child is threatening or performing self-harm, or threatening suicide you could use Article 9, para 2(c) “*processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent”* – vital interest = keeping them alive, and all children are legally incapable of giving consent on mental health matters until they are 16.

Or for all children you could use Article 9 para 2(h) “*processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3;”* Para 3 says *“Personal data referred to in paragraph 1 may be processed for the purposes referred to in point (h) of paragraph 2 when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy under Union or Member State law or rules established by national competent bodies or by another person also subject to an obligation of secrecy under Union or Member State law or rules established by national competent bodies”* This assumes that there is a code of confidentiality written down in your organisation’s policies or employment contract.

**Data Transfer**

We will transfer control of this data to your/your child’s next school/organisation if they also have a subscription with Motional, AND they meet the current requirements for data processing under current legislation.

We believe that this is in your/your child’s best interest, as it helps with transition from one organisation to another and helps the next organisation to support you/your child better.

Your data will never leave Motional’s encrypted servers, and the next organisation will have to have the right policies and documents in place before we’ll transfer the data.

**Your Rights**

Read this for much more detail: <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/> You have several rights over your/your child’s personal data;

* Right to access
  + This is normally exercised by the child – not the parent
  + In certain cases, the rights of the child may override a request from a parent
* Right to rectification
  + The data should be accurate, and you can ask us to update it if it’s not
* Only if you’re relying on consent as legal basis: Right to be forgotten
  + You can ask us to remove your details from Motional
* Only if you DON’T use consent: Right to object
  + You should tell us why you object
  + We look at each case individually

You can exercise any of these rights by contacting us as follows:

|  |  |
| --- | --- |
| Name | Your data protection officer |
| Email | Their email |
| Telephone | Their phone number |

**And that’s it – end of document. You can either issue this as a document or put the information here into your school/organisation’s privacy policy.**

**Delete everything after this unless you are relying on consent as a legal basis.**

**Giving Consent**

|  |  |
| --- | --- |
| YES/NO | Description |
|  | I consent to my personal data being collected and stored on Motional |
|  | I consent to data about my health being collected and stored on Motional |
|  | I consent to the transfer of control of my data to my next school/organisation |
| **Name** |  |
| **Signature** |  |
| **Parent’s Name** |  |
| **Parent’s Signature** |  |