



ATOC/GN032
Issue 1
April 2016

ATOC Guidance Note – Information Sharing Protocol with the BTP

Synopsis

This Guidance Note sets out what has been agreed with the BTP to facilitate information sharing with railway undertakings.

Authorised by

A handwritten signature in black ink, appearing to read 'Charles Horton', is positioned above a dashed horizontal line.

Charles Horton - Chair, ATOC Operations Council

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Part A

Issue Record

This Guidance Note will be updated when necessary by distribution of a complete replacement.

Issue	Date	Comments
One	April 2016	Original version

Responsibilities

Copies of this Guidance Note should be distributed by RDGP&S and RDGP&S IG members to persons for whom its content is relevant.

It is the responsibility of the ATOC/RDG Police & Security Liaison Officer to ensure that the review of the Protocol with the BTP and the membership of RDGP&S IG takes place biennially (or at such frequency as otherwise agreed by the Group).

Explanatory note

ATOC produces ATOC Guidance Notes for the information of its members. ATOC is not a regulatory body and compliance with ATOC Guidance Notes is not mandatory.

ATOC Guidance Notes are intended to reflect good practice. ATOC members are recommended to evaluate the guidance against their own arrangements in a structured and systematic way. Some parts of the guidance may not be appropriate to their operations. It is recommended that this process of evaluation and any subsequent decision to adopt (or not to adopt) elements of the guidance should be documented.

Guidance Note status

This document is not intended to create legally binding obligations between railway undertakings and should be binding in honour only.

Supply

Copies of this Guidance Note may be obtained from the ATOC members' web site or the ATOC/RDG Police & Security Liaison Officer.

Part B

1. Introduction

The British Transport Police (BTP) exchanges information on a regular basis with members of the rail industry. Due to the status of the BTP, it has to regularise its approaches to information sharing. The BTP brought a proposal to the ATOC/RDG Police and Security Group Implementation Group (RDGP&S IG) which allows for the sharing of information to be undertaken by means of a standard protocol which contains all the necessary common information, processes and procedures.

2. Purpose

This Guidance Note sets out what has been agreed with the BTP to facilitate information sharing with railway undertakings. It introduces an Information Sharing Protocol (ISP) which sets out the framework under which individual Information Sharing Agreements (ISAs) may be agreed between railway undertakings and the BTP.

3. Definitions

Definitions used within this Guidance Note are:

BTP – British Transport Police

ISA – Information Sharing Agreement

ISP – Information Sharing Protocol

RDGP&S IG – Rail Delivery Group Policing & Security Group Implementation Group

4. Information Sharing Protocol (ISP)

- 4.1 The ISP (see Appendix A) sets out the common information, processes and procedures which, without this Guidance Note, would have had to be repeated in all individual ISAs.
- 4.2 The overarching purpose for which information will be shared between the BTP and railway undertakings will be to prevent and detect e.g. crime and disorder, public nuisance and antisocial behaviour.
- 4.3 In addition, it includes the sharing of information for civil action and information to protect the vulnerable.
- 4.4 The BTP and railway undertakings will co-operate in good faith to fulfil the purposes of the Protocol and any specific ISAs made under it.
- 4.5 The ISP contains the following sections:

Legislative Framework covering:

- The Civil Evidence Act 1995;
- Freedom of Information Act 2000;
- The Human Rights Act 1998 (article 8);

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- The Rehabilitation of Offenders Act 1974;
- Authorised Professional Practice (APP) Guidance on Information Management; and
- Information Sharing and the Management of Police Information (MoPI).

Key Principles and Processes covering:

- accurate;
- fair processing;
- subject access;
- Freedom of Information; and
- register of specific Information Sharing Agreements

The process for setting up individual ISAs

Constraints on the use of information

Security

Review, Retention and Deletion

Protocol Review

The Protocol will be reviewed six months after its implementation and annually thereafter. The nominated holder of the Protocol is the BTP. The review will be conducted by the BTP with membership of the RDGP&S IG.

Indemnity

Disclaimer

Signature

It has been agreed that the signature on this Guidance Note represents a signature on the actual Protocol itself.

5. Review by members of RDGP&S IG

The draft ISP has been reviewed and was discussed and endorsed at the meeting of the RDGP&S IG held in January 2016.

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APPENDIX A – Information Sharing Protocol



OVERARCHING INFORMATION SHARING PROTOCOL

BETWEEN

TRAIN OPERATING COMPANIES

AND

BRITISH TRANSPORT POLICE

Version – 0.4

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SUMMARY SHEET

Overarching Information Sharing Protocol

ISA Ref:	BTP-TOC-ISP-001
PURPOSE	This protocol sets an overarching framework of general principles for sharing of information between Train Operating Companies (TOCs) and British Transport Police (BTP).
PARTNERS	British Transport Police Train Operating Companies
Date Agreement comes into force:	Date of Signature
Date of Agreement Review:	Annually
Agreement Owner:	British Transport Police
Agreement drawn up by:	Simon Fuller, Information Sharing Officer, BTP. Andy Odell, Police and Security Liaison, Association of Train Operating Companies (ATOC) Glyn Naylor, Information Sharing Manager, BTP
Location of Signed Agreement in force:	Information Management Unit, Cardiff.

Version No.	Date	Amendments Made	Authorisation
0.1	Oct 2015	Initial Draft	Simon Fuller, BTP
0.2	Nov 2015	Second Draft	Glyn Naylor, BTP
0.3	Jan 16	Third Draft	Glyn Naylor, BTP
0.4	14 Jan 16	Fourth Draft (formatting and typos)	Andy Odell, RDG

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1. INTRODUCTION

- 1.1 Train Operating Companies (TOCs) run rail passenger services. TOCs are the consumer face of the rail industry. Every year over 1.3 billion journeys are made on Britain's railway network and it is anticipated that passenger demand will double over the next 30 years.
- 1.2 British Transport Police (BTP) are Britain's dedicated and specialist railway police force, providing a service to Train Operating Companies (TOCs), their staff and passengers. The national rail and London Underground operating environment requires a specialist policing approach. In carrying out its duties, BTP deploys a service delivery model that takes full account of the unique railway environments while maintaining its overarching statutory requirements of impartiality and independence. BTP has the following strategic objectives for 2019:
- Keep transport systems running – Reducing minutes lost to police-related disruption by at least 20% on the 2012/13 outturn figure.
 - A safe and secure railway – Reducing crime on the railway by at least 20% on the 2012/13 outturn figure.
 - Promote confidence in use of the railway – Increasing passenger confidence with personal security on train and on station by at least 10%.
- 1.3 BTP are committed to partnership working with TOCs to detect, prevent and reduce crime / anti-social behaviour, maintain public order and enhance safety and security on the railway network. A partnership approach to reducing crime will help reduce disruption to services and make the railway more attractive and safer for passengers and staff.
- 1.4 In adopting this partnership approach it is important that the policies/practices of all partners to this agreement complement each other to ensure that the sharing of information, including personal data is appropriate, necessary, proportionate and carried out in a consistent manner.
- 1.5 As information sharing is a reciprocal arrangement, the requirements contained in this protocol shall apply equally to all partners unless otherwise specified.
- 1.6 This system of information sharing has been developed as a two-tier framework. This Overarching Protocol sets the framework of general principles for the sharing of information between Train Operating Companies and BTP. Specific Information Sharing Agreements will be used with individual TOCs to set out the basis and detail of sharing information for specific purposes and projects.

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2. PURPOSE

- 2.1 The purpose of this protocol is to set out the general principles which will govern the sharing of information.
- 2.2 The overarching purpose for which information will be shared between BTP and TOCs will be to prevent and detect: crime and disorder, public nuisance and antisocial behaviour.
- 2.3 Further anticipated purposes include the sharing of information for civil action and information to protect the vulnerable.
- 2.4 BTP and TOCs will co-operate in good faith to fulfil the purposes of this protocol and any Specific Information Sharing Agreements made under it.

3. PARTNER(S)

- 3.1 This protocol is between the following partners:

Train Operating Companies

and

Chief Constable British Transport Police, Force HQ, 25, Camden Road, London. NW1 9LN

4. LEGISLATIVE FRAMEWORK

- 4.1 Information shared between BTP and Train Operating Companies will acknowledge and fulfil the requirements of the following:
 - [The Data Protection Act 1998](#) (See appendix 1)
 - **Common Law Duty of Confidentiality**
 - [Information Commissioner's Data Sharing Code of Practice](#) (May 2011)
- 4.2 Legislation likely to be applicable to BTP when sharing information includes:
 - [The Civil Evidence Act 1995](#);
 - [Freedom of Information Act 2000](#)
 - [The Human Rights Act 1998](#) (article 8);
 - [The Rehabilitation of Offenders Act 1974](#);

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- [Authorised Professional Practice \(APP\) Guidance on Information Management, Information Sharing and the Management of Police Information \(MoPI\)](#)

BTP Information will be shared for a Policing Purpose under the terms of the APP Guidance on Management of Police Information (MoPI) codes of practice, which is a framework for sharing of data in order to protect the public.

Policing Purposes are defined under APP Guidance as:

- ❖ Protecting life and property;
- ❖ Preserving order;
- ❖ Preventing the commission of offences;
- ❖ Bringing offender to justice, and
- ❖ Any duty or responsibility arising from common or statute law.

4.3 Lawful Basis for sharing

A public body may only share information if it has power to do so. This power may derive from:

A Statutory Obligation to share Information

A Statutory Power to share Information

Common Law Powers of disclosure;

Each Specific Information Sharing Agreement signed under this protocol will identify the relevant power under which information is to be shared.

5. KEY PRINCIPLES AND PROCESS

- 5.1 The sharing of personal data requires careful judgement in which the identified policing need must be considered against relevant issues dictated under Data Protection and Human Rights legislation. Any information the BTP or TOCs considers sharing must therefore be accurate, necessary and proportionate.

Accurate: All information must be accurate and relevant to the purpose for which it is being shared with proper reference made to the nature of the source and the intelligence itself.

Necessary: The necessity to share information between BTP and TOCs is to work in partnership to effectively deal with issues concerning the prevention, detection, investigation and prosecution of those persons engaged in criminal activity and/or anti-social behaviour, and an ongoing responsibility to ensure public safety and protect vulnerable persons using the railway network.

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Proportionate: In considering whether to share personal information all partners have a duty to ensure that a fair balance is achieved between the protection of an individual's rights and the general interests of society. In judging whether it is appropriate to share such information all partners will examine whether the identified purpose infringes upon the subject's right to privacy, the appropriate measures to meet the purpose are both fair and rational and also that the means used are no more than is necessary to accomplish the purpose.

5.2 Fair Processing.

The Data Protection Act requires the fair processing of information unless an exemption applies. In particular, fairness involves being open with people about how their information is used. BTP publish a fair processing notice online which states how the information may be processed and shared. Additionally, information sharing agreements will be published on the BTP website.

5.3 Subject Access

Subject Access is an individual's right to have a copy of information relating to them which is processed by an organisation. Once information is disclosed from one agency to another, the recipient organisation becomes the Data Controller for that information. With regards to subject access requests, the Data Controller has a statutory duty to comply with section 7 of the DPA, unless an exemption applies. It is good practise for the recipient partner to contact the originating partner. This enables the originating partner to advise the use of any statutory exemptions that may need to be applied prior to disclosure to the requesting individual. Communication should take place speedily thus allowing the servicing of the request to take place within the Statutory 40 calendar day, time period.

5.4 Freedom of Information

As a public authority, BTP is subject to the Freedom of Information (FOI) Act [2000]. This does not apply to TOCs which are private businesses. If BTP receive a request under this legislation that relates to data that has been disclosed under a Specific Information Sharing Agreement, it is best practice to seek advice from the originating partner prior to release. This allows the originating partner to identify any perceived harms. However, the decision to release data under the FOI Act is the responsibility of the authority that received the request.

5.5 Register of Specific Information Sharing Agreements

Each partner will maintain a register of Specific Information Sharing Agreements entered into pursuant to this Protocol agreement. At British Transport Police this register shall be kept on the Information Sharing Intranet Pages.

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6. SPECIFIC INFORMATION SHARING AGREEMENT PROCEDURE

- 6.1 Partners will agree and sign a Specific Information Sharing Agreement for each specific activity or purpose where personal data is to be exchanged.
- 6.2 Specific Information Sharing Agreements shall incorporate the terms of this agreement and contain the following:
- The specific purpose of sharing
 - The benefits of sharing to each partner
 - The specific legislation relevant to the sharing
 - The precise category of information to be shared
 - Relevant handling procedure dependent on category of information (e.g. Personal data consideration, commercially sensitive handling requirements, Government Protective Marking Scheme requirements)
 - The specific points of contact for the sharing
 - The anticipated duration of the Specific Information Sharing Agreement and arrangements for review, renewal or cancellation of the Agreement.
- 6.3 Specific Information Sharing Agreements shall pay due regard to the Data Protection Act, Human Rights Act and Common Law Duty of Confidentiality.
- 6.4 Any queries about the drafting or implementation of Specific Information Sharing Agreements should be directed to the British Transport Police Information Sharing Department through any of the below methods of contact:

Information Sharing Team, British Transport Police	2 nd Floor, 3 Callaghan Square, Cardiff, CF10 5BT	 02920 525357  InformationSharing@btp.pnn.police.uk
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7. CONSTRAINTS ON THE USE OF THE INFORMATION

- 7.1 If a partner wishes to disclose shared information to a third party, as best practice that partner should seek written consent from the partner that provided the information, unless specified in a Specific Information Sharing Agreement that this is not required. If a statutory requirement for disclosure exists, then consent for further disclosure is not required. All partners must ensure that all principles of the Data Protection Act are adhered to. Therefore, if a partner makes a further disclosure to a third party they must ensure that the sharing of personal data is not processed in any manner incompatible with the purpose/s it was obtained for.
- 7.2 A full record must be made and retained of any secondary disclosure including: date; details of receiving organisation; reason for disclosure; what type(s) of data has been requested; details of authorising person and means of transfer.
- 7.3 Access to police data will be restricted to those employees of Train Operating Companies that have need to access the data in the course of their role pursuant to the purpose the information was shared for.
- 7.4 As best practise all information shared is only valid at the time of provision, and should only be used for the purpose as requested. However, the recipient organisation becomes the **Data Controller** for the shared information therefore the information may be used for subsequent investigations, if it is being used for a purpose that is compatible with the purpose for which it was obtained.
- 7.5 **Consent**
- Caution should be exercised where consent is relied upon as an enabler of information sharing. Consent must be freely given after the alternatives and consequences are made clear to the person from whom permission is being sought. This will be considered to be 'informed consent'.
- 7.6 **Witnesses, Victims and Complainants**
- Extreme care and careful consideration should be taken where the disclosure of information includes details of witnesses, victims or complainants. The general rule is that information such as described by witnesses, victims or complainants should not be disclosed without first obtaining fully informed, specific and explicit consent from the individual concerned. In all such cases, advice should be sought from the legal department, Information Sharing Officer and/or Data Protection Officer.

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7.7 **Ongoing Investigations**

If there is an ongoing investigation which is sensitive or of which the offender is not yet aware of the police investigation the officer in the case will be consulted prior to any dissemination to ensure there is no prejudice to the ongoing investigation or subsequent court proceedings. A case involving safeguarding issues, which require an urgent disclosure to protect any individual, should receive priority attention. In the event of a dispute, the views of the officer in the case will prevail.

8. **SECURITY**

8.1 Partners should establish common rules for shared data security, in order to ensure compliance with the Data Protection Act. As best practice the disclosing partner should make sure that any personal information they disclose will continue to be protected by ensuring that the recipient partner has adequate security measures in place.

8.2 The recipient partner has legal responsibility for any information that has been shared as a result of a Specific Information Sharing Agreement, this includes its security.

8.3 Organisations that have adequate security measures in place to ensure compliance with the Data Protection Act should apply their own security procedures to any shared information.

8.4 British Transport Police may, by arrangement undertake a physical review of a partner's premises and security procedures.

8.5 **The Government Security Classifications Policy (GSCP)**

Information shared by British Transport Police shall be in compliance with the requirements of the Government Security Classifications Policy This requires sensitive personal information and any information graded as 'Official' or 'Official - Sensitive' to be exchanged via secure means (e.g. Secure email, recorded delivery).

8.6 **Information Breaches**

Complaints and breaches to this agreement should be dealt with by utilising any established organisation policies and procedures for breaches and complaints made in relation to appropriate legislation in connection with the agreed information exchange and processing. Any disclosure of information by an employee, which is done in bad faith or for motives for personal gain, will be the subject of an investigation and be treated as a serious matter.

Each party will be accountable for any misuse of the information supplied to it and the consequences of such misuse by its employees, servants or agents.

All agencies are reminded of the Data Protection Act Principles and Section 55 and Section 61 Offences.

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It is the responsibility of all parties to notify the other party of any known breach or infringement immediately and remedial action must be agreed and actioned by all relevant agencies concerned.

9. REVIEW, RETENTION AND DELETION

- 9.1 The recipient of any information shared is required to keep it securely stored and when it is no longer required for the purpose for which it was requested, will safely and securely dispose of it. In order to ensure compliance with the Data Protection Act, data should be kept no longer than is necessary.
- 9.2 BTP files containing information from partner sources will be reviewed in line with force policy.
- 9.3 Specific Information Sharing Agreements may include specific retention and destruction procedures, depending on the nature and sensitivity of the information shared.

10. REVIEW OF THE INFORMATION SHARING PROTOCOL

- 10.1 This Overarching Information Sharing Protocol will be reviewed six months after its implementation and annually thereafter. The nominated holder of this agreement is British Transport Police.

11. INDEMNITY

- 11.1 The data recipient shall indemnify the Information Provider in full in respect of any loss or damage caused to the Information Provider as a consequence of the unauthorized disclosure of data supplied under any Specific Information Sharing Agreement pursuant to this Protocol.

12. DISCLAIMER

- 12.1 The Information Provider disclaims all liability to the data recipient in connection with the data recipient's use of data supplied under any Specific Information Sharing Agreement signed pursuant to this Protocol and shall not, under any circumstances, be responsible for any special, indirect or consequential loss or damages including but not limited to loss of profits arising from the use of the data by the data recipient.

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13. SIGNATURE

- 13.1 By signing this Protocol, all signatories accept responsibility for its execution and agree to ensure that staff are trained so that requests for information and the process of sharing itself is sufficient to meet the purposes of this Protocol and of any Specific Information Sharing Agreements signed pursuant to it.
- 13.2 Signatories must also ensure that they comply with all relevant legislation.
- 13.3 It is the responsibility of all signatories to ensure that:
- Realistic expectations prevail from the outset.
 - Professional, ethical standards are maintained.
 - The Data Protection Principles are upheld.
 - The information exchanged is kept secure and confidentiality is maintained as appropriate to the information's level of protective marking as defined by the Data Controller.
 - A mechanism exists by which the flow of information can be controlled.
 - Appropriate staff training is provided on this protocol.
 - Adequate arrangements exist to test adherence to the protocol.

Signed on behalf of British Transport Police

Name:

Rank / Position:

Date:

Signed on behalf of [Train Operating
Company]

Name:

Rank / Position:

Date:

Appendix 1

Appendix 1– Principles of the Data Protection Act

Principle 1	<p>Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless:</p> <ul style="list-style-type: none">• At least one of the conditions in Schedule 2 is met and;• In the case of sensitive data at least one of the conditions in Schedule 3 is also met.
Principle 2	<p>Personal data shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes.</p>
Principle 3	<p>Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.</p>
Principle 4	<p>Personal data shall be accurate and, where necessary, kept up to date.</p>
Principle 5	<p>Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.</p>
Principle 6	<p>Personal data shall be processed in accordance with the rights of data subjects under this Act.</p>
Principle 7	<p>Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.</p>
Principle 8	<p>Personal data shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of protection for the rights and freedom of data subjects in relation to the processing of personal data.</p>

Appendix 2

Terms and Definitions

‘BTP’ means British Transport Police.

‘NPCC’ means National Police Chiefs’ Council.

‘Train Operating Company/ TOC’ means a company that operates passenger trains on the mainline railway network in Great Britain under franchise or license from the Government.

The principal terms used in this agreement are based upon the definitions laid out in section 1(1) of the 1998 Data Protection Act.

The Seventh Data Protection Principle – ‘Appropriate technical and organisation measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data’.

The expressions **“Data”**, **“Data Controller”**, **“Data Processor”**, **“Personal Data”**, **“Sensitive Personal Data”**, **“Information Commissioner”**, **“Data Subject”** and **“Subject Access”** have the same meaning as in Sections 1, 2, and 6 of The Data Protection Act 1998, as amended by The Freedom of Information Act 2000.

‘Data Controller’ means, a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be processed.

‘Personal data’ means data which relate to a living individual who can be identified –

- (a) from those data, or
- (b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.

‘Sensitive personal data’ means personal data consisting of information as to -

- (a) the racial or ethnic origin of the data subject,
- (b) his political opinions,
- (c) his religious beliefs or other beliefs of a similar nature,
- (d) whether he is a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992),
- (e) his physical or mental health or condition,
- (f) his sexual life,
- (g) the commission or alleged commission by him of any offence, or
- (h) any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.