



Brent

Privacy Impact Assessment Questionnaire

Version 3.0 – May 2015

Owner: Information Governance Group

Review Date: May 2016

Privacy Impact Assessment Questionnaire

Version control table

Version Number	Date	Purpose/Change	Reviewer / Authoriser
1.0	13/07/2016	Initial Privacy Impact Assessment Questionnaire	Nancie Alleyne Head of Direct Service Adult Social Care
2.0	14/05/2008	Content and format reviewed	Russell Gibbs Benefits and Subsidy Policy Manager
2.1	15/05/2016	Content and format reviewed	Nicole Jarrett Senior Adult Care Solicitor
3.0	15/07/2016	Changes following ICO recommendations C23 and C25	Raj Seedher Information Governance team
3.1	15/07/201	Content and format reviewed	Helen Woodland Operational Director ASC

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This questionnaire is designed to risk assess the impact on privacy of a particular data sharing project/ proposal. It assumes that appropriate organisational privacy and security controls are already in place and have been audited. It should be completed by each system owner for each purpose for which data is to be processed.

Completed by:

Date:

Reviewed by:

Date:

Ref	Question	Response	Reviewer's Response
1. What is being shared?			
1.1	What sort of information do you intend to share?	<input type="checkbox"/> Aggregated data *1 <input type="checkbox"/> Personal data *2 <input checked="" type="checkbox"/> Sensitive personal data *2 <i>Note:</i> *1 Aggregated data is anonymous statistical information about individuals *2 Personal data and sensitive personal data as defined by the Data Protection Act 1998	Sensitive data relates to disability

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Ref	Question	Response	Reviewer's Response
1.2	Describe the information you intend to share.	<p>The Client Affairs Team based within Adult Social Care will access financial information from customers receiving Departmental of Works and Pension (DWP) welfare benefits</p> <p>The information is not shared or passed on to any third party.</p>	

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Ref	Question	Response	Reviewer's Response
1.3	Identify the personal information categories. <i>Mark all the categories that apply.</i>	<div style="display: flex; align-items: flex-start; gap: 10px;"> <div style="border: 1px solid black; width: 40px; height: 20px; display: flex; align-items: center; justify-content: center;">x</div> <div>Contact information</div> </div> <div style="display: flex; align-items: flex-start; gap: 10px; margin-top: 10px;"> <div style="border: 1px solid black; width: 40px; height: 20px; display: flex; align-items: center; justify-content: center;">x</div> <div>Financial information</div> </div> <div style="display: flex; align-items: flex-start; gap: 10px; margin-top: 10px;"> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> <div>Information about children</div> </div> <div style="display: flex; align-items: flex-start; gap: 10px; margin-top: 10px;"> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> <div>Medical or care information</div> </div> <div style="display: flex; align-items: flex-start; gap: 10px; margin-top: 10px;"> <div style="border: 1px solid black; width: 40px; height: 20px; display: flex; align-items: center; justify-content: center;">x</div> <div>Benefit details</div> </div> <div style="display: flex; align-items: flex-start; gap: 10px; margin-top: 10px;"> <div style="border: 1px solid black; width: 40px; height: 20px;"></div> <div>Details of service request</div> </div> <div style="border: 1px solid black; width: 150px; height: 20px; margin-top: 10px; padding: 2px;">Other (please specify)</div>	
2. Benefits			
2.1	What outcomes are you seeking to achieve through sharing information?	Utilising the information related to the type and the amount of welfare benefit a	

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Ref	Question	Response	Reviewer's Response
		<p>customer receives from the DWP. Type of benefits may include:-</p> <ul style="list-style-type: none"> • Attendance Allowance • Retirement Pension • Pension Credit, • Disability Living Allowance (DLA) <p>The information is used to undertake a financial assessment for customers receiving Adult Social Care Service. The outcomes will be quicker, more accurate financial assessments for Adult Social Care with less need for a home visit and less bureaucracy</p>	
2.2	<p>What benefit do you expect to be accrued to the organisation, the partner(s) providing the information and the people who the information is about?</p>	<ol style="list-style-type: none"> 1. Benefit to the organisation is the use of accurate information which has already been produced and used by the DWP in their calculation of the type and level of welfare benefit(s) an individual customer receives. As a result ASC will benefit from quicker and more accurate financial assessments. The process requires less resources, reduces bureaucracy and is less intrusive for customers 2. There are no additional benefits to the partner(s) 3. Customer confidence that the financial assessment related to their financial contributions towards their 	

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		<p>care service is accurate and based on information produced and used by the DWP.</p>	
<p>3. Basis for sharing</p>			
<p>3.1</p>	<p>Legal basis for sharing the information. Whether express or implied, there must be a legal basis for the sharing of personal information. If you are not sure then you should consult your legal representative.</p> <p><i>Appendix 2 lists some of the legislation that is relevant to sharing information. This may be of use.</i></p>	<p>The information used by the Client Affairs Team is not shared. It is used at source from the Customer Information System (CIS) which has been provided by DWP and used by the Housing Benefit Team under a Shared agreed which underpins the eight principles within the Data Protection Act 1998.</p> <p>So that the information can be shared with Adult Social Care an application has been made to the DWP by the Housing Benefit Team. The application is to share the information and forms part of the overall contract which Housing Benefit has with the DWP.</p> <p>The financial assessments provisions fall under the Care Act 2014.</p>	
<p>3.2</p>	<p>Can the information be made anonymous?</p>	<p>No because the processing is linked to specific individuals.</p>	

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	<p>Consider the purpose and remove any personal information that is not required.</p> <p>If aggregated data, consider whether any individuals may be identifiable from the information and in conjunction with any other information available.</p> <p>If personal data, consider whether the information can be provided in an anonymous way.</p>	<p>The financial assessment is related to customers receiving care services. The Client Affairs Team, based within Adult Social Care, will be responsible for accessing and utilising the information produced by the DWP and provided to the Housing Benefit Team so that they can calculate individual customer's housing benefit entitlement. The data base that holds customer information is called 'Customer Information System (CIS)'. The Client Affairs Team will access on a 'view only' basis and will use the information to calculate the overall income and expenditure related to a customer receiving adult social care services. The information is used only to calculate the affordability of customers' ability to contribute towards their care.</p> <p>The information used is not passed on by the Client Affairs Team to any third party and therefore not anonymised</p> <p>Each team member within the Client Affairs Team has been given a password and appropriate training by the DWP in order to access the CIS. They have also signed a confidentiality agreement.</p>	
3.3	If personal data is being shared, what is the condition for processing under the Data		

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	<p>Protection Act?</p> <p>Remember that consent is one of the conditions of processing.</p> <p>Conditions for processing: schedule 2 for personal data and schedule 3 for sensitive data. Please refer to Appendix 3.</p>	<p>The legal gateway through which the access to a customer's information is permitted is contained within:</p> <ul style="list-style-type: none"> • Section 131(1) of the Welfare Reform Act 2012 • Regulation 5(1) (ci) of the Social Security (Information sharing in relation to Welfare Services etc.) Regulations 2012 	
3.4	<p>Privacy assessment: will sharing this information cause any unwarranted detriment to the individual?</p> <p>Please consider the consequences for an individual if the information is lost or disclosed in error.</p>	<p>No. Welfare benefit information is taken from the Customer Information System (CIS). A screen shot is taken of the benefits received. The information is used to complete a financial assessment within Abacus which is the financial tool used by Adult Social Care to manage customer finances. The screen shot is saved within individual customer files for reference.</p> <p>The appropriate security protocols are in place within the Client Affairs team logging procedures in accordance with Council policy. Only the Client Affairs Team can access personal data of customers through Abacus.</p>	

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3.5	<p>Risk assessment: rate the likely negative impact to the individuals concerned if the personal data to be shared were lost or stolen or misused in any way.</p> <p>See Appendix 1 - Controls and assurances when sharing information</p>	<p>1. Rate 1 to 5 (1= low impact; 5 = major impact): 3</p> <p>2. Rate the likelihood of this happening: (1= unlikely; 5= most likely):1</p> <p>3. Type of harm that could be caused to an individual:</p> <p><input type="checkbox"/> Exposure to identity theft</p> <p><input checked="" type="checkbox"/> Information about the private aspects of a person's life becoming known to others</p> <p><input checked="" type="checkbox"/> Financial loss</p> <p>4. Potential number of people affected: one</p>	
3.6	<p>If information is lost, what actions should be taken?</p>	<p>CIS will only be accessed via a thin client PC within the Civic Centre and the information obtained from CIS is recorded</p>	

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		<p>digitally directly onto a customer's file within the Abacus financial data base</p> <p>As there is no need for the information obtained to be printed or emailed at all, there should be no real possibility for that date to be lost.</p> <p>However, in the unlikely event of a data breach occurring, the Information Governance Manager would be informed and the council's data breach policy and procedure would be followed accordingly.</p>	
4. People who the information is about (if personal data)			
4.1	Describe the affected data subjects (people who the information is about).	The data subject involves customers from housing benefit and adult social care services. In the main most of the customers receive some form of welfare benefit as they are on a low income. All customers are considered vulnerable and most live with a disability	
4.2	How many individuals will be included in each instance of sharing?	One	

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Ref	Question	Response	Reviewer's Response
4.3	<p>If personal data is processed, describe the arrangements for informing data subjects affected what information will be shared and why (fair processing notice in accordance with the Data Protection Act), or state exemptions to this.</p> <p><i>You may want to check whether you're Notification, required under the Data Protection Act, and is up to date, in light of this information sharing arrangement. Speak to your Data Protection Officer if you're not sure.</i></p>	<p>As per Appendix D (Adult Social Care Financial Assessments) Memorandum of Understanding between the Department for Work and Pensions and Local Authorities 2015 – 2016</p> <p>The legal gateway through which the access to a customer's information is permitted is contained within:</p> <ul style="list-style-type: none"> • Section 131(1) of the Welfare Reform Act 2012 • Regulation 5(1) (ci) of the Social Security (Information sharing in relation to Welfare Services etc.) Regulations 2012 <p>Therefore in terms of what data is shared by the DWP to the Local Authority, they will have notified the customer that they may share information with local authorities within the above legislation.</p> <p>The use of DWP data to calculate a customer's financial contribution towards their care is explained within the Charging Guidance Policy 2016 which will be published on Brent Council web site.</p> <p>In addition to the above, letters sent by</p>	

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Ref	Question	Response	Reviewer's Response
		<p>the Client Affairs Team informing customers of their financial contribution towards their care will state that the information used in the calculation is based upon the information provided by the DWP through their CIS database</p> <p>The Council's website privacy statement will be updated with a new section related to information sources.</p>	
5. Controls			
5.1	How will the information be transferred (e.g. secure email, access to web portal etc.)?	The information will not be transferred but used at source and stored onto Abacus, the financial database used by the Client Affair Team.	
5.2	Frequency of information transfer?	The information from the CIS data base will be accessed by the Client Affairs team on a daily basis. The information is not transferred on to any third party Daily	

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Ref	Question	Response	Reviewer's Response
5.3	<p>How and where will the information be held? Describe the arrangements for storing the information by the recipient.</p>	<p>The data held on CIS system will be a screenshot of the benefit information and stored within the financial database (Abacus) within the Client Affairs Team.</p>	
5.4	<p>What security arrangements do you or will you have in place (technical and organisational)?</p> <p><i>Include:</i></p> <ul style="list-style-type: none"> • <i>Technical</i> • <i>Systems</i> • <i>Office security</i> • <i>People management</i> • <i>Security when transferring information</i> <p>Security arrangements should be appropriate to the type of information shared and the risks assessment (see 3.5).</p> <p>Refer to the council's Data Handling Procedures.</p>	<p>Abacus system - All officers have different access level to either view or enter information, therefore amending or deleting records are not permitted.</p> <p>To access CIS – Officers had to verify their details. Complete and sign the form before they received a token in which they had to contact DWP to activate their login to CIS.</p> <p>All officers had to read the online training pack and update the spreadsheet with the date they had completed.</p> <p>The Council's data handling procedure has been fully implemented in handling and managing customer's information.</p>	
5.5	<p>What arrangements are in place to arrange for any updates of the information to be shared?</p>	<p>Data used will be updated by the Data Controller – DWP.</p>	

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Ref	Question	Response	Reviewer's Response
	This should also include corrections or deletions or amendments to personal data, under the Data Protection Act.		
5.6	If applicable, how will accuracy of the information be maintained?	As above – The responsibility of managing and updating the information is the responsibility of the DWP.	
5.7	When and how will the information be disposed of? Where personal data, information should not be kept for longer than is necessary and be disposed of securely.	The information is not disposed as the forms are uploaded in Mosaic.	
5.8	Will all the staff in contact with the information have received the following awareness training? <ul style="list-style-type: none"> • Data Protection • Information Security 	<i>(provide details of how this will be provided and checked)</i> <i>Provider: Yes</i> <i>Recipient: Yes</i>	
6. Assurances – the organisation that sends the information is to complete this section			

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Ref	Question	Response	Reviewer's Response
6.1	Describe details about the accuracy of the information. State how accuracy is to be assured.	<p>CIS is the DWP system for Local Authorities to access details of an individual's benefits entitlement/awards. Therefore the information will be a true reflection of that individuals circumstances as held by the DWP.</p> <p>Should there be any identifiable errors/alert then the Client Affairs Team manager will inform the DWP</p>	
6.2	What restrictions are to be placed on the specific use of this information?	<p>Brent is required to sign an agreement with the DWP regarding the permitted usage of personal data.</p> <p>Below is taken from Appendix D (Adult Social Care Financial Assessments) of the Memorandum of Understanding between DWP HDD and Local Authorities 2015 – 2016:</p> <p>The purpose for which data is shared</p> <p>2. DWP provides data to LAs for use in the administration of adult social care financial assessment (ASCFA).</p> <p>3. DWP provides data to LAs in order to determine whether a person applying for or receiving the provision of domiciliary care or residential care is liable to contribute towards the cost of that service and if so, the amount of that contribution.</p>	

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Ref	Question	Response	Reviewer's Response
		<p>4. This data sharing will reduce the burden on LAs by not having to gather information from claimants, which DWP already holds.</p> <p>5. For the purposes of this annex the following additional definitions apply:</p> <ul style="list-style-type: none"> • Adult social care financial assessments • Adult social care financial assessment administration – includes, any contact with customers or their nominated financial representative relating to the calculation of the financial assessment to work out how much individuals can afford to pay towards the cost of care. NB. Local authorities may have differing terms for those teams undertaking the above financial assessments. <p>Data</p> <p>6. LAs are able to access DWP CIS to support administration of ASCFA, however for these purposes restrictions are in place - see below.</p> <p>Use of CIS</p> <p>7. Users responsible the above administration must only obtain and process sufficient CIS data for that specified and lawful purpose.</p> <p>8. Further details on CIS access can be</p>	

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Ref	Question	Response	Reviewer's Response
		found in the DWP LA CIS guide.	

Reviewer's recommendations

A fair processing notice/privacy notice should be considered to inform people that we will obtain information from government bodies to help assess benefits.

Suggest that the council's web site privacy statement is updated with a new section – information sources.

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Appendix 1 – Guidelines for completing this document

1. When to use this document?

This document is designed for use whenever there is an intention to share or disclose aggregated data or personal/sensitive personal data on a regular basis between different processes or organisations. You should use it as part of the early stages of considering sharing information.

2. What it includes and how it will be used?

The key principles of good practice in sharing information and compliance with various legislations (e.g. the Data Protection Act) are set out below. This document does not set out all legal and privacy issues. It focuses on the practicalities of information sharing and requires them to detail how compliance and any privacy requirements can be achieved.

3. What sort of information may be shared?

Personal data should always be kept to the minimum necessary for every stage of processing. Data should be minimised so that it is compatible with the justified purpose.

Aggregated data - is anonymous statistical information. Sometimes, even though data is statistical and aggregated, individuals may still be identifiable (e.g. data by postcode – where there is one property in a postcode and individual could be identifiable). Therefore care must be taken to check whether data could also be personal data.

Personal data – is information which identifies a living individual – the Data Protection Act 1998 and related legislation must be complied with (e.g. a name of an individual and home address).

Sensitive personal data – is information about a living individual which has a greater sensitivity. This is defined in part 1, section 2 of the Data Protection Act:

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- (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 [1992 c. 52.] 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.

If a mix of personal and sensitive personal data is being shared then as a whole the information should be handled commensurate with the higher controls required for sensitive personal data.

4. Controls and assurances when sharing information

Controls, whether legislative or otherwise, need to correspond to the risk and be proportionate to the objective which is sought to be achieved. A risk assessment should be carried out to assist in the decision whether the risk of data loss and impact outweigh the benefit of sharing the information. The impact to an individual should be rated from 1 to 5, where 1 indicates a low impact. Examples of low impact include minor inconvenience to an individual and no financial loss; major impact includes exposure to identity theft and financial loss or theft.

5. Assurances

- Accuracy of information – the accuracy of information is likely to be relied upon by the recipients of the information and therefore, the accuracy of information must be communicated to all parties (subject to legal obligations).
- Updating of information – the information providing and receiving party should put arrangements in place to inform each other (and any other parties to the arrangement) of any relevant changes or updates to the information shared (after the information has been shared).
- Information use – generally, whether aggregated or personal data, information should only be used for the purposes it has been shared. If the party receiving the information wishes to use it for purposes not clearly

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described in this document, a separate permission must be obtained from the party that has provided the information.

- Disclosure – information should only be disclosed to any other party with the permission of the party providing the information or, where appropriate, (subject to certain exemptions under the Data Protection Act) the permission of the individual who the information is about.
- The receiving party must put arrangements in place to guarantee data subject rights, including the right of subject access.

6. Security

Security measures should match with the type of information shared and the risk (e.g. impact and likelihood of loss, inappropriate disclosure etc). Any special security controls that need to be taken in regard to transfer, collection, holding and use of the information should be communicated to all parties involved in the handling of shared information.

The party receiving the information should set out what security controls they plan to have in place; they are responsible for the security of that information.

Where appropriate information should be protectively marked, further advice should be sought on the specific handling and care arrangements that need to be in place when dealing with that information.

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Appendix 2 – Legislative controls include:

1. Data Protection Act 1998 (DPA)
 - First the legal basis for sharing information must be determined. Once this is done and the information can be shared, all parties must satisfy compliance with the DPA.
 - The DPA places duties on organisations on how to process personal data ('process' includes obtaining, holding, use of or disclosure of information). It also gives rights to individuals e.g. to access information about themselves. There are eight DPA principles which form the backbone of the Act.
 - Where personal data is shared, the principles of the DPA must be met.
 - i. First principle: personal data should be processed fairly and lawfully. In addition, personal data should only be processed where one or more of the conditions of processing (in schedule 2/3 of the DPA – depending on whether it is personal data or sensitive personal data) of the DPA are met.
 - ii. Second principle: personal data shall be obtained for only one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes.
 - iii. Third principle: personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
 - iv. Fourth principle: personal data shall be accurate and, where necessary, kept up to date.
 - v. Fifth principle: personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
 - vi. Sixth principle: personal data shall be processed in accordance with the rights of the data subjects under this Act.
 - vii. Seventh principle: 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.
 - viii. Eighth principle: 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 freedoms of data subjects in relation to the processing of personal data.
2. Human Rights Act 1998: under Article 8 of the European Convention of Human Rights (brought into force by Human Rights Act 1998) individuals have the 'right to respect for private and family life, home and correspondence'. As a general rule information sharing should not interfere with this right **unless** the interference has a clear legal basis, is necessary, and is proportionate to the aim, then the interference could be justified on the following grounds: national security, protection of economy public safety, protection of health morals, prevention of crime and disorder, and the protection of the rights and freedoms of others.

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3. Law of confidentiality: even though there may be legal powers to share, the law of confidence still applies (even after the death of the individual, who the information is about). This means that anyone proposing to disclose information not publicly available and obtained in circumstances giving rise to a duty of confidence will need to establish whether there is an overriding justification for doing so. If not, then consent would need to be obtained.

Appendix 3 Conditions for processing personal and sensitive data

Schedule 2 condition relevant for purposes of the first principle: processing of any personal data

- 1 The data subject has given his consent to the processing.
- 2 The processing is necessary—
 - (a) for the performance of a contract to which the data subject is a party, or
 - (b) for the taking of steps at the request of the data subject with a view to entering into a contract.
- 3 The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.
- 4 The processing is necessary in order to protect the vital interests of the data subject.
- 5 The processing is necessary—
 - (a) for the administration of justice,
 - (b) for the exercise of any functions conferred on any person by or under any enactment,
 - (c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department, or
 - (d) for the exercise of any other functions of a public nature exercised in the public interest by any person.
- 6 (1) The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

(2) The Secretary of State may by order specify particular circumstances in which this condition is, or is not, to be taken to be satisfied.

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SCHEDULE 3 Conditions relevant for purposes of the first principle: processing of sensitive personal data

- 1 The data subject has given his explicit consent to the processing of the personal data.
- 2 (1) The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment.
(2) The Secretary of State may by order—
 - (a) exclude the application of sub-paragraph (1) in such cases as may be specified, or
 - (b) provide that, in such cases as may be specified, the condition in sub-paragraph (1) is not to be regarded as satisfied unless such further conditions as may be specified in the order are also satisfied.
- 3 The processing is necessary—
 - (a) in order to protect the vital interests of the data subject or another person, in a case where—
 - (i) consent cannot be given by or on behalf of the data subject, or
 - (ii) the data controller cannot reasonably be expected to obtain the consent of the data subject, or
 - (b) in order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.
- 4 The processing—
 - (a) is carried out in the course of its legitimate activities by any body or association which—
 - (i) is not established or conducted for profit, and
 - (ii) exists for political, philosophical, religious or trade-union purposes,
 - (b) is carried out with appropriate safeguards for the rights and freedoms of data subjects,

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(c) relates only to individuals who either are members of the body or association or have regular contact with it in connection with its purposes, and

(d) does not involve disclosure of the personal data to a third party without the consent of the data subject.

5 The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.

6 The processing—

(a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),

(b) is necessary for the purpose of obtaining legal advice, or

(c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

7 (1) The processing is necessary—

(a) for the administration of justice,

(b) for the exercise of any functions conferred on any person by or under an enactment, or

(c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department.

(2) The Secretary of State may by order—

(a) exclude the application of sub-paragraph (1) in such cases as may be specified, or

(b) provide that, in such cases as may be specified, the condition in sub-paragraph (1) is not to be regarded as satisfied unless such further conditions as may be specified in the order are also satisfied.

8 (1) The processing is necessary for medical purposes and is undertaken by—

(a) a health professional, or

(b) a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.

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(2) In this paragraph “medical purposes” includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services.

9 (1) The processing—

(a) is of sensitive personal data consisting of information as to racial or ethnic origin,

(b) is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment between persons of different racial or ethnic origins, with a view to enabling such equality to be promoted or maintained, and

(c) is carried out with appropriate safeguards for the rights and freedoms of data subjects.

(2) The Secretary of State may by order specify circumstances in which processing falling within sub-paragraph (1)(a) and (b) is, or is not, to be taken for the purposes of sub-paragraph (1)(c) to be carried out with appropriate safeguards for the rights and freedoms of data subjects.

10 The personal data are processed in circumstances specified in an order made by the Secretary of State for the purposes of this paragraph.