

## **UKSA Guidance on the Provision of Information to Data Subjects**

The following provides guidance on the requirements for the provision of information to data subjects under the GDPR where data is to be used for statistical purposes.

GDPR creates greater rights and protections for data subjects and increases requirements for transparency and accountability on the part of controllers. One of the ways it does this is by increasing the amount, quality and accessibility of information that controllers are required to provide to data subjects. More information is required under the GDPR so provision of privacy information will need to be updated.

### **Where data is obtained directly from data subjects**

*The controller shall take appropriate measures to provide information.... relating to processing to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language – Article 12(1), GDPR*

Information for data subjects should be concise, transparent, intelligible, easily accessible and written in clear and plain language and appropriate to the capacity of the data subject.

Information for data subjects should contain the information set out below and should be provided **at the time** the data are obtained.

When completing surveys, privacy information can be provided to data subjects in a variety of ways, such as by letter, electronically or orally. The information must be easily accessible. For online surveys, there should be an option to allow respondents to review the information at any time, not just at the beginning or end of the survey. User testing can be used to obtain feedback on the effectiveness of privacy information.

For telephone based surveys, the information should be provided to respondents prior to the interview in the form of a letter/leaflet. A summary of the information should be provided over the telephone, reminding the respondent of the identity of the controller and purposes of the processing. Further information should be provided to the respondent on request. The information can be provided orally if so requested by the data subject, provided that the identity of the data subject is proven by other means.

When obtaining personal data directly from a data subject, all the relevant privacy information should be provided at the point of contact. It will not be sufficient to only provide a link to further information on your website. If all the requirements established in the accompanying table are provided, respondents can then be directed to the website for additional information.

Each department should have generic (to the extent that it covers most or all their data processing activities), clearly written, transparent and easily accessible privacy information available on their website which covers all facets of their processing of personal data. There could be an annex to the overarching privacy information that can include specific details about each processing activity. Many of the requirements within GDPR will remain the same for each processing activity. However, the purposes, recipients, further processing and sources of information will differ for each.

The information to be included is as follows:

GDPR requirement	Explanatory note
Identity and contact details of the controller	Name Address Email address Phone number
Contact details of the Data Protection Officer	Address Email address Phone number (can be generic) Note that a name does not have to given
The purposes of the processing and legal basis for the processing	More detail should be provided than purely research and statistical purposes if known. If aware of the statistical outputs produced from the personal data, provide this information.
The recipients or categories of recipients of personal data	If known, include any third parties that will have access to personal data. A range of onward processing may take place, including to support research by approved researchers through secure linking with other datasets held by government and sharing with other government departments for statistical and research purposes.
Existence of the right to withdraw consent	Only include if the processing condition is consent. If this is the case, explain how consent can be withdrawn.
The existence of automated decision-making	Statistical processing must not lead to decisions made regarding individuals.
Details of further processing	If known, include any further processing other than for the statistical outputs outlined under the purposes. Note that the use of information collected for statistics for other purposes would be in breach of the <a href="#">UN Fundamental Principles for Official Statistics</a>
Details of any international transfers	If personal data (not anonymised, or statistical outputs) are being transferred outside of the UK for any reason, including storage, provide details.
Data retention period	Include if known. There is a statistical exemption allowing the storage of personal data for longer periods (Article 5(1)(e)). Within the information provided to the data subject, highlight that data can be held for longer than is necessary for the initial purposes but that any subsequent use will only be for statistical purposes and will be subject to appropriate safeguards.
Existence of data subject rights (Please see GSS guidance on exemptions to data subject rights)	How they should be communicated – The GDPR makes clear that we should highlight data subject rights within the information provided

	<p>to data subjects. One of the main purposes of the GDPR is to increase data subject rights; therefore, reference to them is required. A clear explanation of the rights and how/when they can be applied may also help to reduce the number of requests in relation to the rights and subsequent burden on departments. Highlight the exemptions for processing for statistical purposes whilst providing context for why they do not apply to statistical processing. We should explain that the personal data will not be used to identify the individual but purely in the production of statistics.</p>
<p>The right to lodge a complaint with the Information Commissioner’s Office</p>	<p>Contact details for the ICO are as follows:</p> <p>Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF.</p> <p>Tel: 0303 123 1113</p> <p>Email: <a href="mailto:casework@ico.org.uk">casework@ico.org.uk</a></p> <p>Website: <a href="https://ico.org.uk/global/contact-us/">https://ico.org.uk/global/contact-us/</a></p>
<p>Whether the provision of personal data is a statutory or contractual requirement as well as whether the data subject is obliged to provide the data and the consequences for failure to comply</p>	<p>If the provision of personal data is a statutory requirement i.e. a compulsory survey, include details of the requirement. GDPR requires us to state where a data subject is obliged to provide their personal data. There is no explicit requirement to state that data subjects are not obliged to provide their personal data (ie voluntary surveys). The decision as to whether this information should be provided should be at the discretion of the department with the decision based on transparency obligations balanced against disruption to business.</p>

## **Where data is obtained indirectly**

If the personal data is not obtained from the data subject, for example from an administrative source, we must provide all the information from the accompanying table, as well as **the source from where the personal data originate** and if applicable, **whether it came from publicly accessible sources**. This information should be provided as soon as is possible and in any event no later than one calendar month.

We are not required to provide information directly to data subjects where such provision proves impossible, would involve disproportionate effort or would render impossible or seriously impair the objective of the processing. Where processing is for statistical purposes, it is highly likely that the provision of such information would involve disproportionate effort because of the lack of impact on

individual data subjects, but this should be tested in each instance and the reasoning for any decision documented.

*[the requirement to provide information] shall not apply where [the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the public interest, scientific or historical research purposes, subject to the conditions and safeguards referred to in Article 89(1) or in so far as the obligation referred to in paragraph 1 of this Article is likely to render impossible or seriously impair the achievement of the objectives of that processing. In such cases the controller shall take appropriate measures to protect the data subject's rights and freedoms and legitimate interests, including making the information publicly available; – Article 14(5)(b), GDPR*

**Disproportionate effort** is not defined in the Regulation. Departments will need to balance the time and resources required to provide privacy information. Consideration should be given to the nature of the personal data and the risks to the rights and freedoms of individuals inherent in the processing. Given that statistical processing can have no direct effect on individuals, unless the processing involves a small number of data subjects, the provision of processing information is likely to involve disproportionate effort, although this should be decided on a case by case basis. The reasoning behind this decision should be documented.

In such cases, the relevant information should be made available to data subjects through other means, for example by publishing on your website.

### **Updating privacy information**

Occasionally privacy information will need to be updated, either because there is a change in the processing (eg data storage), or because additional processing activities have been identified after acquisition. Where this occurs, updated information should be provided to data subjects as soon as possible, and no later than one month from when the change occurs. Again, consideration will need to be given as to whether such provision would involve disproportionate effort, and if so what additional means could be used to make data subjects aware, for example by updating a web based privacy notice.