information commissioner
Barrantagh Fysseree

Data protection compliance

Part 1: Know Your Data Mapping the 5 W's

Information is an important and valuable asset to any organisation. **Personal data** may be used for many different reasons, for example staff administration, the provision of goods or services to customers, marketing strategies, prevention of money laundering, a revenue stream etc.

Complying with the data protection legislation

The exercise of proper control and management of **personal data** is fundamental to ensure, and be able to demonstrate, compliance requires both personnel and financial resources.

Taking a positive approach, and embracing compliance with the data protection legislation, will improve customer trust, records management and business opportunities, such as those associated with the digital economy.

Using this resource

This resource is intended to be a non-legal tool to assist in the creation of an inventory of personal data processed, map the processing of personal data and analyse the legal basis of the processing.

Staff at all levels should be involved to establish what processing occurs – front line staff may well have a different experience to that of senior management.

In-depth knowledge of the data protection legislation is <u>not required</u> to use this resource.

However, an honest analysis is required, and if the answer to a question is "Don't know" or "Not sure" – write that down.

The more honest and comprehensive the analysis is, the easier it will subsequently be to identify processing that may require review and evaluation against the data protection principles and whether/how the accountability and risk-based security requirements are to be implemented. (Further resources on these areas are available on our website)

NOTE:
The data protection legislation does not apply to data that is anonymised in such a way that an individual can no longer be identified from the information on its own.

This resource is in two sections:

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Section 1 - A quick review – What is the current position?

To establish a base-line it may be necessary to assess current awareness and compliance with the data protection legislation.

This is not intended to be an in-depth exercise.

In many cases it will be beneficial to ask various parts of the organisation, at different levels, for responses.

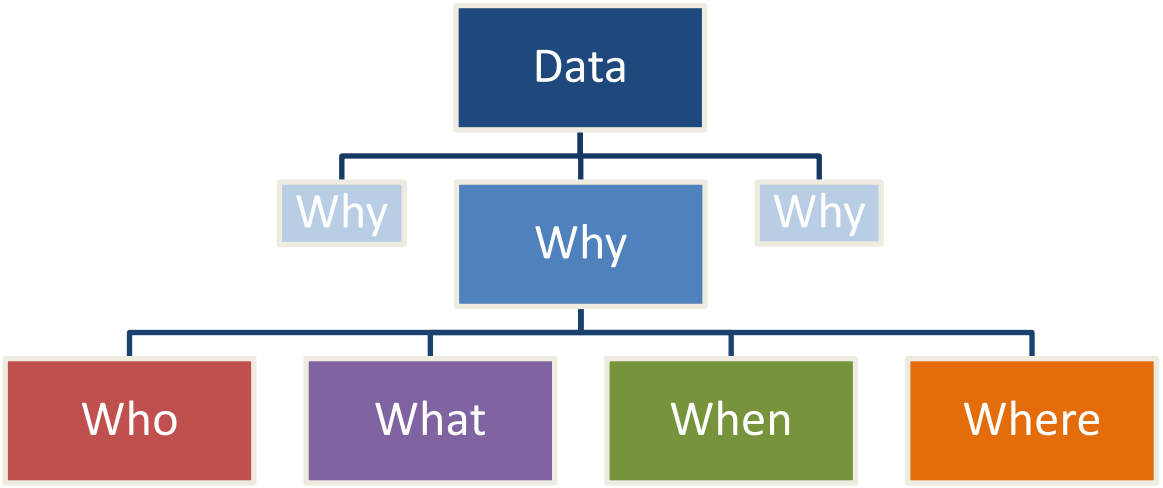
An honest appraisal will provide a good starting point for ensuring compliance by establishing whether/what awareness-raising needs to occur and to consider existing policies and procedures.

A quick review – what is the current position	**Response** Yes/No/Being implemented
Senior management awareness • Regularly discuss data protection • Data protection has been identified as a compliance issue	
Data protection policies and procedures (including retention and disposal schedules, internal practical guidance for staff to follow with regard to the processing of personal data by the controller) • in place • communicated to staff • compliance is monitored • compliance can be evidenced • regularly reviewed	
Information security **Policies and procedures:** • in place • communicated to staff • compliance is monitored • compliance can be evidenced • regularly reviewed **Formal mechanisms in place to identify breaches and handle incidents** • in place • communicated to staff • compliance is monitored • compliance can be evidenced • regularly tested & reviewed	
Clear and accessible fair processing information given to individuals	
New projects and initiatives • "privacy-proofed" at the planning stage • Reviewed during development, testing and delivery stage, i.e. pre- and post-implementation • 'Privacy impact assessments' are conducted when necessary	

Section 2 - Mapping the 5W's

This section provides guidance for all controllers (and processors) in creating an inventory and map of data processing activities. In many cases, application/contact forms (hard copy or online) will often provide a good point from which to start to follow the data trail for customers and similarly for staff.

Whilst this resource follows the path below, it is only a guide to the basic thought-process. The type, complexity, volume, sensitivity or risk of the processing may require a more "in-depth" or sophisticated exercise.



The information collated will help inform the next steps – compliance with the principles and rights, and creating the "records of processing activities" required (in some cases) by Article 30 of the Applied GDPR.

WHY

WHY … is personal data processed?

Personal data is broadly defined in the Applied GDPR and means any information relating to a natural person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person.

Consider all areas of the business and list all the reasons that personal data is used.

Non-exhaustive examples of **why** personal data is used include:

- Staff administration
- Basic client administration
  - Examples of clients could be any one or more of;
    - account holder
    - customer
    - pupil
    - offender
    - patient
- Legal obligations (specify)
  - Examples include
    - AML/CFT/due diligence
    - Tax
    - Work permits
- Provision of goods or services
  - is this provided
    - Online
    - face to face
- Monitoring
  - Are any of the following used or recorded
    - CCTV
    - ANPR
    - IP address
    - Cookies
    - Apps
- Direct marketing activities
    - for self
    - for third party
    - creating/selling marketing lists
- Profiling
- Provision of processing services to a third party – but making no decisions that affect individuals
- Provision of processing services to a third party – but making decisions (alone or jointly) that affect individuals

WHY is personal data processed? List the reasons for processing

WHO

WHOSE … personal data is processed?

For **each of the reasons** identified in "WHY", list **all the different categories of persons** about whom personal data is processed.

Non-exhaustive examples of **categories of persons** include:

- Staff (specify: current/potential/former)
- Clients (specify: current/potential/former)
- Relatives/guardians
- Business contacts/suppliers
- Complainants, correspondents, enquirers
- Members or supporters
- Children
- Offenders and suspected offenders
- Other (describe)

You will need to complete this page for <u>each reason</u> for processing
WHOSE personal data is processed?
Reason for processing:

WHAT

WHAT … personal data is processed?

For **each reason** identified list all the different **types of personal data** recorded or used and identify the **source** of the data and the **lawful ground for processing** *("legal basis")*.

The **legal basis** for processing personal data are included in Article 6 of the Applied GDPR.
Processing of *"special category"* data, such as health data, biometrics, details of religion, sexual orientation or trade union membership, is prohibited except in the circumstances listed in Article 9 of the Applied GDPR.

Non-exhaustive examples of types of personal data:

- Personal details - (specify - name, address, email, telephone, date of birth, emergency contact, sexual orientation, ethnicity, etc.)
- Financial details - (specify - bank account, credit card details, NI, Tax reference etc.)
- Health information *(Note: this is "special category data")*
- Images/ Voice recordings
- 'Know your customer' or due diligence (specify – passport, tax reference, source of wealth etc.)
- Passport/driving licence/national ID card details
- IP address
- Criminal convictions/offences *(Note: this is "special category data")*
- Biometrics - Finger print/retinal scan/DNA etc. *(Note: this is "special category data")*
- Education & training
- Employment details (specify – CV, references, annual appraisals, employment status, work permit, leave, sickness etc.)

Source of the data

- Individual themselves
- Third party individual
- Other sources – (specify)
  For example:
  - Credit reference agency
  - Criminal record check
  - Internet/Social media
  - Government departments/agencies
  - Private investigators
  - Due diligence/CDD checking companies

Legal basis for processing (Article 6) could be one or more of:

- Legal obligation (specify)
- Lawful function of public body (specify)

- Performance of a contract
- Legitimate interests of the controller (specify)
- Protection of vital interests (life and death matters) of that, or another, person
- Consent – (can you evidence that consent has been given?)

Legal basis for processing *"special category data"* (Article 9) could be one or more of:

- Explicit consent - (can you evidence that explicit consent has been given?)
- Necessary due to the imposition of a legal requirement for employment or social care purposes
- Necessary for the protection of vital interests (life and death matters) of that, or another, person
- Necessary for the establishment, exercise, or defence of legal claims
- Necessary for reasons of substantial public interest, health care, or social care,
- Necessary for reasons of public interest in the area of public health,

You will need to complete this page for <u>each reason</u> for processing		
WHAT personal data is processed?	**Reason for Processing:**	
Type of personal data	**Source**	**Legal basis** **Article 6 / 9 as relevant**

WHEN

WHEN … is personal data processed?

'Processing' includes the actions of obtaining, disclosing and deleting personal data.

For **each reason** identified establish:

- **when the personal data is obtained**
- **from whom it is obtained (the data subject or some other source)**
- **to whom it may be disclosed and why**
- **how long it is retained for**

The retention period may be determined by:

A statutory requirement:
- identify which particular section of law/regulation sets out the retention period
- is that a maximum or minimum period

A business/professional practice – what is it

Other reason - provide an explanation

You will need to complete this page for each reason for processing	
WHEN is personal data processed?	
Reason for processing:	
When is personal data obtained/updated: (This may be on more than one occasion) **From whom?**	
Disclosures: To whom: In what circumstances:	
Retention period How long: What determines the retention period:	

WHERE

WHERE … is personal data processed?

For **<u>each of the reasons</u> for processing** identified establish:

Where processing occurs
(may be more than one)

- Manual records – location?
- Electronic records – format?
- In-house managed systems
- Bring your own device (BYOD)/remote working
- External hosted service – specify IOM/UK/EU/USA/another jurisdiction
- Cloud service – specify IOM/UK/EU/USA/another jurisdiction

You will need to complete this page for each reason for processing	
WHERE is personal data processed?	
Reason for Processing:	
Manual records location	
Electronic records format(s)	
Systems/services used	

Example of a personal data inventory

WHY	WHO	WHAT			WHEN				WHERE
		Type	Source	Legal basis	Originally	Updated	Retention period	Determined by:	
STAFF ADMIN	Current staff member	Name	Individual	Contract	Appointment	As required	Staff records retained for 6 yrs after termination unless ongoing litigation	Employment/ limitation law	Manual records - HR department/Spreadsheet held on Cloud server located IOM
		Address				As required			
		Contact details				Regularly			
		Health details				As required			
		CV			Pre-appointment	No			
		References	third party		Pre-appointment	No			
		CRB check	third party		?	?	Copy not retained, record of number only	CRB Code of Practice	
		Passport details	Individual	**Not sure - find out**	?	?	?	?	
		Work permit	individual/ third party		?	?	?	?	
		Appraisals	Individual	Legitimate interests - staff management	Annually	Regularly	3yrs after completion	Standard practice	
		Annual leave			At request	As required	**? Not sure - find out**		
		Disciplinary	individual/ third party		At the time	As required	**? Not sure - find out**		
		Tax/NI	individual/ third party	Contract	Appointment	As required	**? Not sure - find out**	Tax law	**IOM Payroll company - not sure where data is held??**
		Bank account	individual			As required			
		Pension details	Individual			As required	until staff age 100	Employment law	
	Emergency contact	Name	Third party	Vital interests	Appointment of staff	Regularly	Untill staff leaves	No business requirement	
		Contact details							
DIRECT MARKETING	Existing customers	Name	Individual	Consent of individual	First contact	?	End of relationship (unless they still want to hear from us) or consent withdrawn	Data Protection Act	Third party marketing provider held on cloud server in US
		Address				?			
		Email				?			
		Mobile				?			
		Phone				?			
	Former Customers	Name	Individual	Consent of individual	First contact	?	Relationship ended - consent still valid? **Find out more**	Data Protection Act	
		Address				?			
		Email				?			
		Mobile				?			
		Phone				?			
	Potential customers	Name	Third party list/internet	**Not sure - Find Out**	?	?	**? Not sure - find out**		**? Not sure - find out**
		Email				?			