

Guidance Document: Data Processing Agreements

Contents

1. Purpose of a Data Processing Agreement.....	1
1. Template Agreement	1
2. University Signatories	2
3. Storage of Agreements	2
4. How long do we keep them?	2
5. Data Processor or Data Controller?	2
6. Further information	2

1. Purpose of a Data Processing Agreement

This guidance is relevant where an external third party is being considered for **processing** personal data on behalf of the University (the **Data Controller**).

In accordance with the University's [Data Protection Policy](#), any external company which is used to process personal data on behalf of the University is defined as a **Data Processor** under the terms of the General Data Protection Regulation (GDPR). The **Data Processor** must first sign a written contract with the University in the form of a **Data Processing Agreement** before any processing can take place.

A **Data Processing Agreement** sets out what personal data will be processed by the **Data Processor**, the purposes for processing the personal data and ensures the **Data Processor** will comply with the Data Protection Act in all respects for the processing of that data.

Data Processors have a legal obligation to process personal data in accordance with GDPR. It is a legal requirement within GDPR that a formal contract is signed to ensure the **Data Processor** only processes the data in accordance with the instructions of the **Data Controller**.

Definitions

“**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

“**data processor**”, in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller.

“**processing**”, in relation to information or data means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data

1. Template Agreement

The University of Nottingham has produced a [template Data Processing Agreement](#) which should be used as the basis for any new contract established with a third party Data Processor.

The draft template should be updated where applicable with the details of the Data Processor, the personal data to be processed and the purposes for processing. The completed Data Processing Agreement should be signed and dated by the Data Processor and the University prior to the commencement of any data processing.

2. University Signatories

The University signatory should be the most senior manager responsible for that data within that project. The signatory will be signing on behalf of the University, however, if that individual should leave their position the contract should be assigned to another named manager who can ensure that the terms of the agreement are followed, and that the agreement is reviewed again promptly at the assigned review date.

If there is a requirement to amend, change or otherwise deviate from this model template, other than the free text required to complete the agreement, please contact the Information Compliance Team who will arrange for this to be reviewed and signed off by a legal advisor.

3. Storage of Agreements

Signed copies should be held by both the University of Nottingham and the third party Data Processor for the lifetime of the contract. Data Processing Agreements are legally binding contracts and appropriate storage of these records is required so that they remain accessible and retrievable.

4. How long do we keep them?

Data Processing Agreements should be kept by the University for a minimum of 6 years from date of expiry.

5. Data Processor or Data Controller?

There may be cases where the third party is actually defined as a joint Data Controller, please refer to the Information commissioner's guidance in the Further Information section. In this situation a joint Data Controller Agreement may need to be established. Please contact the Governance and Information Compliance Team if you need further clarification about whether your third party is a Data Processor or a Data Controller and if you need to establish a joint Data Controller Agreement.

6. Further information

Guidance about Data Controllers and Processors has been produced by the Information Commissioner's Office and is strongly recommended:

<https://ico.org.uk/about-the-ico/ico-and-stakeholder-consultations/consultation-on-gdpr-guidance-on-contracts-and-liabilities-between-controllers-and-processors/>

If you require any further advice please contact: Information Compliance Team