



GDPR update

Personal Data

Background

The General Data Protection Regulation (GDPR) will come into effect on 25 May 2018.

The GDPR will replace the Data Protection Act 1998 (DPA) and is considered to advance the protection of personal data and respect for privacy. Many of the GDPR's concepts and principles are similar to those in the DPA, however there are new elements and significant enhancements. For example, there is a greater emphasis on the documentation that data controllers must keep to demonstrate their accountability and the ability for the ICO to issue fines of up to 20m Euros or 4% of an organisation's global turnover (whichever is higher) in the event of a breach.

What is personal data?

Art. 4 of the GDPR defines personal data as “any information relating to an **identified** or **identifiable** natural person (“data subject”)”.

‘Identifiable’

The GDPR defines an identifiable natural person as:

“...one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location number, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.”

A low bar is set for what is ‘identifiable’ - If an individual can be identified from the information by using “all means reasonably likely to be used” (Recital 26), the information will be personal data.

Names are not necessarily required in order to identify an individual; simply because you do not know the name of an individual does not mean that you cannot identify them. Similarly, a name by itself may not always be personal data, particularly if that name is particularly common e.g. John Smith. Where a name is combined with other information, such as an address, a physical description or a job title, this is likely to clearly identify one individual.

‘Natural person’

The term natural person relates to a living individual.



What is special category personal data?

Art. 9 of the GDPR refers to “special categories of personal data”. This is personal data that is deemed to be sensitive. The GDPR **prohibits** the processing of special category data unless specific conditions apply.

The following data is classed as special category:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade Union membership
- Genetic Data
- Biometric data
- Data concerning health
- Data concerning a natural person’s sex life or sexual orientation

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Consent

Identifying a lawful basis for processing

Privacy Notices

Data sharing

For more information please contact the Governance and Information Compliance Team:

Data-protection@nottingham.ac.uk