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**Data Protection Impact Assessment**

**Building Assessment Reports**

**“The Heat Networks (Heat Network Zones and Building Assessment Reports) (Scotland) Regulations 2023”**

**Version date: 28 February 2023**

**Review date:**

This Data Protection Impact Assessment (DPIA) works in conjunction with the [Article 36\(4\) ICO](#) consultation form submitted in advance of this, as the proposal requires consultation with the Information Commissioner’s Office (ICO).

<include if appropriate>This DPIA is undertaken on behalf of the data controllers who will be <what they are doing>– in compliance with UK General Data Protection Regulation (UKGDPR) Article 35(10).

## 1. Contact and schedule information

1.1	SG department	Heat Networks Regulations Team, (Heat In Buildings Policy & Regulation Division, Directorate for Energy & Climate Change)
1.2	Contact email	heatnetworks@gov.scot
1.3	Data protection support email Data protection officer	<a href="mailto:dpa@gov.scot">dpa@gov.scot</a> <a href="mailto:dataprotectionofficer@gov.scot">dataprotectionofficer@gov.scot</a>
1.4	Is your proposal primary legislation, secondary legislation or other form of statutory measure?	Secondary
1.5	What stage is the legislative process at? Please indicate any relevant timescales and deadlines.	Consultation

## 2. Introductory information

	<b>Questions</b>	<b>Comments</b>
2.1	Summary of proposal	Building Assessment Reports: Regulations and Statutory Guidance
2.2	<p>Description of the personal data involved</p> <p>Please also specify if this personal data will be special category data, or relate to criminal convictions or offences</p>	<p>The role of a Building Assessment Report (BAR) is to help assess the suitability of a non-domestic property for connecting to a heat network.</p> <p>The primary use of BAR information, as set out in the Act, is to inform decisions on the particular suitability of areas for the construction and operation of a heat network, and subsequently to inform designation decisions, should these areas be progressed for consideration for designation. As such, the majority of information collected in a BAR pertains to the non-domestic building itself.</p> <p>However, a BAR also collects the name, company role and email address of the assessor (the “relevant person”). The purpose of this is to provide a relevant contact to approach with an offer of connection to a heat network (to supply low carbon heat), should a heat network develop in proximity to the property for which a BAR had been requested.</p>
2.3	<p>Will the processing of personal data as a result of the proposal have an impact on decisions made about individuals, groups or categories of persons?</p> <p>If so, please explain the potential or actual impact. This may include, for example, a denial of an individual’s rights, or use of social profiling to inform policy making.</p>	<p>No, the personal information is for the purposes of contact only. All decisions will concern buildings and other infrastructure.</p>
2.4	<b>Necessity, proportionality and justification</b>	<p>Building Assessment Reports are part of a data gathering exercise to ascertain whether an area is particularly suitable for development</p>

	<b>Questions</b>	<b>Comments</b>
	<p>What issue/public need is the proposal seeking to address?</p> <p>What policy objective is the legislation trying to meet?</p> <p>Were less invasive or more privacy-friendly options considered, and if so why were these options rejected?</p> <p>Are there any potential unintended consequences with regards to the provisions e.g., would the provisions result in unintended surveillance or profiling?</p> <p>Have you considered whether the intended processing will have appropriate safeguards in place? If so briefly explain the nature of those safeguards and how any safeguards ensure the balance of any competing interests in relation to the processing.</p>	<p>of a heat network, and if so, to gauge an idea of the heat demand (i.e. potential customer base) within that area.</p> <p>This is part of a new regulatory system for heat networks. Collecting data on buildings is essential to enable identification of potential development opportunities for heat network deployment.</p> <p>The building data will be submitted to local authorities and to the Scottish Government. Aggregated data may be shared with potential developers. Where this happens, the personal data will be redacted in line with a privacy statement that we will issue with the guidance and proformas.</p>
2.5	<p>Will the implementation be accompanied by guidance or by an associated Code of Conduct?</p> <p>If the latter, what will be the status of the Code of Conduct? (statutory or voluntary?_</p>	<p>We are issuing statutory guidance to assist public authorities in completing the proforma.</p>

### 3. Data Controllers

<If there is more than one data controller involved please complete a separate table for each>

Organisation	<p>The Scottish Government  Aberdeen City Council  Aberdeenshire Council  Angus Council  Argyll and Bute Council</p>
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		City of Edinburgh Council Clackmannanshire Council Comhairle nan Eilean Siar Dumfries and Galloway Council Dundee City Council East Ayrshire Council East Dunbartonshire Council East Lothian Council East Renfrewshire Council Falkirk Council Fife Council Glasgow City Council Inverclyde Council Midlothian Council North Ayrshire Council North Lanarkshire Council Orkney Islands Council Perth and Kinross Council Renfrewshire Council Scottish Borders Council Shetland Islands Council South Ayrshire Council South Lanarkshire Council Stirling Council The Highland Council The Moray Council West Dunbartonshire Council West Lothian Council	
Activities		Data collection and processing.	
Is the organisation a public authority or body as set out in Part 2, Chapter 2, Section 7 of the Data Protection Act 2018?		Yes, all bodies listed are public authorities.	
Lawful basis for processing under UK General Data Protection Regulation (UK GDPR) Article 6 for the collection and sharing of personal data – general processing	Our lawful basis for collecting personal data in Building Assessment Reports is “ <u>public task</u> ”  Note that the collection of personal data is merely incidental (i.e. the main purpose of Building Assessment Report is to collect information on a non-domestic building),	Lawful basis for processing under UK General Data Protection Regulation (UK GDPR) Article 9 – special category data or Article 10 – criminal convictions data  Include condition from	N/A

	<p>and such personal data will only be held to allow contact with the supplier of the data.</p> <p>Finally, note that whilst completion of a Building Assessment Report is a legal duty on a “relevant person” (as per Part 5 of the <a href="#">Heat Networks (Scotland) Act 2021</a>, there are <u>no enforcement powers</u>.</p>	Schedule 1 or 2 of the Data Protection Act 2018	
Law Enforcement – if any law enforcement processing will take place – lawful basis for processing under Part 3 of the Data Protection Act 2018	N/A	Legal gateway for any sharing of personal data between organisations	N/A

#### 4. Consultation

	Questions	Comments
4.1	<p>Have you consulted with the ICO using the Article 36(4) form?</p> <p>(please provide a link to it)</p> <p>If the ICO has provided feedback, please include this.</p>	<p>Yes.</p> <p>sending the completed Article 36(4) Enquiry Form for Building Assessment Reports (BARs) to the Information Commissioner's Office - 13 February 2023 - part 2of3' - <a href="https://erdm.scotland.gov.uk/documents/A42624708/details">https://erdm.scotland.gov.uk/documents/A42624708/details</a></p> <p>ICO confirms compliance and that no further action required - 21 February 2023 - part 3of3' - <a href="https://erdm.scotland.gov.uk/documents/A42624799/details">https://erdm.scotland.gov.uk/documents/A42624799/details</a></p>
4.2	Do you need to hold a public consultation and if so has this	Targeted technical consultation from 19/01/2023 to 01/03/2023.

	Questions	Comments
	taken place? What was the result?	
4.3	Were there any Comments/feedback from the public consultation about privacy, information or data protection?	No.

## 5. Further assessment and risk identification

<Use this section to identify risks which are further detailed in section 6>

	Question	Comments
5.1	Will the proposal require the creation of new identifiers, or require the use of existing ones?	The proposal will require the use of personal data to allow those submitting data to be contacted.
5.2	Will the proposal require regulation of: <ul style="list-style-type: none"> <li>• technology relating to processing</li> <li>• behaviour of individuals using technology</li> <li>• technology suppliers</li> <li>• technology infrastructure</li> <li>• information security</li> </ul>	No
5.3	Will the proposal require establishing or change to operation of an established public register (e.g. Accountancy in Bankruptcy, Land Register etc.) or other online service/s?	No
5.4	Please provide details of whether the proposal will involve the collection or storage of data to be used as evidence or use of investigatory powers (e.g.in relation to fraud, identify theft, misuse of public funds, any possible criminal activity, witness information, victim information or other monitoring of online behaviour)	No.
5.5	Would the proposal have an impact on a specific group of persons e.g. children, vulnerable	No.

	Question	Comments
	<p>individuals, disabled persons, persons with health issues, persons with financial difficulties, elderly people? (Please specify) In what way?</p>	
5.6	<p>Is there anything potentially controversial or of significant public interest in the policy proposal as it relates to processing of data? For example, is the public likely to view the measures as intrusive or onerous?</p> <p>Are there any potential unintended consequences with regards to the provisions e.g. would the provisions result in unintended surveillance or profiling.</p> <p>Have you considered whether the intended processing will have appropriate safeguards in place? If so briefly explain the nature of those safeguards and how any safeguards ensure the balance of any competing interests in relation to the processing.</p>	<p>No.</p> <p>Yes. A privacy statement will be issued with the proformas and guidance.</p>
5.7	<p>Are there consequential changes to other legislation that need to be considered as a result of the proposal or the need to make further subordinate legislation to achieve the aim?</p>	No.
5.8	<p>Will this proposal necessitate an associated code of conduct? If so, what will be the status of the code of conduct (statutory, voluntary etc.)?</p>	No.

	<b>Question</b>	<b>Comments</b>
<b>5.9</b>	<p>Have you considered whether the intended processing will have appropriate safeguards in place, for example in relation to data security, limitation of storage time, anonymisation? If so briefly explain the nature of those safeguards</p> <p>Please indicate how any safeguards ensure the balance of any competing interests in relation to the processing.</p>	Yes, Privacy statement to be issued with proforma and guidance.
<b>5.10</b>	<p>Will the processing of personal data as a result of the proposal have an impact on decisions made about individuals, groups or categories of persons? If so, please explain the potential or actual impact. This may include, for example, a denial of an individual's rights or use of social profiling to inform policy making.</p>	No.
<b>5.11</b>	<p>Will the proposal include automated decision making/profiling of individuals using their personal data?</p>	No.
<b>5.12</b>	<p>Will the proposal require the transfer of personal data to a 'third country'? (Under UK GDPR this is defined as country outside the UK.)</p>	No,

## 6. Risk Assessment

<add extra rows to the table as necessary>

Risk	Solution or mitigation	Likelihood (Low/Med/High)	Severity (Red/Amber Green)	Result
<p><b>6.1.1 Risk to individual rights</b></p> <ul style="list-style-type: none"> <li>• <b>right to be informed</b></li> <li>• <b>right of access</b></li> <li>• <b>right to rectification</b></li> <li>• <b>right to erasure</b></li> <li>• <b>right to restrict processing</b></li> <li>• <b>right to data portability</b></li> <li>• <b>right to object</b></li> <li>• <b>rights in relation to automated decision making and profiling</b></li> </ul> <p>Will this initiative result in any detriment if individuals do not want their personal data to be processed? This is particularly relevant if special category data is being processed</p>	<p>Our mitigation of risk to individual rights - as stated in our Privacy Notice (<a href="https://erdm.scotland.gov.uk/documents/A42430281/details">https://erdm.scotland.gov.uk/documents/A42430281/details</a>) - is that, in the event that we receive a request from a 3<sup>rd</sup> party to view a completed Building Assessment Report, we will in the first instance contact the report's assessor (whose personal data is contained therein) to seek their consent. If this is not forthcoming, then we will redact all personal information before sharing the report.</p> <p>With this procedure in place we either mitigate or eliminate the risk to personal detriment caused by the prior collection of personal data.</p>	low	green	Mitigated / Eliminated

Risk	Solution or mitigation	Likelihood (Low/Med/High)	Severity (Red/Amber Green)	Result
<b>6.2.1 Privacy risks</b> Purpose limitation	As per our privacy notice, we will contact the Building Assessment Report assessor if our purpose for collecting / managing such data changes.	""	""	""
<b>6.2.2 Privacy risks</b> Transparency – data subjects may not be informed about the purposes and lawful basis for the processing, and their rights	See our mitigation procedure, and directly above.	""	""	""
<b>6.2.3 Privacy risks</b> Minimisation and necessity	See our mitigation procedure and above.	""	""	""
<b>6.2.4 Privacy risks</b> Accuracy of personal data	The onus is on the Building Assessment Report assessor to complete the report accurately. However, we recognise that errors will happen (unintentional or otherwise) , and when an obvious error is spotted, we will contact the assessor and request remediation and re-sending to both SG and the local authority.	""	""	""
<b>6.3.1 Security risks</b> Keeping data securely	We will set up a dedicated email inbox (which capacity of c 1,000 MB) to receive the Building Assessment Reports and	""	""	""

Risk	Solution or mitigation	Likelihood (Low/Med/High)	Severity (Red/Amber Green)	Result
Retention	set up a dedicated eRDM folder to store the Building Assessment Reports.			
<b>6.3.2 Security risks</b> Transfer – data may be lost in transit	In the event that we share a Building Assessment Report we will seek the assessor's consent and/or redact the personal data therein (it's only incidental to the report).	“(*)”	“(*)”	“(*)”
<b>6.3.3 Security risks</b>	See above answers	“(*)”	“(*)”	“(*)”
<b>6.4.1 Other risks</b> <will this impact on children?>	No other foreseen risks.	n/a	n/a	n/a

**Data Protection Officer (DPO)**

The DPO may give additional advice, please indicate how this has been actioned.

<b>Advice from DPO</b>	<b>Action</b>
No comments	

**I confirm that the <what you are doing> has been sufficiently assessed in compliance with the requirements of the UKGDPR and Data Protection Act 2018**

<b>Name and job title of a IAO or equivalent</b>	<b>Date each version authorised</b>
Nicholas Reid	28/02/2023



**ANNEX D – copy of Privacy Notice (if applicable)**