

SCHEDULES

SCHEDULE 1

SPECIAL CATEGORIES OF PERSONAL DATA AND CRIMINAL CONVICTIONS ETC DATA

PART 2

SUBSTANTIAL PUBLIC INTEREST CONDITIONS

Racial and ethnic diversity at senior levels of organisations

- 9 (1) This condition is met if the processing—
- (a) is of personal data revealing racial or ethnic origin,
 - (b) is carried out as part of a process of identifying suitable individuals to hold senior positions in a particular organisation, a type of organisation or organisations generally,
 - (c) is necessary for the purposes of promoting or maintaining diversity in the racial and ethnic origins of individuals who hold senior positions in the organisation or organisations, and
 - (d) can reasonably be carried out without the consent of the data subject, subject to the exception in sub-paragraph (3).
- (2) For the purposes of sub-paragraph (1)(d), processing can reasonably be carried out without the consent of the data subject only where—
- (a) the controller cannot reasonably be expected to obtain the consent of the data subject, and
 - (b) the controller is not aware of the data subject withholding consent.
- (3) Processing does not meet the condition in sub-paragraph (1) if it is likely to cause substantial damage or substantial distress to an individual.
- (4) For the purposes of this paragraph, an individual holds a senior position in an organisation if the individual—
- (a) holds a position listed in sub-paragraph (5), or
 - (b) does not hold such a position but is a senior manager of the organisation.
- (5) Those positions are—
- (a) a director, secretary or other similar officer of a body corporate;
 - (b) a member of a limited liability partnership;
 - (c) a partner in a partnership within the Partnership Act 1890, a limited partnership registered under the Limited Partnerships Act 1907 or an entity of a similar character formed under the law of a country or territory outside the United Kingdom.

Status: This is the original version (as it was originally enacted).

- (6) In this paragraph, “senior manager”, in relation to an organisation, means a person who plays a significant role in—
- (a) the making of decisions about how the whole or a substantial part of the organisation’s activities are to be managed or organised, or
 - (b) the actual managing or organising of the whole or a substantial part of those activities.
- (7) The reference in sub-paragraph (2)(b) to a data subject withholding consent does not include a data subject merely failing to respond to a request for consent.