

Status: Point in time view as at 06/06/2022.

Changes to legislation: Data Protection Act 2018, SCHEDULE 10 is up to date with all changes known to be in force on or before 27 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 10

Section 86

CONDITIONS FOR SENSITIVE PROCESSING UNDER PART 4

Consent to particular processing

- 1 The data subject has given consent to the processing.

Right or obligation relating to employment

- 2 The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by an enactment or rule of law on the controller in connection with employment.

Vital interests of a person

- 3 The processing is necessary—
- (a) in order to protect the vital interests of the data subject or of another person, in a case where—
 - (i) consent cannot be given by or on behalf of the data subject, or
 - (ii) the controller cannot reasonably be expected to obtain the consent of the data subject, or
 - (b) in order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.

Safeguarding of children and of individuals at risk

- 4 (1) This condition is met if—
- (a) the processing is necessary for the purposes of—
 - (i) protecting an individual from neglect or physical, mental or emotional harm, or
 - (ii) protecting the physical, mental or emotional well-being of an individual,
 - (b) the individual is—
 - (i) aged under 18, or
 - (ii) aged 18 or over and at risk,
 - (c) the processing is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and
 - (d) the processing is necessary for reasons of substantial public interest.
- (2) The reasons mentioned in sub-paragraph (1)(c) are—
- (a) in the circumstances, consent to the processing cannot be given by the data subject;

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- (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing;
 - (c) the processing must be carried out without the consent of the data subject because obtaining the consent of the data subject would prejudice the provision of the protection mentioned in sub-paragraph (1)(a).
- (3) For the purposes of this paragraph, an individual aged 18 or over is “at risk” if the controller has reasonable cause to suspect that the individual—
- (a) has needs for care and support,
 - (b) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and
 - (c) as a result of those needs is unable to protect himself or herself against the neglect or harm or the risk of it.
- (4) In sub-paragraph (1)(a), the reference to the protection of an individual or of the well-being of an individual includes both protection relating to a particular individual and protection relating to a type of individual.

Data already published by data subject

- 5 The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.

Legal proceedings etc

- 6 The processing—
- (a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
 - (b) is necessary for the purpose of obtaining legal advice, or
 - (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

Administration of justice, parliamentary, statutory etc and government purposes

- 7 The processing is necessary—
- (a) for the administration of justice,
 - (b) for the exercise of any functions of either House of Parliament,
 - (c) for the exercise of any functions conferred on any person by an enactment or rule of law, or
 - (d) for the exercise of any functions of the Crown, a Minister of the Crown or a government department.

Medical purposes

- 8 (1) The processing is necessary for medical purposes and is undertaken by—
- (a) a health professional, or
 - (b) a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.

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- (2) In this paragraph, “medical purposes” includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services.

Equality

- 9 (1) The processing—
- (a) is of sensitive personal data consisting of information as to racial or ethnic origin,
 - (b) is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment between persons of different racial or ethnic origins, with a view to enabling such equality to be promoted or maintained, and
 - (c) is carried out with appropriate safeguards for the rights and freedoms of data subjects.
- (2) In this paragraph, “sensitive personal data” means personal data the processing of which constitutes sensitive processing (see section 86(7)).

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