**Project title:**

**PI/Supervisor: Date:**

There are now **7** **Data Protection Principles**, which states that information must be:

1. Fairly and lawfully processed;
2. Processed for specified and lawful purposes;
3. Adequate, relevant and not excessive;
4. Accurate and kept up date where necessary;
5. Not kept for longer than is necessary;
6. Kept secure;
7. Necessary to actively demonstrate compliance with all of the above principles

processing in accordance with individuals’ rights and not transferring to countries without adequate protection are no long principles but have specific

Article 89 of the GDPR and Schedule 2 Part 6 of the Data Protection Act 2018 (DPA) provides exemption to some of the data protection principles and individual rights for processing personal data for ‘research purposes’ including statistical or historical purposes. These are noted in the checklist below.

For guidance on the Data Protection Act for Social Research please see the MRSGuidelines for Social Research, April 2013 which can be accessed using the following link: <https://www.mrs.org.uk/standards/legislation/tab/data_protection>

Guidance on large data sets can be found at the Information Commissioner’s Office website – BBig data, artificial intelligence, machine learning and data protection September 2017.J <https://ico.org.uk/media/for-organisations/documents/2013559/big-data-ai-ml-and-data-protection.pdf>

You may also find JISC Legal Information on Data Protection and Research Data Questions and Answers, (last updated July 2018)helpful. http://www.jisclegal.ac.uk/guides/data-protection

Note: Personal data which is anonymised[[1]](#endnote-1), permanently, is exempt from compliance with the DPA and registration process. See endnotes for further details.

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| --- | --- | --- | --- |
| **Conditions which must be met for a research exemption to apply under Schedule 2 Part 6 of the DPA 2018** | **Please indicate** | | |
| 1. The information is being used **exclusively for research** purposes? | Agree | Disagree | |
| 1. The information is not being used to **support measures or decisions relating to any identifiable living individuals**? | Agree | Disagree | |
| 1. The data[[2]](#endnote-2) is not being used in a way that will **cause** or **is likely to cause, substantial damage or substantial distress** to any individuals or very small groups?   *If you ‘Disagree’ please provide details why an adverse effect is justified:* | Agree | Disagree | |
| 1. The results of the research, or any resulting statistics, will **not be made** **available in a form that identify individuals**?   *If you ‘Disagree’ please provide details why identification is intended:* | Agree | Disagree | |
| **If you ‘Agree’ to all of the above conditions then the use of personal data is exempt from the Second Principle and the Fifth Principle, but you must comply with First, Third, Fourth, and Principles of the DPA alongside protecting certain individual rights and not transferring to countries without adequate protection. If a research exemption does not apply then you must ALSO comply with the Second and Fifth Principles of the DPA** |  | | |
| **First Principle: Fairly and lawfully processed** |  | | |
| 1. Will you have appropriate **informed consent[[3]](#endnote-3)** secured from participants for the **personal data[[4]](#endnote-4)**  that you will be analysing? i.e., **inform participants** of 2. What you will **do** with the data? 3. Who will **hold** the data? (Usually MU, unless a third party is involved) 4. Who will have **access** to the data or receive copies of it?   (e.g., for **secondary data sets**, are you sure that appropriate consent was secured from participants when the data was collected?) *If ‘no’ please provide details and any further actions to be taken:* | Yes | No | N/A |
| 1. If you plan to analyse **sensitive (known as special categories of personal data under the new legislation) personal data[[5]](#endnote-5)**, have you obtained **data subjects’**[[6]](#endnote-6) **explicit informed consent[[7]](#endnote-7)** (as opposed to **implied consent[[8]](#endnote-8)**)? *If ‘no’ please provide details:* | Yes | No | N/A |
| 1. If you do not have the data subjects’ explicit consent to process their data, are you **satisfied that it is in the best interests of the data subject** to collect and retain the sensitive data? *Please provide details:* | Yes | No | N/A |
| 1. If you are processing[[9]](#endnote-9) personal data about **younger individuals or those with reduced capacity**, have you put a process in place to obtain consent from parents, guardians or legal representatives, if appropriate? *Please provide details:* | Yes | No | N/A |
| 1. Will you have a process for managing **withdrawal of consent**?   *If ‘no’ please provide details:* | Yes | No | N/A |
| 1. Will it be necessary or desirable to work with external organisations e.g., charities, research organisations etc. acting as **a third party** i.e., directly providing a service for us or on our behalf that involves them accessing, collecting or otherwise processing personal data the third party will become a data processor under the DPA?   *If ‘yes’ then you will be using a third party as a data processor you must take advice from the Middlesex University Data Protection Officer about the planned contractual arrangements and security measures.* | Yes | No | N/A |
| 1. Have you written an appropriate privacy notice to provide to individuals at the point you collect their personal data?   *(Please see ‘****Guide to Research Privacy Notices’****)* | Yes | No | N/A |
| **Second Principle: Processed for limited purposes** |  | | |
| Will personal data be obtained only for **one or more specified and lawful purposes**, and not further processed in any manner incompaible with the purpose(s)? (Research data subjects should be informed of any new data processing purposes, the identity of the **Data Controller**[[10]](#endnote-10)and any disclosures that may be made.)  **Research Exemption Note** (GDPR Article 89): Personal data can be processed for research purposes other than for which they were originaly obtained if that processing does not take fmeasures or decisions with respect to the particular data subjects (unless necessary for approved medical research); and no likelihood of substantial damage or substantial distress to any data subjects That data may also be held indefinitely. | Yes | No | N/A |
| **Third Principle: Adequate, relevant and not excessive** |  | | |
| 1. Will you only collect data that is **necessary** for the research?*If ‘no’ please provide details and any further actions to be taken:* | Yes | No | N/A |
| **Fourth Principle: Accurate and where necessary, kept up to date** |  | | |
| 1. Will you take reasonable measures to ensure that the information is **accurate**, **kept up-to-date** and **corrected** if required? *If ‘no’ please provide details:* | Yes | No | N/A |
| **Fifth Principle: Not kept for longer than is necessary** |  | | |
| 1. Will you check **how long data legally must be kept** and **routinely destroy** data that is past its retention date and **archive data** that needs to be kept?   **Research Exemption Note** (section 33(3)): Personal data processed for research purposes can be kept indefinitely. | Yes | No | N/A |
| **Chapter 3 GDPR: Processed in accordance with individuals’ rights under the DPA[[11]](#endnote-11)** |  | | |
| 1. If you are intending to publish information, which could **identify individuals**, have you **made them aware** of this when gaining their informed consent? *If ‘no’ please provide details:* | Yes | No | N/A |
| 1. Will you allow **access to all personal data** held about a data subject if an individualmakes this request?   **Research Exemption Note** (Schedule 2 Part 6 DPA): Where the results of processing personal data for research purposes do not identify a data subject, that data subject does not have a right of access to that data. | Yes | No | N/A |
| 1. Will you ensure that all researchers who have access to **personal data** understand that it **must not be provided to any unauthorised person or third party** (e.g. family members etc.) unless consent has been given? | Yes | No | N/A |
| **Sixth Principle: Kept secure** |  | | |
| 1. Will you ensure that personal data will be **stored in locked cabinets, cupboards, drawers** etc. (regardless of whether data is on paper, audio visual recordings, CDs, USBs, etc.)? | Yes | No | N/A |
| 1. Will you ensure that if personal data is to be **stored electronically** it will only be kept on **encrypted devices**? | Yes | No | N/A |
| 1. Will you ensure that individuals who have access to the personal data are aware that **email is not a secure method** of communication and should **not be used for transferring the data**? | Yes | No | N/A |
| 1. Will you ensure that **disposal of personal data** will be via **confidential waste services** or in the case of **electronic media and hardware** should be **destroyed** in line with Middlesex University guidelines and procedures? | Yes | No | N/A |
| **Chapter 5 GDPR: Not transferred to other countries without adequate protection** |  | | |
| 1. Will you **ensure that personal data is not transferred outside the EEA** unless one of the following applies? 2. The country you are transferring the data to has been approved as providing adequate protection 3. You have obtained explicit informed consent from the individual(s) 4. You have a contract in place with the recipient of the data, which states the appropriate data protection requirements. 5. You have completely anonymised the data. | Yes | No | N/A |

**Any concerns in relation to compliance with the DPA should be discussed with the Middlesex University Data Protection Officer.**

1. **Anonymous data** is prepared from personal information but from which, an individual cannot be identified by the person holding the data. **Anonymisation** is a **permanent** process. Personal data must be treated so that it cannot be processed in such a way as to link the data to a specific individual (e.g., using an identifier). Coded data is not anonymised and therefore not exempt from compliance or registration. [↑](#endnote-ref-1)
2. **Data** covers information that is held on computer, or to be held on computer to be processed. Data is also information recorded on paper if you intend to put it on computer. [↑](#endnote-ref-2)
3. **Informed consent** means providing participants with a clear explanation of the research project in order for them to give informed consent regarding the use of their data. Individuals should be informed that their involvement is voluntary and that they have the right to refuse or withdraw at any time without any negative consequences.

   **Informed** refers to the following information being provided to the data subject/participant:

   Who you are, the organisation you work for and who else is involved in the research project or using the data.

   What data will be collected and how.

   Who will hold the data, control access to the data and how it will be stored and kept safe and whether it will be transferred to a third party.

   How the data will be used.

   How long it will be kept and what will happen to it at the end of the project.

   Risks related to any aspects of the research project and data, benefits of the research project and any alternatives. [↑](#endnote-ref-3)
4. **Personal data** (sometimes referred to as personal information) means data which relate to a living individual who can be identified from those data whether in personal or family life, business or profession, or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller. The data is of biographical significance to the individual and impacts an individual in a personal, family, business or professional capacity. It includes any expression of opinion about the individual and/or statements of fact. [↑](#endnote-ref-4)
5. **Sensitive/special categories of personal data** means personal data consisting of information about the **data subjects’**,

   1. Racial or ethnic origin,
   2. Political opinions,
   3. Religious beliefs or other beliefs of a similar nature,
   4. Trade union membership
   5. Physical or mental health or condition,
   6. Sexual life,
   7. Genetic or biometric information

   Criminal matters are technically now not part of the list of special categories of data and have their own section in the legislation but for practical purposes it should be treated the same as the above.

   Also personal financial details are vulnerable to identity fraud and should be handled confidentially and securely although not defined as sensitive under the Act. [↑](#endnote-ref-5)
6. **Data subject** is a living individual to whom the personal data relates. If an individual has died or their details have been anonymised then their data does not fall within the Act. Personal data relating to deceased individuals may still be owed a duty of confidentiality. [↑](#endnote-ref-6)
7. **Explicit informed consent** is where an individual actively opts to participate. [↑](#endnote-ref-7)
8. **Implied consent** is where an individual must inform the researcher that they wish to opt out. [↑](#endnote-ref-8)
9. **Processing** of personal information includes collecting, using, storing, destroying and disclosing information. [↑](#endnote-ref-9)
10. **Data controller** is the person who either alone or jointly on in common with other persons determines the purposes for which, and the manner in which, any personal data are or are to be, processed. The fact that an individual or institution holds or processes personal data does not make them a Data Controller if they do not determine the purpose and manner of that holding or processing. (This is probably one of the most widely misunderstood definitions of the Act.) In most cases the Data Controller will be Middlesex University, however further guidance and clarification can be sought from the Middlesex University Data Protection Officer. [↑](#endnote-ref-10)
11. **Data subject rights** include:

    The GDPR provides the following rights for individuals:

    The right to be informed

    The right of access

    The right to rectification

    The right to erasure

    The right to restrict processing

    The right to data portability

    The right to object

    Rights in relation to automated decision making and profiling.

    . Access means an individual can make a subject access request for all copies of all personal data held about them and ask to whom it has been disclosed. An individual potentially has access to personal comments written about them. It is an offence to deliberately edit or destroy data once a subject access request has been received. Third parties do not generally have access to subject data unless an exemption applies or there is overriding public interest. There may be limited third party access to ordinary personal data relating to a business or professional capacity in the public interest through the Freedom of Information Act. [↑](#endnote-ref-11)