



Topic:	Coronavirus (COVID-19) and data protection
Context:	COVID-19 pandemic
Source:	https://ico.org.uk/for-organisations/data-protection-and-coronavirus/ and others below
Dated:	30 th March 2020
Note:	<p>Most organisations are facing new and unprecedented challenges during the Coronavirus (COVID-19) pandemic. This briefing note seeks to deal with the most common questions, and to signpost you to the most authoritative current information. As always, this must not be construed as legal advice, and may not apply in all situations; we encourage you to refer to the sources given and form your own conclusions.</p> <p>In the last few days the ICO and the government has published information of particular relevance, including:</p> <ul style="list-style-type: none"> • “Data Protection and Coronavirus – all you need to know” https://ico.org.uk/for-organisations/data-protection-and-coronavirus/ • “COVID-19 guidance for the charity sector” https://www.gov.uk/government/news/coronavirus-covid-19-guidance-for-the-charity-sector • “COVID-19: Changes to DBS ID checking guidelines” https://www.gov.uk/government/news/covid-19-changes-to-dbs-id-checking-guidelines • COVID-19 advice for community groups https://ico.org.uk/about-the-ico/news-and-events/blog-community-groups-and-covid-19/ <p>Data protection regulations have not changed just because of COVID-19, although the regulator has said that it will be pragmatic, for example if a data subject access request takes longer than one month. Remember that if you choose to process personal data (including sharing it with other agencies) you are responsible for ensuring that it is used in line with the data protection principles.</p> <p>We are being asked a number of common questions such as:</p> <p>Q: Can my church or community group process personal data to provide help at this time?</p> <p>A: Generally, yes but see the full ICO advice for community groups using the link above.</p>

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	<p>Q: Can we waive the requirement for consent, for example to allow personal data relating to underlying health conditions to be shared between agencies so that the most appropriate services can be offered?</p> <p>A: The rights of data subjects remain unchanged, but the ICO is clear that <i>“Data protection law does not prevent you sharing personal information where it is appropriate to do so”</i>. Every time you process personal data, including sharing it with others, you need to be clear on which lawful basis you are relying. If not ‘consent’, then it is likely that you might consider ‘legitimate interest’ but you need to pass the LIA test and so you ought to consider if you can obtain consent, before rejecting it in favour of another lawful basis. The community group advice document implies that ‘vital interest’ is a possibility, but after checking with the ICO, their view is that this can only be claimed where literally someone’s life is at risk at that time.</p> <p>Q: What do we need to do about disclosure of sensitive data relating to health, mental health, substance misuse or criminal justice history to accommodation and support providers for people moved into hotels at short notice where those staff/organisations will not be aware of these issues as these clients are new to them?</p> <p>A: Processing sensitive data has 2 stages. You must have identified the lawful basis generally (as in the question above) but additionally for sensitive data, you must choose one of the ten conditions for processing, being:</p> <p style="padding-left: 40px;">Explicit consent; Employment, social security and social protection (if authorised by law); Vital interests; Not-for-profit bodies; Made public by the data subject; Legal claims or judicial acts; Reasons of substantial public interest (with a basis in law); Health or social care (with a basis in law); Public health (with a basis in law); Archiving, research and statistics (with a basis in law)</p> <p>You might consider ‘Health and social care’ as the lawful basis if consent cannot be obtained.</p> <p>Whatever you choose, always bear in mind the need to be transparent, keep personal data secure and to a minimum, and keep records of decisions made.</p> <p>I would also encourage you to sign up to the latest gov.uk Coronavirus bulletin that lists all new and changed documents, at https://www.gov.uk/email-signup?link=/government/topical-events/coronavirus-covid-19-uk-government-response (I suggest daily emails as there are quite a few of them) and to check the ICO’s Coronavirus information hub at https://ico.org.uk/global/data-protection-and-coronavirus-information-hub/</p> <p>The ICO also has a very good free helpline and you can contact them on 0303 123 1113</p>
Suggested action:	Review the sources mentioned above, consult your own legal advisers as necessary, and form your own conclusions.

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