

## **Know How No 4** *guidance for research and evaluation in Fife*

## Data Protection

### **What this is about?**

This Know How explains how the Data Protection Act (1998) affects research projects.

### **Who is it for?**

Anyone that is responsible for conducting or commissioning research that uses the personal data of citizens, clients or employees.

### **What do you need to know?**

Personal information is data that identifies a living individual and is structured in such a way as to make the data readily accessible. The Act details 8 principles by which personal information may be processed properly. Processed can mean that it is obtained, held, adapted, retrieved, disclosed, used or combined. The principles say that data must be:

1. fairly and lawfully processed;
2. processed for limited purposes;
3. adequate, relevant and not excessive;
4. accurate;
5. not kept for longer than is necessary;
6. processed in line with your rights;
7. secure;
8. not transferred to countries without adequate protection.

For more information on the 8 principles, and related terminology you should refer to your organisation's Data Protection policy or visit:

[www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk) .

Researchers should be aware that the processing of any information relating to an identifiable living individual constitutes 'personal data processing' and is subject to the provisions of the Data Protection Act 1998, including the 8 Principles.

### **Exemptions for Research Data**

There are certain exemptions in the Act for research data which are outlined below. However, it should be noted that these exemptions apply only where the data are not processed to support measures or decisions with respect to particular individuals. Additionally, these exemptions apply only in cases where the processing of data for research will not cause substantial damage and distress to any data subject, that is, the person the information relates to.

- Personal data obtained for other purposes may be processed for research even if that purpose was not made explicit to data subjects. However,

notwithstanding this exemption, the data subject should still be informed of any new purposes of data processing and the identity of the data controller and any disclosures that may be made. Such notification may be avoided if it would involve a disproportionate effort to inform the data subject. However, the Information Commissioner's Office has expressed the view that, where any research will involve obtrusive activities (e.g. if questionnaires are to be mailed to subjects, or subjects are to be asked to undertake interviews), then consent must first be sought.

- Research data processed for research may be retained indefinitely.
- Data processed for research are not open to subject access requests, so long as the results of any research (in articles, research reports, dissertations etc) do not identify data subjects.. A "subject access request" is when a person submits a request to a controller of their personal data, to know what of their personal information is being used, by whom and for what purpose.

Sensitive personal data is defined as the racial or ethnic origin of the data subject; his/her political opinions; his/her religious beliefs of a similar nature; whether he/she is a member of a trade union; his/her physical or mental health or condition; his/her sexual life (is this the phrasing or is it the more usual 'sexual orientation'; the commission or alleged commission by him/her of an offence or any proceedings for an offence committed and the outcome. The processing of sensitive personal data for

research purposes may only be carried out if:

- a) the explicit consent (ideally in writing) of the data subject has been obtained.
- b) medical research is being carried out by a health professional or someone who owes a similar duty of confidentiality.
- c) it is an analysis of racial/ethnic origins, carried out for the purpose of equal opportunities monitoring.
- d) it has been additionally provided for by the Secretary of State.

The Data Protection (Processing of Sensitive Personal Data) Order 2000 allows for sensitive data processing which: 'is in the substantial public interest and is necessary for research purposes and does not support measures with respect to the particular data subject except with their specific consent nor cause or be likely to cause substantial damage and distress'.

### Frequently asked questions

#### **1. I am using non- sensitive personal data for survey research purposes. Can I pass on the aggregated results to other Services?**

Yes- anonymised data is not subject to the act. Even if you wanted to pass the individual responses containing personal data to another Service, this would be permissible provided the purpose remained research. You should however remember that even where all obvious personal identifiers are stripped from survey results, this does not necessarily mean that the information is anonymous. In some rare instances, small numbers of survey

responses may potentially reveal the identity of the respondent. Please seek advice from the Corporate Research Team if you believe there is the potential for this to happen.

**2. I want to conduct a satisfaction survey; can I use my customer database to create a sample frame.**

You can use your existing customer data to create a sample frame and conduct research based on your existing data. However, using the data to contact the individuals identified in your sample frame to collect further data is considered intrusive UNLESS you have prior consent to do so.

**Getting Consent: Examples statements**

**Research Projects:**

I agree to take part in the above Fife Council research project. I have had the project explained to me, and I have read the Explanatory Statement, which I may keep for my records. I understand that agreeing to take part means that I am willing to: *(list all procedures – these might include things like:)*

- be interviewed by the researcher
- allow the interview to be videotaped/audiotaped
- allow the researchers to have access to my medical/academic records

**General forms:**

This information will be held and processed for the following purpose(s): *(list purposes, like:)*

- being contacted for research purposes in the future

I understand that any information I provide is confidential, and that no information that could lead to the identification of any individual will be disclosed in any reports on the project, or to any other party. No identifiable personal data will be published. The identifiable data will not be shared with any other organisation.

AND/OR

The identifiable data will be shared with (list organisations). This organisation has made a written agreement with Fife Council to abide by its Data Protection Policy OR

I agree to Fife Council recording and processing this information about me. I understand that this information will be used only for the purpose(s) set out in this statement and my consent is conditional on Fife Council complying with its duties and obligations under the Data Protection Act 1998.

**Withdrawal from project (this clause must be included in all consent forms):**

I understand that my participation is voluntary, that I can choose not to participate in part or all of the project, and that I can withdraw at any stage of the project without being penalised or disadvantaged in any way.

**To sum up**

- If possible always try and get **consent**.
- If personal data can be **anonymised**, then do so at the earliest opportunity

**Where can you get more information?**

Never be afraid to ask! Contact the person in your organisation leading on Data Protection:

**Fife Council**

Frank Jensen  
Legal Service  
Law and Administration  
[frank.jensen@fife.gov.uk](mailto:frank.jensen@fife.gov.uk)

Rosie McLure  
Legal Service  
Law and Administration  
[rosemary.mclure@fife.gov.uk](mailto:rosemary.mclure@fife.gov.uk)

**Background Information from:**

The Information Commissioner  
[www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

The Market Research Society  
<http://www.mrs.org.uk/standards/guidelines.htm#legal>

Lancaster University Data Protection Project  
<http://www.dpa.lancs.ac.uk/approved/research.htm>

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