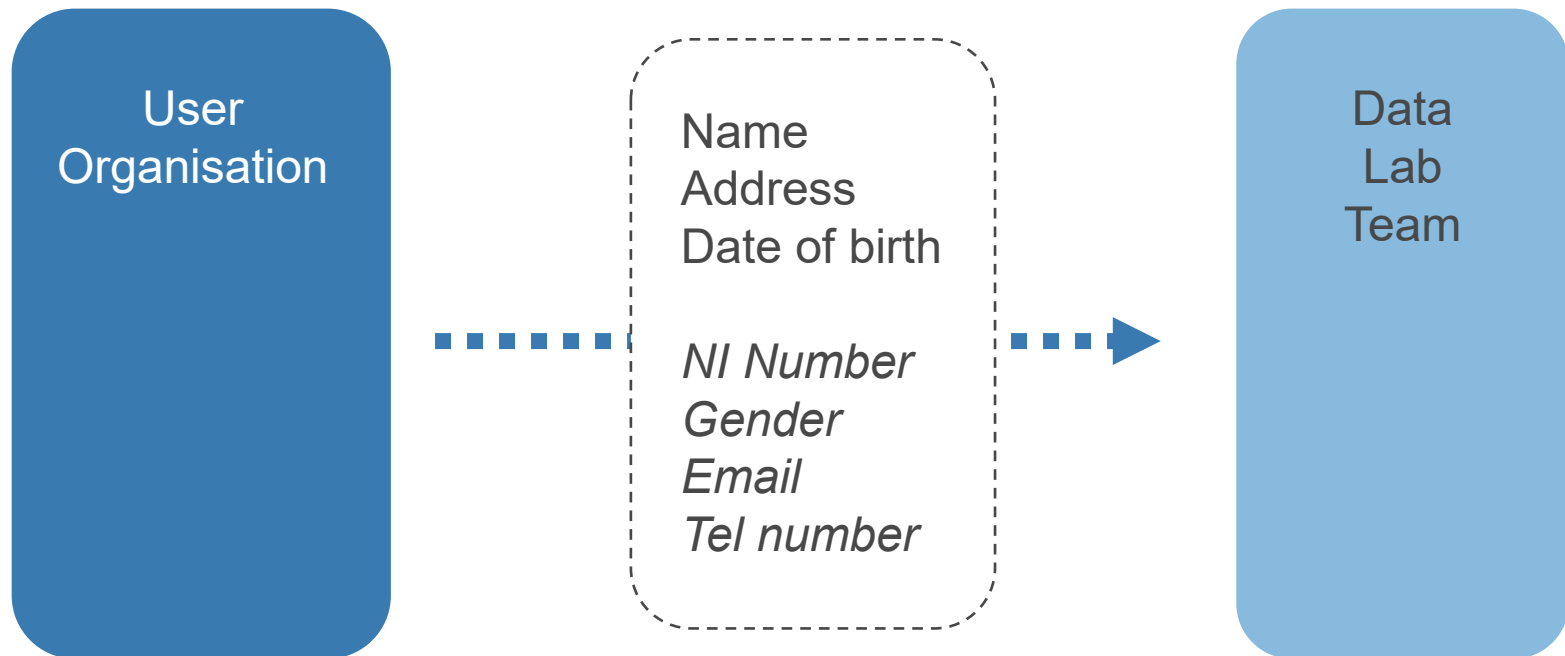


Employment Data Lab and GDPR

Data protection considerations regarding using the Data Lab

Matthew Williams

The Data Lab and data protection considerations



- Details that you need to send to the Data Lab are 'personal data' according to the Data Protection Act/GDPR, and need to be processed in line with the legislation
- The Data Lab will want confirmation of the lawful basis to transfer the data

Definitions – personal data

- ‘Personal data’ are defined as:
 - information relating to natural persons who can be identified or who are identifiable, directly from the information in question; or
 - who can be indirectly identified from that information in combination with other information.
- Personal data may also include special categories of personal data or criminal conviction and offences data. These are considered to be more sensitive and you may only process them in more limited circumstances
- Outputs from the Data Lab are in aggregated form, so would not constitute personal data

Definitions – special category data

- The UK GDPR defines special category data as:
 - personal data revealing ***racial or ethnic origin***;
 - personal data revealing ***political opinions***;
 - personal data revealing ***religious or philosophical beliefs***;
 - personal data revealing ***trade union membership***;
 - ***genetic data***;
 - ***biometric data*** (where used for identification purposes);
 - data concerning ***health***;
 - data concerning a person's ***sex life***; and
 - data concerning a person's ***sexual orientation***.
- The UK GDPR also gives extra protection to “*personal data relating to criminal convictions and offences or related security measures*”.

Principles of the GDPR

- The UK GDPR sets out seven key principles:
 - Lawfulness, fairness and transparency
 - Purpose limitation
 - Data minimisation
 - Accuracy
 - Storage limitation
 - Integrity and confidentiality (security)
 - Accountability
- Processing of personal data for the Data Lab needs to follow these principles ...
- But organisations are likely to be following them in how the data are collected in the first place

More detail on first two principles

Lawfulness, fairness and transparency

- You must identify valid grounds under the GDPR (known as a 'lawful basis') for collecting and using personal data.
- You must ensure that you do not do anything with the data in breach of any other laws.
- You must use personal data in a way that is fair. This means you must not process the data in a way that is unduly detrimental, unexpected or misleading to the individuals concerned.
- You must be clear, open and honest with people from the start about how you will use their personal data.

Purpose limitation

- You must be clear about what your purposes for processing are from the start.
- You need to record your purposes as part of your documentation obligations and specify them in your privacy information for individuals.
- You can only use the personal data for a new purpose if either this is compatible with your original purpose, you get consent, or you have a clear obligation or function set out in law.

- Essentially, making sure that what you do with the data is lawful, that you have told people what you will do with their data, and you don't do anything else that they wouldn't expect

Lawful basis for processing

- You must have a valid lawful basis in order to process personal data
- There are six lawful bases for processing:
 - Public task,
 - Legitimate interests,
 - Consent,
 - also Contract, Legal obligation, and Vital interests
- No single basis is ‘better’ or more important than the others – purpose of processing and relationship with individual will determine which is most appropriate
- You are likely to have already identified an appropriate basis for processing for the operation of your programme or activity

Lawful basis for processing

- **Public interest** – processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority vested in the controller
 - Appropriate for local authorities and other public bodies, but not charities/third sector organisations; reassures that personal data is used for the public good
- **Legitimate interest** – based on reasonable expectations and provided does not override the rights of individuals
 - Appropriate for charities/third sector organisations; reassures that there are compelling reasons for processing personal data for research
- **Consent** – specific, informed and freely given consent through clear affirmative action
 - Again appropriate for charities/third sector organisations, but is less appropriate for research; also GDPR consent should not be confused with consent sought for ethical or other reasons eg programme participation

Lawful basis for processing for Data Lab

- You will already have a lawful basis for processing data for your own purposes
- It may be possible to use this for processing for research purposes using the Data Lab
- If the initial lawful basis for collecting and processing the data is:
 - **public task**, then using it for the Data Lab will be covered by the initial basis
 - **legitimate interest**, then again using it for the Data Lab likely to be covered
 - “further processing for statistical purposes shall not be considered to be incompatible with the initial purposes.”
 - **consent**, then you *may* need to obtain additional consent from participants for the processing for the Data Lab

Consent as a lawful basis

- Where consent is used as a lawful basis for processing, it must be **freely given, informed, unambiguous, specific** and indicated by a **clear affirmative** action
- Where special category data are processed, this must be based on **explicit consent** – an express statement of consent
- Consent needs to be documented
- If the original consent/privacy notices did not mention that data would be used for research/evaluation, or shared with other organisations, then you may need to ask for consent for the new processing, or give individuals the ability to opt out

Existing participants vs new starters

- Where consent has been used as the lawful basis for existing participants, organisations can change the lawful basis moving forwards in anticipation of using the Data Lab
- Thus future processing could be under legitimate interests, and privacy notices be updated to specifically mention sharing with DWP for research/evaluation purposes

Support for organisations

- The Information Commissioner's Office is the independent body set up to uphold information rights
- But GDPR is not used a stick with which to beat organisations for no good reason
- Organisations may be set up for data sharing under existing ways of working
- The ICO are on hand to provide information and guidance on compliance and protecting personal information

ICO support available

- Lawful basis interactive guidance tool
 - <https://ico.org.uk/for-organisations/gdpr-resources/lawful-basis-interactive-guidance-tool/>
- Website resources for organisations
 - <https://ico.org.uk/for-organisations/>
- Live chat advice service for organisations
 - <https://ico.org.uk/global/contact-us/live-chat/live-chat-organisations/>
- ICO helpline – 0303 123 1113
- SME web hub for small charities etc.
 - <https://ico.org.uk/for-organisations/sme-web-hub/>
 - <https://ico.org.uk/for-organisations/sme-web-hub/get-support/>

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