

By email only: adoption@health-ni.gov.uk

19 January 2023

Dear Sir/Madam,

Re: The Information Commissioner's response to the Department of Health consultation regarding 'Transitional Adoption Support Services'

Thank you for your email of 27 October 2022, regarding the Department of Health's (DoH) Consultation on Transitional Adoption Support Services.

As part of this, we would like to draw your attention to your potential obligations under Article 36(4) of the UK GDPR.

Article 36(4) states that "*Member States shall consult the supervisory authority during the preparation of a proposal for a legislative measure to be adopted by a national parliament, or of a regulatory measure based on such a legislative measure, which relates to processing*". This is a legally binding requirement on all relevant public sector organisations, and failure to adequately consult with the ICO on such proposals would constitute a breach of the GDPR.

DCMS has published [this guidance](#) which sets out a process by which all relevant public bodies should consult with the ICO to fulfil their obligations in respect of this requirement.

The [Enquiry Form](#) (set out at Annex A of the guidance) needs to be completed by the Department of Health's policy lead in consultation with the Data Protection Officer. The form is designed to capture the initial information the ICO requires to assess whether or not policy proposals require formal consultation under Article 36(4). Therefore, it would be very helpful if your policy lead in this area could fill out this form.

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The Enquiry Form should then be sent to legcon@ico.org.uk, with a subject line reading:

"Art 36(4) - Consultation request - [insert details of department] - [insert title of proposal]".

At this stage, it would be best to submit your consultation request as outlined above as soon as possible, to ensure it fulfils the Article 36(4) requirements, and to provide us with the necessary information that we require so this can be progressed quickly for you.

Once we receive this, an acknowledgement email will be sent within 48 hours of this form being submitted. Our procedures state that follow up contact will be made within two weeks to confirm whether the ICO have identified any preliminary issues from the initial information provided and confirming whether further consultation is required. If we require further consultation, we will often ask to view your Data Protection Impact Assessment (DPIA) regarding the legislation (if one has been completed), as this can form an integral part of the consultation we carry out.

I hope this is of use to you but if you have any further queries, please do let me know.

Information Commissioner's Office (Northern Ireland)