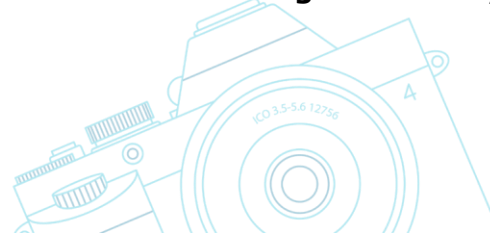


## 1. Apply the journalism exemption

- There is an exemption in data protection law to protect freedom of expression and information in journalism, academic activities, art and literature.
- When the criteria for using the exemption is met, you do not have to comply with many of the usual requirements of data protection law.
- You **must** always comply with the key data protection principles of accountability and security.
- The exemption applies if you:
  - » use personal data for journalism;
  - » act with the intention or hope of publishing journalistic material;
  - » reasonably believe publication is in the public interest; and
  - » reasonably believe that complying with a specific part of data protection law is incompatible with journalism.
- You **should** interpret journalism broadly.
- The exemption can cover all the personal data you use for journalism as long as you have the intention or hope of publishing it.
- A reasonable belief is one you are able to justify in a reasonable way.
- Deciding what is “in the public interest” involves considering the circumstances, balancing arguments for and against, and judging how the public interest is best served overall.
- The exemption applies if you reasonably believe that a specific part of data protection law must or should be set aside because complying with it disproportionately restricts your journalistic activity.

## 2. Take steps to protect personal data

- You **must** take steps to protect personal data and be able to demonstrate that you comply.
- You **must** decide what steps to take to protect personal data. This varies depending on how you are using personal data for journalism and any risk of harm to people..
- You **must** review the steps you take to protect data and update them when you need to. Media organisations **could** take an organised approach to managing data protection by putting in place a system, sometimes known as a privacy management programme. This involves:
  - » strong leadership and oversight;
  - » policies where proportionate;
  - » training and awareness;
  - » knowing what personal data you use; and
  - » risk management.
- You **could** combine your approach to managing data protection with your existing management and governance systems.
- You **must** consider data protection when you do anything that involves personal data.
- You **must** identify and minimise risks when you use personal data. When there is likely to be a high risk, you must carry out a Data Protection Impact Assessment (DPIA).
- **When the criteria applies, the journalism exemption can remove the usual requirement to consult us if a DPIA identifies a high risk that you cannot mitigate.**



### 3. Keep personal data secure

- You **must** keep personal data secure. This involves protecting personal data against unauthorised or unlawful use and accidental loss, destruction or damage.
- Security measures are not limited to cyber-security. They also include organisational measures and physical security.
- You **must** be able to restore personal data if there is a security incident.
- You **must** review and keep security measures up-to-date.
- You **must** decide what security measures are appropriate and proportionate to protect personal data, taking into account the circumstances, the risk of harm, and available technology.
- Your security arrangements **should** take into account the security risks of using mobile devices and remote working.
- You **must** ask anyone acting on your behalf to demonstrate they can keep personal data secure. You **must** also have a written contract with them dealing with security.
- A DPIA can help you to assess security risks when others act on your behalf or you share personal data with them.
- You **must** record all personal data breaches, and tell the ICO if the breach is likely to cause harm to someone.
- If there is a high risk, you **must** also tell the people affected.
- **When the criteria applies, the journalism exemption can remove the usual requirements to tell people affected by a data breach when there is likely to be a high risk.**

### 4. Use personal data lawfully

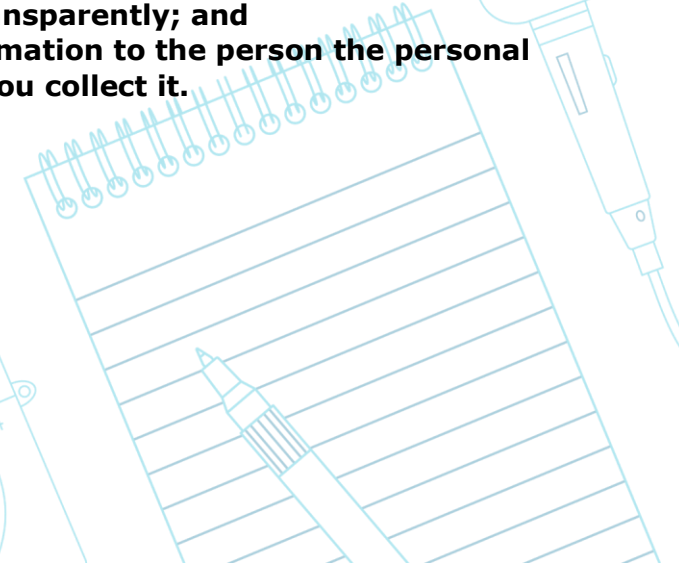
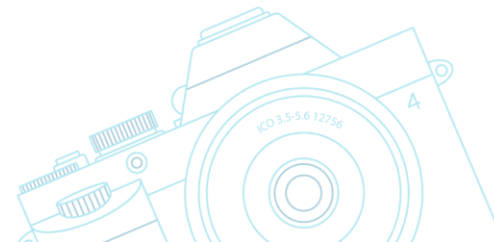
- You **must** use personal data lawfully.
- You **must** have a specific lawful reason under the UK GDPR to use personal data.
- The lawful reasons most likely to be relevant to journalism are legitimate interests and consent.
- You have a legitimate interest in using personal data if there is not a less intrusive way of achieving the same result and your interests are not outweighed by harm to a person.
- Consent is often not the most appropriate lawful reason for a journalist to use unless you are giving people genuine control over how you use their data. If you rely on consent, you **must** comply with the high standards of consent in the UK GDPR.
- Special category or criminal offence data needs more protection because it is sensitive. You can use this type of data if you have a lawful reason **and** a relevant condition under the DPA 2018.
- If the criteria is met, there is a condition to enable sources to disclose these sensitive types of data for journalism about unlawful acts and dishonesty.
- Criminal offence data includes allegations of criminal behaviour. You **should** consider all the circumstances to decide if a suspect has a reasonable expectation of privacy. If a suspect is under investigation by the state, there is usually a reasonable expectation of privacy.
- You **should** make sure you can justify identifying a suspect, taking into account the public interest in publication and the harmful consequences for the person.
- **When the criteria applies, the journalism exemption can remove the usual requirements to:**
  - **use personal data lawfully in line with the data protection principle;**
  - **satisfy a lawful basis for using personal data;**
  - **comply with conditions for consent and children's consent; and**
  - **comply with the rules about special category data and criminal offence data.**

## 5. Use personal data fairly

- You **must** use personal data fairly.
- You **should** consider what an individual reasonably expects in the circumstances and whether using the data is likely to cause any unwarranted harm.
- You **should** consider the specific circumstances to decide what an individual reasonably expects. Various factors may be relevant including:
  - » the extent to which the information is in the public domain;
  - » a person's public profile; and
  - » the risk of harm.
- There are certain types of sensitive data that will normally, but not always, be private such as data about a person's physical or mental health and sex life.
- When someone is charged with a crime, the open justice principle means there is generally an expectation of transparency, although this data may become private with the passage of time.
- You **should** make sure you can justify your decision to use any personal data in view of the risk of harm and publish data that is proportionate to the public interest.
- Photographs or filming may be particularly intrusive by their nature. You **must** consider whether it is fair to use the data, even if the person is in a public place.
- Using covert surveillance, subterfuge or similar intrusive methods may be justified in the context of journalism but you are likely to need to use the journalism exemption.
- **If the criteria applies, the journalism exemption can remove the usual requirement to use personal data fairly.**

## 6. Use personal data transparently

- You **must** use personal data transparently.
- You **must** tell people about your use of their personal data. This information is known as privacy information.
- When you collect personal data from the person it is about, you **must** provide them with privacy information at the time you collect it.
- When you collect personal data from a source other than the person it is about, you **must** provide that person with privacy information within a reasonable period and no later than one month.
- You **must** make people aware of privacy information and it must be easy to understand and access, especially if you use personal data about children or vulnerable people.
- When you collect personal data from a source other than the person it is about, you do not need to provide information if an exception applies, including that it would be impossible, involve disproportionate effort or cause serious prejudice to your journalistic aims.
- You **should** consider whether you need to a DPIA if you collect personal data from a source other than the person it is about without providing them with privacy information.
- **When the criteria applies, the journalism exemption can remove the usual requirements to:**
  - **use personal data transparently; and**
  - **provide privacy information to the person the personal data is about when you collect it.**

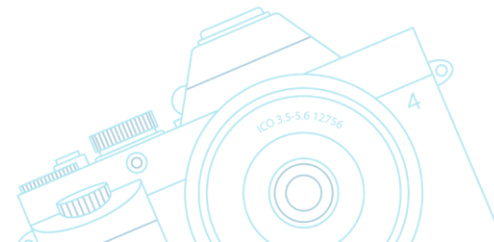


## 7. Use accurate personal data

- You **must** use personal data that is accurate and, where necessary, keep it up-to-date.
- You **must** take reasonable steps to check that personal data is accurate.
- You **should**:
  - » make sure that the source of the personal data and their status is clear where possible;
  - » consider any challenges to the accuracy of the data; and
  - » consider whether you need to update it.
- As a general rule, the greater the risk of harm to people, the more thorough your accuracy checks need to be.
- If normal accuracy checks are not possible, you **should** make sure your staff know how to manage the risk of harm.
- You **should** consider how accurate the sources of personal data are.
- You **should** clearly distinguish between fact and opinion when reporting personal data.
- You **should** clarify the nature or context of personal data where necessary.
- You **must** help people to exercise their data protection rights if they challenge the accuracy of personal data.
- **When the criteria applies, the journalism exemption can remove the usual requirement to use accurate personal data.** However, accuracy is generally a fundamental journalistic value so you are unlikely to use it for this reason often.

## 8. Use personal data for a specific purpose

- You **must** use personal data for a specific purpose that is legitimate, clear and in line with your original purpose.
- To comply with this principle, you **must** also use personal data fairly, lawfully and transparently and be accountable for how you use it.
- You can use data for another purpose if it is in line with your original purpose.
- Keeping a news archive is part of the end-to-end process of journalism so there is no change in purpose.
- If you are using data for a purpose that is very different, unexpected or which would have an unjustified impact, this is not likely to be in line with this data protection principle. However, you **could** consider whether you could get consent to use the data.
- **When the criteria applies, the journalism exemption can remove the usual requirement to use personal data for a specific purpose.**

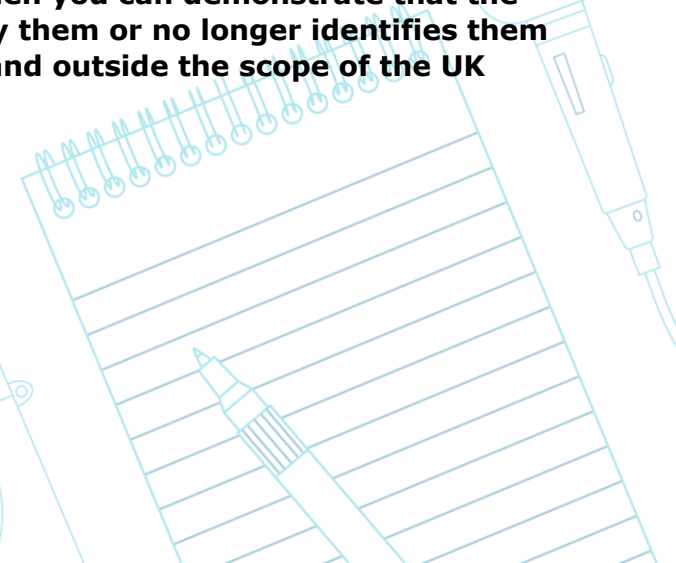
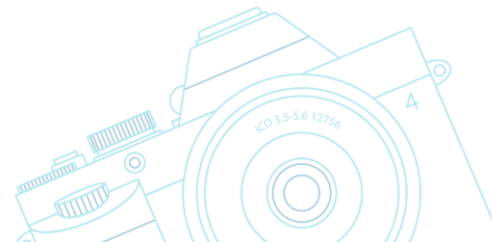


## 9. Use no more personal data than you need

- You **must** have enough personal data to do what you need to do and it **must** be relevant and not excessive.
- Before you collect any personal data, you **should** think about why you need it.
- You **should** think about any factors individuals bring to your attention when exercising their rights that may suggest you are not using the right amount of personal data.
- You **must** use accurate personal data for journalism, which also involves considering how much data you need.
- You **should** keep in mind what you are trying to achieve and aim to collect the data you need to do that efficiently.
- You **must** use personal data that is relevant to your story or your wider journalistic purpose. Using irrelevant personal data, particularly sensitive types of data, can cause significant harm to people eg discrimination.
- You **must** use personal data in limited ways ie not use excessive data.
- You **should** think about whether you need to collect personal data and whether you also need to use it in other ways.
- You **must** review any data you keep from time to time to make sure you do not keep it for longer than you need to.
- **When the criteria applies, the journalism exemption can remove the usual requirement to use no more personal data that you need.**

## 10. Keep personal data only for as long as you need it

- You **must** keep personal data only for as long as you need it.
- There are no specific time limits so you **should** consider why you are using data, amongst other factors, to help you decide how long to keep it.
- You **must** act lawfully and fairly when you use data, so you should consider any legal risks and any risk of harm to a person associated with keeping or destroying data.
- Where possible and appropriate, you **must** record how long you expect to hold different types of data.
- You **could** have a retention policy or schedule to help you to record standard retention periods, that you can incorporate into existing processes.
- You **should** review the personal data you hold at appropriate intervals and erase or anonymise any data you no longer need.
- Research and background details, such as contacts, are vital to journalism so it may often be justifiable to keep this data for long periods of time or indefinitely.
- **When the criteria applies, the journalism exemption can remove the usual requirements to:**
  - **keep personal data only for as long as you need it in line with the data protection principle; and**
  - **inform the person when you can demonstrate that the data does not identify them or no longer identifies them (ie it is anonymized and outside the scope of the UK GDPR).**



## 11. Be clear about roles and responsibilities

- If you are dealing with personal data and any third parties, you **should** decide whether they are a controller, joint controller or processor under the UK GDPR. This affects legal responsibilities.
- To decide this, you **should** consider who decides why and how the data is used, known in the UK GDPR as a controller.
- If you ask a third party to help you with a story and they are permitted to act only on your instructions, they are a processor.
- You **must** have a written contract with processors and they must give you sufficient guarantees that they can comply with data protection law.
- If you are acting as a joint controller with a third party this means that you both determine the means and purposes of the using the data. You **must** have a transparent arrangement in place setting out your respective responsibilities.
- When sharing personal data, you **must** keep certain records to comply with the UK GDPR's requirements and carry out a DPIA if there is likely to be a high risk. You **could** also use a data sharing agreement.
- You **must** comply with data protection law if you receive personal data from a third party that you want to use. Relevant checks include confirming the source, how and when the data was collected, and checking its accuracy.
- The specific rules about making international transfers do not apply to online publication.
- **When the criteria applies, the journalism exemption can remove the usual requirements to comply with the general principles for restricted transfers of personal data to countries outside the UK or to international organisations.**

## 12. Help people to use their rights

- People have specific data protection rights which they can exercise on request. You **must** help people to use these rights and respond within specific time limits.
- You **can** refuse to comply with individual requests in certain circumstances, including if the request is manifestly unfounded or excessive.
- People can ask for copies of their data. You **should** make reasonable efforts to find relevant information and provide what you can to them.
- There is a very strong, general public interest in protecting the identity of journalists' confidential sources. It is very unlikely you would be required to disclose such information.
- People can also object to your use of their data, ask you to restrict it or erase it in certain circumstances. If you have disclosed the data to others, you **must** tell them if the data is restricted or erased unless this is impossible or involves disproportionate effort.
- The right to erasure does not apply if using the data is necessary to protect the right to freedom of expression and information.
- If data is inaccurate, you **must** correct or complete it. You **should** also consider whether you need to add a note to make sure your records are not misleading.
- There is a strong, general public interest in the preservation of news archives, which contribute significantly to the public's access to information about past events and contemporary history. This is generally a strong factor in favour of not erasing personal data from news archives.
- **When the criteria applies, the journalism exemption can remove the usual requirements to:**
  - **confirm to the person whether you are using their data, provide access to their data as well as other information;**
  - **inform the person when their data is transferred to a country outside the UK or an international organisation;**
  - **provide the person with a copy of their personal data;**
  - **comply with the right to have data completed or corrected, erased, or restricted and the right to object to use of personal data; and**
  - **comply with the right to data portability.**