# ICO consultation on the draft updated data sharing code of practice

Data sharing brings important benefits to organisations and individuals, making our lives easier and helping to deliver efficient services.

It is important, however, that organisations which share personal data have high data protection standards, sharing data in ways that are fair, transparent and accountable. We also want organisations to be confident when dealing with data sharing matters, so individuals can be confident their data has been shared securely and responsibly.

As required by the Data Protection Act 2018, we are working on updating **our data sharing code of practice**, which was published in 2011. We are now seeking your views on the [draft updated code](#).

The draft updated code explains and advises on changes to data protection legislation where these changes are relevant to data sharing. It addresses many aspects of the new legislation including transparency, lawful bases for processing, the new accountability principle and the requirement to record processing activities.

The draft updated code continues to provide practical guidance in relation to data sharing and promotes good practice in the sharing of personal data. It also seeks to allay common concerns around data sharing.

As well as legislative changes, the code deals with technical and other developments that have had an impact on data sharing since the publication of the last code in 2011.

Before drafting the code, the Information Commissioner launched a call for views in August 2018. You can view a summary of the responses and some of the individual responses [here](#).

If you wish to make any comments not covered by the questions in the survey, or you have any general queries about the consultation, please email us at [datasharingcode@ico.org.uk](mailto:datasharingcode@ico.org.uk).

Please send us your responses by **Monday 9 September 2019**.


**Privacy Statement**

For this consultation, we will publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations

and individuals responding in a professional capacity will be published. We will remove email addresses and telephone numbers from these responses; but apart from this, we will publish them in full.

For more information about what we do with personal data please see our privacy notice.

**Questions**

Note: when commenting, please bear in mind that, on the whole, the code does not duplicate the content of existing guidance on particular data protection issues, but instead encourages the reader to refer to the most up to date guidance on the ICO website.

Q1     Does the updated code adequately explain and advise on the new aspects of data protection legislation which are relevant to data sharing?

☐  Yes

☒  No

Q2     If not, please specify where improvements could be made.

It isn't clear what is "new" and therefore what is the impact of the new aspects of data protection legislation on data sharing. On balance it may be more desirable to simply state the current position rather than a comparison with the old, but this guidance is not clear on what is new if that is the overall intention.

Q3     Does the draft code cover the right issues about data sharing?

☐  Yes

☒  No

Q4    If no, what other issues would you like to be covered in it?

> The biggest issue is whether the data contains personal data and how data sharing agreements are used in anonymisation. This is partly covered in the ICO anonymisation code of practice but this document is very long and complex and some overlap here would be useful.
> Some recognition of the grey areas of what is personal data would be helpful.
>
> There is also a lack of information about sharing data for research purposes and the possible exemptions, some examples would be useful.
>
> It is unclear why the use of data sharing contracts is recommended and not mandated. This could lead to ambiguity as to whether they are required. Maybe some examples would be useful to explain the different situations. We would typically use data sharing contracts as one of the robust controls when releasing data for secondary research purposes.
>
> It is unfortunate that Annex A and B are not available in the draft.

Q5    Does the draft code contain the right level of detail?

☒ Yes

☐ No

Q6    If no, in what areas should there be more detail within the draft code?

> It is reasonably well signposted so that sections which are unlikely to be relevant to our members can be skipped.

Q7    Has the draft code sufficiently addressed new areas or developments in data protection that are having an impact on your organisation's data sharing practices?

☐ Yes

☒ No

Q8 If no, please specify what areas are not being addressed, or not being addressed in enough detail

There are no examples of sharing research data or mention specifically of Universities or public bodies as types of organisations who would share data; we would consider that use of a broader range of examples would help organisations engage with the guidance document and draw parallels with their activities.

Q9 Does the draft code provide enough clarity on good practice in data sharing?

☒ Yes

☐ No

Q10 If no, please indicate the section(s) of the draft code which could be improved, and what can be done to make the section(s) clearer.

It would be helpful to include specific detailed examples of good practice within an Annex

Q11 Does the draft code strike the right balance between recognising the benefits of sharing data and the need to protect it?

☒ Yes

☐  No

Q12   If no, in what way does the draft code fail to strike this balance?

> Further examples from sharing data for research purposes would be
> valuable

Q13   Does the draft code cover case studies or data sharing scenarios
relevant to your organisation?

☐  Yes

☒  No

Q14   Please provide any further comments or suggestions you may have
about the draft code.

1. There were numerous references to the ICO website, but the links
   do not lead directly to the relevant material, and the website is
   not easy to navigate to find the relevant material
2. Top of page 13 in misconception box 'you can usually share
   without consent if you have a good reason to do so' – this is
   relevant to the research community but is not covered again in
   the document. When is 'usually'? And what is a 'good reason'?
   Examples would be useful.
3. Top of page 17- real life examples- none of these are research
   activity. Research is mentioned very few times. Trial or study not
   at all. What are 'statistical purposes'; examples would again be
   helpful?

4. Page 37 'you must identify at least one legal basis for sharing data' –the section on legal basis and legitimate interests may be open to misinterpretation.
5. Pg44. Under 'How do we comply…', there is a statement that says 'unless an exemption or exception applies'. What are these, and how does the reader find out further details?
6. Pg48 paragraph 1. 'You should undertake an information risk analysis'. Are there suggested templates for this, to educate us on how one should be performed?
7. Pg 48. Paragraph 1.'You should regularly test, assess and evaluate your security provision'.How regularly?
8. Pg 60. 'What are the legal powers…?'– Whilst we appreciate each organisation's situation may be different, it would be helpful if more detail could be provided, even if this is just a list of considerations.

Q15　To what extent do you agree that the draft code is clear and easy to understand?

☐ Strongly agree

☐ Agree

☒ Neither agree nor disagree

☐ Disagree

☐ Strongly disagree

Q16　Are you answering as:

☐ An individual acting in a private capacity (e.g. someone providing their views as a member of the public of the public)

☐ An individual acting in a professional capacity

☒ On behalf of an organisation

☐ Other

Please specify the name of your organisation:

UKCRC Registered CTU Network

Thank you for taking the time to share your views and experience.