

SCHEDULE

Article 2

CIRCUMSTANCES IN WHICH SENSITIVE PERSONAL DATA MAY BE PROCESSED

Interpretation

1. In this Schedule, “elected representative” means—
 - (a) a Member of the House of Commons, a Member of the National Assembly for Wales, a Member of the Scottish Parliament or a Member of the Northern Ireland Assembly;
 - (b) a Member of the European Parliament elected in the United Kingdom;
 - (c) an elected member of a local authority within the meaning of section 270(1) of the Local Government Act 1972(1), namely—
 - (i) in England, a county council, a district council, a London borough council or a parish council,
 - (ii) in Wales, a county council, a county borough council or a community council;
 - (d) an elected mayor of a local authority within the meaning of Part II of the Local Government Act 2000(2);
 - (e) the Mayor of London or an elected member of the London Assembly;
 - (f) an elected member of—
 - (i) the Common Council of the City of London, or
 - (ii) the Council of the Isles of Scilly;
 - (g) an elected member of a council constituted under section 2 of the Local Government etc (Scotland) Act 1994(3); or
 - (h) an elected member of a district council within the meaning of the Local Government Act (Northern Ireland) 1972(4).
2. For the purposes of paragraph 1 above—
 - (a) a person who is—
 - (i) a Member of the House of Commons immediately before Parliament is dissolved,
 - (ii) a Member of the Scottish Parliament immediately before that Parliament is dissolved, or
 - (iii) a Member of the Northern Ireland Assembly immediately before that Assembly is dissolved,shall be treated as if he were such a member until the end of the fourth day after the day on which the subsequent general election in relation to that Parliament or Assembly is held;
 - (b) a person who is a Member of the National Assembly for Wales and whose term of office comes to an end, in accordance with section 2(5)(b) of the Government of Wales Act 1998(5), at the end of the day preceding an ordinary election (within the meaning of section 2(4) of that Act), shall be treated as if he were such a member until the end of the fourth day after the day on which that ordinary election is held; and

(1) 1972 c. 70.

(2) 2000 c. 22.

(3) 1994 c. 39.

(4) 1972 c. 9 (N. I.).

(5) 1998 c. 38. Section 2(5) provides that “The term of office of an Assembly member—(a) begins when he is declared to be returned as an Assembly member, and (b) continues until the end of the day before the day of the poll at the next ordinary election.” By section 2(4), “An ordinary election involves the holding of elections for the return of the entire Assembly.”

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- (c) a person who is an elected member of the Common Council of the City of London and whose term of office comes to an end at the end of the day preceding the annual Wardmotes⁽⁶⁾ shall be treated as if he were such a member until the end of the fourth day after the day on which those Wardmotes are held.

Processing by elected representatives

- 3. The processing—
 - (a) is carried out by an elected representative or a person acting with his authority;
 - (b) is in connection with the discharge of his functions as such a representative;
 - (c) is carried out pursuant to a request made by the data subject to the elected representative to take action on behalf of the data subject or any other individual; and
 - (d) is necessary for the purposes of, or in connection with, the action reasonably taken by the elected representative pursuant to that request.
- 4. The processing—
 - (a) is carried out by an elected representative or a person acting with his authority;
 - (b) is in connection with the discharge of his functions as such a representative;
 - (c) is carried out pursuant to a request made by an individual other than the data subject to the elected representative to take action on behalf of the data subject or any other individual;
 - (d) is necessary for the purposes of, or in connection with, the action reasonably taken by the elected representative pursuant to that request; and
 - (e) is carried out without the explicit consent of the data subject because the processing—
 - (i) is necessary in a case where explicit consent cannot be given by the data subject,
 - (ii) is necessary in a case where the elected representative cannot reasonably be expected to obtain the explicit consent of the data subject,
 - (iii) must necessarily be carried out without the explicit consent of the data subject being sought so as not to prejudice the action taken by the elected representative, or
 - (iv) is necessary in the interests of another individual in a case where the explicit consent of the data subject has been unreasonably withheld.

Processing limited to disclosures to elected representatives

- 5. The disclosure—
 - (a) is made to an elected representative or a person acting with his authority;
 - (b) is made in response to a communication to the data controller from the elected representative, or a person acting with his authority, acting pursuant to a request made by the data subject;
 - (c) is of sensitive personal data which are relevant to the subject matter of that communication; and
 - (d) is necessary for the purpose of responding to that communication.
- 6. The disclosure—

(6) By section 2 of the Act of Common Council made on 14th June 1984, the annual Wardmotes for the election of Common Councilmen to the Common Council of the City of London are held on the first Friday in December each year, and persons elected as Common Councilmen cease to hold office at midnight on the Thursday immediately preceding the day of the next annual Wardmotes. (Copies of the Act of Common Council made on 14th June 1984 can be obtained from the Town Clerk's Department, Corporation of London, PO Box 270, Guildhall, London EC2P 2EJ.)

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- (a) is made to an elected representative or a person acting with his authority;
- (b) is made in response to a communication to the data controller from the elected representative, or a person acting with his authority, acting pursuant to a request made by an individual other than the data subject;
- (c) is of sensitive personal data which are relevant to the subject matter of that communication;
- (d) is necessary for the purpose of responding to that communication; and
- (e) is carried out without the explicit consent of the data subject because the disclosure—
 - (i) is necessary in a case where explicit consent cannot be given by the data subject,
 - (ii) is necessary in a case where the data controller cannot reasonably be expected to obtain the explicit consent of the data subject,
 - (iii) must necessarily be carried out without the explicit consent of the data subject being sought so as not to prejudice the action taken by the elected representative, or
 - (iv) is necessary in the interests of another individual in a case where the explicit consent of the data subject has been unreasonably withheld.