

Regulation (EU) 2016/679 of the European Parliament and of the Council  
of 27 April 2016 on the protection of natural persons with regard to the  
processing of personal data and on the free movement of such data (United  
Kingdom General Data Protection Regulation)(Text with EEA relevance)

*CHAPTER IV*

***Controller and processor***

*Section 5*

***Codes of conduct and certification***

*Article 40*

**Codes of conduct**

1 <sup>[F1]</sup>The Commissioner] shall encourage the drawing up of codes of conduct intended to contribute to the proper application of this Regulation, taking account of the specific features of the various processing sectors and the specific needs of micro, small and medium-sized enterprises.

2 Associations and other bodies representing categories of controllers or processors may prepare codes of conduct, or amend or extend such codes, for the purpose of specifying the application of this Regulation, such as with regard to:

- a fair and transparent processing;
- b the legitimate interests pursued by controllers in specific contexts;
- c the collection of personal data;
- d the pseudonymisation of personal data;
- e the information provided to the public and to data subjects;
- f the exercise of the rights of data subjects;
- g the information provided to, and the protection of, children, and the manner in which the consent of the holders of parental responsibility over children is to be obtained;
- h the measures and procedures referred to in Articles 24 and 25 and the measures to ensure security of processing referred to in Article 32;
- i the notification of personal data breaches to <sup>[F2]</sup>the Commissioner] and the communication of such personal data breaches to data subjects;
- j the transfer of personal data to third countries or international organisations; or
- k out-of-court proceedings and other dispute resolution procedures for resolving disputes between controllers and data subjects with regard to processing, without prejudice to the rights of data subjects pursuant to Articles 77 and 79.

3 In addition to adherence by controllers or processors subject to this Regulation, codes of conduct approved pursuant to paragraph 5 of this Article <sup>F3</sup>... may also be adhered to by controllers or processors that are not subject to this Regulation pursuant to Article 3 in order to provide appropriate safeguards within the framework of personal data transfers to third countries or international organisations under the terms referred to in point (e) of Article 46(2). Such

**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, Article 40. (See end of Document for details)

controllers or processors shall make binding and enforceable commitments, via contractual or other legally binding instruments, to apply those appropriate safeguards including with regard to the rights of data subjects.

4 A code of conduct referred to in paragraph 2 of this Article shall contain mechanisms which enable the body referred to in Article 41(1) to carry out the mandatory monitoring of compliance with its provisions by the controllers or processors which undertake to apply it, without prejudice to the tasks and powers of [F4the Commissioner].

5 Associations and other bodies referred to in paragraph 2 of this Article which intend to prepare a code of conduct or to amend or extend an existing code shall submit the draft code, amendment or extension to [F5the Commissioner, who] shall provide an opinion on whether the draft code, amendment or extension complies with this Regulation and shall approve that draft code, amendment or extension if [F6the Commissioner finds] that it provides sufficient appropriate safeguards.

6 Where the draft code, or amendment or extension is approved in accordance with paragraph 5, [F7the Commissioner] shall register and publish the code.

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| F87  | ..... |
| F88  | ..... |
| F89  | ..... |
| F810 | ..... |
| F811 | ..... |

#### Textual Amendments

- F1** Words in Art. 40(1) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 34(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 40(2)(i) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 34(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 40(3) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 34(4)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 40(4) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 34(5)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 40(5) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 34(6)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 40(5) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 34(6)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 40(6) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 34(7)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Art. 40(7)-(11) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 34(8)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, **Sch. 5 para. 1(1)**

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, Article 40.