

SCHEDULES

SCHEDULE 8

Section 35(5)

CONDITIONS FOR SENSITIVE PROCESSING UNDER PART 3

Statutory etc purposes

- 1 This condition is met if the processing—
- (a) is necessary for the exercise of a function conferred on a person by an enactment or rule of law, and
 - (b) is necessary for reasons of substantial public interest.

Administration of justice

- 2 This condition is met if the processing is necessary for the administration of justice.

Protecting individual's vital interests

- 3 This condition is met if the processing is necessary to protect the vital interests of the data subject or of another individual.

Safeguarding of children and of individuals at risk

- 4 (1) This condition is met if—
- (a) the processing is necessary for the purposes of—
 - (i) protecting an individual from neglect or physical, mental or emotional harm, or
 - (ii) protecting the physical, mental or emotional well-being of an individual,
 - (b) the individual is—
 - (i) aged under 18, or
 - (ii) aged 18 or over and at risk,
 - (c) the processing is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and
 - (d) the processing is necessary for reasons of substantial public interest.
- (2) The reasons mentioned in sub-paragraph (1)(c) are—
- (a) in the circumstances, consent to the processing cannot be given by the data subject;
 - (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing;
 - (c) the processing must be carried out without the consent of the data subject because obtaining the consent of the data subject would prejudice the provision of the protection mentioned in sub-paragraph (1)(a).

Status: This is the original version (as it was originally enacted).

- (3) For the purposes of this paragraph, an individual aged 18 or over is “at risk” if the controller has reasonable cause to suspect that the individual—
- (a) has needs for care and support,
 - (b) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and
 - (c) as a result of those needs is unable to protect himself or herself against the neglect or harm or the risk of it.
- (4) In sub-paragraph (1)(a), the reference to the protection of an individual or of the well-being of an individual includes both protection relating to a particular individual and protection relating to a type of individual.

Personal data already in the public domain

- 5 This condition is met if the processing relates to personal data which is manifestly made public by the data subject.

Legal claims

- 6 This condition is met if the processing—
- (a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
 - (b) is necessary for the purpose of obtaining legal advice, or
 - (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

Judicial acts

- 7 This condition is met if the processing is necessary when a court or other judicial authority is acting in its judicial capacity.

Preventing fraud

- 8 (1) This condition is met if the processing—
- (a) is necessary for the purposes of preventing fraud or a particular kind of fraud, and
 - (b) consists of—
 - (i) the disclosure of personal data by a competent authority as a member of an anti-fraud organisation,
 - (ii) the disclosure of personal data by a competent authority in accordance with arrangements made by an anti-fraud organisation, or
 - (iii) the processing of personal data disclosed as described in sub-paragraph (i) or (ii).
- (2) In this paragraph, “anti-fraud organisation” has the same meaning as in section 68 of the Serious Crime Act 2007.

Archiving etc

- 9 This condition is met if the processing is necessary—

- (a) for archiving purposes in the public interest,
- (b) for scientific or historical research purposes, or
- (c) for statistical purposes.