



Data Protection Act 2018

2018 CHAPTER 12

PART 3

LAW ENFORCEMENT PROCESSING

CHAPTER 4

CONTROLLER AND PROCESSOR

General obligations

59 Processors

- (1) This section applies to the use by a controller of a processor to carry out processing of personal data on behalf of the controller.
- (2) The controller may use only a processor who provides guarantees to implement appropriate technical and organisational measures that are sufficient to secure that the processing will—
 - (a) meet the requirements of this Part, and
 - (b) ensure the protection of the rights of the data subject.
- (3) The processor used by the controller may not engage another processor (“a sub-processor”) without the prior written authorisation of the controller, which may be specific or general.
- (4) Where the controller gives a general written authorisation to a processor, the processor must inform the controller if the processor proposes to add to the number of sub-processors engaged by it or to replace any of them (so that the controller has the opportunity to object to the proposal).
- (5) The processing by the processor must be governed by a contract in writing between the controller and the processor setting out the following—

Status: This is the original version (as it was originally enacted).

- (a) the subject-matter and duration of the processing;
 - (b) the nature and purpose of the processing;
 - (c) the type of personal data and categories of data subjects involved;
 - (d) the obligations and rights of the controller and processor.
- (6) The contract must, in particular, provide that the processor must—
- (a) act only on instructions from the controller,
 - (b) ensure that the persons authorised to process personal data are subject to an appropriate duty of confidentiality,
 - (c) assist the controller by any appropriate means to ensure compliance with the rights of the data subject under this Part,
 - (d) at the end of the provision of services by the processor to the controller—
 - (i) either delete or return to the controller (at the choice of the controller) the personal data to which the services relate, and
 - (ii) delete copies of the personal data unless subject to a legal obligation to store the copies,
 - (e) make available to the controller all information necessary to demonstrate compliance with this section, and
 - (f) comply with the requirements of this section for engaging sub-processors.
- (7) The terms included in the contract in accordance with subsection (6)(a) must provide that the processor may transfer personal data to a third country or international organisation only if instructed by the controller to make the particular transfer.
- (8) If a processor determines, in breach of this Part, the purposes and means of processing, the processor is to be treated for the purposes of this Part as a controller in respect of that processing.