COVID-19 GDPR Briefing

# **Background**

The COVID-19 crisis has seen an unprecedented response from residents and community groups to provide emergency assistance for vulnerable people and others in need of information and support. This includes coordinating requests to assist residents with hot food deliveries and collection, food parcels, shopping / medication collection and drop offs, check in calls, befriending, dog-walking etc.

It is important for those coordinating response efforts to ensure adequate safeguarding and data protection polices and procedures are in place, to protect both those providing and receiving support and ensure you comply with the relevant legislation.

This briefing has been put together to help you understand your responsibilities when collecting and sharing personal data about residents with third parties (e.g. signposting to a food bank), and / or when using volunteers to support your response efforts. It answers to the queries we have received so far in managing GDPR.

This briefing focuses on GDPR with a follow-up briefing on safeguarding to come shortly.

# **GDPR (Data Protection)**

## Q: What is the ICO’s regulatory approach during COVID-19?

The ICO recognises that during the COVID-19 crisis organisation’s data protection practices may not meet their usual standards or may take longer to process requests for information e.g. subject access requests. The ICO [**will NOT penalise organisations**](https://ico.org.uk/for-organisations/data-protection-and-coronavirus/) who need to prioritise other areas or adapt their usual approach during this extraordinary period. The ICO has published a [**document** setting out their regulatory approach during the coronavirus pandemic](https://ico.org.uk/media/about-the-ico/policies-and-procedures/2617613/ico-regulatory-approach-during-coronavirus.pdfhttps%3A/ico.org.uk/media/about-the-ico/policies-and-procedures/2617613/ico-regulatory-approach-during-coronavirus.pdfhttps%3A/ico.org.uk/media/about-the-ico/policies-and-procedures/2617613/ico-regulatory-approach-during-coronavirus.pdf).

## Q: I have set up or work for a community group in my neighbourhood to help vulnerable and self-isolating people. What are my data protection obligations?

Data protection won't stop you from helping people, but there are certain things you need to take into account when handling people's information.

The ICO have put together a[**briefing**](https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/03/community-groups-and-covid-19/) for voluntary and community groups to help you understand your data protection responsibilities during the crisis. This information is set out below.

### ICO Guidance

#### Keep it clear

* You should be clear, open and honest with people about what you are doing with their personal information. Tell them why you need it, what you’ll do with it and who you’re going to share it with.
* It is best to have this written down in a document called a privacy notice – here’s a [**template**](https://ico.org.uk/media/for-organisations/documents/2617552/privacy-notice-template.docx)you can use. But if that’s going to delay vital support, then you can just speak to people.

#### Keep sharing

* In an emergency, working with partners and sharing information with them can make a real difference to public safety. In fact, it could be more harmful not to share the data than to share it.
* For example, you might need to tell a local council about elderly residents who are housebound due to self-isolation and who need support.
* If you can, think ahead. What kind of information are you likely to share? What do you need to do to make sure that happens securely?
* Data protection law does not prevent you sharing personal information where it is appropriate to do so.

#### Keep it lawful

* If you’re not sure whether you should be handling personal data, think about whether it falls into one of the following categories:
	+ Would the person expect me to use their information in this way (legitimate interests)?
	+ Have they given me their clear and unambiguous consent to use their personal information (consent)?
	+ Is the person’s health or safety at risk if I don’t use their personal data (vital interests)?

If the answer is yes to any of these questions, then you can handle and share personal data.

* You should also take particular care if you’re handling **sensitive data,** referred to as ‘special category data’ in data protection law. This is private information like your health records, sexuality, race, ethnicity and religion. If you are going to use this kind of information, you should ask further questions:
	+ Do I need this information to protect a person at risk (safeguarding individuals)?
	+ Have they given me their explicit consent to use their private information (consent)?
	+ Would this information save someone’s life (vital interests)?

If the answers is yes to any of these questions, then you can also handle and share this type of information. Make sure you are doing only what is necessary and appropriate for the task at hand.

#### Keep it secure

* You must look after the personal data you collect. That means keeping it secure on a device – which can be your own - or in a locked cabinet, for example.
* Security measures needn’t be so onerous that they prevent you carrying out your work.
* Think about the impact on a vulnerable person if the information they entrusted you with becomes lost or stolen. Then apply measures to reasonably reduce the risk of that happening.
* We’ve created some simple [**security tips**](https://ico.org.uk/media/for-organisations/documents/2617548/ico-data-security-guide-to-the-basics.pdf) for community groups.

#### Keep it to a minimum

Only use and keep what you need to provide help to vulnerable people during the COVID-19 crisis. When the emergency is over, make sure you and your volunteers securely delete or destroy any personal information that you no longer need.

#### Keep a record of what you’ve done

Finally, you should keep a record of any decisions you make that involve the use of personal information. Ideally, you should do this first – even before you start collecting information. But we understand that might not be possible during the pandemic. So just make sure you keep notes of what you’ve done and why and then make more detailed records as soon as possible.

## GDPR: ADDITIONAL RESOURCES

1. **General GDPR resources and information:** VAC has developed some additional resources and templates that you can use and adapt to help you manage your data protection compliance through the crisis:

[**https://vac.org.uk/general-data-protection-regulation-gdpr/**](https://vac.org.uk/general-data-protection-regulation-gdpr/)

1. **Data sharing agreement:** If you decide you need a sharing agreement between you and any third parties you are sharing personal or sensitive data with, you should first establish the role of the party making the transfer: is that party a data ‘**controller**’ or the data ‘**processor**’?
* The ‘**controller**’ is the organisation that *"determines the purposes and means of the processing of personal data".*
* In contrast, a ‘**processor**’ is an organisation that processes personal data *"on behalf of"*(i.e. in accordance with the instructions of) a controller.

The main point to consider is whether the data sharing relationship is considered Data Controller – Data Processor (legally binding) or Data Controller – Data Controller (not legally binding). You can use [**this checklist**](https://ico.org.uk/media/for-organisations/documents/1067/data_sharing_checklists.pdf) and this guide: [**https://www.spinr.io/blog/how-to-write-a-data-sharing-agreement**](https://www.spinr.io/blog/how-to-write-a-data-sharing-agreement)to help you construct the agreement.

1. If you decide that you need consent for collection and processing of personal data, you can use the following template consent form and amend as required.

**REQUEST FOR SUPPORT DURING COVID-19 – CONSENT FORM**

**[INSERT LOGO HERE]**

Your privacy is important to us and we want to respond to your needs in a way that ensures the support we offer during the crisis is delivered in line with UK law on data protection. If you have approached [ORGNAISATION NAME] for help during the COVID-19 crisis, we may ask you to complete this form so that we have a record of what help you need, and your consent for us to provide that support directly, or via a third party if we do not provide this service directly. You can withdraw consent at any time (details below).

**YOUR CONTACT DETAILS**

Name: …………………………………………………………………………………………………………………………………………………

Address:………………………………………………………………………………………………………………………………………………

…………………………………………………………………………………………………………………………………………………………….

Email Address: …………………………………………………………………………………………………………………………………….

Phone Number: …………………………………………………………………………………………………………………………………..

[ ]  I am a vulnerable resident

**CONSENT**

By signing this form you are confirming that you are consenting to [INSERT ORG NAME] holding and processing your personal data for the following purposes (please tick the boxes where you grant consent):-

[ ]  To provide emergency support for emergency COVID-19 assistance e.g. medication pickup, cash collection, grocery shopping and delivery.

You can specify assistance you are requesting here:

…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

[ ]  To including my details in the [ORGANSIATION NAME] [DATABSE] so we can keep a record of the support you need.

[ ]  To share my contact details with volunteers and / or other community organisations to enable them to provide the support I have requested.

Signed: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** Dated: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

You can grant consent to all the purposes; one of the purposes or none of the purposes. Where you do not grant consent we will not be able to use your personal data; (so for example we may not be able to provide assistance to help with grocery shopping or medication pick-up); except in certain limited situations, such as where required to do so by law or to protect members of the public from serious harm. You can find out more about how we use your data from our **“Privacy Notice”** [LINK TO YOUR PROVACY POLICY] which is available from our website.

You can withdraw or change your consent at any time by contacting [NAME, ORGANSIATION, ADDRESS, PHONE NUMBER AND EMAIL] Please note that all processing of your personal data will cease once you have withdrawn consent, other than where this is required by law, but this will not affect any personal data that has already been processed prior to this point.