

Decision-making and Consent

– Supporting Decision-making in the absence of a legal framework

Data Protection including Sharing of Information

The General Data Protection Regulation (GDPR) (EU) 2016/679 is a regulation on data protection and privacy for all individuals within the European Union. It came into force across the European Union on 25 May 2018. It forms the basis of our Data Protection laws, the Data Protection Acts 1988-2018.

The GDPR introduced new elements and significant enhancements to legislation. Organisations involved in data processing need to have a good knowledge of the legislation and ensure they are compliant.

The Data Protection Commissioner website advises:

Data is information or facts that are usually stored on a computer or on paper.

Data controller is a person, or group of people, who control the contents and use of personal information for example companies, government departments or voluntary organisations or individuals such as general practitioners (GPs), pharmacists or sole traders.

You have the right to data protection when your details are:

- held on a computer.
- held on paper or other manual form as part of a filing system; and
- Made up of photographs or video recordings of your image or recordings of your voice.

A data controller who holds information about you must:

- get and use the information fairly.
- keep it for only one or more clearly stated and lawful purposes.

- use and make known this information only in ways that are in keeping with these purposes and keep the information safe.
- make sure that the information is factually correct, complete, and up to date.
- make sure that there is enough information – but not too much - and that it is relevant.
- keep the information for no longer than is needed for the reason stated, and
- give you a copy of your personal information when you ask for it

Consent:

Consent for data collection or processing must be freely given, specific, informed, and an unambiguous indication of the person's wishes, by statement or by a clear affirmative action. Processing includes the sharing or disclosing of personal data.

Under the GDPR personal data may only be processed with the person's consent and in certain other limited circumstances. These limited circumstances include where processing is necessary to protect the vital interests of the person, (guidance suggests vital interests only refers to life or death situations), necessary for the performance of a contract to which the person is party or necessary for compliance with a legal obligation to which the data controller is subject.

HIQA has also produced a guide on governance of personal health information for health and social care staff called "What you should know about Information Governance".

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<http://www.irishstatutebook.ie/eli/1988/act/25/enacted/en/html>

<http://www.irishstatutebook.ie/eli/2003/act/6/enacted/en/html>

<http://gdprandyou.ie/resources/>

<https://www.hiqa.ie/sites/default/files/2017-01/Information-Governance-Guide.pdf>
