

Criminal data and information

Article 10 – Use of personal data relating to criminal convictions and offences

Article 10 is about the use of personal data relating to criminal convictions and offences. In this guidance, we refer to this as criminal offence data.

We must still have a lawful basis where criminal data is used, as detailed under [Article 6](#), and comply with the details relating to criminal data in the [Data Protection Act 2018](#), ([Schedule 1](#)).

When would criminal data be used?

If in connection to employment, health and research:

1. Employment: Information could be shared where it was necessary for the obligations in regards with employment law as detailed in our published policies and information sharing agreements, which are available on our website.
2. Health or social care: Information could be shared where it was necessary for health and social care purposes, namely:
 - a) preventive or occupational medicine
 - b) the assessment of the working capacity of an employee
 - c) medical diagnosis
 - d) the provision of health care or treatment
 - e) the provision of social care or
 - f) the management of health care systems or services or social care systems or services.
3. Public health safety: Information could be shared where it was necessary for reasons of public health and carried out by or under the responsibility of a health professional, or by another person who in the circumstances owes a duty of confidentiality.
4. Research into criminal data: Information could be shared where:
 - a) it was necessary for archiving purposes, scientific or historical research purposes or statistical purposes
 - b) is carried out in accordance with [Article 89\(1\)](#) of the GDPR, and
 - c) is in the public interest.

5. Criminal offence data could also be used if one of the following conditions relating to “significant public interest” is met:

- a) Statutory and government purposes
- b) Administration of justice / Exercising a function of the Parliament
- c) Equal opportunity / treatment
- d) Racial and ethnic diversity at senior management levels
- e) Preventing or detecting unlawful actions
- f) Protecting the public against dishonesty
- g) Regulatory requirements relating to unlawful actions and dishonesty
- h) Journalism in connection with unlawful actions and dishonesty
- i) Preventing fraud
- j) Suspicion of terrorist financing and money laundering
- k) Support for individuals with a disability or health condition
- l) Counselling purposes
- m) Safeguarding of individuals at risk including children
- n) Safeguarding of financial security of vulnerable individuals
- o) Insurance purposes
- p) Determination of occupational pensions
- q) Activities of political parties
- r) Elected representatives responding to requests
- s) Disclosure to elected representatives
- t) Informing elected representatives about prisoners
- u) Publication of legal judgements
- v) Anti-doping in sport
- w) Standards of behaviour in sport

In addition to the above categories, there are further possible conditions that are specific to the use of criminal offence data:

- a) Consent: Where the individual has given consent for their data to be used.
- b) Protecting the individual vital interests: Where the use is necessary to protect the individual and they are legally or physically unable to give consent.
- c) Personal data is already in the public domain.
- d) Legal claims: where the use of the data is for the purpose of, or connected to, any legal proceedings (or future proceedings), or necessary for the purpose of obtaining legal advice; or as part of establishing or defending legal rights.

- e) Judicial acts: Where the sharing of criminal data was necessary as part of a request from a court or tribunal.
- f) Where data was used in the commissioning of indecency offences involving children, in relation to the statutes detailed in [Data Protection Act 2018 \(Schedule 1, Part 2, Paragraph 35\)](#). This condition can only be satisfied if there is an appropriate policy document in place.

Surrey and Borders Partnership NHS Foundation Trust