

## ICO consultation on the draft updated data sharing code of practice

Data sharing brings important benefits to organisations and individuals, making our lives easier and helping to deliver efficient services.

It is important, however, that organisations which share personal data have high data protection standards, sharing data in ways that are fair, transparent and accountable. We also want organisations to be confident when dealing with data sharing matters, so individuals can be confident their data has been shared securely and responsibly.

As required by the Data Protection Act 2018, we are working on updating our **data sharing code of practice**, which was published in 2011. We are now seeking your views on the [draft updated code](#).

The draft updated code explains and advises on changes to data protection legislation where these changes are relevant to data sharing. It addresses many aspects of the new legislation including transparency, lawful bases for processing, the new accountability principle and the requirement to record processing activities.

The draft updated code continues to provide practical guidance in relation to data sharing and promotes good practice in the sharing of personal data. It also seeks to allay common concerns around data sharing.

As well as legislative changes, the code deals with technical and other developments that have had an impact on data sharing since the publication of the last code in 2011.

Before drafting the code, the Information Commissioner launched a call for views in August 2018. You can view a summary of the responses and some of the individual responses [here](#).

If you wish to make any comments not covered by the questions in the survey, or you have any general queries about the consultation, please email us at [datasharingcode@ico.org.uk](mailto:datasharingcode@ico.org.uk).

Please send us your responses by **Monday 9 September 2019**.

### Privacy Statement

For this consultation, we will publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations

and individuals responding in a professional capacity will be published. We will remove email addresses and telephone numbers from these responses; but apart from this, we will publish them in full.

For more information about what we do with personal data please see our [privacy notice](#).

## Questions

Note: when commenting, please bear in mind that, on the whole, the code does not duplicate the content of existing guidance on particular data protection issues, but instead encourages the reader to refer to the most up to date guidance on the ICO website.

Q1 Does the updated code adequately explain and advise on the new aspects of data protection legislation which are relevant to data sharing?

Yes

No

Q2 If not, please specify where improvements could be made.

Q3 Does the draft code cover the right issues about data sharing?

Yes

No

Q4 If no, what other issues would you like to be covered in it?

First, it would be beneficial if the Code covered data sharing within corporate groups, particularly large organisations that operate in different countries.

Second, the Code does not adequately address eCommerce marketing, an ever-evolving business that builds on data sharing. It would be helpful if the Code offered practical advice with regards to (i) determining the lawful basis for sharing data and (ii) the level of detail required in customer-facing privacy notices.

Re (i), legitimate interests is often found an ambiguous ground for sharing data. Examples and case studies involving the LIA ('Legitimate Interest Assessment') would be beneficial.

Re (ii), clarification is needed as to the granularity of the information to be displayed on privacy notices, striking a balance between

transparency and providing a notice that is understandable and accessible (for e.g. is it required to identify each recipient or does it suffice to disclose categories of recipients of personal data?)

Third, it would be helpful if the Code addressed what will happen with cross-border data sharing once the UK leaves the EU.

Q5 Does the draft code contain the right level of detail?

Yes

No

Q6 If no, in what areas should there be more detail within the draft code?

Further to our answer to Q4, more detail on the below would be beneficial:

- Profiling;
- ICO's audit programme (or indication of where to find this info).

Q7 Has the draft code sufficiently addressed new areas or developments in data protection that are having an impact on your organisation's data sharing practices?

Yes

No

Q8 If no, please specify what areas are not being addressed, or not being addressed in enough detail

Please see our answer to Q4.

Q9 Does the draft code provide enough clarity on good practice in data sharing?

Yes

No

Q10 If no, please indicate the section(s) of the draft code which could be improved, and what can be done to make the section(s) clearer.

Sections 'Lawful basis for sharing personal data' and 'Sharing data outside the EEA' as per our answer to Q4.

Also, would be good shed some light on the 'Data Sharing Agreements' section, specifying the practical differences in policies and procedures for routine data sharing vs. one-offs. Templates and check lists in this respect would be beneficial.

Q11 Does the draft code strike the right balance between recognising the benefits of sharing data and the need to protect it?

Yes

No

Q12 If no, in what way does the draft code fail to strike this balance?

Q13 Does the draft code cover case studies or data sharing scenarios relevant to your organisation?

Yes

No

Q14 Please provide any further comments or suggestions you may have about the draft code.

Regarding security, it may be helpful to have some basic guidelines as to what 'appropriate security measures' means. For example, by stating that if an organisation has ISO 27001 or SSAE 18 (SOC 2), that would be sufficient for data protection transfers (excluding those of sensitive data).

Q15 To what extent do you agree that the draft code is clear and easy to understand?

Strongly agree

Agree

Neither agree nor disagree

- Disagree
- Strongly disagree

Q16 Are you answering as:

- An individual acting in a private capacity (e.g. someone providing their views as a member of the public of the public)
- An individual acting in a professional capacity
- On behalf of an organisation
- Other

Please specify the name of your organisation:

ZX Ventures Limited

Thank you for taking the time to share your views and experience.