

Adult Protection Consultation
Department of Health
Castle Buildings
Stormont Estate
Belfast
BT4 3SQ

By email only: AdultSafeguardingUnit@health-ni.gov.uk

27th January 2021

Dear Sirs

RE: Public Consultation: - Legislative options to inform the development of an Adult Protection Bill for Northern Ireland

We refer to the above public consultation which was published on 17th December 2020.

We note that the consultation relates to the development of a proposed Adult Protection Bill for Northern Ireland. As you are probably aware, Article 36(4) of the UK GDPR requires data controllers to consult with the ICO in relation to any legislative proposals which relate to the processing of personal data. It is therefore likely that any proposed legislation concerning the development of an Adult Protection Bill will need to be submitted to our office through this process during the development stage. You can read more guidance about this requirement and access the Article 36(4) Enquiry Form [here](#).

Having had an opportunity to review the consultation document, we felt that it may be useful to share some initial thoughts with respect to some potential personal data implications which the DOH may wish to give consideration to. I have detailed these below:-

Data sharing

- The consultation document references the need for co-operation and information sharing among various interested bodies. It appears that the Department is considering placing a new statutory duty on a number of organisations to share information with one another and a provision

requiring organisations to explain in writing any reasons for failure to comply with this duty. When sharing personal data, it is important for organisations to give careful consideration to any data protection implications that may exist. Organisations should ensure that any data shared with external parties is done so in a lawful, fair and accurate manner and in keeping with the UK GDPR principles. Organisations may wish to consult our new Data Sharing Code of Practice which can be found [here](#) on our website.

Data Sharing Agreements

- Organisations involved in data sharing should also consider the implementation of data sharing agreements which should:-
 - I. set out the purpose of the data sharing
 - II. cover what happens to the data at each stage
 - III. set standards and help all the parties involved in sharing to be clear about their roles and responsibilities.

Data sharing agreements should also deal with any practical problems that may arise when sharing personal data. This should ensure that all organisations involved in the sharing have detailed advice about which datasets they can share. This should assist with the prevention of irrelevant or excessive information being disclosed. Such agreements will also assist with ensuring that organisations have common technical and organisational security arrangements in place and address any operational differences which may exist with respect to retention or deletion periods.

Security, data minimisation and retention periods

- Given the sensitive nature of the personal information being collected, specific and detailed consideration should be given to ensuring appropriate security measures are implemented so that personal information is not compromised. The completion of a **DPIA** may assist with identifying any potential risks associated with proposed personal data processing. As part of this, organisations should consider areas such as cyber security, human error data breaches, inappropriate access to sensitive information, staff training, data storage and data transfer mechanisms. Article 25 of the UK GDPR mandates that, at the time of the determination of the means of processing and at the time of the processing itself, appropriate technical

and organisational measures should be in place to implement data protection and to integrate the necessary safeguards into the processing.

Independent Adult Protection Board for Northern Ireland

- Reference is made within the consultation document to the establishment of a new Independent Adult Protection Board for Northern Ireland which will have responsibility for serious case reviews (multi-agency reviews that look into the circumstances surrounding the death of, or serious harm to, an adult at risk and in need of protection). It will be important to ensure that members of the proposed independent board are provided with practical data protection training that is specific to their role. Such training should be refreshed on a regular basis.

As stated above, we anticipate further engagement on this matter as per Article 36(4) stipulations. In the meantime we hope you find the above comments helpful as you move forward with your proposals. Should you wish to discuss any of the above further, please do not hesitate to contact our office at ni@ico.org.uk.

Kind regards

Conan O'Brien



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