

Data Protection Impact Assessment

Submitting controller details

Name of controller	North West Leicestershire DC
Subject	Transfer of TUPE data to new leisure services provider
Name of controller contact (delete as appropriate)	Paul Sanders (Head of Community Services) Mike Murphy (Head of Human Resources)
Date	8 March 2019

Step 1: Identify the need for a DPIA

Explain broadly what project aims to achieve and what type of processing it involves. You may find it helpful to refer or link to other documents, such as a project proposal. Summarise why you identified the need for a DPIA.

Transfer of TUPE Data are we transferring under TUPE? Or are we transferring data prior to TUPE? to an incoming leisure services provider. This will be required by law 28 days before the transfer of staff which is scheduled for 1 May 2019. The processing which is envisaged by this DPIA is the sharing of employment information a few weeks before the sharing is required by law to aid the smooth transition of staff to the new provider.

Further detail of the leisure project as a whole and its impact on staff is set out in various Cabinet reports, the latest of which is 5 February 2019.

Step 2: Describe the processing

Describe the nature of the processing: how will you collect, use, store and delete data? What is the source of the data? Will you be sharing data with anyone? You might find it useful to refer to a flow diagram or other way of describing data flows. What types of processing identified as likely high risk are involved?

Data is the employment data of Leisure Services staff who are due to be transferred to the new provider under TUPE on 1 May 2019. Data has already been collected is securely stored. – What system is the data stored on? Who will manage this? When will we delete the data? How was the data originally collected? Accuracy of data?

The processing that is required for the outsourcing project is the sharing of this data with the incoming service provider. Sharing will occur by placing the data in a secure dataroom which the supplier can access. – Where is the dataroom? How will they access it? Length of time this will take?

Describe the scope of the processing: what is the nature of the data, and does it include special category or criminal offence data? How much data will you be collecting and using? How often? How long will you keep it? How many individuals are affected? What geographical area does it cover?

Data is Personal Data and includes employment details, age, pension rights, salaries, etc.

Review sharing agreement Clause 4 Special Category data;

- ethnic origin;
- race;
- politics;
- religion;
- trade union membership;
- genetics;
- biometrics (where used for ID purposes);
- health;
- sex life; or
- sexual orientation.

The type of data being shared is listed in Clause 4 of the Data Sharing Agreement which will be put in place for this sharing (attached).

How much data are we collecting? How many employees? Retention on our side? Which services does this cover (Hermitage/Hood Park staff)?

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Describe the context of the processing: what is the nature of your relationship with the individuals? How much control will they have? Would they expect you to use their data in this way? Do they include children or other vulnerable groups? Are there prior concerns over this type of processing or security flaws? Is it novel in any way? What is the current state of technology in this area? Are there any current issues of public concern that you should factor in? Are you signed up to any approved code of conduct or certification scheme (once any have been approved)?

The context of the processing is the TUPE transfer of members of staff. Sharing this data will be required by law once the contract that gives rise to the TUPE transfer is signed. The processing being covered by this DPIA is the early sharing of that data in advance of the contract being signed.

Data subjects are aware of the incoming provider and the TUPE transfer and so they would expect their employment details to be shared at some point. Early sharing would even be welcomed by the employees so that they can be properly consulted at an early stage.

Evidence that it is welcomed The sharing of TUPE data in this way is not novel and appropriate security arrangements are in place through the secure dataroom. What security arrangements? Where can they be found?

Concerns of processing/security flaws to be addressed

Include that no children/vulnerable data will be shared – Lifeguards age?

Expand on what technology we are using and how this will be managed

Describe the purposes of the processing: what do you want to achieve? What is the intended effect on individuals? What are the benefits of the processing – for you, and more broadly?

As described above the purpose of the processing is the early sharing of TUPE data so that the transition of staff under TUPE can be as smooth as possible for both those staff and service users.

Why are we doing this early? What are the benefits?

What is the benefit for us and the benefit for the data subject?

What do we want to achieve? Be more precise..

Step 3: Consultation process

Consider how to consult with relevant stakeholders: describe when and how you will seek individuals' views – or justify why it's not appropriate to do so. Who else do you need to involve within your organisation? Do you need to ask your processors to assist? Do you plan to consult information security experts, or any other experts?

Staff have been consulted throughout the procurement process and have already met with the data recipient since the decision was made to appoint them. Have all staff met?
When/How did they meet? Staff are aware of the TUPE transfer and the necessity to transfer personal data. How do we know they are aware? Have we provided letters? No further consultation is deemed necessary for this item of processing.

Have we given staff an opportunity to give their views?

Who will be supporting in this transfer? HR, IT, Legal, Leisure management?

Why do we deem no further consultation is necessary? (back up)

Step 4: Assess necessity and proportionality

Describe compliance and proportionality measures, in particular: what is your lawful basis for processing? Does the processing actually achieve your purpose? Is there another way to achieve the same outcome? How will you prevent function creep? How will you ensure data quality and data minimisation? What information will you give individuals? How will you help to support their rights? What measures do you take to ensure processors comply? How do you safeguard any international transfers?

Lawful basis for processing is that it is necessary for the performance of a public task. Legitimate Interest GDPR 6 1 (f)-The public task Legitimate Interests in question is the delivery of leisure services and the proper employment of staff in order to carry this out.

Include why we are doing this early

Data quality and minimisation needs to be covered

How will we support their rights? (right to object, rectification, accuracy, access) will they contact us or new leisure provider? It is briefly covered in the ISA

Include that international transfers included in ISA

Processing is necessary for the continued successful delivery of leisure services through the smooth transition of staff. There is no other way of achieving this outcome We can achieve this outcome through TUPE although we need to state why we are doing this early. Function creep will be prevented by a data sharing agreement which limits the purposes for which the data can be used. This agreement will ensure that the data recipient complies with relevant legislation.

Step 5: Identify and assess risks

Describe source of risk and nature of potential impact on individuals. Include associated compliance and corporate risks as necessary.	Likelihood of harm	Severity of harm	Overall risk
Risk that data recipient uses data other than for the agreed purpose (the TUPE transfer)	Remote	Minimal	Low
Risk that data is transferred in an inappropriate or insecure manner.	Remote	Minimal	Low

Step 6: Identify measures to reduce risk

Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk in step 5				
Risk	Options to reduce or eliminate risk	Effect on risk	Residual risk	Measure approved
Loss of data	Use of secure data room rather than email to share data	Reduces	Minimal	Yes
Compliance of data recipient	Use of legally binding data sharing agreement	Reduces	Minimal	Yes

Step 7: Sign off and record outcomes

Item	Name/position/date	Notes
Measures approved by:	Paul Sanders	Integrate actions back into project plan, with date and responsibility for completion
Residual risks approved by:	Paul Sanders	If accepting any residual high risk, consult the ICO before going ahead
DPO advice provided:	Yes	DPO should advise on compliance, step 6 measures and whether processing can proceed

Summary of DPO advice:

Undertake DPIA and use Data Sharing Agreement. Lawful basis for processing is ~~public~~
task Legitimate Interests

To be completed by DPO.

DPO advice accepted or
overruled by: Paul
Sanders

Accepted.

If overruled, you must explain your
reasons

Comments:

DPO advice to carry out DPIA and implement Data Sharing Agreement accepted.

Consultation responses
reviewed by:

N/A

If your decision departs from
individuals' views, you must explain
your reasons

Comments:

Consultation undertaken as part of wider staff discussions around the TUPE transfer.

This DPIA will kept under
review by:

Paul Sanders

The DPO should also review ongoing
compliance with DPIA