

Explanatory Framework for Adequacy Discussions

Section E4: Schedule 3 and 4 Restrictions

Overview

This annex lists the restrictions set out to data subject rights and other provisions in Schedules 3 and 4 to the DPA 2018.

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Schedule 3 restrictions

Paragraph 3: Data processed by a court for health reasons

Reports and evidence provided in court proceedings relating to children may need to be kept confidential if they contain health data. To protect confidentiality, there are a number of rules on court disclosure in family law and other court proceedings relating to children.

Subject to limitations and safeguards, this provision ensures that an individual cannot use their right as a data subject to bypass these rules.

The restriction covers the following provisions in the UK GDPR:

Article Number	Description
13(1)-(3)	personal data collected from data subject: information to be provided
14(1)-(4)	personal data collected other than from data subject: information to be provided
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers
16	right to rectification
17(1)-(2)	right to erasure
18(1)	right to restriction of processing
20(1)-(2)	right to data portability
21(1)	objections to processing
5	general principles so far as its provisions correspond to the rights and obligations in the above provisions

The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, the bodies that may make use of it, and the type of data and the type of situation to which it may

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apply. These are set out below.

- Firstly, it only applies to the rights where there is a need for the restriction. It does not cover the right not to be subject to automated decisions, including profiling.
- Secondly, the data in question must be health data.
- Moreover, a three-pronged test must be met for the restriction to apply:
 - The first condition is that the health data must be processed by a court.
 - The second condition is that the data must be supplied in either a report or evidence that is given to the court during proceedings.
 - The third condition is that those proceedings must be subject to one of a strictly limited range of eight statutory rules that allow the data to be withheld, wholly or in part. These are set out in sub-paragraph 2 and all concern family law or other court proceedings relating to children.
- These three conditions are **cumulative**: all three parts of the test must be met for the restriction to be used.
- There are also certain limitations and safeguards set out in the rules themselves, e.g. the Magistrates' Court (Children and Young Persons) Rules 1992 set out the rules on disclosure of court reports in secure accommodation proceedings for children. This includes a test that enables the court to take into account age and likelihood of serious harm to the child before disclosing written reports.

Paragraph 4: Data subject's expectations and wishes

This provision is about protecting the confidentiality of health data for individuals who are minors, or adults legally deemed incapable of managing their affairs. Such individuals may wish to provide their data to a medical practitioner in confidence, e.g. about a pregnancy or a mental health problem.

This restriction therefore protects such individuals from unauthorised disclosure of their health data to a third party, e.g. when a subject access request comes from the person with parental or court-delegated responsibility over them.

The restriction covers the following provisions in the UK GDPR:

Article Number	Description
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13(1)-(3)	personal data collected from data subject: information to be provided
14(1)-(4)	personal data collected other than from data subject: information to be provided
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers
16	right to rectification
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18(1)	right to restriction of processing
20(1)-(2)	right to data portability
21(1)	objections to processing
5	general principles so far as its provisions correspond to the rights and obligations in the above provisions

The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, the type of data it covers, and the type of situation to which it applies. These are set out below.
- Firstly, it only applies to the rights where there is a need for the restriction. It does not cover the right not to be subject to automated decisions (including profiling).
- Secondly, the data in question must be health data.
- Thirdly, it only applies where the request is being made by a parent, or guardian, or court appointee with legal responsibility over a minor or a person incapable of managing their affairs.
- Importantly, for the restriction to apply, it must meet one of three conditions, centred around the data subject's expectations or wishes. These are:
 - the data subject has expressly indicated it should not be disclosed, or
 - the data subject provided the data expecting it would not be disclosed to the requestor, or
 - the data was obtained through an examination or investigation that the data subject consented to but only in the expectation the data would not be

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disclosed.

- If the restriction meets any of the last two conditions, but the data subject has since expressly indicated they no longer have those expectations, it cannot be used.

Paragraph 5: Serious harm

Health data may need to be withheld by a controller if they believe providing it to the data subject would be likely to cause serious harm to their physical or mental health, or that of another person.

For example, a patient requests a counsellor's notes about them under the right of access. The counsellor knows the patient is vulnerable to self-harm and may be driven to do so if she reads the notes. The counsellor must seek the advice of a relevant health professional to identify if these concerns meet the serious harm test.

Subject to the serious harm test, and other safeguards and limitations, this provision allows for the restriction of the data subject's access rights in such circumstances.

The restriction covers the following provisions in the UK GDPR:

Article number	Description
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers

The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, and the type of data and the type of situation to which it may apply. These are set out below.
- Firstly, it only covers the right of access under Article 15 of the UK GDPR.
- Secondly, the data in question must be health data.
- Thirdly, the restriction cannot apply unless it meets the serious harm test mentioned above, i.e. that compliance with the right of access would be likely to cause serious harm to the physical or mental health of the data subject, or another individual. This is set out in paragraph 2, sub-paragraph 2 of this Part of this Schedule.

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- In addition to the above condition, the controller must meet one of two further conditions to use the restriction. They must either be a health professional, or they must have obtained an opinion from an appropriate health professional that the serious harm test has been met in this case.
- Sub-paragraphs 3 and 4 set further limitations on what constitutes an opinion for the purposes of this restriction. The opinion must have been given within the six months before the controller applies the restriction. However, even if the opinion is given within the six month period, it is not valid if it would be reasonable for the controller to re-consult the appropriate health professional.
- Paragraph 2 at the beginning of Part 2 of this Schedule and section 204 of this Act set out a restrictive list of who constitutes an “*appropriate health professional.*” This is to ensure that an opinion may only be sought from a healthcare professional responsible for the matter to which the data relates, or who otherwise has the necessary experience and qualifications.

Paragraph 6: Prior opinion of appropriate health professional

Controllers who are not health professionals may not properly be able to judge whether it is appropriate to disclose health data in response to an access request by an individual. This provision ensures that the serious harm test with respect to the data subject is considered by a health professional before health data is disclosed.

The restriction covers the following provisions in the UK GDPR:

Article number	Description
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers

The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, the type of data it covers, and the type of situation to which it may apply. These are set out below.
- Firstly, it only covers the right of access under Article 15 of the UK GDPR.
- Secondly, the data in question must be health data.

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- Thirdly, it only applies to controllers who are not health professionals.
- Moreover, the restriction does not apply if the controller has obtained an opinion from an appropriate health professional that the serious harm test has not been met in this case.
- It also cannot be used if the controller is satisfied that the data subject has already seen the health data in question or knows about it.
- Sub-paragraphs 3 and 4 set further restrictions on what constitutes an opinion. The opinion must have been given within the six months before the controller applies the restriction. An opinion also does not meet the requirements if it would be reasonable to re-consult the appropriate health professional, even if it was given within the six month period.
- Paragraph 2 at the beginning of Part 2 of this Schedule and Section 204 of this Act set out a restrictive list of who constitutes an “*appropriate health professional.*” This is to ensure that an opinion may only be sought from a healthcare professional responsible for the matter to which the data relates, or who otherwise has the necessary experience and qualifications.

Paragraph 9: Data processed by a court

Reports and evidence provided in family court proceedings and other proceedings relating to children such as social work records may need to be kept confidential. To protect confidentiality, there are a number of rules on court disclosure of evidence used in these proceedings.

Subject to limitations and safeguards, this provision ensures that an individual cannot use their rights as a data subject to bypass these rules. The restriction covers the following provisions in the UK GDPR:

Article Number	Description
13(1)-(3)	personal data collected from data subject: information to be provided
14(1)-(4)	personal data collected other than from data subject: information to be provided

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15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers
16	right to rectification
17(1)-(2)	right to erasure
18(1)	right to restriction of processing
20(1)-(2)	right to data portability
21(1)	objections to processing
5	general principles so far as its provisions correspond to the rights and obligations in the above provisions

The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, the bodies that may make use of it, and the type of data and situation to which it may apply. These are set out below.
- Firstly, it only applies to the rights where there is a need for the restriction. It does not cover the right not to be subject to automated decisions, including profiling.
- Secondly, the data in question must not be education or health data, since this is provided for elsewhere in Schedule 3.
- Moreover, a three-pronged test must be met for the restriction to apply:
 - The first condition is that the data must be processed by a court.
 - The second condition is that the data must be supplied in either a report or evidence that is given to the court during proceedings.
 - The third condition is that those proceedings must be subject to one of a strictly limited range of eight statutory rules that allow the data to be withheld, wholly or in part. These are set out in sub-paragraph 9 and all concern family law or other court proceedings relating to children.
- These three conditions are **cumulative**: all three parts of the test must be met for the restriction to apply.

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- There are also certain limitations and safeguards set out in the rules themselves, e.g. the Magistrates' Court (Children and Young Persons) Rules 1992 set out the rules on disclosure of court reports in secure accommodation proceedings for children. This includes a test that enables the court to take into account age and likelihood of serious harm to the child before disclosing written reports.

Paragraph 10: Data subject's expectations

This provision is about protecting the confidentiality of social work information for individuals who are minors, or adults legally deemed incapable of managing their affairs. Such individuals may wish to provide their data in confidence, e.g. about a pregnancy or a mental health problem.

This restriction therefore protects such individuals from unauthorised disclosure of their social work data to a third party, e.g. when a subject access request is made by the person with parental or court-delegated responsibility over them.

The restriction covers the following provisions in the UK GDPR:

Article Number	Description
13(1)-(3)	personal data collected from data subject: information to be provided
14(1)-(4)	personal data collected other than from data subject: information to be provided
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers
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The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, and the type of data and the type of situation to which it may apply. These are set out below.
- Firstly, it only applies to the rights where there is a need for the restriction. It does not cover the right not to be subject to automated decisions, including profiling.
- Secondly, the data in question must be social work data. This is defined in paragraphs 7 and 8 at the beginning of Part 3 of this Schedule.
- Thirdly, it covers only the situations outlined above, where the request is being made by a parent, or guardian, or court appointee with legal responsibility over a minor or a person incapable of managing their affairs.
- Importantly, for the restriction to apply to the social work data, one of three conditions, centred around the data subject's expectations or wishes must be met. These are:
 - the data subject has expressly indicated the information should not be disclosed, or
 - the data subject provided the data expecting it would not be disclosed to the requestor, or
 - the data was obtained through an examination or investigation that the data subject consented to but only in the expectation the data would not be disclosed.
- If the restriction meets any of the last two conditions, but the data subject has since expressly indicated they **no longer** have those expectations, the restriction cannot be used.
- In addition, the restriction can only apply to the extent that complying with the request would meet one of the above three conditions: if there is some data that can be disclosed without any of the above being met, the restriction will not apply to that particular data.

Paragraph 11: Serious harm - social work

There may be instances when disclosure of social work data to the individual would be likely to cause serious harm to his or her physical or mental health, or that of another person.

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Such disclosure may undermine the work of bodies carrying out social work activities may be undermined, and put at risk individuals they engage with.

This provision allows such data to be withheld if a controller believes providing it to the data subject would be likely to prejudice social work activities by being likely to cause such serious harm.

The restriction covers the following provisions in the UK GDPR:

Article number	Description
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers

The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, the type of data it covers, and the type of situation to which it may apply. These are set out below.
- Firstly, it only covers data subject rights under Article 15.
- Secondly, the data in question must be social work data. This is defined in sub paragraphs 7 and 8 at the beginning of Part 3.
- Thirdly, the restriction cannot be applied unless the serious harm test is met, i.e. to the extent that compliance with the right of access would be likely to prejudice carrying out social work, because it is likely to cause serious harm to the physical or mental health of the data subject or another individual. This test is set out in paragraph 7, sub-paragraph 2 of this part of the Schedule.

Paragraph 12: Social work - restriction

This provision relates to local authorities in Scotland only. It covers social work data, held by Scottish local authorities, that has come from the Principal Reporter.

The Principal Reporter decides, on referral, whether a child or young person should be referred to a Children's Hearing on compulsory measures of supervision. Such measures can include a decision on where the child is to live, whom the child should have contact with, and what support the child is to receive.

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Providing this data in response to an access request may cause serious harm to an individual in some circumstances. If the data subject is not entitled to receive the data from the Principal Reporter, this provision ensures that the local authority cannot disclose it unless the Principal Reporter confirms the serious harm test is not met.

The restriction covers the following provisions in the UK GDPR:

Article number	Description
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers

The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, the type of data it covers, and the type of situation to which it applies. These are set out below.
- Firstly, it only covers data subject rights under Article 15.
- Secondly, the data in question must be social work data. This is defined in paragraphs 7 and 8 at the beginning of Part 3.
- Thirdly, it only applies when:
 - the controller is a local authority under the Social Work (Scotland) Act 1968; and
 - there is a question about whether the controller needs to comply with the access request; and
 - the data in question is from the Principal Reporter in the context of their statutory duties, and the data subject is not entitled to receive it from them.
- The controller must inform the Principal Reporter within fourteen days of the question arising. If the Principal Reporter says the serious harm test is not met, then the restriction does not apply, and the request must be complied with.
- The serious harm test for social work data is set out in paragraph 7, sub-paragraph 2 of this part of the Schedule. It is met when compliance with the right of access would be likely to prejudice carrying out social work, because it is likely to cause serious harm to the physical or mental health of the data subject or another individual.

Paragraph 18: Data processed by court for education reasons

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Reports and evidence provided in court proceedings relating to children may need to be kept confidential if they contain education data. To protect confidentiality, there are a number of rules on court disclosure in family law and other court proceedings relating to children.

Subject to limitations and safeguards, this provision ensures that an individual cannot use their right as a data subject to bypass these rules.

The restriction covers the following provisions in the UK GDPR:

Article Number	Description
13(1)-(3)	personal data collected from data subject: information to be provided
14(1)-(4)	personal data collected other than from data subject: information to be provided
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers
16	right to rectification
17(1)-(2)	right to erasure
18(1)	right to restriction of processing
20(1)-(2)	right to data portability
21(1)	objections to processing
5	general principles so far as its provisions correspond to the rights and obligations in the above provisions

The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, the bodies that may make use of it, and the type of data and the type of situation to which it may

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apply. These are set out below.

- Firstly, it only applies to the rights where there is a need for the restriction. It does not cover the right not to be subject to automated decisions, including profiling.
- Secondly, the data in question must be education data, as defined in paragraphs 14-17.
- Moreover, a three-pronged test must be met for the restriction to apply:
 - The first condition is that the education data must be processed by a court.
 - The second condition is that the data must be supplied in either a report or other evidence that is given to the court during proceedings.
 - The third condition is that those proceedings must be subject to one of a strictly limited range of eight statutory rules that allow the data to be withheld, wholly or in part. These are set out in sub-paragraph 2 and all concern family law or other court proceedings relating to children.
- These three conditions are cumulative: all three parts of the test must be met for the restriction to apply.
- There are also certain limitations and safeguards set out in the rules themselves, e.g. the Magistrates' Court (Children and Young Persons) Rules 1992 set out the rules on disclosure of court reports in secure accommodation proceedings for children. This includes a test that enables the court to take into account age and likelihood of serious harm to the child before disclosing written reports.

Paragraph 19: Serious harm - education

Education data may need to be withheld by a controller if they believe providing it to the data subject would be likely to cause serious harm to his or her physical or mental health, or that of another person.

Subject to the serious harm test, and other safeguards and limitations, this provision allows for the restriction of the data subject's access rights in such circumstances.

The restriction covers the following provisions in the UK GDPR:

Article number	Description
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers

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The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, the type of data it covers, and the type of situation to which it applies. These are set out below.
- Firstly, it only covers data subject rights under Article 15 of the UK GDPR.
- Secondly, the data in question must be education data. This is defined in paragraphs 14-17.
- Thirdly, the restriction cannot apply unless the serious harm test is met, i.e. that compliance with the right of access would be likely to cause serious harm to the physical or mental health of the data subject or another individual. This is set out in paragraph 17(2) of this Schedule.

Paragraph 20: Restriction - education

This provision relates to education authorities in Scotland only. It covers education data, held by Scottish education authorities, that has come from the Principal Reporter. The Principal Reporter decides, on referral, whether a child or young person should be referred to a Children’s Hearing on compulsory measures of supervision, as described above.

Providing this data in response to an access request may cause serious harm to an individual in some circumstances. If the data subject is not entitled to receive the data from the Principal Reporter, this provision ensures that the education authority cannot disclose it unless the Principal Reporter confirms the serious harm test is not met.

This restriction is related to the Paragraph 19 exemption above but applies when:

- the controller receiving the access request for education data is an education authority in Scotland;
- the data has come from the Principal Reporter;
- and the data subject is not entitled to receive it from the Principal Reporter.

The restriction covers the following provisions in the UK GDPR:

Article number	Description
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers

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The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, and the type of data and the type of situation to which it may apply. These are set out below.
- Firstly, it only covers data subject rights under Article 15.
- Secondly, the data in question must be education data. This is defined in paragraphs 14-17.
- Thirdly, it only applies to controllers who are defined as education authorities under the Education (Scotland) Act 1980, and where there is a question about whether the controller needs to comply with the access request.
- The restriction only applies if the controller believes the data in question has originated from the Principal Reporter in the context of their statutory duties, and the data subject is not entitled to receive it from them. Paragraph 17 provides a definition of the term “the Principal Reporter”.
- The controller must inform the Principal Reporter within fourteen days of the question arising. If the Principal Reporter says the serious harm test, set out in paragraph 17(2), is not met, then the restriction does not apply, and the request must be complied with.

Paragraph 21: Child Abuse Data

The confidentiality of child abuse data is paramount. This provision protects such confidentiality when the data subjects are minors, or adults legally deemed incapable of managing their affairs.

It protects such individuals from disclosure of their data when a subject access request is made by the person with parental or court-delegated responsibility over them. In such a situation, the right of access will not apply to the extent that compliance with it would not be in the best interests of the data subject.

The restriction covers the following provisions in the UK GDPR:

Article number	Description
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers

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The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects, the type of data it covers, and the type of situation to which it may apply. These are set out below.
- Firstly, it only covers data subject rights under Article 15.
- Secondly, the data in question must be child abuse data. This is defined in sub-paragraphs 3 and 4.
- Thirdly, the restriction only applies where the request is being made by a parent, or guardian, or court appointee on behalf of a minor or a person incapable of managing their affairs.
- Importantly, the restriction is subject to a prejudice test: it only applies to the extent that compliance would not be in the best interests of the data subject.

Schedule 4 restrictions

All the below provisions in Schedule 4 concern personal data that has conditions on its disclosure laid down in sectoral legislation. For example, some require that a certain process is followed before disclosure can be made to the data subject. The Schedule 4 provisions restrict the right of access so as to preserve the conditions in such enactments.

Paragraph 2: Human Fertilisation and Embryology

UK law contains specific rules about disclosure of the data of sperm and gamete donors. This data must be kept by law by the Human Fertilisation and Embryology Authority (HFEA) in registers. The registers include the personal data of sperm and gamete donors, and people born from donor conception.

Specific rules restricting disclosure of the data is required for the following reasons:

- **To account for changes in the law.** Between 1991 and April 2005, a donor was able to remain anonymous. This means the type of data a donor-conceived individual can acquire about the donor depends on whether the donation was before April 2005 or after. The identity of a pre-April 2005 donor cannot be disclosed unless he or she wills it.

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However, after April 2005, subject to very limited exceptions, it is possible to disclose identifying information about the donor to a person conceived using their sperm, eggs or embryos when that person turns 18.

Identifying information about the donor cannot be disclosed to the parents of the person conceived using donated sperm, eggs or embryos and a donor cannot be given identifying information about a child conceived using their sperm, eggs or embryos.

- **To allow for age-related restrictions** as to the amount of information that can be released about the donor to their children:
 - A person must be 16 before he or she can obtain a limited set of non-identifying data about the donor, such as their medical history and ethnicity. This limited non-identifying information is also available to the parents of a person conceived using donated sperm, eggs or embryos after that child is born.
 - A person must be 18 before he or she can be given further details about the donor, including the donor's identity and last known address. The UK Government considers that by age 18, most young people will be mature enough to weigh the benefits of requesting information identifying their donor or siblings.
- **To allow for various other processes or conditions on disclosure**, such as mandatory counselling interviews.

These specific rules are necessary to reconcile the interests of the data subject with those of the donors and other relatives and deal with those interests in a sensitive and age-appropriate manner. This provision therefore ensures the Article 15 right of access does not override these processes and conditions for disclosure.

The restriction covers the following provisions in the UK GDPR:

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5	general principles so far as its provisions correspond to the rights and obligations in the above provisions

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The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects and the situations in which it applies. Firstly, it restricts only the right to access personal data.
- Secondly, it applies only when disclosure of the data is restricted under a narrow range of provisions in the Human Fertilisation and Embryology Act 1990.
- Those provisions themselves set down further limitations, conditions, and safeguards, including the restrictions in section 33A of the 1990 Act on who may process this data.

Paragraph 3: Adoption Records

Case records and court documents relating to adoptions are **highly sensitive**. The various rules and regulations listed in paragraph 3 ensure that the processes around adoption, including in the Family Court, are documented and treated as confidential. They can only be accessed by certain specified bodies and individuals as necessary for the adoption process eg. courts, adoption agencies etc.

This sensitivity means that under UK adoption law, individuals cannot access adoption information enabling them to obtain a copy of their birth certificate until they are 18.

Once they are 18, there are specific rules and processes set out in adoption law which vary depending on the date of the adoption and the nature of the information sought. For example, there may be a requirement or recommendation that counselling is sought before information is disclosed.

Adoption agencies will hold the most detailed record of information relating to birth relatives. They have a responsibility to consider complex family situations and the potential risk to welfare of disclosing certain data.

This process is designed to protect the wellbeing of individuals. The right of access in Article 15 could conflict with this process, and so this provision ensures that these important restrictions and requirements relating to disclosure of these documents take precedence over the right to access personal data.

The restriction covers the following provisions in the UK GDPR:

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The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects and the situations in which it applies. Firstly, it restricts only the right to access personal data.
- Secondly, it applies only when disclosure of the data is restricted under a narrow range of provisions set out in sub-paragraphs 2-4.
- Those provisions themselves set down further limitations, conditions, and safeguards, including strict restrictions on who can process case records for adoptions and their transfer to other agencies.
- Adoption agencies are required to keep a clear record of what information is shared and what was withheld. Any contentious decisions should be recorded, specifically noting the decision making process used to reach them.

Paragraph 4: Statements of special educational needs

Children and young people with special education needs must be supported. Local authorities have legal duties to collect information as part of an education, health, and care (EHC) needs assessment. This assessment is provided to children and young people with special educational needs and disabilities. It is then used to make an EHC plan to identify their needs and what support is required.

The disclosure of these plans is restricted in UK law to protect the confidentiality of the child or young person. It restricts the right of access without the consent of the child or young person to whom the EHC plan relates, or the consent of their parents, to listed persons and bodies. The right of access in Article 15 could conflict with this system of confidentiality if a third party named in the report sought access to the plans, and so this provision ensures that the this system takes precedence by restricting Article 15.

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The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects and the situations in which it applies. Firstly, it restricts only the right to access personal data.
- Secondly, it applies only when disclosure of the data is restricted under a narrow range of enactments set out in subparagraph 2.

Paragraph 5: Parental order records and reports

Parental orders are used under UK law to address parenthood in surrogacy cases. By default, the surrogate who gave birth is the legal parent. A parental order is an order made by a court providing for a child to be treated as the lawful child of the applicants for the order following the birth of a child by a surrogate. The birth must then be re-registered with the new parental details.

Records and reports relating to parental orders, including court papers, are treated in UK law as being highly sensitive. As such, the legislation relating to disclosure of information relating to adoption is modified so that it applies to information relating to parental orders. As with adoption law, individuals are not able to access information that would enable them to obtain a copy of their birth certificate until they are 18.

Once they reach the age of 18, the individual acquires the right to receive a copy of any prescribed document or order from the court that made the parental order. However, the individual cannot be given this until they have certified that they have been informed about the availability of counselling about the consequences of their request and given a suitable opportunity for this counselling.

This process is designed to protect the wellbeing of individuals. The right of access in Article 15 could conflict with this, and so this provision ensures that these important restrictions and requirements on disclosure take precedence over the right to access personal data.

Section E4: Schedule 3 and 4 Restrictions

The current provision makes reference to the Human Fertilisation and Embryology (Parental Orders) Regulations 2010. This will be amended to refer to the Human Fertilisation and Embryology (Parental Orders) Regulations 2018, following its recent passage. The new Regulations came about after a decision was made to enable a sole applicant to apply for a parental order, rather than a couple.

The restriction covers the following provisions in the UK GDPR:

Article number	Description
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers
5	general principles so far as its provisions correspond to the rights and obligations in the above provisions

The **limitations and safeguards** include the below points:

- The restriction is narrowly scoped in terms of the rights it affects and the situations in which it applies.
- Firstly, it restricts only the right to access personal data.
- Secondly, it applies only when disclosure of the data is restricted under a very narrow range of enactments set out in subparagraph 2.

Paragraph 6: Information for Children's Hearings

The Children's Hearing (Scotland) Act 2011, and its associated procedural rules, restrict disclosure of case details relating to Children's hearings when such disclosure would be likely to cause significant harm to a child. This provision ensures that the restrictions in those Acts take precedence over the right to access personal data.

The restriction covers the following provisions in the UK GDPR:

Article number	Description
15(1)-(3)	confirmation of processing, access to data, and safeguards for third country transfers

Section E4: Schedule 3 and 4 Restrictions

5	general principles so far as its provisions correspond to the rights and obligations in the above provisions
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The **limitations and safeguards** include:

- The restriction is narrowly scoped in terms of the rights it affects and the situations in which it applies.
- Firstly, it restricts only the right to access personal data.
- Secondly, it applies only in very specific and limited circumstances when disclosure of the data is restricted under section 178 of the Children’s Hearings (Scotland) Act 2011, and the Children’s Hearings (Scotland) Act 2011 (Rules of Procedure in Children’s Hearings) Rules 2013.
- These two Acts set out safeguards, including that the restriction can only be used if disclosing the data is likely to cause significant harm to the relevant child.