HM Prison & Probation Service

Redaction Log

Serious Further Offence (SFO) Review in respect of (Supervised Individual)

The sharing of data for a SFO review will always involve the "processing" of personal data and special categories of data as defined in Section 3 (2) of the Data Protection Act (DPA) 2018, and Section 35(8) of DPA 2019 respectively. Data processed in the SFO review falls under "law enforcement purpose" as defined in Section 31 of Part 3 of the DPA 2018

Under the DPA 2018, a data controller must ensure compliance with the data protection principles whilst processing personal data; where the processing is for any of the law enforcement purpose, there must be compliance with either section 35(2) or 35 (3, 5) DPA 2018

Under section 35(2) DPA 2018, the processing of personal data for law enforcement purposes may be necessary for the performance of a task carried out for the purpose of a competent authority.

Where data is sensitive and the individual has not consented to sharing, section 35 (5) DPA 2018 will apply and a condition set out in Schedule 8 will need to be met. The relevant condition in Schedule 8 for SFO reviews is that it is necessary for the exercise of a function conferred on a person by an enactment of law and is necessary for reasons of substantial public interest (paragraph 1, Schedule 8) and administration of justice (paragraph 2, Schedule 8). Hence sensitive data can be shared, as reviews are being used in the course of the administration of justice to inform learning and instil the public's confidence in the criminal justice system, including that errors are being reviewed and addressed and to allow for victims to understand: that a process has been followed, the background to the case, and any information about the offender that will assist in their understanding of the offending behaviour. The reviews are also part of the function of a Minister.

It is noted that when the sharing of data falls under the conditions set out above, the sharing of data needs to be **necessary and proportionate** to the understanding of the review and must be **relevant and not excessive** to the purpose for which it is processed to ensure compliance with section 37 DPA 2018.

Reference	Detail	Argument in favour of disclosure	Argument for Removal	Remove Yes/No	Approval