

Privacy Notice for the National Security Unit for Procurement

This Privacy Notice applies to the processing of personal data by the National Security Unit for Procurement (NSUP) in its role assessing the application of the exclusion grounds at Paragraph 35 of Schedule 6 and Paragraph 14 of Schedule 7 to the Procurement Act 2023. This is in order to enable the exercise of relevant powers and compliance with relevant obligations under the same Act where those exclusion grounds apply, and in NSUP's role monitoring the exercise of such powers and compliance with such obligations. NSUP is part of the Cabinet Office.

This notice sets out how NSUP will collect and use your personal data in accordance with data protection law, including the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act (DPA) 2018, and your rights in relation to that data. It is made under Articles 13 and/or 14 of the UK GDPR.

Procurement Act 2023: Background

The [Procurement Act 2023](#) (The "PA 2023") introduces a comprehensive reform of public procurement, focused on simplifying procurements, driving social value and tackling poor supplier practice. The PA 2023 enables contracting authorities (as defined in the same Act) to decide to exclude a supplier from a particular procurement or terminate a public contract (as defined in the PA 2023) with a supplier and introduces powers for a Minister of the Crown to debar a supplier from all, or a specified range of, public contracts. The legislation provides for these decisions to be taken on multiple discretionary or mandatory exclusion grounds.

The mandatory exclusion ground at Paragraph 35 of Schedule 6 to the PA 2023 applies to supplier in relation to contracts of a particular description where it has been determined that a supplier or connected person (as defined in the PA 2023) poses a threat to the national security of the United Kingdom and the circumstances giving rise to that threat are continuing or likely to occur again and the supplier would pose such a threat in relation to public contracts of that description. The discretionary exclusion ground at Paragraph 14 of Schedule 7 applies to a supplier where it has been determined that the supplier or a connected person poses a threat to the national security of the UK and the circumstances giving rise to that threat are continuing or likely to occur again.

Where a contracting authority which is not a government department or corporate officer of one of the Houses of Parliament intends to exclude a supplier or terminate a contract with a supplier on the basis that the discretionary exclusion ground at Paragraph 14 Schedule 7 applies, agreement must be sought from a Minister of the Crown and a Cabinet Office Minister will make this decision. A decision to place a supplier on the debarment list on either this discretionary exclusion ground or the mandatory

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exclusion ground at Paragraph 35 of Schedule 6 must be made by a Minister of the Crown and a Cabinet Office Minister will make this decision.

NSUP is responsible for the implementation and operation of these powers relating to threats to national security. NSUP is responsible for centrally coordinating a cross-government process for the purposes of determining whether a supplier should be excluded or a contract with a supplier should be terminated or a supplier should be placed on the debarment list on the grounds that the supplier pose a threat to national security and the circumstances giving rise to that threat are continuing or likely to occur again, and to provide balanced advice to the relevant Cabinet Office Minister

Contracting authorities which are government departments, or the corporate officers of one of the Houses of Parliament, may consult with NSUP in their own exclusion and termination assessments.

Cabinet Office is a data controller. Where we are working with another procuring public body, we are acting jointly as data controllers.

We are required under data protection legislation to notify you of the information contained in this privacy notice.

This notice and the [Cabinet Office Personal Information Charter](#), explains your rights, and the reasons we are using your information.

YOUR DATA

Purpose of processing your personal data

The purpose for which we are processing your personal data is in order to enable the effective exercise of the powers and compliance with the obligations relating to exclusions, terminations and debarments where the exclusion grounds at Paragraph 35 of Schedule 6 and Paragraph 14 of Schedule 7 to the PA 2023 apply.

- The Cabinet Office will collect and use personal data to assess threats to national security in order to determine whether one of the relevant exclusion grounds applies. This includes gathering and analysis of information for the purpose of determining whether current or potential suppliers to the UK public sector should be excluded or debarred or their public contract terminated.
- The Cabinet Office may share your personal data with other government departments and agencies when it is necessary for the

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purposes of informing departments and agencies of relevant exclusion and termination decisions.

- Personal data will also be used to check that the data we hold about you is accurate and up to date and to compare it against other information to help protect national security.
- Personal data will also be used to respond to inquiries and questions sent to the Cabinet Office, and process referrals and notifications made under the PA 2023.

We will process the following types of personal data:

- Personal data concerning a referral to Cabinet Office through NSUP in relation to the potential application of a relevant exclusion ground to a particular supplier
 - Full names of persons of significant control or who otherwise have influence over the supplier
 - Date of Birth of persons of significant control or who otherwise have influence over the supplier
 - Current Address
 - Nationality and links or relationship to foreign jurisdictions
 - Occupation (includes full time and part time roles e.g. executive and non-executive directorships)
 - Information relating to a supplier's previous debarment, termination or exclusion
 - Criminal convictions (where relevant)
- Personal data concerning contact information needed for supplier representations
 - Full Name
 - Email
 - Telephone Number
 - Occupation
 - Information relating to their representation: letters; emails

Lawful basis of processing

The lawful basis for processing your personal data is:

The use of data is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller (Article 6(1)(e) UK GDPR). In this case that is the exercise of our functions under the PA 2023.

Sensitive personal data is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the

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purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

The lawful basis for processing your sensitive personal data, or criminal convictions personal data, is that processing is necessary for reasons of substantial public interest for the exercise of a function of the Crown, a Minister of the Crown, or a government department (paragraph 6, schedule 1, DPA).

Schedule 1 conditions for processing special category data and criminal convictions data

Cabinet Office processes special category data for the following purposes in Part 2 of Schedule 1. All processing is for the first listed purpose and might also be for others dependent on the context:

1. Statutory and government purposes (para 6, schedule 1, DPA)

The PA 2023:

- Provides for a discretionary exclusion ground at Paragraph 14 of Schedule 7 and mandatory exclusion ground at Paragraph 35 of Schedule 6 to the PA 2023.
- Enables an appropriate authority (as defined in the PA 2023) to initiate a debarment investigation in relation to a supplier and enables a Minister of the Crown to place a supplier on a Debarment List on the basis this discretionary exclusion ground and/or mandatory exclusion ground applies.
- Provides for the Debarment List to be published.
- Provides clear routes for parties to challenge debarment decisions in the courts.
- Establishes a requirement for contracting authorities to seek agreement from a Minister of the Crown for intended exclusion and termination decisions in relation to the discretionary exclusion ground at Paragraph 14 of Schedule 7 and to notify the relevant appropriate authority of exclusion decisions and a Minister of the Crown of intended termination decisions in relation to the mandatory exclusion ground at Paragraph 35 of Schedule 6 to the PA 2023.

How your personal data is collected

We collect personal information directly from you in circumstances such as:

- If you, in your capacity as a contracting authority, have notified the Minister of the Crown of your intention to exclude a supplier or intended sub-contractor or to terminate a contract as required under the PA 2023, via a notification to the Cabinet Office.

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- If you have made a debarment notification to the Cabinet Office.
- When you as a supplier have been given the opportunity under the PA 2023 to make representations and to provide evidence as to whether one of the relevant exclusion Grounds applies to you and whether the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again; or to make representations about an intention by a contracting authority to terminate a contract with you; or to make representations to the Cabinet Office in reply to the notification of a formal debarment investigation or in relation to a debarment investigation report.
- If we have issued you an information request under the PA 2023 asking for further information

We also receive personal information indirectly, from the following third parties and/or in the following scenarios:

- From other public authorities, including other government departments, regulators or law enforcement bodies.
- Where you have made your contact information available on your organisation's website and we use this to contact you and your organisation in our role as a government department
- Publicly available sources, including Companies House
- Specialist commercial data providers

Where personal data have not been obtained from you

Your personal data were obtained by us from a specialist commercial data provider, a procuring public body, or public internet sources.

In exercising its statutory functions under the PA 2023, NSUP within the Cabinet Office may observe, monitor, record, retain and share within government internet data which is available to anyone. This is known as open source material and includes:

- News reports
- Internet sites
- Public records such as Companies House and Land Registry
- Blogs and social networking sites where no privacy settings have been applied

The Cabinet Office may also use third party service providers, including aggregators of open-source information, to obtain information.

Recipients of personal data

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Your personal data may be shared by us with other government departments and agencies where it is appropriate and necessary to do so in order to exercise our statutory and corporate functions. We will share your personal data only where it is lawful to do so and when your rights have been fully considered.

As your personal data will be stored on our IT infrastructure it will also be shared with our data processors who provide email, and document management and storage services.

We will have agreements in place with any Data Processors, Independent or Joint Data Controller.

Retention

Your personal data will be kept by us in a form that identifies you for as long as is necessary. Personal data obtained for the purposes listed above will be retained by the Cabinet Office for up to 10 years. In certain circumstances, we may need to keep some records for longer periods of time. This might include, for example, situations where cases lead to further investigations, where the information could be relevant to ongoing or future national security assessments, or where it is needed for ongoing or prospective legal proceedings.

Retention Periods

- Referrals from the general public; Notifications from contracting authorities: Retained for five years
- Assessments where there is no identified risk to national security: Retained for five years
- Assessments where there is an identified risk to national security: Retained for ten years
- Information collected during an assessment: Retained for ten years
- Correspondence with suppliers: Retained for ten years

YOUR RIGHTS

You have the right to request information about how your personal data is processed, and to request and receive a copy of that personal data. This is done through a Subject Access Request (SAR). Information on the right to access data is available from the [Information Commissioner's Office](#). A request to provide the information may be refused if an exemption or restriction applies, or if the request is manifestly unfounded or excessive. The National Security Unit for Procurement will treat each SAR on its own merits.

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You have the right to request that any inaccuracies in your personal data are rectified without delay.

You have the right to request that any incomplete personal data is completed, including by means of a supplementary statement.

You have the right to request that your personal data is erased if there is no longer a justification for the personal data to be processed.

You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

You have the right in certain circumstances to object to the processing of your personal data.

INTERNATIONAL TRANSFERS

As your personal data is stored on our Corporate IT infrastructure, and shared with our data processors, it may be transferred and stored securely outside the UK. Where that is the case it will be subject to equivalent legal protection through an adequacy decision, or reliance on a UK International Data Transfer Agreement.

As your data will be shared with our specialist commercial data provider who provides commercial data services to us, it may be stored securely outside the UK. Where that is the case it will be subject to equivalent legal protection through the US-UK Data Privacy Framework.

On occasion, data may need to be sent to UK Embassies and Missions overseas. The legal gateway for this would be that the transfer is for important reasons of public interest in accordance with Article 49(1)(d) UK GDPR.

COMPLAINTS

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, or 0303 123 1113, or icocasework@ico.org.uk. Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

CONTACT DETAILS

The data controller for your personal data is the Cabinet Office. If we are working with another procuring public body then we and the procuring body are joint data controllers. Where we are joint data controllers, the Cabinet Office will be the primary contact point for all enquiries.

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The contact details for the Cabinet Office are: Cabinet Office, 70 Whitehall, London, SW1A 2AS, or 0207 276 1234, or you can use this [webform](#).

The contact details for the Cabinet Office's Data Protection Officer are: dpo@cabinetoffice.gov.uk.

The Data Protection Officer provides independent advice and monitoring of Cabinet Office's use of personal information.