



## Privacy Policy

### Why do we process your information?

The conditions for processing are set out in Schedules 2 and 3 of the Data Protection Act. Unless a relevant exemption applies, at least one of the following conditions must be met whenever we process personal data:

- The individual whom the personal data is about has consented to the processing.
- The processing is necessary:
  - in relation to a contract which the individual has entered into; or
  - because the individual has asked for something to be done so they can enter into a contract.
- The processing is necessary because of a legal obligation that applies to you (except an obligation imposed by a contract).
- The processing is necessary to protect the individual's "vital interests". This condition only applies in cases of life or death.
- The processing is necessary for administering justice, or for exercising statutory, governmental, or other public functions
- The processing is in accordance with the "legitimate interests" condition.

### What is the 'legitimate interests' condition?

The Data Protection Act recognises that an organisation may have legitimate reasons for processing personal data that the other conditions for processing do not specifically deal with. The 'legitimate interests' condition is intended to permit such processing, provided you meet certain requirements.

The first requirement is that we must need to process the information for the purposes of our legitimate interests or for those of a third party to whom we disclose it.

The second requirement, once the first has been established, is that these interests must be balanced against the interests of the individual(s) concerned. The

“legitimate interests” condition will not be met if the processing is unwarranted because of its prejudicial effect on the rights and freedoms, or legitimate interests, of the individual. Our legitimate interests do not need to be in harmony with those of the individual for the condition to be met. However, where there is a serious mismatch between competing interests, the individual’s legitimate interests will come first.

Finally, the processing of information under the legitimate interests condition must be fair and lawful and must comply with all the data protection principles.

## **What conditions need to be met in respect of sensitive personal data?**

At least one of the conditions listed above must be met whenever we process personal data. However, if the information is sensitive personal data, at least one of several other conditions must also be met before the processing can comply with the first data protection principle. These other conditions are as follows.

- The individual whom the sensitive personal data is about has given explicit consent to the processing.
- The processing is necessary so that you can comply with employment law.
- The processing is necessary to protect the vital interests of:  
the individual (in a case where the individual’s consent cannot be given or reasonably obtained), or  
another person (in a case where the individual’s consent has been unreasonably withheld).
- The processing is necessary in relation to legal proceedings; for obtaining legal advice; or otherwise for establishing, exercising or defending legal rights.
- The processing is necessary for administering justice, or for exercising statutory or governmental functions.
- The processing is necessary for medical purposes, and is undertaken by a health professional or by someone who is subject to an equivalent duty of confidentiality.
- The processing is necessary for monitoring equality of opportunity, and is carried out with appropriate safeguards for the rights of individuals.

In addition to the above conditions – which are all set out in the Data Protection Act itself – regulations set out several other conditions for processing sensitive personal data. Their effect is to permit the processing of sensitive personal data for a range of other purposes – typically those that are substantially in the public interest, and which must necessarily be carried out without the explicit consent of the individual. Examples of such purposes include preventing or detecting crime and protecting the public against malpractice or maladministration.

A full list of the additional conditions for processing is set out on the [legislation.gov](http://legislation.gov) website.

## When is processing ‘necessary’?

Many of the conditions for processing depend on the processing being “necessary” for the particular purpose to which the condition relates. This imposes a strict requirement, because the condition will not be met if the organisation can achieve the purpose by some other reasonable means or if the processing is necessary only because the organisation has decided to operate its business in a particular way.

## What is meant by ‘consent’?

One of the conditions for processing is that the individual has consented to their personal data being collected and used in the manner and for the purposes in question.

Consent is not defined in the Data Protection Act. However, the European Data Protection Directive defines an individual’s consent as *‘any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed’*.

The fact that an individual must “signify” their agreement means that there must be some active communication between the parties. An individual may “signify” agreement other than in writing, but organisations should not infer consent.

Consent must also be appropriate to the age and capacity of the individual and to the particular circumstances of the case. For example, if your organisation intends to continue to hold or use personal data after the relationship with the individual ends, then the consent should cover this. Even when consent has been given, it will not necessarily last forever. Although in most cases consent will last for as long as the processing to which it relates continues, you should recognise that the individual may be able to withdraw consent, depending on the nature of the consent given and the circumstances in which you are collecting or using the information. Withdrawing consent does not affect the validity of anything already done on the understanding that consent had been given.

You should review whether a consent you have been given remains adequate as your organisation’s relationship with an individual develops, or as the individual’s circumstances change.

Consent obtained under duress or on the basis of misleading information does not adequately satisfy the condition for processing.

The Data Protection Act distinguishes between:

- the nature of the consent required to satisfy the first condition for processing; and
- the nature of the consent required to satisfy the condition for processing sensitive personal data, which must be “explicit”.

This suggests that the individual’s consent should be absolutely clear. It should cover the specific processing details; the type of information (or even the specific information); the purposes of the processing; and any special aspects that may affect the individual, such as any disclosures that may be made.

As explained above, a particular consent may not be adequate to satisfy the condition for processing (especially if the individual might have had no real choice about giving it), and even a valid consent may be withdrawn in some circumstances. For these reasons an organisation should not rely exclusively on consent to legitimise its processing. In our view it is better to concentrate on making sure that you treat individuals fairly rather than on obtaining consent in isolation. Consent is the first in the list of conditions for processing set out in the Act, but each condition provides an equally valid basis for processing personal data.

As a National Citizen Service (NCS) Delivery Partner, in addition to the above, Hear2Listen adheres to the NCS data protection requirements which can be viewed here:

[www.tinyurl.com/yatto87o](http://www.tinyurl.com/yatto87o)

## **Corresponding with H2L by email**

H2L takes the security of personal information very seriously.

### **About the risks**

The main risks associated with using email that concern H2L are:

- confidentiality/privacy - there is a risk that emails sent over the internet may be intercepted
- confirming your identity - it is crucial that we only communicate with established contacts at their correct email addresses
- there is no guarantee that an email received over an insecure network, like the internet, has not been altered during transit
- attachments could contain a virus or malicious code

### **How we can reduce the risks**

We will desensitise information, for example by only quoting part of any unique reference numbers. We can also use encryption. We are happy to discuss how you may do the same but still provide the information we need.

### **If you don't want to use email**

You may prefer that we don't respond to your enquiry by email, for example because other people have access to your email account. If so, we are happy to respond by an alternative method. We will agree this with you either by telephone, fax or in writing via post.

### **If you do want to use email**

If you would like us to respond to your query by email, you are confirming:

- that you understand and accept the risks of using email
- that you are content for financial information to be sent by email
- that attachments can be used

## **Contacting you direct**

If you would like us to contact you direct, we will need you to confirm:

- the names and email addresses of staff within your organisation with whom we may correspond by email
- that you have ensured that your spam filters are not set to reject and/or automatically delete H2L emails

## **Contacting your agent**

If you would like us to contact authorised representatives of your organisation's agents, we will need you to confirm their names and email addresses.

## **How we use your agreement**

Your confirmation will be held on file and will apply to future email correspondence. We will review the agreement at regular intervals to ensure there are no changes.

If we receive email or contacts from someone we don't recognise from the information you gave us, we will verify the position with you before responding.

## **Opting out**

You may opt out of using email at any time by letting us know.

## **More information**

For more information on H2L's privacy policy, visit <http://www.hear2listen.org.uk>

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