



# Scottish Karate Council Data Protection Policy

## Version Control

Version	Date	Changes Made	Author/Approver
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## **Data Protection - DPA, DPPEC and UK GDPR**

The UK's Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 (DPPEC) amended the DPA 2018 and merged it with the requirements of the EU GDPR to form a new, UK-specific data protection regime that works in a UK context after Brexit as part of the DPA 2018. This new regime is known as the 'UK GDPR'.

UK organisations have since had to align their GDPR documentation with the requirements of the UK GDPR. In particular, Article 30 records, privacy notices, DPIAs (data protection impact assessments), DSARs (data subject access requests) and documentation covering international data flows must all reflect the UK's independent jurisdiction and the specific scope and wording of the UK GDPR.

Any UK organisation that offers goods or services to, or monitors the behaviour of, EU residents will also have to comply with the EU GDPR and will reflect this in its process documentation.

Scottish Karate Council will, as an organisation primarily made up of subscribed members, collect personal data and therefore must comply with:

- The Data Protection Act 2018
- The Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019
- UK GDPR

Scottish Karate Council therefore has a requirement to process, store and share data in accordance with the above legislation.

A significant element of UK GDPR is informing people why an organisation wishes to collect data and for what purpose. Therefore, when Scottish Karate Council asks for PVG (or DBS) checks of instructors, the reasons for collecting this data should be made clear to those being asked to provide evidence. Being open and honest about what data is being stored and why provides an opportunity for informed consent. This allows people to decide whether to consent to provide data. One of the key purposes of UK GDPR is to enhance the rights of an individual to restrict the processing of their data. However, given it is a precondition that Scottish Karate Council need to be assured of robust PVG (or DBS) management any failure to comply with such requests would preclude continued membership.

UK GDPR accountability is not solely directed at one person, however the accountability rests with anyone who is collecting, managing and/or storing information. Crucially, this rule is applicable not just to data controllers (person charged with overall responsibility of the management of data) but also to data processors. Data processors can be members of staff, volunteers, or external parties which includes a website host or data storage company.

Within a child specific context, there are extra protections which need to be applied when processing and managing data. This will usually involve parental, guardian, or carer consent but additionally, any data capturing statements produced for children should be easy to understand with simple language used where possible.

Furthermore, any personal data which is gathered should be used for the primary purpose only, unless further consent has been granted from the people in question for supplementary purposes. This includes any transferring of the data to another party. Any failure to obtain consent for a secondary purpose will constitute a breach of UK GDPR.

This Data Protection Policy provides information on UK GDPR and how it affects Scottish Karate Council's practices.

However, data which is gathered by Scottish Karate Council's Safeguarding Officer which is of a sensitive nature is different.

In order to process data without following the explicit consent processes previously mentioned, it is imperative that Scottish Karate Council is able to clearly articulate which lawful basis, as documented under Article 6 of UK GDPR regulations is being applied, especially when sharing confidential data with other agencies following accusations of abuse. Information of this nature should only be shared between appropriate agencies and should conform to Article 5(1) as follows:

#### **Article 5 - Principles relating to processing of personal data**

- Article 5(a) - processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency').
  - Article 5(b) - collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial purposes ('purpose limitation').
  - Article 5(c) - adequate, relevant, and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation').
  - Article 5(d) - accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased, or rectified without delay ('accuracy').
  - Article 5(e) - kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) subject to implementation of the appropriate technical and organisational measures required by this Regulation in order to safeguard the rights and freedoms of the data subject ('storage limitation').
  - Article 5(f) - processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality').
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Under Articles 13 and 14, of UK GDPR which document the individual's right to be informed of what data is being collected and for what purpose, genuine consent puts the individual in charge and helps build collaborative professional relationships. However, after a risk assessment has been carried out in respect of a potential victim of abuse, and them being deemed to be at risk of serious harm, then Scottish Karate Council is duty bound by law to share this information with no individual consent being required. If, as required by UK law, data will be processed regardless of consent, then asking for consent is both misleading and inherently unfair.

Similarly, Article 6(f) also documents legitimate interests as a lawful basis for processing data without informed consent. When relying on legitimate interests for the sharing of information this must be balanced against the interests and fundamental rights of the individual involved. Therefore, when dealing with allegations of abuse, there are justifiable, moral, and legal reasons why Scottish Karate Council will share the data with other appropriate agencies.

Documented below is a detailed breakdown of the lawful basis and legal grounds for sharing information which would apply to Scottish Karate Council and its Safeguarding Officer:

### **Article 6 - Lawfulness of processing**

Processing shall be lawful only if and to the extent that at least one of the following applies:

- Article 6(a) - the data subject has given consent to the processing of his or her personal data for one or more specific purposes.
- Article 6(b) - processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.
- Article 6(c) - processing is necessary for compliance with a legal obligation to which the controller is subject.
- Article 6(d) - processing is necessary in order to protect the vital interests of the data subject or of another natural person.
- Article 6(e) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.
- Article 6(f) - processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

The main grounds in UK legislation for the requirement to share information with specific emphasis on Safeguarding include:

Requirement	Legislation
An individual's right to life and to be free from torture, and inhuman or degrading treatment or punishment	<ul style="list-style-type: none"> <li>• Human Rights Act 1998</li> </ul>
<p>Child Protection: disclosure to Social Work department or Police.</p> <p>Prevention of abuse and neglect.</p>	<p>Scotland</p> <ul style="list-style-type: none"> <li>• Children (Scotland) Act 1995</li> <li>• Community Care and Health (Scotland) Act 2002</li> <li>• Public Bodies (Joint Working) (Scotland) Act 2014</li> <li>• Children and Young People (Scotland) Act 2014</li> <li>• Children (Equal Protection from Assault) (Scotland) Act 2019</li> </ul> <p>England</p> <ul style="list-style-type: none"> <li>• Children Act 1989</li> <li>• Children Act 2004</li> <li>• Care Act 2014</li> </ul>
Prevention and detection of crimes.	<p>Scotland</p> <ul style="list-style-type: none"> <li>• Criminal Law (Consolidation) (Scotland) Act 1995</li> </ul> <p>England</p> <ul style="list-style-type: none"> <li>• Crime and Disorder Act 1998</li> </ul>
<p>Bringing perpetrators of crimes to justice.</p> <p>Protection of the vital interests of the data subject, e.g., prevention of serious harm (psychological, physical, or sexual)</p>	<ul style="list-style-type: none"> <li>• Data Protection Act 2018</li> <li>• UK GDPR</li> </ul>
Prevention of acts of terrorism, radicalisation, or joining banned organisations	<ul style="list-style-type: none"> <li>• Counter Terrorism and Security Act 2015</li> </ul>

For further advice and guidance on UK GDPR and its implications for safeguarding and its use within sporting organisations, please refer to the Information Commissioners Office:

ICO website: <https://ico.org.uk/for-organisations/>