

Type of processing	GDPR Article 6 Condition for personal data	GDPR Article 9 Condition for special categories (sensitive data)	Statutory basis or other relevant conditions
<p>Lawful basis for direct care and administrative purposes</p> <p>All health and adult social care providers are subject to the statutory duty to share information about a patient for their direct care. This would also include:</p> <ul style="list-style-type: none"> (a) preventive or occupational medicine, (b) the assessment of the working capacity of an employee, (c) medical diagnosis, (d) the provision of health care or treatment, (e) the provision of social care, or (f) the management of health care systems or services (g) waiting list management (h) performance against national targets (i) activity monitoring (j) local clinical audit 	<p>6(1)(e) ‘...for the performance of a task carried out in the public interest or in the exercise of official authority...’</p>	<p>9(2)(h) ‘...medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems...’</p> <p>6(1)(d) is available in life or death situations but should not be necessary for health or social care organisations to use in the performance of its tasks. This might apply in a situation where an organisation needs to act to prevent harm being caused by a patient or service user, to someone who has no relationship with the organisation.</p>	<p>NHS Trusts National Health Service and Community Care Act 1990</p> <p>NHS England’s powers to commission health services under the NHS Act 2006 or to delegate such powers</p> <p>251B of the Health and Social Care Act 2012</p>

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<p>Lawful basis for commissioning and planning purposes</p> <p>Most national and local flows of personal data in support of commissioning are established as collections by NHS Digital either centrally, or for local flows by its Data Services for Commissioners Regional Offices (DSCRO).</p>	<p>Where the collection or provision of data is a legal requirement, for example where NHS Digital s directed to collect specified data, and can require specified organisations to provide it,</p> <p>6(1)(c) ‘...for compliance with a legal obligation...’</p>	<p>9(2)(h) ‘...medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems...’</p>	<p>Commissioners may receive personal data in support of commissioning where confidentiality is set aside by provisions under the Control of Patient Information Regulations 2002, commonly known as ‘section 251 support’. This support does not remove the need for GDPR compliance.</p> <p>The commissioning of individually tailored services, or for example the approval of individual funding requests should operate on the basis of consent for confidentiality purposes.</p>
<p>Lawful basis for research</p>	<p>6(1)(f) ‘...legitimate interests...except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject...’</p>	<p>9(2)(j) ‘...scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or member State law which shall be proportionate...and provide for suitable and specific measures to safeguard the fundamental rights and interests of the data subject ...’</p>	<p>A pre-condition of applying Article 9(2)(j) is that the processing has a basis in UK (or EU) law. This basis will include compliance with the common law duty of confidence, the provisions of DPA18 that relate to research, statistical purposes etc. and other relevant legislation, for example section 251 support.</p>

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<p>Lawful basis for regulatory and public health functions Processing that is necessary for reasons of public interest in the area of public health, and is carried out (i) by or under the responsibility of a health professional, or (ii) by another person who in the circumstances owes a duty of confidentiality under an enactment or rule of law.</p>	<p>6(1)(c) ‘...necessary for compliance with a legal obligation...</p>	<p>9(2)(j) ‘ ...necessary for reasons of public interest in the area of public health...or ensuring high standards of quality and safety of health care and of medicinal products or medical devices...</p>	<p>Health Protection (Notification) Regulations 2010 Public Health (Control of Disease) Act 1984, as amended by the Health and Social Care Act 2008</p>
<p>Lawful basis for safeguarding</p>	<p>6(1)(e) ‘...for the performance of a task carried out in the public interest or in the exercise of official authority...’</p>	<p>9(2)(b) ‘...is necessary for the purposes of carrying out the obligations and exercising the specific rights of the controller or of the data subject in the field of ...social protection law in so far as it is authorised by Union or Member State law..’</p>	<p>Children Acts 1989 and 2004, and the Care Act 2014</p>
<p>Lawful basis for employment purposes</p>	<p>6(1)(b) ‘For the performance of a contract to which the ‘individual’ is a party’ Or 6(1)(e) ‘...for the performance of a task carried out in the public interest or in the exercise of official authority...’</p>	<p>9(2)(b) ‘...is necessary for the purposes of carrying out the obligations and exercising the specific rights of the controller or of the data subject in the field of employment...social protection law in so far as it is authorised by Union or Member State law..’</p>	<p>Safeguarding Vulnerable Groups Act 2006 as a basis for Disclosure and Barring Service (DBS) checks and other processing of such data</p>