

## **SCHEDULE 3 – DEFINITIONS AND OFFENCES**

### **1. Personal data**

- 1.1 Is any information relating to an identified or identifiable natural person ('Data Subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person

### **2. Special Categories of Personal Data**

- a) • race
  - b) • ethnic origin
  - c) • politics
  - d) • religion
  - e) • trade union membership
  - f) • genetics
  - g) • biometrics (when used for ID purposes)
  - h) • health
  - i) • sex life
  - j) • sexual orientation
- 2.2 The terms Controller, Processor, Processing, Data Subject, Joint Controller and Personal Data Breach have the meaning set out in the UK GDPR and the Data Protection Act 2018

### **3. Offences under the DPA 2018**

- 3.1 Section 119: Obstructing the Commissioner in inspecting personal data to discharge an international obligation
- a) The Commissioner may inspect Personal Ddata where the inspection is necessary in order to discharge an international obligation of the United Kingdom, subject to the restriction in subsection (2). Section 119 (6) states that it is an offence (a)intentionally to obstruct a person exercising the power under subsection (1), or (b)to fail without reasonable excuse to give a person exercising that power any assistance the person may reasonably require.
- 3.2 Section 132: Prohibition placed upon the Commissioner, or the Commissioner's staff against disclosing information obtained in the course of their role (which is not available to the public)
- a) By former or current ICO staff who disclose data obtained during the course of their duties, it is an offence for a person knowingly or recklessly to disclose information.
- 3.3 Section 144: False statement made in response to an information notice

- a) It is an offence for a person, in response to information notice from the Commissioner, to make or recklessly make, a statement which they know to be false in a material respect.

#### 3.4 Section 148: Destroying or falsifying information and documents etc

- a) Under Section 148 (2) (a) it is an offence for a person to destroy or otherwise dispose of, conceal, block or (where relevant) falsify all or part of the information, document, equipment, or material. Section 148 (2) (b) makes to cause or permit the actions set out in the previous subsection.

#### 3.5 Section 170: Unlawful obtaining etc of personal data

- a) It is an offence to knowingly or recklessly obtaining, disclosing, or procuring personal data without the consent of the data Controller, and the sale or offering for sale of that data.

#### 3.6 Section 171: Re-identification of de-identified personal data

- a) Section (5) states that it is an offence for a person knowingly or recklessly to process personal data that is information that has been re-identified.

#### 3.7 Section 173: Alteration etc of personal data to prevent disclosure to Data Subject

- a) Section 173 (3) makes it a criminal offence for organisations (persons listed in Section 173 (4)) to alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure.

#### 3.8 Section 184: Prohibition of requirement to produce relevant records

- a) Section 184 (1) makes it an offence for a person to require another to provide them with or give them access to a relevant record linked to the employment, continued employment of one of their employees or a contract for the provision of services to them. Section 184 (2) makes it an offence for a person to require another to provide them with or access to a relevant record if the requestor is involved in the provision of goods, facilities, or services to the public or the requirement is a condition of providing or offering to provide goods, facilities, or services to the other person or a third Party.

#### 3.9 Schedule 15, Paragraph 15. Powers of Entry and Inspection

- a) It is an offence under paragraph 15 (1) for a person to intentionally obstruct a person in the execution of a warrant issued under this Schedule or to fail without reasonable excuse to give a person executing the warrant such assistance as may be required. Under paragraph 15 (2) it is an offence for a person to make a statement in response to a requirement under paragraph 5(2)(c) or (d) or 3(c) or (d) which the person knows to be false in a material respect or recklessly make such a statement.
- b) There are no custodial sentences in respect of offences under DPA 2018 and no powers of arrest; all offences are punishable only by a fine