



# Step Forward Plan



## Data Protection Planning and FAQs

This document will provide you with the information you need to consider around Data Protection following the coronavirus outbreak.

If you require any further advice or support, you can contact:

### England

Business Support Partners at British Gymnastics on [business-support@british-gymnastics.org](mailto:business-support@british-gymnastics.org)

### Scotland

Club Business Manager Steven Maloney [steven@scottishgymnastics.org](mailto:steven@scottishgymnastics.org)

### Wales

Contact your relevant Club Development Officer.

### Northern Ireland

British Gymnastics Northern Ireland team on [northernireland@british-gymnastics.org](mailto:northernireland@british-gymnastics.org)

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for a safe return  
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# Planning – what do you need to do?

## Purposes

You should identify any new (COVID-19 related) purposes that will involve the use of personal information and document any identified purposes. Ideally this should be done prior to using any personal data for these purposes. Purposes may include:

- Undertaking screening to protect the health and safety of employees and others affected by the club's activities
- Maintaining COVID-19 test results and details of any symptoms to make decisions on whether it is safe for individuals to be on club premises
- Notifying others of suspected and confirmed cases to prevent further infection

If your club is an employer, it is likely that you will need to collect and process additional personal data about employees to enable you to comply with your responsibilities under health and safety law during the COVID-19 pandemic.

## Types of personal data

You should then identify the information you may collect for COVID-19 related purposes which may include:

- Symptoms and COVID-19 test results
- Screening information e.g. responses to specific screening questions such as has anyone in the household developed a recent fever, continuous cough, loss of sense of smell or experiencing any other symptoms associated with COVID-19
- Information about specific vulnerabilities and symptoms of household members
- Information about recent travel
- Responses to wellbeing questionnaires e.g. individual concerns about the impact that COVID-19 is having on their general wellbeing.

## Lawfulness

You will need to identify a legal basis for each COVID-19 related purpose e.g. legitimate interests, legal obligation, consent, vital interests etc. If the purpose involves processing any data classified as 'special category personal data', you will also need to identify a further condition in addition to having a legal basis for the processing.

See our FAQs for further information on appropriate lawful grounds for processing personal data.

## Accountability

The Information Commissioner's Office (ICO) advises that organisations who propose processing health data for COVID-19 related purposes demonstrate accountability by undertaking a data protection impact assessment (DPIA). The key steps in a DPIA are as follows:

- Identifying the purpose for using personal data and describing the proposed processing activities
- Determining whether the proposed activities are necessary and proportionate

Consider carefully whether the purpose can be achieved without needing to collect/process personal data e.g. the GDPR applies only to information that is recorded or intended to be recorded electronically or in a structured paper filing system. In the case of screening, could your purpose be fulfilled by just instructing anyone to not attend the club if they or anyone in their household has specific symptoms? Consider if it is necessary for the club to record this information?

If you cannot fulfil the process without processing personal data, then you need to make sure that you have adequate data to fulfil the purpose whilst also ensuring all data is relevant and limited to the minimum necessary for the purpose.

- Identifying any significant data protection risks

A DPIA is similar to a health and safety risk assessment but focuses on potential harm to data subjects associated with the proposed way personal data is being used. Risks are likely to be more significant where the data is confidential or relates to vulnerable people, e.g. children.

Harm might arise where data is not held securely and is lost or disclosed to an unauthorised party e.g. someone who has had a positive test is identified. If data is inaccurate, e.g. relying upon people self-reporting alone (without obtaining confirmation that a person has tested positive for COVID-19), this could lead to significant risk and potentially unnecessary restrictions.

Harm can also arise where transparent information is not provided or where individual rights under data protection law are being denied or not transparent. If there is uncertainty over how long personal data will be retained, this can cause concern and present a risk of purpose creep (data collected for COVID-19 purposes if then used for other unexpected purposes). Although a DPIA focuses on harm to data subjects, other forms of harm should be considered such as potential financial and reputation harm to the club if they do not comply with data protection law.

- Identifying actions that can be put in place to mitigate any risks and creating a plan to ensure that the control measures are effective

You should rate your identified risks based on likelihood and severity of harm and then put in place actions that address any uncontrolled risks. This could include providing updated privacy notices and making sure they are easy to understand, setting defined retention criteria, limiting access to data, implementing additional technical, and organisation measures to ensure data is secure.

You can find more information on DPIAs on the ICO website.

[ICO website - Data protection impact assessments](#)

## Transparency – telling people how you will use their personal data

Transparent information should be provided to staff, members and volunteers about how the club will use their personal data for COVID-19 related purposes. This is often called a privacy notice.

Privacy notices needs to be easily accessible, written in clear and plain language and enable individuals to genuinely understand the reason why their personal data is being used.

It is unlikely that the processing of COVID-19 related personal data will be fully covered in your existing privacy notices so you should look at either updating your notice or provide additional COVID-19 privacy notices. You may need to provide different information to different groups e.g. employees, club members/ parents and volunteers if your purpose and uses of data are different.

You should select an appropriate mechanism for providing the information, which may be electronically but could also be verbal where necessary.

See FAQs for further information on what needs to be included in your COVID-19 privacy notices. You can also find further information in the GDPR section of GymNet or on the ICO website.

[ICO website](#)

# COVID-19 Data Protection FAQs

## What legal bases and conditions for processing special category of personal data are most appropriate for COVID-19 purposes?

GDPR states that the processing of personal data will only be lawful if the processing is necessary:

- for the performance of a contract with the data subject;
- for you to comply with a legal obligation;
- to protect someone's vital interests;
- for a task carried out in the public interest;
- for your legitimate interests or those of another controller or third party; or
- where you have the data subject's consent to process the data for the specific purposes.

In addition, if you are processing special category of personal data e.g. health data, you will also need to identify an additional condition. These conditions can be found in Article 9 of the GDPR, which is supplemented in the UK by Schedule 1 of the Data Protection Act 2018.

In the case of employees, consent (or explicit consent where the processing involves special category personal data) is unlikely to be appropriate in most circumstances. This is because GDPR requires that consent be 'freely given' which is not often the case within an employee to employer relationship. Consent will only be an appropriate legal basis where individuals have a genuine choice about whether to allow their data to be processed for a particular purpose e.g. members and volunteers completing a wellbeing questionnaire.

Where your club is an employer, you are subject to legal obligations relating to health and safety in the workplace so in many instances, the processing will be necessary to comply with a specific legal obligation. For special category data e.g. employee health data, the relevant condition will be that processing is necessary for the employer to carry out obligations under employment law. This condition will cover most COVID-19 related employee processing, providing that the information being collected is necessary and relevant for the purpose.

Legitimate interests are likely to be appropriate for many COVID-19 related purposes, particularly where there are compelling reasons to support the processing and data subjects would expect it and would be unlikely to object. However, you will need to ensure you put appropriate safeguards in place to minimise data protection risks, particularly if data subjects are children.

Alternatively, some processing may be necessary for the performance of a task carried out in the public interest. This is likely to be the case where the processing is related to controls and monitoring measures that are specifically required under government guidance.

If relying on legitimate interests or public interest, you will also need an additional condition if your purpose involves processing health data in a way that is beyond your normal procedures if a member became ill while at the club. Health data can be processed by health professionals for significant public interest reasons including public health so there will be no barriers for sharing information with relevant public bodies. It may also be reasonable for such processing to occur relating to your obligations to your employees under health and safety law.

For emergency situations, you are likely to be able to rely upon vital interest grounds. This also applies to health data if the individual is incapable/unable to provide their consent. Remember that you will need to inform data subjects in your privacy notice the legal bases and special category conditions you are relying on.

## **Should the club undertake medical screening tests e.g. undertaking body temperature monitoring?**

One of the common symptoms of those infected with COVID-19 is a high fever. As there are various ways that temperature screenings can be carried out that are minimally intrusive, some organisations are considering temperature screenings as a means of identifying who should be allowed into workplaces or other facilities.

However, government guidance (for education or childcare settings) highlights that the routine testing of children's temperatures is not reliable for identifying COVID-19 and suggest that typical COVID-19 screening questions regarding the child and their household (e.g. high fever, persistent cough or loss of taste) are a more effective way of identifying potential cases.

Any use of temperature checks must be considered based on the context that applies to the proposed testing group e.g. employees, squad members etc. Any screening needs to be necessary and proportionate and be within the reasonable expectations of those being monitored. If the purpose can be achieved in another less privacy-intrusive way, then undertaking your own screening tests will not be considered proportionate e.g. making sure everyone attending the club must only do so if neither they or anyone in their household has any of the common COVID-19 symptoms.

Clubs considering temperature checks would also need to also consider whether they are required to undertake a Data Protection Impact Assessment (DPIA). Under the GDPR, DPIAs are mandatory for any high-risk data processing. Any screening is likely to be high-risk if it involves intrusive medical checks, therefore you should not carry out an intrusive screening without undertaking a DPIA.

Please note that the government guidance for elite sport requires some form of prior screening before athletes are permitted to enter the training environment but must be carried out by an appropriately trained healthcare professional and with the approval of an appointed medical officer.

## **Can we keep records of those who have displayed symptoms or tested positive?**

If this is necessary for your identified purposes, you can keep these records, but you must ensure that the information you collect is relevant for the purpose and you do not collect more information than you actually need.

## **Can I inform others if someone attending the club premises has tested positive?**

Anyone who has had face-to-face contact with someone who has tested positive for COVID-19 will need to be informed. In some instances (arrangements will vary dependent on where in the UK your club is based), the government 'track and trace' scheme will undertake contact tracing but it is likely that employers/clubs will have some role. You should ensure you understand how the relevant scheme works.

Information sharing will be justifiable in circumstances where failure to share will place others at significant risk, however you must ensure that you limit any sharing to only the information that is necessary and to only those who need to know. Where possible, you should not identify any individuals who have symptoms or have been tested positive.

## **What information do I need to tell data subjects about new COVID-19 related purposes?**

Where you are carrying out any new COVID-19 related activities that involve the use of personal data that aren't explained in your existing privacy notices, you will need to inform relevant data subjects. You should explain:

- Your purpose(s), the personal data you need for the purpose(s) e.g. health data and the source of the data (if it has not been provided directly by the data subject)
- Your legal bases and special category condition (if applicable)
- Any recipients of the personal data – this includes other organisations with whom data would be shared for specific purposes and if applicable, any individuals who are at risk of contracting COVID-19 having been in contact with someone with the virus (although this should, where possible be done without identifying the individual who has been tested positive)
- How long you will retain the information or the retention criteria

You should also include a link to your main privacy notice that provides additional information, such details of data subject rights and who to contact.

## **How long should we retain data collected solely for COVID-19 related purposes?**

If you are collecting new data for COVID-19 related purposes, you should not retain it for longer than necessary to achieve the purpose. In some cases, you may not be able to state a specific time period but you should define your retention criteria e.g. this information will be processed for as long as it is necessary to maintain our COVID-19 prevention measures. You should delete/securely destroy any unnecessary information once COVID-19 restrictions end or once it is no longer required.