

Guidance note- Privacy notice for use when consent cannot be gained for processing Special Category data

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Background

When servicing our domestic customers, we may come across a scenario where an individual living in the property meets the criteria for assistance through a condition that is classed as Special Category (SC) data under UK GDPR but does not have the capacity to provide consent; this may be through mental capacity or some other disability.

Usually in these circumstances there will be an advocate for the individual who has **Legal Power of Attorney (LPOA)** to make this decision on their behalf, but in rare circumstances no LPOA is in place, so we need to rely on a different lawful basis for processing the individual's data so that they can benefit from the services we provide.

To process SC data there are a variety of lawful basis already set out in the legislation, the one we need to rely on in this scenario is **Substantial public interest**; under this lawful basis there are 23 conditions for using Substantial public interest as the lawful basis, the one we need to use is **16. Support for individuals with a particular disability or medical condition**.

Just in time Privacy notice (verbal)

Please use the following privacy notice template for just in time interactions with customers.

We need to process information related to your health to assess you for eligibility for funded services, under the UK GDPR we would normally ask for your consent to process this information, however because you, or your dependant, cannot provide consent for the processing of the data we need to rely on a different lawful basis, this lawful basis is called **Substantial public interest**, and the

condition we rely on to use this lawful basis is **Support for individuals with a particular disability or medical condition**.

This information is only used for the purpose of evidencing your eligibility for our services, it will be stored securely after your eligibility has been verified for scheme audit purposes and will be deleted by <insert scheme data retention delete date here>.

The information will be stored securely within YES Energy Services IT systems and will not be shared with any third parties or employees who are not involved in the delivery, or auditing of the service we are providing to you. We may share this information with the scheme provider as part of their audits of the service we are delivering on their behalf.

You have several rights concerning the processing of your data and you can read about them on our website, or we can send you a full privacy notice via email, or in the post.

Website address – www.yesenergysolutions.co.uk/privacy

Full Privacy notice (Web and post)

Title - Privacy notice for processing special category data where the individual cannot provide consent.

About this notice

This privacy notice is only relevant for the rare circumstances that you, or your dependent cannot provide consent; a typical scenario this covers is that you have a dependent who cannot make decisions for themselves, but you do not have Legal Power of Attorney to make decisions on their behalf, i.e. a dependent adult with mental capacity issues.

What type of information do we collect and why do we collect it?

We need to process information related to your health to assess you for eligibility for funded services, under the UK GDPR we would normally ask for your consent to process this information, however because you, or your dependant, cannot provide consent for the processing of the data we need to rely on a different lawful basis, this lawful basis is called **Substantial public interest**, and the condition we rely on to use this lawful basis is **Support for individuals with a particular disability or medical condition**.

This information is only used for the purposes of evidencing your eligibility for our services, and for auditing that we have correctly validated your eligibility during quality checks, it will be stored securely after your eligibility has been verified for scheme audit purposes and will be deleted in line with the retention policy of the scheme your service falls under.

How is your information stored?

The information will be stored securely within YES Energy Services IT systems and will not be shared with any third parties or employees who are not involved in the delivery, or auditing of the service we are providing to you. We may share this information with the scheme provider as part of their audits of the service we deliver to you on their behalf.

What are your rights

You have several rights concerning the processing of your data:

- The right to be informed – This and other privacy notices you receive from us satisfy this right

- Right of access – You have the right to know what information we hold about you and receive copies of that data
- Right of rectification – You have the right to have any inaccuracies in the data we hold about you corrected

If you choose not to go ahead with our services, you also have:

- Right to erasure - You have the right to ask us to erase your personal information in certain circumstances.

You can invoke any of the above rights by contacting our Data Protection team via the methods shown below.

By post:

Data Protection Team
YES Energy Solutions
Unit 1 Brookwoods Industrial Estate
Holywell Green
Halifax
HX4 9BH

By phone:

01422 880 100

[How to complain](#)

If you have any concerns about our use of your personal information, you can make a complaint to us at the address above.

You can also complain to the ICO if you are unhappy with how we have used your data.

The ICO's address:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Helpline number: 0303 123 1113 ICO website: <https://www.ico.org.uk>