

# Sensitive Data in GDPR and National Data Protection Act

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Photograph, 1914/1918 - First World War wounded soldiers:  
group portrait.  
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# **GDPR protects fundamental rights**

## **General Data Protection Regulation GDPR (2016/679)**

**The aim of GDPR : Recital 4):**

**The processing of personal data should be designed to serve mankind. The right to the protection of personal data is not an absolute right; it must be considered in relation to its function in society and be balanced against other fundamental rights, in accordance with the principle of proportionality.**

# Charter of Fundamental Rights of the European Union (2012/C 326/02)

## Article 8 Protection of personal data

1. Everyone has the right to the protection of personal data concerning him or her. 2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. 3. Compliance with these rules shall be subject to control by an independent authority.

# Charter of Fundamental Rights of the European Union

## Article 13 Freedom of the arts and sciences

The arts and scientific research shall be free of constraint. Academic freedom shall be respected.

# Charter of Fundamental Rights of the European Union

## Article 11 Freedom of expression and information

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. The freedom and pluralism of the media shall be respected.

# Charter of Fundamental Rights of the European Union

## Article 52 Scope and interpretation of rights and principles

1. Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. **Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest** recognised by the Union or the need to protect the rights and freedoms of others.

# GDPR

## Recital 157)

**By coupling information from registries, researchers can obtain new knowledge of great value with regard to widespread medical conditions. On the basis of registries, research results can be enhanced, as they draw on a larger population. Within social science, research on the basis of registries enables researchers to obtain essential knowledge about the long-term correlation of a number of social conditions. Research results obtained through registries provide solid, high-quality knowledge. In order to facilitate scientific research, personal data can be processed for scientific research purposes, subject to appropriate conditions and safeguards.**

# GDPR

## Recital 159)

**The processing of personal data for scientific research purposes should be interpreted in a broad manner including for example technological development and demonstration, fundamental research, applied research and privately funded research. In addition, it should take into account the Union's objective under Article 179(1) TFEU of achieving a European Research Area. To meet the specificities of processing personal data for scientific research purposes, specific conditions should apply in particular as regards the publication or otherwise disclosure of personal data in the context of scientific research purposes.**



# GDPR Article 9 Processing of special categories of personal data

**1. Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited, 2. Paragraph 1 shall not apply if one of the following applies: j) processing is necessary for archiving purposes in the public interest, scientific research purposes or statistical purposes in accordance with Art 89(1) based on law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the**

# **Article 10 EU GDPR Processing of personal data relating to criminal convictions and offences**

**Processing of personal data relating to criminal convictions and offences or related security measures based on Article 6(1) shall be carried out only under the control of official authority or when the processing is authorised by Union or Member State law providing for appropriate safeguards for the rights and freedoms of data subjects. Any comprehensive register of criminal convictions shall be kept only under the control of official authority.**

# GDPR Art 189

**1.Processing for archiving purposes in the public interest, scientific research purposes or statistical purposes, shall be subject to appropriate safeguards for the rights and freedoms of the data subject. Safeguards include technical and organisational measures and data minimization and may include pseudonymisation if purposes can be fulfilled in that manner. Further processing that no longer permits the identification of data subjects shall be fulfilled in that manner.**

# GDPR Art 35 Data protection impact assessment (DPIA)

1. Where a type of processing in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall, prior to the processing, carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. DPIA shall in particular be required in the case of b) processing on a large scale of special categories of data referred to in Article 9(1), or of personal data relating to criminal convictions and offences referred to in Article 10;

## **WP 29 Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is “likely to result in a high risk” for the purposes of Regulation 2016/679 (WP 248)**

**Sensitive data includes special categories of data as defined in Article 9 (for example information about individuals’ political opinions), as well as personal data relating to criminal convictions or offences. An example would be a general hospital keeping patients’ medical records. This criterion also includes data which may more generally be considered as increasing the possible risk to the rights and freedoms of individuals, such as electronic communication data, location data, financial data (that might be used for payment fraud). In this regard, whether the data has already been made publicly available by the data subject or by third parties may be relevant.**

# Finnish Personal Data Act 1050/2018

6 §

Erityisiä henkilötietoryhmiä koskeva käsittely

Tietosuoja-asetuksen 9 artiklan 1 kohtaa ei sovelleta:

7) tieteellistä tai historiallista tutkimusta taikka tilastointia varten tehtävään tietojen käsittelyyn;

**Section 6 § GDPR Art 9.1 shall not apply:**

**7) processing is necessary for scientific research or archiving**

# **Finnish Personal Data Act section 31 §**

**If there is derivation from the rights of data subject, and special category of data is processed, a data protection impact assessment is required, and the DPIA must be sent to the supervising authority, data ombudsman.**

# Finnish Personal Data Act

31 §

Tieteellisiä ja historiallisia tutkimustarkoituksia sekä tilastollisia tarkoituksia varten tapahtuvaa henkilötietojen käsittelyä koskevat poikkeukset ja suojatoimet

Käsiteltäessä henkilötietoja tieteellistä tai historiallista tutkimustarkoitusta varten voidaan tietosuoja-asetuksen 15, 16, 18 ja 21 artiklassa säädetyistä rekisteröidyn oikeuksista tarvittaessa poiketa edellyttäen, että:

- 1) käsittely perustuu asianmukaiseen tutkimussuunnitelmaan;
- 2) tutkimuksella on vastuuhenkilö tai siitä vastaava ryhmä; ja

3) henkilötietoja käytetään ja luovutetaan vain historiallista tai tieteellistä tutkimusta taikka muuta yhteensopivaa tarkoitusta varten