

GDPR (LIA) Legitimate Interests Assessment Template

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Purpose test

Is the purpose “legitimate”?

Question	Answer	Guidance
Why do you want to process the data?		
What benefit do you expect to get from the processing?		Think about how your organisation will benefit. This can be straightforward. For example you may anticipate that sales will rise as a result of the processing which will help you grow your business.
Do any third parties benefit from the processing?		Think about how third parties which are helping you process the data may benefit from this.
Are there any wider public benefits to the processing?		Think about societal benefits.
How important are those benefits?		

What would the impact be if you couldn't go ahead?		Consider the negative impacts on your organisation, you also may want to consider the negative impacts on any third parties which will assist you in the processing and if there are some public or societal benefits from the processing, how the public/society will be impacted if the processing doesn't go ahead.
What is the intended outcome for individuals?		
Are you complying with other relevant laws?		Referencing the laws where there may be ambiguity or legal challenges will be helpful.
Are you complying with industry guidelines or codes of practice?		Be sure to check for guidelines or code of conduct that your organisation may have committed to or already be legally bound to because of the industry in which you operate.
Are there any ethical issues with the processing?		

Necessity test

Is the processing “necessary”?

Question	Answer	Guidance
Will the processing actually help you achieve your purpose?		
Is the processing proportionate to that purpose?		
Can you achieve your purpose without processing the data, or by processing less data?		
Can you achieve your purpose by processing the data in another more obvious or less intrusive way?		

Balancing test

Is the legitimate interest overridden by the individual’s interests, rights or freedoms?

The nature of personal data you want to process		
Question	Answer	Guidance
Is the data special-category data under GDPR?		Special category data is sensitive data that includes: racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data (where used for identification purposes), data concerning health, data concerning a person's sex life or data concerning a person's sexual orientation.
Is the data particularly sensitive or revealing?		Does the data relate to people who should be afforded additional protections such as vulnerable people and children?
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The reasonable expectations of the individual

Question	Answer	Guidance
Do you have an existing relationship with the individual?		Describe the nature of that relationship.
How have you used their data in the past?		Does the data relate to people who should be afforded additional protections such as vulnerable people and children?
Did you collect data directly from the individual?		
What did you tell individuals at the time?		If you obtained the data from a third party, what did they tell individuals about reuse of the data by third parties for other purposes?
How long ago was the data collected? Are there any changes in technology or cultural changes since that time that would affect current expectations?		Consider how data subjects expectations of what data processing is possible with their data as a result of technological or cultural change. For example if Quantum computing became universally accessible and low-cost it would be possible to crack basic encryption easily and therefore people's expectations of what can be done with their data would change.

Is your intended purpose and method obvious or widely understood?		
Are you intending to do anything new or innovative?		
Do you have any actual evidence about expectations, e.g. from market research, focus groups or other forms of consultation?		If not explain why you have deemed it not necessary or unfeasible to run market research or other forms of consultation.

The likely impact of the processing on the individual and whether any safeguards can be put in place to mitigate negative impacts

Question	Answer	Guidance
Could the processing put the data subject at risk?		
Could there be physical or mental harm as a result of the processing?		

Could the processing impact the data subject's ability to exercise their rights?		
Are some people likely to object to the processing or find it intrusive?		
Would you be happy to explain the processing to individuals?		
Can you adopt any safeguards to minimise the impact?		
Can you offer an "opt-out" for the processing?		

Decision

Use your answers to the previous sections to form your decision.

You will want to weigh up all factors to make your final decision, you should keep in mind that this analysis will be objective. It is not a mathematical exercise with points awarded to each section. It is particularly important that your reasoning is comprehensive, covers all the key concerns and is well documented so that you can rely on it later if challenged by a data subject or the regulatory authorities.

Can you rely on "legitimate interests" as a lawful basis for this data processing?	
Comments to support your decision:	
Assessment completed by:	
Assessment completed date:	