

Legitimate Interest Assessment [LIA] for the processing of personal data of offenders

1	Legitimate Interest Test	
A	What is the purpose of the processing operation	<p>To protect the property of our Members from harm and their staff and customers from crime and anti-social behaviour and to exclude from their premises any individuals who are proven threats to their property, staff or customers or disrupt the peaceful enjoyment that their customers expect from the goods and/or services that our Members offer.</p> <p>To monitor the activity of those early offenders in danger of exclusion from our Member's premises and, wherever possible, intervene to prevent the same.</p>
B	Is the processing necessary to meet one or more specific organisational objectives?	Yes. The Scheme processes Offenders' personal data for the management of its Exclusion Scheme on behalf of its Members, to inform Members of an offender's modus operandi, to collate intelligence on criminal activity within the area of the Scheme's operation and to contribute to legal proceedings against Offenders where appropriate.
C	Is the processing necessary to meet one or more specific objectives of any Third Party?	Yes. The objectives of our Members
D	Does the GDPR, ePrivacy Regulation or other national legislation specifically identify the processing activity as being a legitimate activity, subject to the completion of a balancing test and positive outcome?	Yes. Article 23 of the GDPR allows for derogations and the Data Protection Act 2018 permits the processing of data without consent on the basis of Legitimate Interest for the 'prevention, investigation, detection or prosecution of criminal offences'.
2	Necessity Test	
A	Why is the processing activity important to the Controller?	It identifies threats to the property of our Members or their staff and customers and seeks to reduce or remove the threat through targeted actions against offenders. Our Members have vested in the BCRP certain authorities to carry out actions on their behalf.
B	Why is the processing activity important to other parties the data may be disclosed to?	It is important to our Members because it informs and identifies individuals against whom the BCRP has taken action so that they can be prevented from entering their premises. It also informs them of individuals who are in danger of exclusion so that they can intervene to prevent exclusion.
C	Is there another way of achieving the objective?	No

3	Balancing Test	
A	Would the individual expect the processing activity to take place?	No.
B	Does the processing add value to a product or service that the individual uses?	No.
C	Is the processing likely to negatively impact the individual's rights?	No. Not on their rights under GDPR. Their right to enter our Member's premises is tacit and can be withdrawn at any time under Common Law.
D	Is the processing likely to result in unwarranted harm or distress to the individual?	No. It will not result in unwarranted harm. Using the Oxford English Dictionary definition of 'unwarranted' [<i>lacking a good reason; unnecessary</i>] it will not result in unwarranted distress although it may result in some distress because it restricts the individual's liberty to enter some retail premises.
E	Would there be a prejudice to Data Controller if processing does not happen?	Yes. The BCRP's Members expect the data controller to act in a manner that protects their property and hence it would result in prejudice if the processing was not carried out.
F	Would there be a prejudice to a Third Party if processing does not happen?	Yes. To the BCRP Members against whom offences are committed.
G	Is the processing in the interests of the individual whose personal data it relates to?	Under some circumstances. If it prevents offenders from entering the criminal justice system via early intervention by the BCRP [and other agencies] it is of benefit to the individual.
H	Are the legitimate interests of the individual aligned with the party looking to rely on their legitimate interests for the processing?	Under some circumstances. If it prevents offenders from entering the criminal justice system via early intervention by the BCRP [and other agencies] it aligns with the legitimate interests of the individual.
I	What is the connection between the individual and the organisation?	None.
J	What is the nature of the data to be processed? Does data of this nature have any special protections under GDPR?	Name. Date of birth. Photographic image. Address. Ethnicity. Offences against BCRP Members. Ethnicity is special category data but it is required because it forms an integral part of the identification process to inform our Members of individuals who are excluded or in danger of being excluded.

K	Is there a two-way relationship in place between the organisation and the individual whose personal information is going to be processed? If so how close is that relationship?	Yes. There will be a periodic two-way relationship for the duration that the data is held or an exclusion notice is in force. It is not a close relationship.
L	Would the processing limit or undermine the rights of individuals?	It would not affect the rights of the individual under GDPR but it would limit his/her tacit invitation [right] to enter certain private premises in the city of Brighton.
M	Has the personal information been obtained directly from the individual, or obtained indirectly?	Directly Indirectly Both
N	Is there any imbalance in who holds the power between the organisation and the individual?	Yes. But the imbalance is mitigated by these measures <ul style="list-style-type: none"> a. Issuing warning letters to the individual's after the first reported incident making it clear that the consequences of continued offending will result in exclusion and listing the premises from which they will be excluded b. Offering 'putting it right' sessions to offenders who have no previous history of criminal activity. c. Ensuring that exclusions are given full consideration by the Board of Management and that evidence is verified as being accurate and fair. d. In the event of an exclusion, ensuring that the appeals procedure is drawn to the attention of the offender
O	Is it likely that the individual may expect their information to be used for this purpose?	No
P	Could the processing be considered intrusive or inappropriate? In particular,	It may be considered intrusive or inappropriate by the individual but, given the nature of the incidents that result in data processing, it would not be perceived as such by any reasonable assessment by an uninterested third party.

	could it be perceived as such by the individual or in the context of the relationship?	
Q	Is a fair processing notice provided to the individual, if so, how? Are they sufficiently clear and up front regarding the purposes of the processing?	Yes. By post [where an address is known] immediately upon receipt of any data from any source.
R	Can the individual, whose data is being processed, control the processing activity or object to it easily?	To an extent they can control it via the appeal procedure. They can also object to it. Procedures for doing so are included in the initial letter and straightforward access to the appropriate appeal process is via the BCRP website.
S	Can the scope of the processing be modified to reduce/mitigate any underlying privacy risks or harms?	No. The processing already includes all practicable measures for reducing privacy risks.
T	Safeguards & compensating controls	<p>Information will be shared with the statutory agencies.</p> <p>Until the threshold for exclusion is reached information will not be shared with Members.</p> <p>All members sign a binding data integrity agreement which prevents them from sharing information with third parties who are not Members of the BCRP. If the data integrity agreement is breached, procedures are in place to identify the guilty party and act accordingly.</p> <p>Particular attention will be drawn to the appeals process when communicating with the individual.</p>
U	Outcome of assessment	<p>It is the conclusion of the BCRP that the Legitimate Interest basis for the processing of personal information without the consent of the individual is valid.</p> <p>The right of our Members to protect their property from harm and their staff and customers from crime and anti-social behaviour and to exclude from their premises any individuals, including children, who are proven threats to their property, staff or customers or disrupt the peaceful enjoyment that their customers expect from the goods and/or services that our Members offer is greater than the rights of the individual to privacy.</p>

		Sufficient safeguards are put in place to protect the privacy of the individual.
	Signed by	
	Date	