



## Data Controllers and Processors – Understanding the Difference (GUIDANCE FOR ALL STAFF)

### What the different roles can be:

- **Data controllers** are organisations/contractors that make decisions regarding data processing/use – they decide the purposes of data collection/use and the means by which it is processed. *Example: The University will be a data controller for data collected on our students.*
- If two or more controllers both jointly decide the purpose and means of data processing then they are **Joint Controllers**. *Example: Partners in collaborative research projects may be joint controllers.*
- However, two controllers can collect the same data and each process it for a different purpose. In this case they will be **Controllers in Common**. *Example: The University and HMRC may each hold employee data relating to tax but will each process it for different purposes*
- **Processors** will act on behalf of, and under the instruction of, a data controller. *Example: Many third party service providers (i.e. IT systems) are data processors on behalf of the University.*

### Checklist to help tell the difference:

#### Data Controllers

- You decide to collect and use the data
- You decide why the data is being collected
- You decide what data is collected
- You may be processing the data because of a contract between you and the individuals
- The data subjects are your employees
- You make decisions about the individuals during, or as a result of, the processing
- You have a direct relationship with the data subjects
- You have autonomy in deciding how the data is processed
- You may have engaged a third party to process data on your behalf

#### Data Processors

- You are following instructions from someone else regarding the data processing
- You are given the data by a third party, or told what data should be collected
- You decide to collect personal data from individuals
- You decide what purpose the data will be used for
- You decide whether data is disclosed or to whom
- You decide how long to retain the data for
- Decisions you make regarding the data are determined under a binding contract
- You are not interested in the end result of processing

### What do you need to know if you're a Data Controller?

- As a controller you are ultimately responsible for the data and have the highest level of compliance responsibilities. These include:

Compliance with the data protection principles

Allowing individuals to exercise their rights

Implementing technical and organisational security controls

Obtaining adequate reassurance that your processors are complying with regulations

Having binding contracts with any data processors

Notifying the ICO of any data breaches

Complying with accountability obligations



- As a controller you must comply with all the data protection principles and you also need to demonstrate compliance.
- If you are a data controller you also need to be responsible for the compliance for any data processors you might use.
- The regulator (the Information Commissioner's Office) can take action against data controllers.

## What do you need to know if you're a Data Processor?

- As a processor you don't have the same level of obligations under data protection legislation as controllers. However you do have some direct obligations these include:



- Action can be taken directly against a processor if you breach any of your obligations.

## What do you need to know if you're a Joint Data Controller?

- Agreement should be reached between the two controllers on who will take on which responsibilities for complying with data protection regulations.
- All joint controllers remain responsible for compliance.
- The ICO and individuals may take action against either controller (and both) in the event of a data breach.

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### Further information:

- If you need further information or have questions about data protection related issues please email [gdpr@le.ac.uk](mailto:gdpr@le.ac.uk)
- Further guidance on complying with data protection legislation is available at: <https://www.le.ac.uk/gdpr>

