

Commonwealth Games England - Legal Basis for Processing Data under UK GDPR

1. Purpose and Scope

Under the UK GDPR, Commonwealth Games England (CGE) is required to document its legal bases for processing the various categories of personal data under its control.

This document is intended to address this requirement, and to provide a baseline for future reviews as the business changes and develops.

2. Business Processes to be Addressed

- Company Employees (including directors and NED's operating under contract)
- Athletes, officials and volunteers operating under the Long List process prior to entering into the Team Members' Agreement
- Athletes, officials and volunteers operating under the Team Members' Agreement
- Individuals seconded to CGE by agreement with their employer for games team purposes (secondees)
- Sponsors and stakeholders
- Service Providers (suppliers to the Company)
- Website subscribers
- Fundraising / potential sponsorship leads

3. Legal Basis by Process

3.1. Company Employees

CGE employs a comparatively small number of permanent employees (including directors and NED's) together with a widely variable number of temporary employees as each games cycle moves towards competition time. As a result, CGE has all the usual responsibilities associated with the maintenance and management of an employer / employee relationship. CGE maintains both individual HR file records and payroll records as part of the process of managing this relationship. During the individual games periods, health records and / or well-being monitoring may be processed, but this in only with the express consent of the data subject.

Our considered position is that the legal basis for this data processing falls under all of the following UK GDPR provisions

For the execution of the employment contract:

6(1)(b) – processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract

For the execution of HMG / HMRC requirements:

6(1)(c) – Processing is necessary for compliance with a legal obligation

For the execution of management / business processes and the provision of management information in the day-to-day running of the organisation:

6(1)(f) – Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

For the management of health-related data, sports science provisions and wellbeing monitoring

6(1)(a) – Consent of the data subject

For the collection, processing and possible transfer of special category personal data when an employee becomes a team member for a specific Commonwealth Games

9(2)(a) – Consent of the data subject

3.2. Athletes, officials and volunteers

At each individual games, CGE enters into a games-specific Team Member's Agreement (TMA) with all athletes, officials and volunteers. Prior to entering into the final TMA, potential team members are collated into the Games Long List. An initial limited amount of personal data (which is effectively all also available from open sources) is received from each sport's National Governing Body (NGB) under a discrete Data Sharing Agreement between each NGB and CGE.

Our considered position is that the legal basis for this data processing falls under the following UK GDPR provision

6(1)(f) – Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

Once the potential team member is on the long list, CGE contacts each individual and invite them to set up an account on the CGE +1% platform. This account will be used to store personal data provided by the potential team member, and this personal data may potentially include special category personal data (primarily in the form of medical information relating to wellbeing and sporting competition such as doping control)

Our considered position is that the legal basis for this data processing falls under the following UK GDPR provisions

For the collection, processing and possible transfer of personal data

6(1)(a) – Consent of the data subject

For the collection, processing and possible transfer of special category personal data

9(2)(a) – Consent of the data subject

Once the TMA has been signed, CGE has what is effectively analogous to an employment relationship with these individuals for the duration of the TMA even though there is no formal employer / employee relationship in place. As a result, CGE processes data in order to manage the relationship and satisfy legal and operational requirements. During the individual games periods, health records and / or well-being monitoring may be processed, but this in only with the express consent of the data subject.

Our considered position is that the legal basis for this data processing falls under all of the following UK GDPR provisions

For the execution of the TMA:

6(1)(b) – processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract

For the execution of HMG / HMRC requirements:

6(1)(c) – Processing is necessary for compliance with a legal obligation

For the execution of management / business processes and the provision of management information in the day-to-day running of the organisation:

6(1)(f) – Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

For the management and potential transfer personal data and special category personal data

6(1)(a) – Consent of the data subject (personal data)

9(2)(a) – Consent of the data subject (special category personal data)

3.3. Secondees

At each individual games, CGE enters into a specific duration secondment arrangement with certain organisations whereby one or more of their employees is seconded to CGE for the games management process. CGE has what is effectively analogous to an employment relationship with these individuals for the duration of the secondment even though there is no formal employer / employee relationship in place. As a result, CGE processes data in order to manage the relationship and satisfy legal and operational requirements. During the individual games periods, health records and / or well-being monitoring may be processed, but this is only with the express consent of the data subject.

Our considered position is that the legal basis for this data processing falls under all of the following UK GDPR provisions

For the execution of HMG / HMRC requirements:

6(1)(c) – Processing is necessary for compliance with a legal obligation

For the execution of management / business processes and the provision of management information in the day-to-day running of the organisation:

6(1)(f) – Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

For the management of health-related data, sports science provisions and wellbeing monitoring

6(1)(a) – Consent of the data subject

3.4. Sponsors and stakeholders

CGE maintains working relationships with sponsors and stakeholders who support the organisation in a variety of ways through the games cycle. CGE processes the data required to maintain the relationship, and also where necessary to secure accreditation for individuals to specific games.

Our considered position is that the legal basis for this data processing falls under the following UK GDPR provision

6(1)(f) – Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

If an individual sponsor or stakeholder enrolls in the health and wellbeing programme, for the management of health-related data, sports science provisions and wellbeing monitoring

6(1)(a) – Consent of the data subject

3.5. Service Providers (suppliers to the Company)

CGE operates with a broad portfolio of suppliers / service providers ranging in size from micro-companies (primarily providing contracting services) to major international businesses. All of these service providers freely enter into the relationship with CGE on normal commercial terms. CGE maintains the standard records for the management of the business relationship, including details of the suppliers' nominated business contacts. The absolute minimum of non-business related personal data (e.g. mobile phone details) are processed as an unavoidable part of these relationships.

Our considered position is that the legal basis for this data processing falls under the following UK GDPR provision

6(1)(f) – Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

3.6. Website subscribers

CGE operates a website to promote its activities and communicate with the general public. It is a non-commercial facility purely for the promotion of the organisation and sport in general. A facility is provided whereby members of the public can submit their contact details and subscribe to CGE communication e-mails. These are non-commercial information dissemination e-mails, and submission of details involves the data subject actively consenting to receive these e-mails. The CGE privacy notice is clearly displayed on the website.

In this case, our considered position is that the legal basis for this data processing falls under the following UK GDPR provision

6(1)(a) – Consent of the data subject

3.7. Fundraising / potential sponsorship leads

CGE operates a database of potential corporate and individual donors / sponsorship leads where information is stored to allow CGE to develop a future relationship, should the data subject (or corporate entity) so desire. At the start of the process, the relationship is nascent, so the data captured, stored and processed is by its very nature limited. CGE endeavours to convert leads into Sponsors (see 3.4, above) as quickly as possible. Notwithstanding this, within one month of the creation of the lead data either the data will either be deleted, or the Lead will be notified that the Group is now processing the Lead's personal data. As part of this notification process, the Lead will be sent a copy of the Group's privacy notice.

Our considered position is that the legal bases for this data processing falls under the following UK GDPR provisions

6(1)(b) – processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract

(in the case of single individuals with whom we may contract) or

6(1)(f) – Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

(in all other cases)