

NEC Scheme Changes DPIA Nov. 2021

This template is an example of how you can record your DPIA process and outcome. It follows the process set out in our DPIA guidance, and you should read it alongside that guidance and the [Criteria for an acceptable DPIA](#) set out in European guidelines on DPIAs.

Start to fill out the template at the beginning of any major project involving the use of personal data, or if you are making a significant change to an existing process. Integrate the final outcomes back into your project plan.

Step 1: Identify the need for a DPIA

Explain broadly what the project aims to achieve and what type of processing it involves. You may find it helpful to refer or link to other documents, such as a project proposal. Summarise why you identified the need for a DPIA.

This DPIA covers two significant changes to the processing associated with the Scottish National Entitlement Card (NEC), namely the awarding of new contracts to suppliers which has resulted in changes both in terms of technical solutions and agreements employed (hereafter referred to as the "New Contracts") and the future introduction of a new Young Persons' Free Bus Travel Scheme by the Scottish Government that is to make use of the NEC, (hereafter referred to as the "YP Free Bus Scheme").

New Contracts: Any change to the suppliers and systems handling personal data has the potential to result in new risks, and changes to existing risks.

YP Free Bus Scheme: Whilst the age range targeted by the Scheme (ages 5-21 inclusive) have been able to have NECs for many years, the requirement to implement the new travel concession in line with policy set by Scottish Ministers acting through their executive agency Transport Scotland (hereafter referred to as "Transport Scotland") will result in changes in the way data is processed.

N.B. The enabling legislation for the Scheme (specifically, The National Bus Travel Concession Scheme for Young Persons (Scotland) Order 2021, S.S.I. 2021/175) also included provision for the extension of the existing concessionary scheme for older and disabled persons to include those disabled persons under the age of 5 who require a companion; this change did not result in any change requiring a DPIA to be completed.

Step 2: Describe the processing

Describe the nature of the processing: how will you collect, use, store and delete data? What is the source of the data? Will you be sharing data with anyone? You might find it useful to refer to a flow diagram or another way of describing data flows. What types of processing identified as likely high risk are involved?

New Contracts: These have resulted in a separation of tasks involved with provision of the Card Management System (CMS) that maintains the database for the NEC from those related either to the Card Production Bureau or the Data Entry Bureau functions. Under the new contracts, both Bureau functions are performed by the same supplier. The document INFORMATION ARCHITECTURE DATA FLOW DIAGRAMS provides information about the relevant data flows. Supporting information can also be found in Appendix 2 (Data Items and Adequacy) of the document INFORMATION SHARING AGREEMENT.

YP Free Bus Scheme: This has required the collection of a new item of data, namely the collection of the confirmation of parent or legal guardian providing parental approval for free bus travel for NEC holders under the age of 16. This is referenced in the documents above. Transport Scotland have also asked that "Appropriate identification and verification checks must be completed for under 16s to ensure parent/guardian approval. This information must be kept for a period of 2 years from date of application. This is to allow Transport Scotland/ Audit Scotland to audit the application process." This "information" has not been specified further as "personal data" and is therefore to be interpreted as evidence of a suitable process being followed in whatever format is appropriate. There is no change to the sources of data used which as before will rely on engagement from the data subject or their parent/ guardian.

Describe the scope of the processing: what is the nature of the data, and does it include special category or criminal offence data? How much data will you be collecting and using? How often? How long will you keep it? How many individuals are affected? What geographical area does it cover?

New Contracts: Whilst there will now be two suppliers instead of one involved in the day-to-day processing of data, this has meant that some personal data is now out of scope for the Bureau supplier.

N.B. Whilst the new CMS supports interrogation of journey information, this functionality has been turned off in line with the data minimisation/privacy precautions exercised by the NEC Scheme.

YP Free Bus Scheme: Previously, less than 9% of Scottish 5-10 year olds were NEC holders, and the majority of those (78%) were from just two local authority (LA) areas that offered services to that age group. It is to be expected that the number of cardholders in this age group will increase significantly (there are around 360,000 in this age group, and a full take-up by that age group will increase the number of cardholders within the scheme by around 15%). Take-up of the NEC in the 11-21 year old age group has historically been driven by association with the Young Scot charity and is currently over 76%; there is potential growth of only 150,000 in this older group.

For those aged under 12 using the YP Free Bus Scheme, a photograph will not be required.

Due to the restrictions of concessionary travel for disabled persons currently available to 5-21 year olds (e.g. the requirement to produce proofs of disability every three years or less), there will potentially be a reduction in the amount of special category data collected if the new concession is adopted by individuals instead; however, as there are often additional concessions available to holders of a disabled travel concession, and young disabled travel concession NEC holders are more likely than their older peers to also qualify for travel for a companion, this reduction is likely to be limited.

Describe the context of the processing: what is the nature of your relationship with the individuals? How much control will they have? Would they expect you to use their data in this way? Do they include children or other vulnerable groups? Are there prior concerns over this type of processing or security flaws? Is it novel in any way? What is the current state of technology in this area? Are there any current issues of public concern that you should factor in? Are you signed up to any approved code of conduct or certification scheme (once any have been approved)?

New Contracts: The introduction of new suppliers and systems has allowed contracts to be awarded that take into account the changes affecting data protection and information security in the past few years. The functionality offered by the new contracts will allow the NEC Scheme as a whole to better manage personal data through improved auditing and increased opportunities for data minimisation.

YP Free Bus Scheme: As a result of the public consultation carried out by Transport Scotland and the subsequent policy decisions <https://www.transport.gov.scot/publication/draft-ssi-national-bus-travel-concession-scheme-for-young-persons-scotland-amendment-order-2021/> (as documented particularly within the Child Rights and Well-Being Impact Assessment (CRWIA)), Transport Scotland have stated the collection of the confirmation of parent or legal guardian providing parental approval for free bus travel for NEC holders under the age of 16 is required. This decision has been discussed in depth within the document cited.

The introduction of parental approval beyond the age of 12 years for parts of the NEC Scheme represents a change which certain individuals or groups may find less acceptable than others and is indeed described by Transport Scotland as "finely balanced"; they have indicated that they "intend to review the requirement for parent/guardian approval after the first full year of operation" (pages 8 and 13 of the CRWIA). Where free bus travel is not required, those aged 12-15 years old will continue not to require approval from a parent/ guardian for the purposes of obtaining a card.

N.B. This additional requirement for parental approval will also need to be applied to applicants for free bus travel on the basis of a disability who are aged 12-15 inclusive.

Describe the purposes of the processing: what do you want to achieve? What is the intended effect on individuals? What are the benefits of the processing for you, and more broadly?

New Contracts: The purposes of processing have not changed as a result of these.

YP Free Bus Scheme: Whilst there is currently a bus discounted travel scheme for young people aged 16-18, the provision of free bus travel to those aged from 5-21 inclusive clearly indicates a change in the purpose of processing for both the NEC Scheme and the individual concerned.

The intended effect on individuals of the new travel scheme is covered comprehensively within Transport Scotland's publications, but can be summarised as opening up social, education, employment and leisure opportunities; reducing household outgoings to aid children, particularly those living in poverty; and embedding positive sustainable travel behaviours. More broadly, positive benefits for society result from reduced reliance on private motor vehicles.

In terms of the processing itself, this allows the YP Free Bus Scheme to be delivered using the existing mechanism of the NEC which allows efficient management of the relevant data, including in the prevention of fraud, and in a more inclusive way than e.g. dependence on access to mobile phones.

The processing of parental approval, as discussed in the CRWIA by Transport Scotland, seeks to balance the rights and responsibilities of the parent/ guardian with the rights of the child.

Step 3: Consultation process

Consider how to consult with relevant stakeholders: describe when and how you will seek individuals' views – or justify why it's not appropriate to do so. Who else do you need to involve within your organisation? Do you need to ask your processors to assist? Do you plan to consult information security experts, or any other experts?

New Contracts: These contracts were awarded by Dundee City council after a procurement process making use of the UK's National Procurement Framework for smart and integrated ticketing services and goods run by Smart Applications Management (<https://www.talktosam.co.uk/>), the UK's largest Member owned provider of ITSO Smart Ticketing Managed Services. Transport Scotland, Scottish Local Authorities, Scottish Government, Young Scot and the Improvement Service were all invited to participate in specification and evaluation. In addition, each supplier was assessed using the Scottish Government's Cybersecurity Procurement Support Tool (CSPST) <https://cyberassessment.gov.scot/> with the Risk Profile associated with the exercise assessed as being High.

YP Free Bus Scheme: Transport Scotland has been responsible for consultation, and this has included other government bodies, bus operators, local government, charities (such as Barnardos) and the public. The data processing requirements, where they differ from the existing NEC Scheme, have largely arisen as result of these consultations. In addition, Dundee City Council and Improvement Service have engaged alongside Transport Scotland with members of the SOLAR DP/FOI/HRA group to ensure that the rationale behind the processing of parent/ guardian consent was understood.

Step 4: Assess necessity and proportionality

Describe compliance and proportionality measures, in particular: what is your lawful basis for processing? Does the processing actually achieve your purpose? Is there another way to achieve the same outcome? How will you prevent function creep? How will you ensure data quality and data minimisation? What information will you give individuals? How will you help to support their rights? What measures do you take to ensure processors comply? How do you safeguard any international transfers?

New Contracts: The basis for processing is unchanged. Contracts take account of the relevant data processing legislation and the splitting of responsibilities has allowed a more granular approach to the data processing specified. Both suppliers have committed to process only within the UK as part of their response to CSPST.

YP Free Bus Scheme: The processing associated with this Scheme is based on similar processing already used for concessionary travel for older and disabled persons. The principal area of distinction will be the new requirement to ensure parental approval is captured for those persons under the age of 16 requiring free bus travel, and in particular capturing that approval for those aged over 12. Transport Scotland have documented the UK GDPR Article 6 lawful basis for the processing of personal data in relation to the provision of free bus travel for young people is Public Task, as they are a public authority exercising their functions as set out in law and it is necessary for the delivery of the service. The National Bus Travel Concession Scheme for Young Persons (Scotland) Order 2021 is made in exercise of the powers conferred by section 40(1), (3), (4), (7) and 52(4) of the Transport (Scotland) Act 2005.

Step 5: Identify and assess risks

Describe the source of risk and nature of potential impact on individuals. Include associated compliance and corporate risks as necessary.	Likelihood of harm	Severity of harm	Overall risk
<p>New Contracts: None</p> <p>YP Free Bus Scheme:</p>	<p>Remote, possible or probable</p>	<p>Minimal, significant or severe</p>	<p>Low, medium or high</p>
<p>Rights of child aged under 16 to access free bus travel are subject to how parent/ guardian exercises rights and responsibilities.</p>	<p>Probable</p>	<p>Minimal</p>	<p>Low</p>
<p>Corporate: Potential challenge to parent/ guardian approval.</p>	<p>Possible</p>	<p>Significant</p>	<p>Medium</p>
<p>Parent/ guardian conflates need for parent/ guardian approval for access to free bus travel with data protection rights e.g. by demanding access to child's journey history without child's involvement.</p>	<p>Possible</p>	<p>Significant</p>	<p>Medium</p>
<p>EXISTING SCHEME – PREVIOUS RESIDUAL RISK:</p>			
<p>Retention periods for special categories of personal data require revision to ensure both that renewal of disabled concessionary travel entitlements is not made more complex, but also that special categories of data are not held any longer than is necessary. Risk is both to the individual's privacy and the Scheme's reputation.</p>	<p>Possible</p>	<p>Significant</p>	<p>Medium</p>

Step 6: Identify measures to reduce risk

Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk in step 5				
Risk	Options to reduce or eliminate risk	Effect on risk	Residual risk	Measure approved
Potential challenge to parent/ guardian approval.	Transport Scotland review at one year may deter action being taken.	Eliminated, reduced or accepted Reduced	Low, medium or high Low	Yes/no
Parent/ guardian conflates need for parent/ guardian approval for access to free bus travel with data protection rights e.g. by demanding access to child's journey history without child's involvement.	Ensure that sufficient information is provided to parent/ guardian when approval is sought; strictly enforce organisation's approach to accessing personal data of young person.	Eliminated		
Retention periods for special categories of personal data require revision to ensure both that renewal of disabled concessionary travel entitlements is not made more complex, but also that special categories of data are not held any longer than is necessary. Risk is both to the individual's privacy and the Scheme's reputation.	Introduce retention periods targeting special categories of data, removing specific references to health conditions for any longer than necessary. New system functionality should help support this, as well as discussions with Transport Scotland and Social Security Scotland regarding evidence of entitlement.	Reduced	Low	

Step 7: Sign off and record outcomes

Item	Name/date	Notes
Measures approved by:	Senior Manager NECPO 15/11/2021	Integrate actions back into project plan, with date and responsibility for completion
Residual risks approved by:	NEC Oversight Group (including representatives of Dundee City Council, Improvement Service, Scottish Government, Transport Scotland, Young Scot) January 2022	If accepting any residual high risk, consult the ICO before going ahead
DPO advice provided:	Information Governance Officer DCC 29/11/2021:	DPO should advise on compliance, step 6 measures and whether processing can proceed
<p>Summary of DPO advice: Parental approval/issues are Transport Scotland's risks and should be covered by their DPIA.</p>		
DPO advice accepted or overruled by:	Senior Manager NECPO 30/11/2021	If overruled, you must explain your reasons
<p>Comments: DPO advice added to this DPIA to be shared with Transport Scotland</p>		
Consultation responses reviewed by:	Senior Strategy and Governance Officer, NECPO Senior Manager NECPO	If your decision departs from individuals' views, you must explain your reasons
<p>Comments: Only clarification responses from stakeholders consulted January 2022; no further action required.</p>		
This DPIA will be kept under review by:	Senior Strategy and Governance Officer, NECPO	The DPO should also review ongoing compliance with DPIA