



The Rental Exchange

GDPR - FAQs



With implementation of the General Data Protection Regulation (“GDPR”) we understand that as a partner of Experian, you are likely to have some questions around what Experian has been doing, and is doing, to prepare for GDPR. As such, we have produced a series of frequently asked questions which should cover some, if not all, of those questions.

Understanding Experian’s approach to GDPR readiness

Has Experian commenced a GDPR readiness programme and, if so, what is its current status?

Yes, Experian’s GDPR readiness programme is well underway and working to the GDPR effective date of 25th May 2018. We are delighted to make available our GDPR FAQs ([click here for link](#)). This provides assurance to clients and data suppliers on Experian’s project status, and its general approach to GDPR readiness.

Rental data sharing specific FAQs

1. Is the Rental Exchange assessing its GDPR readiness?

Yes - Since its inception, good data protection has been a fundamental pillar shaping the Rental Exchange project’s development. Big Issue Invest and Experian have worked openly with the ICO, and the ICO has had the opportunity to comment on data protection and privacy issues throughout the project’s development.

Experian and the Big Issue Invest (BII) are working together to review the impact of GDPR. This collaborative approach will focus on practical areas relevant to our project data partners. This is, an assessment of the Legitimate Interests ground, and maintaining our understanding of the applicability of the Public Interests ground, as will be being assessed by our public sector providers. There have also been updates made to the project’s standard template Fair Processing Notices.

2. Will all processing that today relies upon Legitimate Interests need to be revised to meet consent requirements under the GDPR?

No - The ICO has published an excellent blog post to deal with the myth that you must have consent if you want to process personal data under the GDPR. “**Consent is not the ‘silver bullet for GDPR compliance’** – is accessible from the [ICO’s website](#).

In the same way as under the Data Protection Act, the GDPR includes the same 6 processing grounds. Consent, Legitimate Interests, Public Interest, with the others, each remains as equally valid as processing grounds that are available to enable fair personal data processing under GDPR.

The bedrock ground for REX data sharing is Legitimate Interests, (with Public Interest open to public sector authorities where applicable). This reliance on Legitimate Interests is consistent with the approach taken for REX from the start: <http://www.experian.co.uk/assets/rental-exchange/rental-exchange-data-protection.pdf>

GDPR clarifies that the Public Interest ground will be available to those public authorities who are data sharing as necessary in performance of a public interest task. Consistent with positions taken after past discussions with the ICO, consent will not be required.

This has been a carefully reviewed position. Consent applied appropriately is not appropriate for REX given its risk to maintenance of complete and accurate credit reference records. The ICO's position on appropriate use of Legitimate Interests in relation to credit reports is longstanding, and further information on this can be found here:

<https://ico.org.uk/media/for-organisations/documents/1611/credit-agreements-data-sharing.pdf>

Update:

For interest to Public Sector providers: We understand from recent news reports that a UK Data Protection Bill amendment¹ has been agreed by the House of Lords on 11 December 2017. This clarifies that all public-sector bodies will only be treated as public authorities for data protection purposes when they are carrying out their public tasks. It has been expressed by industry press (see examples [here](#) and [here](#)) this has the intention of making Legitimate Interests available to public sector bodies when carrying out non-public tasks.

3. What kinds of things have been considered when reviewing the Rental Exchange Legitimate Interests balance for GDPR compliance?

The Legitimate Interests balance, for the storage and use of rental data by Experian, has been carefully considered and constructed from the start of the Rental Exchange project. It will, of course, be for each landlord to control its own data processing assessments. In Experian's assessment, many of the balances and consumer protections embedded into its framework from concept will continue to hold true post-GDPR. For example:

- **Fair notice to tenants of the project and the data sharing involved.** As included in Experian's Data Protection considerations document: For sharing of rental payment data into the Rental Exchange to be considered fair to tenants, clear and comprehensive information about the purpose of the data sharing must be given to the tenants by housing providers This will continue to a requirement of the Rental Exchange post GDPR. <http://www.experian.co.uk/assets/rental-exchange/rental-exchange-data-protection.pdf>. Part of Big Issue Invest and Experian's collaborative approach will be to review the current standard Fair Processing Notices (FPN), and update these for GDPR compliance.
- **Tenant Choice and Control:** The ICO has recognised that despite the use of the 'legitimate interests' ground, if a tenant new to the REX scheme does not want their data to be shared through the Rental Exchange (having weighed up the benefits), there will be a 28-day window made available (should landlords choose to adopt this), and objections received by Experian within this window will be respected. This protection is recognised to enhance data subject control over their data and enhances the general fairness of the project, and will continue to apply from May 2018 onwards.
- **Credit report inclusion – working to treat tenants and homeowners equally.** The Rental Exchange will incorporate tenant's rental payments in their credit file with no cost to either the housing provider or tenant.

¹ Amendment 5 to Clause 6