

# Data Protection in a Pandemic

Thursday 25 June 2020

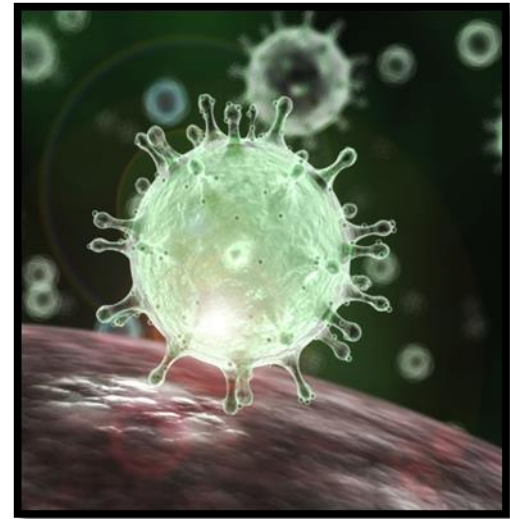
Eleanor Grey QC

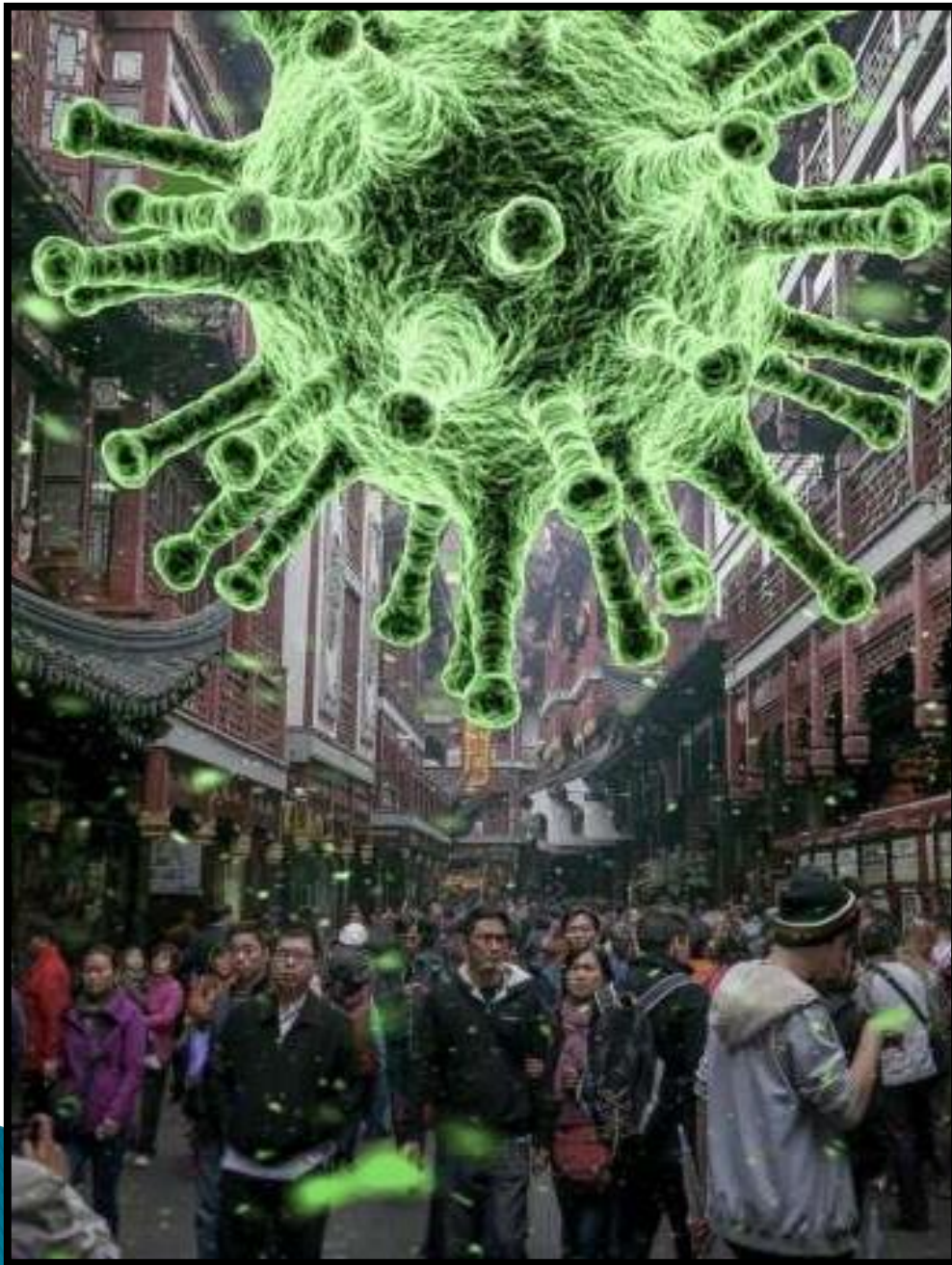
Rory Dunlop QC

Tom Tabori

# Processing Health Data in a time of Covid - an Update

Eleanor Grey QC  
25 June 2020

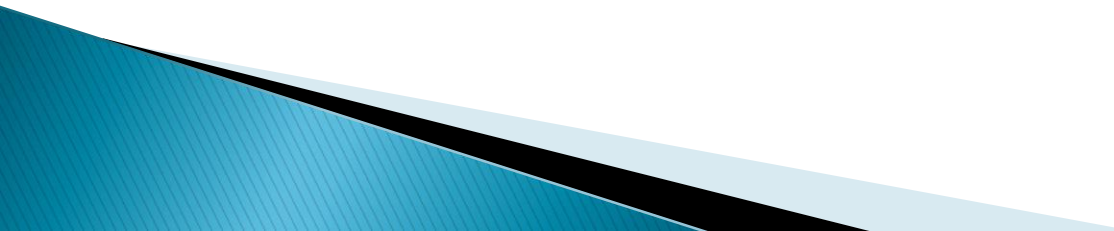




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Nothing in this webinar or accompanying slides is intended as legal advice for a particular context or problem. You should always seek specific legal advice upon any issue, and should not rely upon the content of this seminar. The contents were prepared on 25 June 2020, and may be out of date after that date.

# Overview of Content

- ▶ Processing health information under the GDPR – a recap
  - ▶ Useful resources for current challenges
  - ▶ ICO recovery advice to organisations
  - ▶ Testing staff at work
  - ▶ Further guidance or developments about sharing health-related information
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# Health data and the GDPR – recap



- ▶ Special category data;
- ▶ Lawful basis, Article 6;
- ▶ Plus: identify Article 9(2) exemptions;
- ▶ Article 9(2) list includes processing for employment, health, public health and scientific purposes;
- ▶ Read with Sch. 1 of DPA 2018.

# Recap (2)



- ▶ These conditions exist alongside the requirement to consider:
- ▶ Purpose limitations;
- ▶ Accuracy and data minimisation;
- ▶ Security measures;
- ▶ Retention periods;
- ▶ Privacy notices, etc.



## The General Regulatory Context– Useful Resources

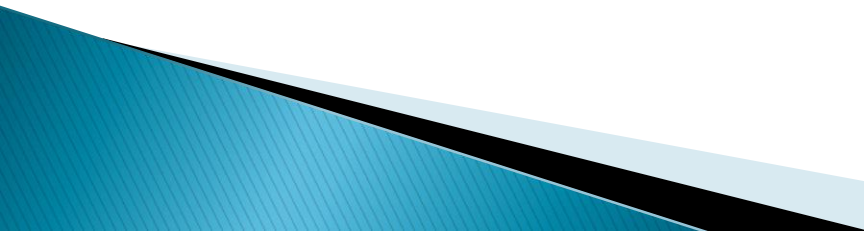
ICO statement at :

[ico-regulatory-approach-during-coronavirus.pdf](#) – a proportionate approach, focussing on the most serious challenges;

Coronavirus information hub; new “Coronavirus recovery – six data protection steps for organisations”;

Further information, e.g. on working from home.

# ICO Recovery Advice to Organisations

- ▶ Guidance on the Coronavirus Information hub, covering:-
    - ▶ General regulatory approach
    - ▶ Testing of staff for coronavirus (special category data)
    - ▶ Surveillance
    - ▶ Individual rights – updating privacy notices
    - ▶ Case Studies
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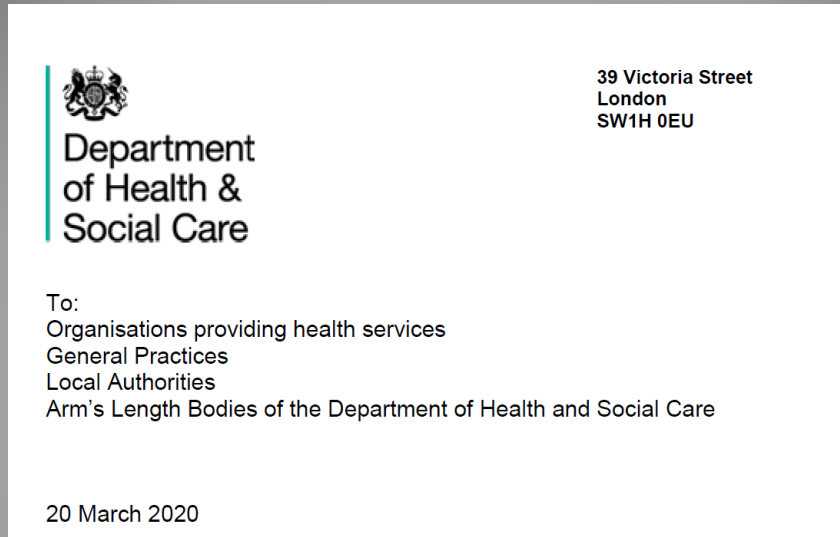


# Testing Staff at Work

- Consider GDPR and data protection impact assessment;
- Necessary of testing – who and by whom?
- GDPR categories, including Article 9 – Art (2)(b) and Schedule 1, para. 1 of DPA 2018;
- Transparency and privacy notices;
- Security of personal data held.



# Notices enabling Sharing of Confidential Patient Information



- ▶ Notice *requiring* the sharing of confidential patient information for Covid-19 purposes (England and Wales);
- ▶ Widely defined purpose;
- ▶ Enables sharing between health service employees/contractors; public authority employees/contractors working in ‘communicable disease surveillance’;
- ▶ In effect until 30 September 2020, record keeping required.

# Guidelines



**Guidelines 03/2020 on the processing of data concerning health for the purpose of scientific research in the context of the COVID-19 outbreak**

**Adopted on 21 April 2020**

