DATA PROTECTION IMPACT ASSESSMENT - Selective Licensing 2022 – v 1.0

Reference number: DPIA - 318

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DATA PROTECTION IMPACT ASSESSMENT

When to complete this template:

Start to fill out the template at the beginning of any major project involving the use of personal data, or, where you are making a significant change to an existing process that affects personal data. Please ensure you update your project plan with the outcomes of the DPIA.

Table of Contents

1. Document Control

1. Control Details

Author of DPIA:	Theresa Pollard
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2. Document Amendment Record

Issue	Amendment Detail	Author	Date	Approved
0.1	First version	Theresa Pollard	26/07/2022	
0.2	Second version	Theresa Pollard	30/08/2022	
0.3	Minor amends	Theresa Pollard	11/10/2022	

3. Contributors/Reviewers

Name	Position	Date
Theresa Pollard	Solicitor	Throughout
Jeremy Lyncook	Information Policy Specialist	10/10/2022

4. Glossary of Terms

Term	Description
Please insert any abbreviations you wish to use:	
PRS	Private Rented sector

2. Screening Questions

1. Does the project involve personal data? **Yes**	If 'Yes', answer the questions below. If 'No', you do not need to complete a DPIA but make sure you record the decision in the project documentation.
2. Does the processing involve any of the following data: medical data, ethnicity, criminal data, biometric data, genetic data and any other special/ sensitive data?	**Yes**
2. Does the processing involve any systematic or extensive profiling?	**No**
3. Does the project involve processing children's data or other vulnerable citizen's data?	**No**
4. Does the processing involve decisions about an individual's access to a product, service, opportunity or benefit that is based on any evaluation, scoring, or automated decision-making process?	**No**
5. Does the processing involve the use of innovative or new technology or the novel application of existing technologies?	**No**
6. Does this project involve processing personal data that could result in a risk of physical harm in the event of a security breach?	**Yes**
7. Does the processing combine, compare or match data from multiple sources?	**Yes**
8. Does the project involve processing personal data without providing a privacy notice?	**No**
9. Does this project process data in a way that tracks on line or off line location or behaviour?	**No**
10. Will the project involve using data in a way it has not been used before?	**No**
11. Does the project involve processing personal data on a larger scale?	**Yes**
12. Will the project involve processing data that might prevent the Data Subject from exercising a right or using a service or entering into a contract?	**No**
If you answered 'Yes' to any <u>two</u> of the questions above, proceed to Question 3 below. If not seek advice from the DPO as you may not need to carry out a DPIA.	**YES**

Project Title: Selective Licensing

Team: Licensing

Directorate: Community Protection

DPIA Reference number: DPIA-318 *(This will be allocated by the Information Compliance Team or the DPO and must be quoted in all correspondence)*

Has Consultation been carried out? Consultation has been carried out with landlords and stakeholders, details below. (*If not why not?*) *Describe when and how you will seek individual's views- or justify why it is 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?*

1. DDM attached?	**No - Exec Board Report:** Proposal for a Scheme of Selective
2. Written evidence of consultation carried out attached?	**Yes** sl-consultation-event-calendar.pdf Selective Licensing (nottinghamcity.gov.uk)
3. Project specification/ summary attached?	**Exec Board Report above**
4. Any existing or previous contract / SLA / processing agreement attached?	**N/a**
5. Any relevant tendering documents attached?	**N/a**
6. Any other relevant documentation attached?	**Yes – The Designation of an Area for Selective Licensing** Draft Appendix Two Proposed Designation **2023:**

3. Project - impact on individual's privacy

Issue	Questions	Examples	Yes/No	Initial comments on issue & privacy impacts
				Profiling, data analytics, Marketing. Note: The GDPR requires a DPIA to be carried out where there is systematic and extensive evaluation of personal aspects relating to individuals based on automated processing, including profiling, and on which decisions about individuals are based.
Purpose and means	Please give a summary of what your project is about (*you can also attach or embed documents for example a project proposal*).			NCC is working towards introducing a new Selective Licensing scheme for private rented properties. Secretary of State approval is required for any local authority to run such schemes every 5 years. NCC has to submit fresh evidence of certain criteria to approve this. A selective licensing designation may be made if the area to which it relates satisfies one or more of the following conditions; low housing demand (or is likely to become such an area), a significant and persistent problem caused by anti-social behaviour, poor property conditions, high levels of migration, high level of deprivation or high levels of crime.
	Aims of project Explain broadly what the project aims to achieve and what types of processing it involves.			Selective licensing is a power available to local authorities to tackle problems in privately rented housing. The Council has been delivering a scheme of selective licensing since August 2018. Selective Licensing - Nottingham City Council The scheme will end in July 2023 and the evidence supports a second scheme in order to build upon the first and continue to deliver the benefits which are already being seen in the city's PRS.
	Describe the nature of the processing How will you collect store and delete data? Will you be sharing 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			Applications need to be made for licences by each landlord who rents any property that falls within the designated area. The vast majority are made online, although paper application forms are available for downloading from the website. These applications are considered by the Selective Licensing team before then being either issued a licence, refused, or queried.

	involved? Who will have access to the project personal data, how is access controlled and monitored and reliability of staff assessed? Will data be separated from other data within the system?		
	Privacy Implications Can you think of any privacy implications in relation to this project? How will you ensure that use of personal data in the project is limited to these (or "compatible") purposes?	Yes	As selective licensing is discretionary and NCC does not have to have a scheme, some landlords may be inclined to question compliance with Article 5 1) a) of the UK GDPR, specifically regarding the lawful basis for their personal data to be collected and used as part of the scheme. The justification for and compliance around the introduction of the scheme under the Housing Act 2004 is covered in detail in the Exec Board report and annex.
	New Purpose Does your project involve a new purpose for which personal data are used?	No	An existing scheme is already in place: Licensing for Landlords - Nottingham City Council. This scheme is an extension of the existing scheme.
	Consultation 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 in NCC? Do you plan to consult Information security experts, or any other experts?		There is a legal duty to consult within the Housing Act 2004 section 80 (9). Extensive consultation is being carried out via events and a survey: Selective Licensing (nottinghamcity.gov.uk). Around 750 stakeholders have engaged with this process.
	Will the project:	Expanding customer base; Technology which must be used by individuals; Hidden or complex uses of data; Children's data	

Individuals (data subjects)	Affect an increased number, or a new group, or demographic of individuals (to existing activities)?			Yes	
	Involve a change to the way in which individuals may be contacted, or are given access to services or data? Are there any areas of public concern that you should factor in?			No	
	Affect particularly vulnerable individuals, including children?			No	
	Give rise to a risk that individuals may not know or understand how their data are being used?			No	
Parties	Does the project involve:	Outsources service providers; Business partners; Joint ventures			
	The disclosure of personal data to new parties?			No	As per usual process for licensing, relevant landlord accreditation schemes share data.
	The involvement of sharing of personal data between multiple parties?			No	
Data categories	Does the project involve:	Special personal data; Biometrics or genetic data; Criminal offences; Financial data; Health or social data; Data analytics: Note: the GDPR requires a DPIA to be carried out where there is processing on a large scale of special categories of data or of data relating to criminal convictions and offences			
	The collection, creation or use of new types of data?			No	

	Use of any special or privacy-intrusive data involved? • Political opinions • Religious beliefs or philosophical beliefs • Trade union membership • Genetic data • Biometric data • Sexual life • Prosecutions • Medical data • **Criminal data** (Criminal data processing, i.e. criminal convictions, etc. also has special safeguards under Article 10)		The Licence application form askes various questions within the fit and proper person test about the relevant offending history of the licence holder <u>or any associate of the proposed licence holder,</u> including unspent convictions *1 - Does the proposed Licence Holder named above have any unspent convictions in respect of any offence involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003?* *2 - Has the proposed Licence Holder named above acted otherwise than in accordance with any applicable code of practice approved under section 233 of the Housing Act 2004 ** * *3 - Does any associate of the proposed Licence Holder named above have any unspent convictions in respect of any offence involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003?* *4 - Does any associate of the proposed Licence Holder named above have any other unspent convictions that may be relevant to any associate of the proposed Licence Holder's and / or manager's fitness to hold a licence and / or manage the HMO or house? ** *
	New identifiers, or consolidation or matching of data from multiple sources? (For example a unique reference number allocated by a new management system)	Yes	Each application received is given a FirmStep reference number.
Technology	New solutions:		Locator or surveillance technologies; Facial recognition; Note: the GDPR requires a DPIA to be carried out in particular where new technologies are involved (and if a high risk is likely)
	Does the project involve new technology that may be privacy-intrusive?	N/a	

Data quality, scale and storage	Data:	New data		
	Does the project involve changes to data quality, format, security or retention? What are the benefits of the processing? i.e. will the new system have automatic retention features? Will the system keep the information in a safer format etc.?			All applications are given a folder within the shared drive to store all relevant document, as well as the details being entered into FLARE. All relevant correspondence is also stored in the shared drive. 7 years after the licence expires, the record is deleted.
	Does the project involve processing data on an unusually large scale?		Yes	
Monitoring, personal intrusion	Monitoring:	Surveillance; GPS tracking; Bodily testing; Searching; Note: the GDPR requires a DPIA to be carried out where the project involves systematic monitoring of a publicly accessible area on a large scale		
	Does the project involve monitoring or tracking of individuals or activities in which individuals are involved?		N/a	
	Does the project involve any intrusion of the person?		N/a	
Data transfers	Transfers	Transfers outside the EEA		
	Does the project involve the transfer of data to or activities within a country that has inadequate or significantly different data protection and privacy laws?		No	FLARE does not have Cloud storage (new system will)

4. Legal Framework and Governance – Compliance

Ref.	Question	Response	Further action required (and ref. to risk register as appropriate)
	1. Applicable laws and regulation		
1.1	Which data protection laws, or laws which impact data protection and privacy, will be applicable to the project?	• General Data Protection Regulation 2016/679 • UK General Data Protection Regulation • Data Protection Act 2018 • Human Rights Act 1998	
1.2	Are there any sector-specific or other regulatory requirements or codes of practice, which should be followed?	• *Selective Licensing in the private rented sector – A guide for local authorities (DCLG March 2015)*	
	2. Organisation's policies		
2.1	Is the project in compliance with the organisation`s information management policies and procedures (including data protection, information security, electronic communications)?	Yes	

| 2.2 | Which policy requirements will need to be followed throughout design and implementation of the project? | Data Protection Policy

Information Security Policy

Records Management Policy | |
| 2.3 | Are any changes/updates required to the organisation`s policies and procedures to take into account the project?

Note: new requirements for *"Accountability"* **under the GDPR, including record-keeping, DPOs and policies** | No | |

3. Training and roles

| 3.1 | Will any additional training be needed for staff in relation to privacy and data protection matters arising from the project? | No | |

5. Personal Data Processing Compliance

Ref.	Question	Response	Further action required (and ref. to risk register as appropriate)
1.	**Personal Data Processing**		
1.1	Which aspects of the project will involve the processing of personal data relating to living individuals?	The application form paper-application-v1 1docx.pdf collects: • Applicant name, address and contact details • Other licence holder details if given (e.g. business partner, spouse) • Property manager (if relevant) • Persons having control or legal interest in property • Interest in property (owner, leaseholder etc.) • Accreditation and training details • Offending history of relevant criminal and civil offences (including that of *'associated persons'*) • Financial information (including details of previous bankruptcy if relevant) Note that the applicant, licence holder, and person with control of property may all be different parties.	s.63 (6) c) of the Housing Act 2004 mentions regulations which may *'specify the information which is to be supplied in connection with applications'.* These are: The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (legislation.gov.uk) Schedule 2 Paragraph 2 of these Regulations sets out the relevant information about the individual required in the application (listed opposite). Schedule 2 Paragraph 3 also sets out the information required under the fit and proper person declaration.
1.2	Who is/are the data controller(s) in relation to such processing activities?	Nottingham City Council	
1.3	Who is/are the data processor in relations to such processing activities?	FLARE	
2.	**Fair and Lawful processing - GDPR Articles 5(1)(a), 6, 9, 12, 13**		

2.1	Which fair processing conditions are you relying on? GDPR: Article 6(1) (legal basis for processing) and, for sensitive personal data, Article 9(2).	<u>Personal data:</u> Article 6(1)(e) Public interest / exercise of Authority (s.80 of the Housing Act 2004 – power to designate area as subject to selective licensing and Schedule 2 Para 2 of <u>The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (legislation.gov.uk)</u> <u>Special category personal data:</u> Article 9(2)(g) Substantial public interest – *(s.66 of the Housing Act 2004 – fit and proper person test for landlords)* and Schedule 2 Para 3 of <u>The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (legislation.gov.uk)</u> <u>Criminal data:</u> • Statutory and government purposes • Preventing or detecting Unlawful Acts • Protecting the public against dishonesty etc • Regulatory requirements relating to unlawful acts and dishonesty etc	Other relevant legislation: • *Landlord and Tenant Act 1987* • *The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2005 (SI 2006/371)* • *Selective Licensing of Houses (Additional Conditions) (England) Order 2015*
	Note: different conditions may be relied upon for different elements of the project and different processing activities. Also, the scope of special category data is wider under the GDPR, and in particular includes genetics & biometric data, and sexual orientation.		
2.2	How will any consents be evidenced and how will requests to withdraw consent be managed?	N/a – consent not lawful basis for processing	
	Note: new requirements for obtaining and managing consents within the GDPR.		

2.3	Is the data processing under the project covered by fair processing information already provided to individuals or is a new communication needed (see also data subject rights below)?	Safer Housing and Housing Licensing.pdf Full privacy notice is on licencing webpages: Selective Licensing - Nottingham City Council. A Short form Privacy Notice is also on the Paper Form.	
Note: more extensive information required under the GDPR than under current law, and new requirements on how such information is provided. Also a general principle of "*transparency*". It is important to assess necessity and Proportionality			
2.4	If data is collected from a third party, are any data protection arrangements made with such third party?	N/a - no data is collected from a third party	
2.5	Is there a risk of anyone being misled or deceived?	No	
2.6	Is the processing "fair" and proportionate to the need's and aims of the projects?		
2.7	Are these purposes clear in privacy notices to individuals? (see above)	Yes	

3. Adequate, relevant and not excessive, data minimisation - GDPR Article 5(1)(c)			
3.1	Is each category relevant and necessary for the project? Is there any data you could not use and still achieve the same goals?	Yes – all data is necessary in order to administer the regime	
Note: GDPR requires data to be "limited to what is necessary" for the purposes (as well as adequate and relevant).			
3.2	Is/can data be anonymised (or pseudonymised) for the project?	No	
4. Accurate and up to date - GDPR Article 5(1)(d)			
4.1	What steps will be taken to ensure accurate data is recorded and used?	The online application forms decrease the risk of incorrect entries into the system.	
For example: checks when receiving/sending information from/to third parties, or transcribing information from oral conversations or handwritten documents, any automatic checks on information not meeting certain criteria.			

4.2	Will regular checks be made to ensure project data is up to date?		

5. Data retention - GDPR Article 5(1)(e)

5.1	How long will personal data included within the project be retained?	7 years	
5.2	How will redundant data be identified and deleted in practice? Consider paper records, electronic records, equipment?		
5.3	Can redundant data be easily separated from data which still need to be retained?		

6. Data subject rights - GDPR Articles 12 to 22

6.1	Who are the relevant data subjects?	Landlords in Nottingham city's area	
6.2	Will data within the project be within the scope of the organisation`s subject access request procedure?	Yes	
6.3	Are there any limitations on access by data subjects?	No	
6.4	Is any data processing under the project likely to cause damage or distress to data subjects? How are notifications from individuals in relation to damage and distress managed?	No	
6.5	Does the project involve any direct marketing to individuals? How are requests from data subjects not to receive direct marketing managed?	The project does not involve any direct marketing. *(However, due to the statutory obligation to make the register publicly available, some requesters of the register do use landlord details for marketing purposes. NCC has a well-drafted process in place including a declaration for requesters to sign about this.)*	
6.6	Does the project involve any automated decision making? How are notifications from data subjects in relation to such decisions managed?	No	

| 6.7 | How will other rights of data subjects be addressed? How will security breaches be managed? | These rights will be processed by the Information Compliance Team at Nottingham City Council. All breached will be dealt with by the Information Compliance team and the Data Protection Officer. | |

7. Data Security - GDPR Articles 5(1)(f), 32

For example:
- **Technology**: encryption, anti-virus, network controls, backups, DR, intrusion detection;
- **Physical**: building security, clear desks, lock-leads, locked cabinets, confidential waste;
  Organisational: protocols on use of technology, asset registers, training for staff, pseudonymisation, regular testing of security measures.

Describe the source of risk and nature of potential impact on the individuals. Include associated compliance and corporate risks as necessary -What security measures and controls will be incorporated into or applied to the project to protect personal data? Consider those that apply throughout the organisation and those which will be specific to the project. N.B Measures that are appropriate to the nature of the data and the harm which may result from a security breach	Likelihood of harm Remote, Possible or Probable	Severity of harm Minimal, Significant or Severe	Overall Risk Low, Medium or High
1. Lawful basis/purpose of NCC processing landlord's data for the Selective Licensing regime is challenged by landlords (Article 6 (1) a) UK GDPR)	Probable	Minimal	Medium
2. Personal data from landlords is used for other purpose by NCC, risking breaching Article 6 1) b) UK GDPR	Remote	Minimal	Low
3. Data which is not strictly needed is collected from landlords	Remote	Minimal	Low
4. Data is not kept accurate or up to date, leading to issues with administration such as a landlord's application being missed or licences being incorrectly issued	Possible	Significant	Medium
5. Data of landlords is kept for longer than is necessary	Possible	Significant	Medium

6. Security of data of landlords is compromised by application forms being misplaced	Possible	Significant	High
7. Issues with FLARE resulting in landlord's data being compromised	Remote	Significant	Medium
8. Landlord's data is shared inappropriately- internally, or disclosed externally when it should not be	Possible	Significant	Medium

Identify measures to Reduce Risk- Identify additional measures you could take to reduce or eliminate risks identified as medium or high risk that you have identified

Risk	Options to reduce or eliminate risk	**Effect on risk** Eliminated/ Reduced or Accepted	**Residual risk** Low/Medium/High	**Measures approved** Yes/No
1. Lawful basis/purpose/fairness of NCC processing landlord's data for the Selective Licensing regime is challenged by landlords (Article 5 (1) a) UK GDPR)	This DPIA states above in detail the lawful basis for processing The Executive report sets out the legal advice obtained, and this has been complied with in order to demonstrate that the requirements of the Housing Act 2004 and any other applicable statutory requirements have been complied with. Extensive consultation in line with legal duty to consult has been carried out. An Equality Impact Assessment was also	Reduced	Low	Yes

	carried out which considered overall fairness of the Scheme.			
2. Personal data from landlords is used for other purpose by NCC, risking breaching Article 5 1) b) UK GDPR	No other purpose for landlord's data is envisaged. Project staff and Team Leaders are aware of data protection requirements regarding this. All Licensing staff are up date with their GDPR and Information Security Learning Zone training.	Eliminated	None	Yes
3. Data which is not strictly needed is collected from landlords risking breaching Article 5 1) c) UK GDPR	Nearly all personal data collected via licence applications is required within the Regulations. Staff have reviewed previous need for photo ID from landlords and it is now not required (Legal advice has been given by Planning, Environment & Leisure Team in Legal that in any case as the ID wasn't being checked against anything, it would not be necessary to request these)	Eliminated	None	Yes
4. Data is not kept accurate or up to date, leading to issues with administration such as a landlord's application	Vast majority of applications are completed online and data is migrated into FLARE, reducing the previous risk of manual	Reduced	Low	Yes

being missed or licences being incorrectly issued	data entry errors. Emphasis is on landlords to keep contact information up to date.			
5. Data of landlords is kept for longer than is necessary, risking breaching Article 5 1) e) UK GDPR	The team's process is that all relevant licence application information within shared drives is kept separately. Deletion of all application information past its retention period is undertaken by IT Services on behalf of Selective Licensing.	Reduced	Low	Yes
6. Hard copy application forms being lost in post or misplaced	Landlords are encouraged to apply online whenever possible. Hard copy must be available due to reasonable adjustment requirements. The team have a member of staff responsible for daily management of incoming mail.	Reduced	Low	Yes
7. Issues with FLARE resulting in landlord's data being compromised	A new Cloud-based system (also supplied by Civica) is being implemented in April 2023. A project board is overseeing the migration of data later this year in 2022. FLARE is password protected to individual	Reduced	Medium	Yes

	users and have to be changed regularly.			
8. Landlord's data is shared inappropriately- internally, or disclosed externally when it should not be	Risk of this is low as not frequent data sharing. If licences are issued to the wrong landlord, this is a technical data breach, but low risk as the information on the licence is all available on the public register. All Licensing staff are up date with their GDPR and Information Security Learning Zone training.	Reduced	Low	Yes

8. Data processors - GDPR Article 28 & direct obligations in other articles			
8.1	Are any data processors involved in the project?	FLARE – currently, until replacement next year	
8.2	What security guarantees do you have?	In processing agreement	
For example: specific security standards or measures, reputation and reviews			
8.3	Please attach the processing agreement Agreement in process will be attached prior to any implementation	M:\Legal\The Data Protection Team\Data Privacy Impact Assessments\DPIA-318-Selective Licensing\4. DPIA - Supporting Documents\Data Processing Schedule for FLARE.docx	
For example: security terms, requirements to act on your instructions, regular audits or other ongoing guarantees			
Note: new requirements for the terms of contracts under the GDPR (much more detailed than current law).			
8.4	How will the contract and actions of the data processor be monitored and enforced?	Power to audit under the processing agreement.	

8.5	How will direct obligations of data processors be managed?	Under the processing agreement	

Note: New direct obligations for processors under the GDPR, including security, data protection officer, record-keeping, international data transfers.

For example: fair & lawful, lawful purpose, data subject aware, security, relevance.

9. International data transfers - GDPR Articles 44 to 50

9.1	Does the project involve any transfers of personal data outside the European Union or European Economic Area?	FLARE does not. (*Previous discussions earlier in year replacement for FLARE highlighted that Civica could be processing some data in India but it is now confirmed this will not be the case.*)	
9.2	What steps are taken to overcome the restrictions?	As above	

For example: Safe Country, contractual measures, binding corporate rules, internal assessments of adequacy

Note: GDPR has similar methods to overcome restrictions as under current law, but there are differences to the detail and less scope for an "own assessment" of adequacy.

10. Exemptions

10.1	Will any exemptions for specific types of processing and/or specific DP requirements be relied upon for the project?	No	

For example: crime prevention, national security, regulatory purposes

Note: Exemptions under the GDPR to be assessed separately, and may be defined within additional EU or UK laws.

6. Sign off and record outcomes

Item	Name	Date
Measures approved by: (project owner) This must be signed before the DP can sign off on the DPIA.	David Hobbs	24.11.22
Residual risks approved by: (If accepting any residual high risk, consult the ICO before going ahead)		
DPO advice provided: (DPO should advise on compliance, measures and whether processing can proceed)	Theresa Pollard	24.11.2022
Summary of DPO advice: *Privacy notice for all Licensing processing needs to be updated before launch of scheme. Have already given advice on this and final draft to be placed on website and in all comms to landlords to be approved by Info Comp team.* *If any changes are made to the application process in terms of the data collected by landlords, or the way data is stored or handled by NCC, the Info Comp team must be consulted prior to any changes.*		
DPO advice accepted or overruled by		If overruled, you must explain your reasons
Comments:		
IT Security Officer: Where there are IT security issues		
IT Officer comments:		
SIRO Sign off: (For major projects)		
Consultation responses reviewed by:		

This DPIA will be kept under review by:		The DPO should also review ongoing compliance with DPIA