

Meeting the Requirements

Rights related to profiling and automated decision-making



Introduction

Automated individual decision-making is a decision made by automated means without any human involvement, for example, online decision to award a loan or a recruitment aptitude test which uses pre-programmed algorithms and criteria. Automated decision-making does not have to involve profiling, although it often will do.

Profiling is now specifically defined in the UK GDPR as – “Any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person’s performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements”.

The UK GDPR applies to all automated decision-making and profiling.

Although automated decision-making is likely to be limited within the organisation, there may be occasions when this takes place. For example, when a programme is run to evaluate certain things about a patient e.g. to identify patients matching specific measures, who may be at risk of a particular health condition, to undertake further evidence-based interventions.

How do we reach Attainment Level 1?

The organisation should have a means to identify any solely or partly automated decision making or profiling that takes place. The organisation should ensure that no solely automated decision making or profiling with significant effect on data subjects takes place unless the lawful bases and additional rights specified in Article 22 of the UK GDPR are met.

Documented procedures should be in place to meet the rights of individuals and the organisations statutory requirements. This should include informing individuals about the processes carried out, what information is used to create the profiles and where the information is collected from, along with the right to request a human review of the outcome where any decision making is solely automated. See '[Table One](#)' for the ICO’s expectations on how organisations can protect individual rights related to automated decision-making and profiling.

The organisation should conduct additional checks to protect children and vulnerable groups subject to automated decision making.

How do we reach Attainment Level 2?

The organisation should ensure that a '[Data Protection Impact Assessment](#)' (DPIA) is undertaken to consider and address any risks before starting any automated decision-making or profiling. Appropriate privacy information must be provided to individuals, this should specifically explain the automated decision making/profiling, its possible effects and their rights, including the right of subject access and where any decision making is solely automated, the right to request a human review of the outcome.



The Organisation should ensure staff involved in procuring, managing and operating of automated decision-making systems are appropriately trained to identify and uphold data protection rights and responsibilities. All staff should be made aware of the data protection rights that apply to automated processing and be informed where to seek advice if needed.

How do we reach Attainment Level 3?

The organisation should identify and train staff to review automated decision-making systems, this includes undertaking of regular reviews of automated decision-making systems for accuracy and bias and where necessary investigating complaints in relation to automated decision making. Staff should be trained to review and, where necessary, change decisions in these circumstances.

The use of automated decision making in the organisation should be overseen by the appropriate Board/Committee to ensure data protection rights and responsibilities are upheld.

Supporting Resources

[ICO: Guidance on Rights related to automated decision-making including profiling](#)

[ICO: Children and the UK GDPR](#) - Practical guidance for organisations who are processing children’s personal information.

Summary Requirement

Attainment Level	Summary Requirement
1	The organisation has identified any solely or partly automated decision making / profiling that has a significant impact on data subjects and has relevant policies and procedures in place to protect data subject’s rights in relation to that processing. Appropriate lawful bases have been identified and care is taken to ensure the rights of children and vulnerable people are protected
2	Staff and data subjects are made aware that data protection rights apply to automated decision making. Staff involved in procuring, managing and operating relevant systems are appropriately trained in data protection. DPIAs have been undertaken on any automated decision making that has a significant impact on data subjects
3	Automated decision-making systems are regularly reviewed, including for accuracy and bias. Identified staff are authorised to undertake reviews, investigate complaints and where necessary change decisions as a result of their findings. The use of all forms of automated decision making is



overseen by the appropriate Board/Committee/Management Team, as appropriate

