**Processing of Transfer of Value data based on Legitimate Interests**

**Outline of minimum mandatory requirements that must be contained in Transparency Statement / Privacy Policy of Member Pharmaceutical Companies[[1]](#footnote-1)**

1. ***Details of the type of personal data that is collected from HCPs and how it is collected***

* The pharmaceutical company shall clearly identify what type of personal data it collects from HCPs (name, principal practice address, details of transfers of value etc.) and which is published by IPHA.
* It should be outlined that this information is collected each time the HCP is given or benefits from a transfer of value which requires disclosure under the IPHA Code (details of disclosable transfers of value should be provided with reference to the IPHA Code).

1. ***The identity and details of the data controller (Article 13(1)(a) GDPR)***

* Legal name and contact details of the pharmaceutical company to be provided.
* It should also be stated that where personal data is transferred to the IPHA, the IPHA will also be a data controller in respect of such personal data as hosted on transfersofvalue.ie. The IPHA’s contact details should be provided, and reference made to the IPHA’s privacy notice available on [www.ipha.ie](http://www.ipha.ie).

1. ***If the pharmaceutical company has appointed a Data Protection Officer, the contact details of the Data Protection Officer (Article 13(1)(b))***

1. ***The purposes of the processing for which the personal data are intended as well as the legal basis for the processing (Article 13(1)(c))***

* The purpose should refer back to the IPHA code and the objectives of transparency and accountability in the relationships between pharmaceutical companies and HCPs/HCOs enshrined therein, including the obligation on pharmaceutical companies to disclose transfers of value.
* The legal basis for the processing of data by both the pharmaceutical companies and the IPHA is legitimate interests under Article 6(1)(f) GDPR.

1. ***The legitimate interests pursued by the controller or by a third party (Article 13(1)(d))***

* The legitimate interests of the pharmaceutical company and the IPHA should be outlined, to include the following:-
* Decreasing any perception of influence on HCPs by the pharmaceutical industry;
* Promoting a culture of integrity of transactions between pharmaceutical companies and HCPs;
* Increasing public and patient confidence in the integrity and independence of HCPs (itself essential for generating confidence in those relationships and their proper functioning);
* Ensuring compliance by the pharmaceutical industry with legislative and Code restrictions in relation to advertising and promotion.
* Demonstrating transparency in relation to the industry’s relationships with HCPs;
* Showing accountability in these relationships and compliance by the industry and HCPs in relation to their legal obligations not to provide (on one hand) or accept (on the other hand) inducements to prescribe;
* Promoting confidence on the part of the public and on the part of stakeholders (e.g. regulators, managers of public health services, Government) in the legitimacy and bona fides of the engagements between the industry and HCPs; and
* Providing assistance in avoiding conflicts of interest.

1. ***The recipients or categories of recipients of the personal data (Article 13(1)(e))***

* In particular, it should be specified that personal data will be disclosed to the IPHA and made publicly available on the website www.transferofvalue.ie, and that the IPHA will be an independent data controller in respect of such data. Reference should again be made to the fact that the IPHA’s privacy notice is available at [www.ipha.ie](http://www.ipha.ie).
* The specific categories of personal data which will be transferred to the IPHA should be identified.

1. ***The period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period (Article 13(2)(a))***

* Under the IPHA Code of Practice companies are required to document all transfers of value required to be disclosed and maintain the relevant records of the disclosures for a minimum of 5 years after the end of the relevant reporting period.
* It should also be outlined that transfer of value disclosures will be publicly available for a period of 3 years after publication on www.transferofvalue.ie, after which they will be deleted by the IPHA.

1. ***The existence of data subject rights and details relating to same (Article 13(2)(b))***

* This should include details about the following rights:
  + The right of access to personal data and information concerning the processing of data (as per Article 15 GDPR);
  + The right to rectification of data which is inaccurate or incomplete (Article 16 GDPR);
  + The right to erasure of personal data where there is no compelling reason for an organisation to keep using it (Article 17 GDPR);
  + The right to restrict processing of personal data in certain circumstances, including where the accuracy of the data is contested or the processing of the data is unlawful (Article 18 GDPR);
  + The right to data portability (Article 19 GDPR); and
  + The right to object to processing based on legitimate interests unless the controller can demonstrate overriding compelling legitimate grounds or data is necessary for a legal claim (Article 21 GDPR).
* It should be pointed out that these rights can be exercised in respect of personal data for which either the pharmaceutical company or the IPHA is the controller, and that insofar as the exercise of rights concerns personal data which are made publicly available on www.transferofvalue.ie, the IPHA is the data controller. In accordance with data protection supervisory authority guidance, sufficient details of the above rights and how to exercise them should be provided, and, if necessary, data subjects should be referred to DPC guidance on data protection rights available at [www.dataprotection.ie/en/individuals](http://www.dataprotection.ie/en/individuals).

1. ***The right to lodge a complaint with a supervisory authority (Article 13(2)(d))***

* The name and contact details of the supervisory authority for the jurisdiction in which the company is based should be provided. It should be noted that any data processing by the IPHA will be supervised by the Irish Data Protection Commission, and contact details for the Irish DPC should be provided in this regard.

1. The requirements assume that the data collected is being used solely for the purpose of meeting the requirements in the IPHA Code, and is not used for further purposes such as profiling the data subjects [↑](#footnote-ref-1)