

GDPR - Information Notices and model wordings

Application and Use

These wordings/clauses, as with all LMA model wordings/clauses, are purely illustrative and established and distributed for the guidance of Members, who are free to agree to different wordings.

The wordings/clauses are for use in the UK/EU/EEA only. The LMA is currently discussing with Lloyd's their potential use in the USA and other non-EU/EEA territories.

The following notes are provided for general guidance as to their application and use, i.e. what each wording is for and how it can be used in combination with the other wordings.

Ref	Model Wording/ Clause (Title)	Application and Use
LMA9151	Data Protection Short Form Notice (Layer 1)	<ul style="list-style-type: none"> • This is the Layer 1 Short Form Information Notice - to be used by firms with their own Layer 2 Information Notices, to meet GDPR requirements, per LMA "Core Uses Guidance". • Used to provide key basic data protection information <u>and</u> to direct consumers to other sources for further information - the Notice must contain a point of contact for the data subject, e.g. policyholder. • It is designed to be provided (suitably tailored) to <u>all</u> data subjects by the "controller" (or on their behalf), and has been drafted from the perspective of Lloyd's underwriters - hence "we" are "<i>the Lloyd's underwriters identified in the contract of insurance and/or certificate of insurance</i>". • It will typically be provided in proposal forms, policy wordings and agreements with consumers or clients and is needed in "consent" and "no consent" situations. • It can be used in different ways, e.g. included /embedded within the policy wording itself (e.g. on Consumer business), or provided to the data subject at quote/proposal stage (i.e. with/within proposal forms). • Where "consent" is required, the Short Form Notice should be used in conjunction with a Consent Form. • The model provided is for "open market" but can be adapted for delegated (coverholder) business; e.g. for incorporation within the Coverholder Certificate. • "Contacting us" - a space for the broker/agent contact details or the contact details of the Lloyd's underwriters, if known. The wording provides for the broker/agent to satisfy an information request, e.g. by giving carrier contact details to the policyholder/ data subject. Initially the client-facing broker may be the only known point of contact. Where the Notice is issued with a pre-agreed proposal form or form of coverholder certificate, then the contact details of the carriers should be included at the outset.
LMA9152	Data Protection Consent Form Wordings (Proposal stage)	<ul style="list-style-type: none"> • Consent Form for use in conjunction with the Short Form Notice, where "consent" is required for the collection of personal data at arranging (proposal /quotation) stage. • For use in situations where the <i>UK Data Protection Bill</i>

		<p>derogation will not apply - <u>see our note below</u>.</p> <ul style="list-style-type: none"> • The Consent Form incorporates two wordings, with two separate purposes: a) obtaining consent from the insured/ data subject; and b) obtaining confirmation that the insured has obtained consent from other (third party) data subjects. • As it is likely that this wording will be used (in conjunction with the Short Form Notice) at quote stage, the underwriters may not yet be known and/or will not have direct contact. The clause is worded such that “we” needs to be tailored appropriately. This may include specified insurance market participants.
LMA9153	Data Protection Consent Form Wordings (Claims stage)	<ul style="list-style-type: none"> • Consent Form for use where “consent” is required for the collection/processing of personal data at the claim stage. • Again, for use in situations where the UK Data Protection Bill derogation will not apply - <u>see our note below</u>. • May be used in conjunction with the Short Form Notice. • As for the Consent Form (proposal stage), this form incorporates two wordings, with two separate purposes: a) obtaining consent from the insured/data subject; and b) obtaining confirmation that the insured has obtained consent from other (third party) data subjects. • Again, the “we”, on whose behalf consent is being obtained, may include other insurance market participants, and needs to be tailored appropriately.
LMA9154	Data Protection Clause for commercial lines policies (no consent)	<ul style="list-style-type: none"> • Policy wording/clause for incorporation into the policy document for “commercial lines”, where no consent is required. • This would be used for group policies where a corporate entity is the insured purchasing the policy for the benefit of individuals/“insured persons”, e.g. Group Personal Accident insurance purchased by a UK insured for UK beneficiaries (no consent required under the UK Data Protection Bill derogation - see note below). • The Short Form Notice also needs to be issued to the policyholder for passing to the data subjects. • The wording is drafted from the perspective that the provider(s) of the insurance are set out in the contract of insurance - i.e. “We (the Lloyd’s underwriters ...)”, as in the Short Form Notice. This may be tailored as appropriate.
LMA9155	Data Protection Clause for commercial lines policies (with consent)	<ul style="list-style-type: none"> • Policy wording/clause for incorporation into the policy document for “commercial lines” (e.g. group policies where a corporate insured is purchasing the policy for the benefit of individuals) and consent <u>is</u> required (e.g. where special categories of personal information, such as medical details of individual persons, are required for underwriting purposes and the <i>UK Data Protection Bill derogation</i> would not apply, e.g. group policies underwritten for an insured where the beneficiaries may be in other (non UK) EU/EEA members states (see the Note below). • The wording is drafted from the perspective that the provider(s) of the insurance are set out in the contract of insurance - i.e. “We (the Lloyd’s underwriters ...)”, as in the Short Form Notice. This may be tailored as appropriate. • The Short Form Notice also needs to be issued to the insured for passing to the data subjects. • The insured may use a consent form based on the model

		consent form, appropriately tailored, to obtain consent from beneficiaries.
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NOTE: UK Data Protection Bill

The GDPR gives limited legal grounds for processing special category (sensitive) personal data, the most relevant to the insurance industry being “explicit consent” and “establishing, exercising or defending legal claims”. The former, explicit consent, presents a difficult problem when there are several controllers in a distribution chain in a subscription market and because consent may be withdrawn during the term of a policy; and the “legal claims” ground is potentially narrow. Therefore, the insurance industry worked with government to obtain a derogation in UK legislation to give a further ground for processing certain types of special category data, e.g. health data.

The essence of the new processing ground is that this is necessary for an insurance purpose and is in the public interest. An insurance purpose includes advising, arranging, underwriting and administering an insurance contract; administering a claim; exercising other rights (e.g. subrogation). The public interest test is an overall (and not policy-specific) test and includes making available insurance products through risk-based pricing (i.e. where that data is necessary), administration and payment of claims, and detection of fraud.

The UK Data Protection Bill, which contains this further legal processing ground, is due to be enacted by or on 25 May 2018. When enacted, the LMA will provide an update for members. For further information, please see [LMA Bulletin LMA18-003-KK](#) which describes the derogation in more detail. The Bill provision does contain various safeguards (e.g. in respect of third party witnesses - see [LMA18-003-KK](#)).

Effect of the derogation: in relation to a controller established in the UK, when processing personal data relating to health, racial or ethnic origin, religious or philosophical beliefs, trade union membership, or genetic data, or processing criminal convictions, where this is necessary and within the public interest (as explained), it will not be necessary for e.g. brokers, coverholders or carriers to obtain consent at the arranging stage or claims stage, and therefore the consent forms need not be used.

Please note also that where the personal data is “ordinary” data (e.g. name and address) and not special category data, there are other processing grounds under the GDPR, e.g. the processing is necessary for the performance of a contract or legitimate interests of the controller, and therefore, again, the consent forms need not be used.

In all cases, whether processing is of “ordinary” personal data, or special category data falling within the UK derogation, Information Notices are still required.

LMA contacts

Any queries regarding the above wordings should be addressed to:

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Queries regarding GDPR in general may be referred to:

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