EXPLANATORY MEMORANDUM TO

THE DATA PROTECTION ACT 2018 (COMPETENT AUTHORITIES) REGULATIONS 2026

2026 No. [XXXX]

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Sarah Jones MP, Minister of State for Policing and Crime at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Krisztina Katona, Deputy Director for Data Policy, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Nicola Kaminska at the Home Office can be contacted by email at the following address with any queries regarding the instrument: DPPolicyandGuidance@homeoffice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument adds the College of Policing ("the College") to the list of 'competent authorities' in Schedule 7 and section 30, Part 3 of the Data Protection Act (DPA) 2018. Part 3 of the DPA 2018 governs processing of personal data for law enforcement purposes by 'competent authorities': such processing can include receiving, examining, storing or otherwise using personal data. This legislation will enable the College to undertake this processing as a competent authority.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland, though the College's statutory functions are limited to England and Wales.

5. Policy Context

What is being done and why?

5.1 The UK's data protection framework is made up of the UK General Data Protection Regulation (UK GDPR) and DPA 2018. While the UK GDPR and Part 2 of the DPA 2018 apply to general processing of personal data, utilised by most organisations, Part 3 of the DPA 2018 establishes a separate regime for the processing of personal data by competent authorities for law enforcement purposes.

5.2 This instrument adds the College of Policing to Schedule 7 of the DPA 2018, designating it as a 'competent authority'. Under Part 3 of the DPA 2018, a 'competent authority' is an organisation with statutory powers to process personal data for law enforcement purposes. Schedule 7 sets out the organisations that are recognised as competent authorities, including police forces and other bodies involved in the criminal justice system with statutory law enforcement functions.

5.3 The College was not originally included in Schedule 7 of the DPA 2018 because its role was not considered to involve core law enforcement functions. However, its responsibilities have evolved, and it now provides significant support to operational policing, including handling law enforcement data and supporting the development and testing of policing technologies. This requires access to personal data held by police forces, including criminal offence data.

5.4 As the College is not listed in Schedule 7, it cannot automatically process personal data under Part 3 of the DPA 2018 in the same way as police forces do. Consequently, the College must engage in complex data sharing arrangements under which the College acts as a processor, processing data on behalf of, and under the instructions of, police forces acting as a controller.

5.5 These arrangements can be complex where the College needs to process personal data in connection with its own functions, rather than solely on behalf of police forces. By enabling the College to act as a controller in its own right, this legislation will allow data sharing with police forces to take place on a controller-to-controller basis and ensures the same legal standards apply to both.

5.6 The legislation does not significantly change the way personal data is processed. Instead, it clarifies the legal framework under which the College carries out its existing functions and is therefore not expected to have a significant impact on data subjects. The College will be directly responsible for complying with Part 3 DPA 2018 requirements, including the data protection principles, security requirements, record keeping and the rights of individuals. Police forces will still need to have a lawful basis for sharing any data with the College. This will support effective collaboration with police forces, reduce legal uncertainty and ensure that the College can continue to deliver its functions.

What was the previous policy, how is this different?

5.7 Previously, the College of Policing was not listed under Schedule 7 to the DPA 2018 and therefore was not a recognised competent authority for the purposes of Part 3 of the DPA 2018. Where the College needed to process personal data connected to law enforcement activities, it generally relied on the UK GDPR framework which requires more complex governance arrangements to facilitate cross regime processing.

5.8 The new policy allows the College to independently process personal data for law enforcement purposes under Part 3 of the DPA 2018, where appropriate. The change does not alter the College's powers or give it unrestricted access to police information. It changes the data protection regime that applies when the College is carrying out relevant law enforcement work, including the testing of operational policing technologies, or using operational learnings to inform training for officers.

6. Legislative and Legal Context

How has the law changed?

6.1 This legislation amends Schedule 7 by adding the College of Policing to the list of bodies recognised as competent authorities. As a result, the College can process personal data for law enforcement purposes under Part 3 in its own right. This gives legal certainty to the College and means it can work more effectively with law enforcement partners processing personal data in the same way, subject to the same standards and safeguards set by the Information Commission (ICO).

Why was this approach taken to change the law?

6.2 Adding the College of Policing to Schedule 7 of the DPA 2018 was considered the most appropriate approach. The College increasingly carries out functions that support operational policing and therefore requires access to personal data for law enforcement purposes. Designating the College as a competent authority means the College can apply the same legal standards to this processing better enabling it to receive and process data directly where appropriate. This reflects the College's statutory role and avoids the need to rely on complex governance arrangements and indirect processing through police forces. It also reduces legal uncertainty, supports effective collaboration with policing partners and ensures that the College can continue to deliver its functions efficiently.

7. Consultation

Summary of consultation outcome and methodology

7.1 Given the limited and technical nature of this instrument, the Home Office concluded that a wider public consultation was not necessary. Targeted engagement was conducted in May and June 2026 with relevant government departments and policing stakeholders.

7.2 The proposal was developed in conjunction with the College of Policing and has been approved by their Executive Committee.

7.3 No concerns or objections were raised. Consultees agreed that the instrument provides legal clarity by designating the College as a competent authority under Part 3 of the DPA 2018.

8. Applicable Guidance

8.1 This instrument does not require any guidance. The ICO's Guide to Law Enforcement Processing[1] explains the Part 3 DPA 2018 regime for law enforcement data processing. It explains each of the data protection principles, rights and obligations.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the impact of the legislation is assessed as being below the de minimis threshold. The instrument makes existing processes more efficient and provides legal clarity about the data protection framework that applies to the College of Policing. It is not

[1] https://ico.org.uk/for-organisations/law-enforcement/guide-to-le-processing/

expected to result in significant impact on business, the public sector, civil society organisations or individuals.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument does not impose any new requirements, obligations or costs on these organisations.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this legislation primarily clarifies the legal framework that applies to the College of Policing's existing activities. The change is expected to improve administrative efficiency and provide greater legal certainty when the College processes personal data for law enforcement purposes, rather than creating significant new costs or operational burdens for public authorities. The change will not automatically grant the College access to policing data, and data sharing will be subject to Data Protection Legislation requirements.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through ongoing engagement with the College of Policing under its framework agreement. This will help ensure that the amendment has enabled the College to process law enforcement data under Part 3 DPA 2018 as intended, and whether any material legal or operational issues have arisen.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister of State for Policing and Crime has made the following statement regarding Human Rights: "In our view the provisions of the Data Protection Act 2018 (Competent Authorities) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").