

Data Protection and the Parish – Guidelines

Version: Final1.0

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Why do I need to read this?

The General Data Protection Regulation 2018 (GDPR) is designed to protect the rights of identifiable living individuals concerning information about them (known as personal data). It covers basic information (such as names and addresses) and expressions of opinion (such as in references).

Do I need to notify and if so, how?

Notification is the process whereby a data controller informs the Information Commissioner (IC) that they are processing (handling) personal data. Each PCC is considered to be a data controller although most should be exempt from notification.

It should be stressed that, even if the PCC is exempt from notification, the remainder of the GDPR still applies to them and everyone in the parish handling personal data.

If you need to notify for the first time, you should telephone the IC on 0303 123 1113. You will be asked certain questions and then sent a form to complete and return with a fee of £35 (payable annually). You will be asked if you have an information security policy but should not get into trouble for not having one as this is primarily aimed at larger organisations; at parish level the application of common sense should be sufficient.

What are the restrictions on the use of personal data?

Article 5 of the GDPR requires that personal data shall be:

- a. Processed lawfully, fairly and in a transparent manner in relation to individuals.
- b. Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
- c. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
- d. Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.
- e. Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals;
- f. Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Article 5(2) requires that:

The controller shall be responsible for, and be able to demonstrate, compliance with the principles.

How does this specifically affect the PCC?

PCCs need to have carried out an audit to list who holds what data, how safely it is stored, how long for and who it may be shared with. The Keep or Bin leaflet will help you determine retention periods. PCCs need to write a Privacy Notice which can be put on the parish web site (if you have one) and made available on request – the Parish Resources web site (details below) has a template.

The following notes should help you determine whether or not you need to gain formal Consent from the individuals you correspond with:

1. GDPR does not take precedence over any other legislation. For example, the names and addresses on the church electoral roll are collected and held as directed by Church Representation Rules (Synodical Government Measure 1969) and this is the legislation that takes priority. This would also apply to personal data processed to comply with financial reporting requirements.

2. If you only keep and use people's personal data (their names and addresses) for a statutory purpose (as in paragraph 1 above) you do not need to seek their separate Consent. The statutory uses of the church electoral roll include determining who is eligible to vote at the APCM, correspondence relating to the APCM, determining who may be elected to the PCC or to the deanery/diocesan/general synod and who may vote in these elections.

3. In some churches the electoral roll is also used as a general mailing list. If all that is being sent is times of services, reports on church activities and musings on the Sunday readings the PCC (as the legal "data controller") could argue that it has a "legitimate interest" under GDPR and therefore does not require Consent. In other words, you could argue that it is legitimate to assume that those prepared to sign up to the electoral roll are interested in church matters. It would, however, be sensible to gain written Consent for continuing contact with any incidental visitors (e.g., those attending baptisms, weddings and funerals).

4. If, however, there is any hint of marketing (e.g. advertising from local tradesmen or for events for which a charge will be made) and you are emailing people you most definitely should obtain their Consent. Interestingly, you do not need consent to put the same information as hard copy through their letter box.

5. In the run-up to an APCM, the Church Electoral Roll Officer should put up a list of the names of those on the electoral roll (a statutory requirement under Church Representation Rules). They should not, however, include contact details (which would breach data protection law).

6. 2019 requires all parishes in the Church of England to prepare a New Roll. Everyone will need to fill in a new Application for Enrolment on the Church Electoral Roll. I shall add a section after the statutory wording to enable parishes to also use the Enrolment Form as a Consent Form for wider communications should they so wish. I shall, as usual, write to PCC Secretaries and Church Electoral Roll Officers before next year's APCMs to give you the information and documents that you will need.

What are subject access rights and how do they operate?

An individual has the right to receive a copy of most paper-based or electronic information held about them by an organisation ('data controller') within 30 days of making that request – a "Subject Access Request". This covers all information held on computer and any

correspondence and other papers from which that information might be deemed to be reasonably accessible. You do not, therefore, have to scour through minutes etc for any mention of the individual. You may stipulate that such requests should be presented in writing and also that, if the individual is willing, you may deal with the request informally, e.g. over the telephone (see the ICO's own Privacy Notice for how they handle this).

The general principle is that as much information as possible should be shared with the individual. There are, however, limited categories of material that you may withhold from the individual in the interests of protecting the rights of other individuals to privacy and for the protection of crime etc. You can withhold any references that you have given (but not any you have received). When sharing with an individual the information that you hold about them, you

must remove anything which would identify a third party. You may also be entitled to hold back information containing serious allegations (for example, of child abuse) if to reveal that information would compromise the proper investigation of those allegations. In such cases you should always seek advice from your diocesan registrar or diocesan office.

What is Privacy by Design?

This is the requirement that the data protection implications are considered when starting any new piece of work.

Where do I seek further advice if I need it?

You will find general information about GDPR together with templates for things such as a Parish Privacy Notice on the national Parish Resources web site at <http://www.parishresources.org.uk/gdpr/>

Your Diocesan Office Data Protection Officer is Wendy Sleight

Address: Church House Guildford, 20 Alan Turing Road, Guildford, Surrey, GU2 7YF

Email: data.protection@cofeguildford.org.uk

Tel: 01483 790300

If you wish to seek advice from the Information Commissioner's office direct, their general helpline number is 0303 123 1113 and their web site address is <http://ico.org.uk>

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