

# Any Parish Church

# DATA PROTECTION Guidance

Revised: December 2016

# THE DATA PROTECTION ACT 1998

## WHAT IS IT?

The **Data Protection Act 1998** seeks to ensure that organisations process data (which includes keeping records) on living people only to the extent that it is necessary to do so, and gives to the people whose information is being kept various rights, including the right of an individual to find out what records are held on them.

Like all other organisations, churches are expected to follow eight principles of “good information handling”. Information about living people, which is called “personal data”, must be:

1. fairly and lawfully processed
2. processed for limited purposes
3. adequate, relevant and not excessive
4. accurate
5. not kept longer than necessary
6. processed in accordance with the data subjects’ rights
7. secure
8. not transferred to countries outside the European Economic Area without adequate protection.

The Presbytery Clerk is the Data Processing Controller for all member congregations, and acts as contact person between each congregation and the Information Commissioner. The Session Clerk should be informed of any suspected breach of the Act, in the first instance.

This guidance does NOT set out to be a comprehensive manual on the subject. For further, more detailed, advice, please contact the Law Department at the Church Offices, 121 George St, Edinburgh.

## THE BASICS

The Data Protection Act covers ALL records we hold about living people, whether electronically or in paper form. Congregations keep many records – including congregational rolls, freewill offering and Gift Aid records, minute books, baptismal registers, Sunday School records, safeguarding files – and it is legally accepted, in principle, that we need to do so.

We should not keep more personal information than we actually need, and we should have permission to keep it. In general terms:

- *If you don't actually NEED information, don't ask for it*
- *If you don't need it any longer, don't keep it*
- *If you keep information, keep it securely*
- *If you get rid of information, dispose of it safely*

## THE BAD NEWS

The church does have to contend with the additional complication that almost all information we hold is considered by the Act to be **sensitive personal data**, in that it relates to *religious beliefs*.

We do not need explicit consent to hold and process information in connection with the purposes of the Church of Scotland; (for further details on consent please read p.5 of this document). However, **we do need explicit consent (spoken or written) to share this information with third parties; for instance, when publishing names, addresses and other information in newsletters, magazines or on the internet.**

Even the baptisms, new members and members moving address sections of a church magazine fall foul of the Act [unless of course the person concerned has given consent] though, as the Act applies only to living persons, there should be no problem with listing funerals, however, caution may need to be exercised depending on circumstances. Make sure you are acting legally by obtaining written permission to publish personal details.

For the avoidance of doubt, filming and still photography which identify living individuals fall within the scope of the Act.

## THE GOOD NEWS

The church has to adhere to the Act and implement its provisions, however, the church benefits from a provision in the Act which exempts us, as a not-for-profit organisation, from having to notify the Information Commissioner of records held and processed purely for routine administrative purposes: membership rolls, contact details of Sunday School children and parents, WFO and Gift Aid records etc.

However, not all records normally held by churches are exempt in this way. Congregational Safeguarding records, and any recording of pastoral care or counselling would fall outwith the exemption, and will need to be notified to the Presbytery Clerk so that he can make the necessary report to the Information Commissioner.

If, in the future, Any Parish Church were to have CCTV recording facilities then this must also be reported, as should the keeping of records for additional activities such as church food banks. The Presbytery Clerk does not need to see the records, just to be informed that they exist.

*Point to ponder:* Some elders may still adhere to the practice of keeping a notebook of their district, containing facts and personal impressions about each household. To put this in context, consider what would happen if these notes fell into the wrong hands, or even the hands of the people the written notes are about, because they have a legal right to access this information?

## SECURITY OF RECORDS

It's a popular misconception that holding something in a **non-electronic** form, such as paper files, is not covered by the Act. That is a misconception. We have a duty of care to keep paper records safely, preferably in lockable filing cabinets in a lockable office. The Act particularly focuses on records indexed or stored in such a way that material on individuals can easily be identified.

Baptismal registers are a case in point, though minute books arranged by date, or correspondence files indexed by non-personal subject matter are less risky. Consider if any information held is likely to prove embarrassing if it leaks out, or if it has to be produced because the person concerned has made a “subject access request”. Do you still need to hold it? If so, lock it up. If not, shred it.

Most church records are now held in **electronic** form, and this can lead to difficulties as the majority of congregational office-bearers do much of their church work at home. It is NOT a good idea to keep church records on a computer at your place of employment. Quite apart from the fact that your employer, rightly, won't appreciate you doing church work in company time, security in an office is easily compromised.

Desktop computers and portable computers (laptops etc.) must always be password protected. All digital sensitive personal data should be stored either in encrypted files on the computer or on an encrypted device (such as an encrypted USB stick). Make sure that your computer password and any encryption passwords are kept secure and be careful who else has access to your files. When backing up or transferring records to or from your home use an encrypted USB stick. These are not significantly more expensive than unencrypted ones, and consideration should be given to purchasing encrypted USB sticks for all relevant office bearers ... much cheaper than a fine for having records stolen.

Be especially careful with records held on portable computers. These are quite easy to misplace and are popular targets for criminals. Any theft or loss of any such unprotected electronic records will put the church firmly in the frame for punishment by way of a fine from the Information Commission. **There is really no substitute for encryption of both device and USB stick.**

Regarding any computer on church premises, be vigilant about access and keep it in a lockable place. Recently, laptop computers with communion rolls and other church records were stolen from two churches in Edinburgh. As required by law, these incidents were reported to the Information Commissioner, who is now seeking reassurance that churches are improving data protection to what he regards as acceptable levels.

**As the Information Commissioner has the power to impose substantial fines on the Presbytery, on congregations, and indeed – potentially – on individual office-bearers for such breaches, it is clearly in all our interests to comply.**

## **ACCESS REQUESTS**

Anyone has the right under the Act to know what records are held on them, to receive copies of such records and, if they so wish, to demand that such records be deleted. If the Church receives any such request, it must inform the Presbytery Clerk right away as there is a time limit of a **maximum of 40 days** for supplying the information. The Church is entitled to make an administration charge, up to a maximum of £10, for answering such requests.

## OBTAINING CONSENT

A congregation does not require written consent from members or from people with whom it is in regular contact, simply to hold their personal information in connection with the purposes of the Church of Scotland.

There are three qualifications to this, which are grounded in the data protection principles:

1. The information must be collected and used “**in the course of the legitimate activities**” of the congregation: this broadly means that a congregation must have legitimate grounds for collecting and using the information for its own purposes;
2. There must be “**appropriate safeguards**” for the processing of this information to remain lawful. In other words, it must be kept securely so as to prevent unauthorised access and accidental loss; and
3. It **must not be disclosed to any third party** (via website or newsletter etc.) without either the spoken or written explicit consent of the person concerned.

Please note that the other underlying data protection principles will also continue to apply to this information, so the congregation should revisit data held on individuals from time to time to ensure that it remains accurate, and not excessive for the required purpose.

The congregation should also be transparent with people about the information which is held and how it will be used; this may be done through an article in a newsletter, magazine and/or on the church website.

In detailing the minimum consent requirements above, it remains good practice to ask people to confirm, in writing, that they are happy for you to hold information about them, and get them to confirm that the information is still correct and up-to-date.

On page 7, there is a form which could periodically be sent out to members of the church to ascertain whether the information a congregation holds about them is up-to-date and enquiring regarding permission to publish their information to third parties (i.e. through a newsletter, magazine or website).

If a church member refuses consent for you to hold their records, you should discuss the issue with them and explain why you are doing so. It may be that their refusal is indicative of a wider problem where it is identified that they no longer are showing sufficient interest or taking an adequate share in the worship, mission and service of the Church.

On page 8, there is a form which could be given to members of the congregation seeking consent to share their personal sensitive information with our partners in Bandawe and Limphasa Presbyteries.

## **INFORMATION NO LONGER NEEDED?**

On a fairly regular basis, examine your files and delete files that no longer require to be held. With electronically-held data, the “delete” button will usually suffice. Paper records are less straightforward. Historical records – old minute books, baptismal rolls, communion rolls etc. – that are no longer used should be taken to 121 and placed in the hands of the Principal Clerk’s Office. The records are then transmitted to the National Archives for secure storage and, once Data Protection constraints no longer apply, made available to researchers of family history etc. When you hand them in, obtain a receipt.

Do NOT put paper records with personal information into the regular rubbish or recycling bins. Shred them first.

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This guidance has been adapted with permission from material produced by the Reverend Frank Campbell, Clerk to the Presbytery of Jedburgh, whose work we gratefully acknowledge and appreciate.

## Data Protection Update and Third Party Information Sharing Permission Form

The new General Data Protection Regulations have been published and they are less of a burden on congregations than was initially understood. At Any Parish Church, we seek to continue to comply with these regulations in the following ways:

1. by protecting your privacy and safeguard your personal data
2. by using any information we hold on you in a responsible manner and only in connection with the purposes of the Church of Scotland
3. by keeping your data only for as long as necessary
4. by not sharing your personal data with third parties unless we have your explicit consent.

Any Parish Church holds personal information that has been previously provided by our members. That information can include: name, address, date of birth, telephone numbers (landline and mobile) and email addresses (*delete as appropriate*). If you agree to the congregation holding information that you have previously provided then you do not require to do anything else. If you would prefer the congregation not to hold certain information, then please write to the Session Clerk asking for the information to be removed from our records.

We may at times seek to share your information in such a way as is accessible to third parties; namely but not exclusively, through intimations, the magazine, social media and the Church website (*delete as appropriate*). If you do not wish your details to be shared in this manner, then you are not required to fill in the form below. If you do give permission for your information to be shared with third parties, then please complete the relevant sections below, place your response in a sealed envelope and return it by one of the following means - to the Minister or an Elder, by hand, by post to Any Parish Church or by placing your sealed envelope in the box in the church vestibule marked 'Data Protection forms'.

**If you have previously submitted a Data Protection form and your Data Protection preferences remain unchanged then there is no requirement for you to complete this form.**

NAME		
ADDRESS		
Email address		
Telephone (landline)		
Telephone (mobile)		
On occasions we may share personal information about you (name and contact details) with third parties through the following publications, please advise whether or not you consent to your information appearing in the following:		
	<b>YES</b>	<b>NO</b>
Intimations		
Parishioner		
Church Website		
Social Media (Facebook etc)		
On occasions we may wish to use your photograph in the aforesaid Church publications, do you consent to it being used?		
SIGNED		
DATE		

If you require further forms, please contact... If you have any queries regarding the completion of this form, please contact... Many thanks for your kind help and co-operation.

**ANY PARISH CHURCH  
CONSENT TO SEND PERSONAL INFORMATION OUTSIDE OF THE EEA**

The purpose of the Data Protection Act 1998 is to ensure that any personal data an organisation holds about an individual is stored and used in an appropriate way. Any Parish Church through The Presbytery of Ayr is registered with the Information Commissioner and strives to comply fully with data protection law. The Information Commissioner's website provides in-depth information regarding the requirements of the Data Protection Act: <https://www.ico.org.uk/>

Any Parish Church has links with Bandawe and Limphasa Presbyteries, Malawi and in connection with that we sometimes exchange information about the work undertaken by the Church and individuals within it. That information can include names, email addresses and photographs. The Data Protection Act specifically excludes the transfer of such personal information outside of the EEA unless the transfer falls under an exception or the data subject has consented to the transfer.

We would like to use your information in connection with our ongoing work with Bandawe and Limphasa Presbyteries, Malawi and seek your consent to do so. Please note that we will only provide your name, email address and photograph(s) although you may provide any additional information you consider appropriate. If you agree to your information being used in this way then please sign this form below. If you have any queries, please alert **[insert]** as soon as possible.

Name:

Date:

Please return the complete form to: