

# Data protection for parishes

Introduction to GDPR

May 2019



# This presentation

1. What is GDPR?
2. Definitions and key changes
3. GDPR principles
4. Lawful bases for processing
5. Rights for subjects
6. Special category and children's data
7. Helpful resources



# 1. What is GDPR?



# Introduction

- New data protection law
- Effective from 25<sup>th</sup> May 2018
- Building on what we should have already been doing
  - Cultural shift - more rights for individuals and more transparency of data processing
  - Organisations must be more conscious of, and intentional about, data protection



# Data protection regulations overview

- General Data Protection Regulation (GDPR)
  - Pan-European principles based legislation
- Data Protection Act 2018 (DPA 2018)
  - Replaces DPA 1998 and adopts GDPR into UK law
- Privacy and Electronic Communications Regulations 2003 (PECR)
  - Operates alongside GDPR with regulation for direct marketing and internet cookies



# Regulators and services

- Information Commissioner's Office (ICO)  
<https://ico.org.uk>
- Fundraising Regulator  
<https://www.fundraisingregulator.org.uk>
- Fundraising Preferences Services  
<https://www.fundraisingpreference.org.uk>
- The Charity Commission  
<https://www.gov.uk/government/organisations/charity-commission>



## 2. Definitions and key changes



# Definitions - 1

- **Personal data** is information about a *living* individual which is capable of identifying that individual
- **Processing** is anything done with or to personal data, including storing and deleting





# Definitions - 2

- The **subject** is the person about whom personal data is processed
- The **controller** is the organisation or person who determines the how and what of data processing

In a parish the PCC and Incumbent can act as independent and **joint controllers**



# Key changes - 1

- **New rights for data subjects**
- **Privacy notice** is required to provide transparency of data processing
- **Consent** must now be ‘opt-in’, specific and not bundled with other services
- **Data can only be used for purpose it was gathered**
- **Sanctions** are strengthened



# Key changes - 2

- New principle of **accountability**
- Ensure **adequate training** and awareness
- Reporting of **breaches**
- Data Protection Impact Assessments (DPIAs) required for new data processes
- Data Protection Officer (DPO)
  - Parishes should not appoint a DPO but use a different name for their data protection lead



# 3. GDPR principles



# GDPR Principles

- Processed lawfully, fairly and transparently
- Purpose limitation
- Data minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality (security)

Controllers are **accountable** for compliance with these principles



# Key ‘rules of thumb’

- Put yourself in the position of the data subject:
  - Would I be **surprised** my data is used or secured in this way?
  - Would I **object to** my data being processed in this way?



# Privacy notice

Organisations are expected to make available a privacy notice to comply with the first principle:

*“Personal data shall be ... processed lawfully, fairly and in a transparent manner in relation to the individual”*



# 4. Lawful bases for processing





# Lawful bases for processing

Six lawful bases - at least one must apply

1. Consent
2. Legitimate interests
3. Legal obligation
4. Performance of contract / take steps to enter contract at data subject's request
5. Vital interests (medical emergency)
6. Public task (underlying task must have clear basis in law)



# 1. Consent

- Only rely on consent if you can't rely on another basis
- Must be 'opt-in' and as easy to withdraw
- Must not be bundled
- It must be Oral consent is ok - but it must be recorded

*Direct marketing is defined as the communication of advertising or marketing material which is directed to particular individuals and this **requires consent***



## 2. Legitimate interests

- A balancing test must be performed between the data controller's interest and the privacy of the data subject

## 3. Performance of contract

- In order to enter into a contract with the data subject at their request



# 4. Legal obligation

- Controller is legally obliged to process data
  - Church Representation Rules - e.g. Electoral Roll data
  - Gift Aid returns
  - Parish registers
  - Police investigations
  - Court orders



## 5. Vital interests

- Use data to protect the vital interests of a data subject - e.g. in a life or death situation, use medical or emergency contact information

## 6. Public task

- Your underlying task, function or power must have a clear basis in law



# 5. Rights for subjects



# Rights for data subjects - 1

## 1. To be informed

- ‘fair processing information’ - privacy notice

## 2. To access

- Can request their information
- Subject Access Requests (SARs) without a fee

## 3. To rectification (correction)

- If inaccurate or incomplete
- You must notify third parties



# Rights for data subjects - 2

## 4. To request erasure

- Gift Aid information - financial regulations
- Safeguarding - some data still necessary to keep as “necessary, reasonable or proportionate” e.g. to protect members of the public

## 5. To restrict processing

- Can still store data to ensure any restriction is respected - e.g. no email contact





# Rights for data subjects - 3

## 6. To data portability

- Unlikely to affect parishes

## 7. To object to processing

- In certain circumstances

## 8. Not to be subject to automated decision making (profiling)

- Unlikely to affect parishes



# 6. Special category data and children's data



# What is special category data? - 1

Also a broader definition of special category (sensitive) data

- the racial or ethnic origin of the data subject
- political opinions
- religious beliefs or other beliefs of a similar nature
- trade union membership
- physical or mental health or condition



# What is special category data? - 2

- sexual life
- commission or alleged commission of any offence
- any proceedings for any offence committed
- genetic data
- biometric data
- data concerning sexual orientation



# Special category data - criteria

A lawful basis and one of these criteria

1. Consent
2. Employment law
3. Vital interests - e.g. a life or death situation
4. Charities, religious organisations and not for profit organisations - to further the interests of the organisation on behalf of members, former members or persons with whom it has regular contact such as donors



# Special category data - criteria

5. Data made public by the data subject
6. Legal claims
7. Reasons of substantial public interest
8. Medical diagnosis or treatment
9. Public health -for reasons of public health
10. Historical, statistical or scientific purposes



# Children's data

- UK has adopted the option to reduce the age of consent for processing data from 16 to 13 (this broadly aligns with social media rules)
- Parents can give consent up to the age of 18
- Take reasonable steps to establish a parent has Parental Responsibility



# 7. Helpful resources





# Helpful resources

- ‘Keep or Bin - The care of your parish records’, Church of England 2009  
<https://www.lambethpalacelibrary.org/content/recordsmanagement>
- ‘A safe church’, Southwark Diocese 2018  
<https://southwark.anglican.org/safeguarding/diocesan-policies-and-procedures>
- On-line training via Parish Buying website
- <https://www.parishbuying.org.uk/>



# Helpful resources



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# Helpful resources

- Resources available on Southwark Diocese website GDPR section:
  - GDPR Toolkit
  - Parish Privacy Notice
  - FAQs
  - This presentation
- Queries to [data@southwark.anglican.org](mailto:data@southwark.anglican.org)

