

Data protection and volunteers

Summary

'Data protection' is often cited as a barrier to doing or not doing something, but the rules are actually quite simple and clear. As long as you know what data you can and can't hold, and have some processes in place to ensure personal information is only shared when necessary, management of this information shouldn't be a burden.

The aim of this Information Sheet is to provide an introduction to the Data Protection Act. It is not intended to be a substitute for professional legal advice, and organisations should seek further information about compliance with data protection, storage and disposal from the Information Commissioner's Office (ICO).

This Information Sheet covers:

- How does the data Protection Act affect volunteering?
- Data protection policy
- Data processing
- The Information Commissioner's Office and the Employment Practices Code
- Other obligations

How does the Data Protection Act affect volunteering?

Any organisation that collects personal data about individuals is known as a 'data controller' and has to comply with the Data Protection Act 1998. If you hold information about volunteers, then you will need to ensure that you comply with the Act.

The Data Protection Act 1998 covers information about any living individual who could potentially be identified from the data that is

- held on a computer; or
- in paper files.

Data protection policy

It's therefore a good idea to have a policy that covers data protection, however basic. This is particularly true for those organisations that have roles that require Criminal Record Bureau checks for volunteers.

A policy should ideally cover

- what information will be collected and why;
- how long the information will be kept for;
- how the information will be stored; and
- how an individual can access the information held about them.

Data processing

Anything that you do with data is known as 'processing'. There are eight data protection principles that anyone processing data should follow. Data must be:

- processed fairly and lawfully;
- processed only for specified particular purposes;
- adequate, relevant and not excessive for the purposes for which it is kept;
- accurate and kept up to date;
- not kept for longer than necessary;
- processed in accordance to the subject's rights;
- kept with appropriate security measures; and
- not transferred to countries outside the EEC (data published on the internet is automatically regarded as an overseas transfer).

Data processing should only take place if

- the person who the information is about has
 - a. given permission;
 - b. knows who is using the information;
 - c. knows what they are using it for; and
 - d. knows who it is likely to be passed on to¹; or
- it is necessary for the completion of a contract with the data subject; or
- it is necessary to protect the interest of the individual or carry out public functions; or
- there is a legal obligation to process the information.

For most organisations the main thing is to ensure that

- everyone that you hold information about knows that you do and has given permission for it to be stored and used;
- records are not held for longer than necessary and are stored and disposed of securely; and
- records are held in such a way that individuals who wish to see what information you hold about them can do so.

The Information Commissioner's Office and the Employment Practices Code

The Information Commissioner's Office (ICO) is an independent authority set up to uphold information rights in the public interest. The ICO can help you understand your obligations and keep you updated as and when they change.

There are numerous resources on the [ICO website](#)², including [The Employment Practices Code](#)³.

The Code is divided into four parts and runs to around 90 pages, so we've highlighted the most relevant sections below.

¹ It is assumed that by agreeing to fill out application forms etc. people have given implicit permission because it is obvious what the information will be used for. However, when collecting sensitive data (such as criminal records, health monitoring, equal opportunities information) explicit permission must be sought

² <http://www.ico.gov.uk>

³ http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/employment.aspx

1.7 / Retention of recruitment records

Records that are held for the purposes of recruitment should be destroyed either

- as soon as a decision has been taken on whether or not to employ the person; or
- within six months.

For instance, you would record the result of a CRB check and add it to the person's employment file, then destroy the actual CRB check itself.

In the same way, you would transfer the information you need from an application form into the employee's file, then destroy the application form.

2.5 / Equal opportunities monitoring

Monitoring information about sex, ethnicity, sexuality, disability, age or religion should ideally be collected and stored anonymously. It should be used only for reviewing how your policies and procedures are ensuring equality of opportunity and/or treatment.

2.15 / Retention of records

There is no set time period for retaining records, but you should set and keep to standard times. You should also remember that information should be kept for no longer than necessary.

For example, you could decide to keep the records of all volunteers for six months after they stop volunteering, but extend that to 18 months for those who tell you they might request references in the future.

Other obligations

You should bear in mind that the Data Protection Act doesn't override any other legal obligations to hold information. For example, if the volunteers are trustees, it may be worth checking the Charity Commission website to see if they have any guidance on retaining trustee records.

Another point to consider is that how long you hold information for may also depend on your insurance and your funders, as they may provide their own criteria.

Further information

[Information Commissioner's Office](#)⁴

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Helpline: 0303 123 1113

- [Data Protection Act 1998](#)⁵
- [ICO | The Employment Practices Code](#) [PDF]⁶
- [Chartered Institute of personnel and Development | Retention of personnel and other related records](#)⁷

⁴ <http://www.ico.gov.uk/>

⁵ http://www.opsi.gov.uk/acts/acts1998/ukpga_19980029_en_1

⁶ http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/~/_media/documents/library/Data_Protection/Detailed_specialist_guides/EMPLOYMENT_PRACTICES_CODE.ashx

⁷ <http://www.cipd.co.uk/hr-resources/factsheets/retention-personnel-records.aspx>

Last reviewed: June 2011

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