



PARISHES AND THE 'GDPR'

Frequently Asked Questions

This document provides some frequently asked questions in relation to GDPR. To help you locate the answer you are seeking, either search this PDF or the following structure may be helpful:

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A Electoral Rolls & APCMs

Q1: Can we still publish our electoral roll?

Yes - the Church Representation Rules (CRR) require that "(11) *The roll shall where practicable contain a record of the address of every person whose name is entered on the roll . . .*" and that "(3) *After the completion of the revision, a copy of the roll as revised shall, together with a list of the names removed from the roll since the last revision (or since the formation of the roll, if there has been no previous revision), be published by being exhibited continuously for not less than fourteen days before the annual parochial church meeting on or near the principal door of the parish church in such manner as the council shall appoint.*"

The CRR require publication, this will, therefore, be considered to be a legitimate activity of a not-for-profit body under the GDPR. So, data will still be able to be processed in this way. The CRR are part of the Synodical Government Measure 1969 and they prescribe the relevant forms in relation to administrative matters dealt with by the PCC. You will not be able to alter the forms unless the amendments went through the synodical legislative process at the General Synod.

The forms themselves already state that the names of individuals will be published on or near the church door. For instance, see "Form of Notice of Revision of Church Electoral Roll". Indeed, under r.2(1) this "Form of Notice" of the intended revision is itself published on or near the church door of every church in the parish and every building licensed for worship and will remain there for a period of not less than 14 days prior to the revision, making individuals aware that the revised roll will be published, so giving them a chance to object. So, if they do not object, by applying to have their name entered on the electoral roll they are already consenting to its publication in the manner set out above.

Nevertheless, you can take the additional measure (if you so wish) of letting people know where and for how long their details will be publicly displayed, by providing such information in a covering letter with the enrolment forms.

If there are reasons why someone's details cannot be made public they should let you know (e.g. they are in a sensitive position (prison, police, army etc.) where publication of these details could cause harm or damage). It does say in the rules cited above "where practicable".

Q2: Will we need to seek consent to publish the electoral roll?

No – As the CRR require publication, then this is a legitimate activity of a not-for-profit body under the GDPR and so data can be processed in this way. In addition, by applying to have their name placed on the electoral roll individuals are consenting to their personal data being processed in accordance with the CRR. See answer above for further details.

Q3: Can we hold the roll electronically?

Yes, but according to the Church Representation Rules, a copy of the electoral roll must be displayed on or near the principal door of the church.

Q4: Are we allowed to digitise old rolls and destroy the paper copies?

Yes. However, if these have historical value you may wish to submit the paper copies to your diocesan record office instead of destroying.

Q5: Can we still send details of deanery synod elections and churchwardens elected etc. to the diocesan office. Will we need consent to do this?

Yes you can share this information with the diocese – managing and administering the elections will require the dioceses to process this information, this is stipulated in the CRR. **Consent will not be needed** for the data to be shared for this purpose. Indeed, if you stand for election you would expect your data to be shared with the diocesan office. The Rules state that the results will be sent to the Diocesan Electoral Registration Officer.

B Data Controllers: Clergy, Benefices etc.

Q6: Are the PCC and incumbent separate data controllers?

Yes, the PCC is data controller for the administration of the parish. The incumbent is data controller for data processed in relation to pastoral care. As the incumbent is a member of the PCC, there is no need for a data sharing agreement between the two.

Q7: What are the implications of the incumbent being a separate data controller?

The incumbent is responsible for ensuring that he/she manages personal data provided by data subjects in line with GDPR, so all of the guidance provided is applicable to incumbents as well as PCCs.

Q8: Can a multi-parish benefice be a single data controller?

Yes, they can be, as long as this is made clear in any privacy notices and consent forms used within that benefice.

Q9: My parish is a multi-benefice organisation – how do the consent and privacy forms relate to that situation rather than the single parish/benefice situation?

Provided you make it clear in your privacy notice and consent form that you are processing the data on behalf of the whole organisation – whether a single or a multi-benefice organisation then it will be ok to use a single privacy notice and consent form.

C Children and GDPR

Q10: Can parents give consent on behalf of their children for GDPR purposes?

Under the GDPR in the UK, children are able to give consent at age 13, which means that consent should come from the child rather than the parent/guardian from age 13 unless there are other reasons why the child does not have the capacity to consent. If you are seeking consent from a child you must have a child-friendly privacy notice in place. If the child is under age 13, parental consent is required.

D Privacy Notices, Consent and alternative bases

Q11: What is a privacy notice?

When you collect, use, store and manage personal data then the new General Data Protection Regulation (GDPR) requires that you tell individuals what you are doing with their data, including how long you are keeping it for and any third parties it is shared with. The GDPR sets out the information that you should supply to individuals and when.

For more information about what a privacy notice should contain, when you should issue one and to see a sample privacy notice, please visit the parish resources website:

<http://www.pariahresources.org.uk/gdpr/>

Q12: Do I have to publish a privacy notice?

Yes, you must issue somebody with a privacy notice at the point at which you take their personal data, or as soon as possible afterward. It should also be made publicly available so that it can be accessed for future reference, such as on a website or notice board.

Q13: Do I have to get consent for everything?

Consent is one of several legal bases for processing data, and may not be the most appropriate. Our guide to privacy notices explains the options available: www.pariahresources.org.uk/wp-content/uploads/GDPR-Privacy-Notice-and-Guidance.pdf

Q14: Are we allowed to gain consent via email?

Yes, as long as it is valid consent under GDPR. Under GDPR, you must record consent so make sure you save the email.

Q15: Do we need to get all of our existing consents with people renewed?

Not necessarily. Where you rely on consent, the ICO has stated that it will not be required to obtain fresh consent from individuals if the standard of that consent meets the requirements of the GDPR, i.e. consent has been clearly and unambiguously given and you have a record of that consent.

Nevertheless, it is important to review all consent mechanisms to ensure that they meet the standards required under the GDPR. If you cannot reach the high standard of consent as set out in the GDPR, you must look for an alternative legal basis for processing the data or stop processing the

data in question. Under the GDPR, consent must be verifiable. This means that some form of record must be kept of how and when consent was given. Consent must be freely given, specific, informed and unambiguous (i.e. consent requires clear affirmative action from an individual (i.e. the data subject)). Silence, pre-ticked boxes or inactivity (e.g. just staying on a website or not responding to a request) will not be sufficient. Individuals must also be informed of their right to withdraw consent at any time and how they can do this. In fact, it should be no more difficult to withdraw consent as it is to grant it.

Q16: Our monthly newsletter often includes details of activities requiring contact with another parish member (eg. Contact Jill at phone/email address to join the coffee rota). Until now, Jill has verbally consented to this. Is verbal consent adequate under GDPR?

No, one of the requirements when gaining consent under GDPR is that it must be recorded, as this will demonstrate accountability with the regulation. You should instead get Jill to fill in a consent form.

Q17: How can we renew consent for Mailchimp lists? If we send an email asking for consent and they don't respond, can we send a reminder in, say, three weeks?

Mailchimp has its own instructions on renewing consent, which can be found here <https://kb.mailchimp.com/accounts/management/collect-consent-with-gdpr-forms> and here <https://kb.mailchimp.com/lists/manage-contacts/reconfirm-a-list>

You can send a reminder, but remember if you still do not receive a reply, then you can no longer send them emails.

E Can we still...?

Q18: Can we still display rosters like the tea and coffee rota in the church?

Any rosters that are connected to running the activities of the church can be considered as legitimate interest, so you would not need consent to collect or display such data. Do make sure that it is outlined in your privacy notice though.

Q19: Are we allowed to process emergency contact details?

Yes. It is up to the person giving you the details to make the emergency contact aware that you have their details and to make sure they're kept up to date and accurate. Make a note that you haven't received this information directly from the data subject but from a third party.

Q20: We have a former members database – can we keep this or do we need to delete it?

It depends on what data is held and what you are doing with it. If you still have a legitimate reason to keep it (i.e. You are still processing it for the purpose for which you collected it) then it is okay to keep it. If you do not need that data any longer, then you should delete it.

Q21: Can we add people to our prayer list without consent?

If prayer requests are spoken in church then this is fine, you do not need consent. However, if people's names and reasons for the prayer request are recorded and published on the church website or in a parish newsletter, you will need consent.

Q22: Can we use personal details taken for weddings/baptisms/funerals to keep in touch with people after the event?

If you are in regular contact with them then you do not need consent to keep in touch and, for instance, send anniversary cards. If you are not in regular contact, you should ask the person/people if they would like to stay in contact and if they reply affirmatively, follow this up by getting them to fill out a keep in touch form. A sample form you might wish to use can be found on the Parish Resources website: <http://www.parishresources.org.uk/gdpr/consent/>

Q23: I would like to include photographs of a recent event in the parish newsletter – do I need consent to do this?

If the photograph is of the event in general, as opposed to a photograph of somebody close up, you do not need consent. It would be good practice to put a notice up that is clearly visible in the event room informing guests that photographs will be taken and where they will be used. You should also provide the details of who to contact should a guest not wish to be included.

Q24: Do I need consent to send a Benefice Magazine or leaflets advertising church events to every household in the benefice?

If you are sending them to every household in the benefice and they are not personally addressed (i.e. addressed to 'Resident' rather than 'Mr Smith') you do not need consent.

F Employees, Officeholders and Volunteers

Q25: We have paid staff and the payroll is provided by another organisation (e.g. a diocese or payroll service provider) – can we still share information with them?

Yes – The 3rd party is processing data on your behalf. You do though need to make sure that the contract you have with them is compliant with the GDPR (speak to your diocesan registrar and/or data protection officer at the diocesan office), in particular it will need to set out in clear terms what the organisation is doing with the data on your behalf and its location and security.

Q26: Do we have to treat PCC officers (e.g. Church Wardens, treasurers, secretaries) the same as other church volunteers or do they have their own 'category' as an office holder albeit a volunteer?

As office holders, even in a voluntary capacity, they have a slightly different role, because they have duties and tasks where the need to contact them or process their data is different from other church volunteers.

Q27: Can we treat office holders in the same way as if they were employees?

Office holders are not employees. However, GDPR applies to the data you process about them in the same way as it applies to employees and gives them the same rights as data subjects.

Q28: Are volunteers allowed access to personal data in the same way as paid staff?

As long as they have a legitimate reason to do so and have signed a data protection or confidentiality agreement stating that they will treat any personal data appropriately and have received some training on data protection.

G Retention, Rights and Erasure

Q29: How do I recognise a subject access request (SAR)?

The only requirement is that the request is made in writing.

It might not clearly indicate that it is a SAR, but any request by a data subject to see, correct, review or check their data should be regarded as an “individual rights” request i.e. in order to correct my data I need to see it first.

If you receive a SAR, you should consult the diocesan office in the first instance.

You are entitled to ask the requestor to be as specific as possible about what they want to see if you are not sure at first.

You must respond within a month and can no longer charge a fee, unless the request is manifestly unfounded or excessive. If the request is made electronically, you must respond in a commonly used electronic format. Remember to always verify the identity of the requestor before passing any data on.

Q30; How long do I need to keep information for?

Retention periods won't change under GDPR. Please see our records management guides for parishes, dioceses, cathedrals and bishops, which contain retention schedules:

<https://www.churchofengland.org/more/libraries-and-archives/records-management-guides>

Q31: Safeguarding advice appears to be – keep everything. A diary or parish magazine from twenty years ago can show that someone was not where it is alleged they were, or was not a churchwarden when they claimed to be. Is this in conflict with the right to be forgotten?

“The right to erasure”, also known as the right to be forgotten, in the GDPR is the right to request the erasure of personal data in certain limited situations, such as where the personal data is no longer necessary for the purposes for which it was collected or processed or where the data subject withdraws consent to the processing, where consent is the legal basis relied upon to process the personal data. Therefore, all personal data that can be legitimately held will continue to be so, unless and until one of the provisions permitting erasure of personal data under the GDPR applies, (such as the purposes for which it is being processed have ceased (or consent withdrawn, (where relevant) etc.). The Independent Inquiry into Child Sexual Abuse (IICSA) has certain statutory powers under the Inquiries Act 2005 and using its statutory powers it has already stated that we should not destroy any personal data that might be relevant to the inquiry and the ICO has agreed this too.

Secondly, with regard to material, such as the parish magazine, which is already in the public domain the so called “right to be forgotten” will be irrelevant because the material in question is already publicly available. Indeed, it would be completely impractical to request individuals destroy material, such as parish magazines, that has been made publicly available.

H Other Questions

Q32: Should all parishes be developing their own data audits or is this something the diocese needs to record and monitor?

All data controllers should undertake a data audit to create a Register of Processing Activities (ROPA). The diocese can certainly assist with this, but how this is recorded and whether it is

The GDPR: A Basic Guide to Data Processing for Parishes

monitored by the diocese is a decision you should take locally. For more information about carrying out data audits, and to see a sample form you might use, see the Parish Resources website:

<http://www.parishresources.org.uk/gdpr/dataaudit/>