

# **The General Data Protection Regulation (GDPR)**

## **Privacy Notices and Consent Forms**

### **What's all this about?**

Data Protection in the UK is changing in May 2018 and the new law gives individuals more rights over how information about them is stored and used by organisations (a Vestry or a Diocese for example). In particular, organisations have to tell individuals what they are doing with the information they are storing and using.

### **What's in it?**

What follows is in five parts:

1. an introduction explaining the jargon;
2. a completed example of how a privacy notice might look for use in a congregation;
3. a template consent form for use in a congregation;
4. a template Communicants' Roll Declaration Form for use in a congregation; and
5. a template privacy notice with more detailed advice about how this should be completed and explanations about what needs covered in each of the sections. The completed notice referred to at 2. above is a worked example embodying the principles explained in this more detailed template.

We are grateful to the Church of England for permission to use its material as a basis for preparing this guidance for the Scottish Episcopal Church.

### **What do I have to do?**

1. Read through the guidance and prepare a Privacy Notice. Once you've got a final version of the Privacy Notice ready to send then you need to send the Privacy Notice to all of the people that you hold data about and we recommend that if you have a congregational website you should post it there too. You should keep a record of who you sent it to, when, and how.
2. If you wish to send promotional information to congregational members via electronic means such as e-mail or text then you should send them a consent form so that they can consent to receiving such promotional information. If you only send such promotional information via post, there is no need to issue this consent form.
3. You should send the Communicants' Roll Declaration Form to all members on the Communicants' Roll as consent is required to enable you to share details of the Communicants' Roll with Vestries, the Diocesan Bishop and the Dean (as envisaged by the Code of Canons).
4. If you are sending consent forms then you need to keep them all as they are returned. You should similarly keep all completed Communicants' Roll Declaration forms.

### **When do I have to do it?**

By 25 May 2018 – but it's a good idea to get started now and not leave it all to the last minute.

# SECTION 1 - DATA PROTECTION PRIVACY NOTICE AND CONSENT FORM

## GUIDANCE

This guidance covers privacy notices and consent forms; explains what you need to do and provides templates for you to use.

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 the information. That is called a privacy notice. The GDPR sets out the information that you should supply to individuals and when.

What you have to tell people depends on whether or not you obtained the personal data direct from individuals or got it from somewhere or someone else. The information table below sets out what you've got to supply.

Under the GDPR, the information you supply in a privacy notice about the processing of personal data **must** be: -

- Concise, transparent, intelligible and easily accessible;
- Written in clear and plain language, particularly if addressed to a child; and
- Free of charge.

### Glossary of words/terms: -

Data controller	The person/body/organisation who determines the how and what of data processing.
Data subject	The individual about whom personal data are processed.
Personal data	Information about a living individual which is capable of identifying that individual.
Sensitive personal data	Personal data revealing religious or philosophical beliefs, racial or ethnic origins, political opinions, trade union membership, and information concerning an individual's health, sexual orientation and genetic or biometric information.
Processing	Anything done with/to personal data.

### When should the information be provided?

If the personal data is obtained directly from the individual, then you've got to tell them at the time you collect the data.

If the personal data is not obtained directly from the individual, then you need to tell them within a reasonable time (i.e. within one month). If you are using that data to communicate with the individual,

then you should tell them when you first communicate with them. If you are passing the data onto someone else, you must tell the individual before you pass it to anyone else.

## SECTION 2 – WORKED TEMPLATE PRIVACY NOTICE

**For illustrative purposes only. This will not be applicable in every Congregation and may need modification depending on the data being processed. Please refer to Section 5 – Data Privacy Notice for a more detailed description of what requires to be covered by each section**

### DATA PROTECTION NOTICE

#### St Agatha's, Anytown

##### **1. Your personal data – what is it?**

Personal data relates to a living individual who can be identified from that data. Identification can be by the information alone or in conjunction with any other information in the data controller's possession or likely to come into such possession. The processing of personal data is governed by the General Data Protection Regulation 2016/679 (the "GDPR").

##### **2. Who are we?**

The Vestry of St Agatha's, Anytown and the Clergy are each a data controller (contact details below). This means they each decide how your personal data is processed and for what purposes.

##### **3. How do we process your personal data?**

The Vestry of St Agatha's, Anytown and the Clergy comply with their obligations under the GDPR by keeping personal data up to date; by storing and destroying it securely; by not collecting or retaining excessive amounts of data; by protecting personal data from loss, misuse, unauthorised access and disclosure and by ensuring that appropriate technical and organisational measures are in place to protect personal data.

The Clergy will use your personal data in order to provide pastoral care to you and to administer records such as the Communicants' Roll and the Adherents' Roll.

The Vestry use your personal data for the following purposes: -

- To administer membership records;
- To fundraise and promote the interests of the charity;
- To manage our employees and volunteers;
- To maintain our own accounts and records (including the processing of gift aid applications);
- To inform you of news, events, activities and services running at St Agatha's and in the broader Scottish Episcopal Church;
- To share your contact details with the diocesan office so they can keep you informed about news in the diocese and events, activities and services that will be occurring in the diocese and in which you may be interested;

- To share your contact details with the diocesan office if you are appointed to a role within the congregation or diocese for the purposes of church administration;
- To share your contact details with the General Synod Office if you are appointed to a role within the congregation or diocese for the purposes of church administration;
- To enable us to provide a voluntary service for the benefit of the public.

#### **4. What is the legal basis for processing your personal data?**

Explicit consent of the data subject;

This is so that we can keep you informed about news, events, activities and services and other events throughout the Scottish Episcopal Church via e-mail, telephone and text; and share any sensitive personal data with the clergy, the Vestry, Diocesan authorities and General Synod Office, for example, the fact that you have joined the Communicants' Roll.

If you are an employee of the Vestry and the processing is necessary for carrying out obligations under employment, social security or social protection law, or a collective agreement;

Processing is carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided: -

- the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes); and
- there is no disclosure to a third party without consent.

Processing is necessary for our legitimate interests. This means that we can process your personal data if (i) we have a genuine and legitimate reason; and (ii) are not harming any of your rights and interests.

Our legitimate interests include: processing for the purposes of church administration; processing your gift aid donations; fundraising; and [INSERT IF ANY OTHER LEGITIMATE INTERESTS]

#### **5. Sharing your personal data**

Your personal data will be treated as strictly confidential and will be shared only as set out in this section. Your personal data may be shared with members of the Vestry and clergy and staff of the congregation, the diocesan office and, if you are appointed to a role within the congregation or diocese, with the General Synod Office.

If you serve on any committee or take on any duty, rota or role within the congregation, your personal data may be shared with other members of the congregation. You will be informed if your personal data will be shared more widely.

We may also share your information or disclose it to third parties where required to comply with any court order or other legal obligation or when data is requested by government or law enforcement authorities, to enforce any agreements, or to protect the rights, property, or safety of us, members of the congregation or others.

#### **6. How long do we keep your personal data?**

We keep data in accordance with the guidance provided by the Scottish Episcopal Church.

Specifically, we retain Communicant and Adherent Roll data while it is still current and historic records are held in our archive for 6 years; gift aid declarations and associated paperwork for up to 7 years after the tax year to which they relate; and church registers (baptisms, marriages, funerals) permanently.

## **7. Your rights and your personal data**

Unless subject to an exemption under the GDPR, you have the following rights with respect to your personal data: -

- The right to request a copy of your personal data which the Clergy/Vestry of St Agatha's, Anytown holds about you;
- The right to request that the Clergy/Vestry of St Agatha's, Anytown corrects any personal data if it is found to be inaccurate or out of date;
- The right to request your personal data is erased where it is no longer necessary for the Clergy/Vestry of St Agatha's, Anytown to retain such data;
- The right to withdraw your consent to the processing at any time
- The right to request that the data controller provide the data subject with his/her personal data and where possible, to transmit that data directly to another data controller, (known as the right to data portability), (where applicable) [*Only applies where the processing is based on consent or is necessary for the performance of a contract with the data subject and in either case the data controller processes the data by automated means*].
- The right, where there is a dispute in relation to the accuracy or processing of your personal data, to request a restriction is placed on further processing;
- The right to object to the processing of personal data, (where applicable) [*Only applies where processing is based on legitimate interests (or the performance of a task in the public interest/exercise of official authority); direct marketing and processing for the purposes of scientific/historical research and statistics*]
- The right to lodge a complaint with the Information Commissioner's Office.

## **8. Further processing**

If we wish to use your personal data for a new purpose, not covered by this Data Protection Notice, then we will provide you with a new notice explaining this new use prior to commencing the processing and setting out the relevant purposes and processing conditions. Where and whenever necessary, we will seek your prior consent to the new processing.

## **9. Contact Details**

To exercise all relevant rights, queries or complaints please contact the [Vestry Secretary / Church Administrator] at [*insert contact details*] or the Clergy at [*insert contact details*].

You can contact the Information Commissioner's Office on 0303 123 1113 or via email <https://ico.org.uk/global/contact-us/email/> or at the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF.

### SECTION 3 – TEMPLATE CONSENT FORM

#### St Agatha's, Anytown – GDPR Consent declaration

Your privacy is important to us, and we want to communicate with church members in a way which has their consent, and which is in line with UK law on data protection. As a result of a change in UK law, we now need your consent to how we contact you. Please fill in the contact details you want us to use to communicate with you:

Name \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

By signing this form you are confirming that you are consenting to the Clergy and Vestry of St Agatha's, Anytown holding and processing your personal data for the following purposes (please tick the boxes where you grant consent):-

I consent to the church contacting me by  phone  email or  text.

To keep me informed about news, events, activities and services at St Agatha's;

To keep me informed about news, events, activities and services that will be occurring in the diocese and the broader Scottish Episcopal Church.

We would like to contact you by post in order to keep you informed about news, events, activities and services at St Agatha's and the wider Scottish Episcopal Church. If you would not like to hear from us, please tick the relevant box below. Please note that if you do opt-out you may miss communications that may be of interest to you.

I would not like to receive postal communications from:

St Agatha's       the Diocese       the General Synod

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

You can grant consent to all the purposes; one of the purposes or none of the purposes. Where you do not grant consent we will not be able to use your personal data; (so for example we may not be able to let you know about forthcoming services and events); except in certain limited situations, such as where required to do so by law or to protect members of the public from serious harm. You can find out more about how we use your data from our "Privacy Notice" which is available from our website or from the Church Office.

You can withdraw or change your consent at any time by contacting the [Church Administrator / Vestry Secretary] at St Agatha's Church Office, Church Road, Anytown AB1 2CD or [email address]. Please note that all processing of your personal data will cease once you have withdrawn consent, other than where this is required by law, but this will not affect any personal data that has already been processed prior to this point. However, we will not re-print or recall any materials such as a Church Directory or address list.

*St Agatha's is a Registered Scottish Charity, No XXXXX*





## SECTION 5 - DATA PRIVACY NOTICE

[Insert name of relevant body/organisation eg Congregation or Diocese]

### Your personal data – what is it?

Personal data relates to a living individual who can be identified from that data. Identification can be by the information alone or in conjunction with any other information in the data controller's possession or likely to come into such possession. The processing of personal data is governed by the General Data Protection Regulation 2016/679 (the "GDPR")<sup>1</sup>.

### Who are we?

[Insert name of relevant Congregation/Diocese] and the cleric are each a data controller (contact details below). This means that they each decide how your personal data is processed and for what purposes.

### How do we process your personal data?

[Insert name of Congregation/Diocese] complies with its obligations under the GDPR by keeping personal data up to date; by storing and destroying it securely; by not collecting or retaining excessive amounts of data; by protecting personal data from loss, misuse, unauthorised access and disclosure and by ensuring that appropriate technical and organisational measures are in place to protect personal data.

We use your personal data for the following purposes: -

*[Insert relevant details – The notice must include a description of all the purposes for which the personal data will be processed. It is advisable to keep the description of the purposes as broad as possible, whilst ensuring that it is accurate and not in any way misleading. If a purpose is missed out, the personal data may not, in most cases, be used for that purpose without reissuing the data protection notice setting out the new purpose, processing condition and other relevant information. That said, this does not mean that you can include in the notice every possible purpose, the purposes included must be reasonably foreseeable].*

Examples of the relevant purposes might be as follows: -

- For members of the clergy - To provide pastoral care to the congregation and to administer records such as the Communicants' Roll and the Adherents' Roll;
- For Dioceses –
  - To enable us to provide a voluntary service for the benefit of the public;
  - To administer membership records;
  - To fundraise and promote the interests of the charity;
  - To manage our employees and volunteers;
  - To maintain our own accounts and records.

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<sup>1</sup> At the time of going to press the new Data Protection Bill, which incorporates the GDPR into national law, is on its journey through parliament. The final form of this legislation is not yet known, we have therefore referred to the GDPR as the relevant legislation.

- For Vestries –
  - To administer membership records;
  - To fundraise and promote the interests of the charity;
  - To process gift aid applications;
  - To manage our employees and volunteers;
  - To maintain our own accounts and records.
  - To enable us to provide a voluntary service for the benefit of the public;

Other examples of purposes which could be applicable are: -

- To inform individuals of news, events, activities or services running at *[insert name of relevant body/church]*.
- To share your contact details with the diocesan office so they can keep you informed about news in the diocese and events, activities and services that will be occurring in the diocese and in which you may be interested.
- To contact individuals via surveys to conduct research about their opinions of current services or of potential new services that may be offered.

*[Please note that these lists are not exhaustive and you may process personal data for other purposes, which will need to be recorded. Remember, at the heart of this is ensuring that individuals are aware of exactly what you are going to do with their personal data and giving them the opportunity to consent where necessary]*

#### **What is the legal basis for processing your personal data?**

These fall under either article 6 or article 9 – dealt with separately below.

*[You will need to insert here the relevant processing condition contained in Article 6 of the GDPR – e.g. consent, legitimate interests of the data controller etc. Please click on the box that relates to the relevant processing condition and please insert any relevant details where required. Irrelevant processing conditions can be deleted. For ease of reference, the processing conditions have been colour coded as follows: - “Green” means most likely to be a relevant processing condition; “Orange” means may be a relevant processing condition and “Red” means unlikely to be a relevant processing condition].*

Please see the completed example privacy notice for further guidance on how this may look when completed.

#### **Article 6 processing**

- Consent of the data subject;**

*[Where the processing is based on the consent of the data subject, you will need to provide a link to the “Consent Form” at the end of this notice].*

- Processing is necessary for our legitimate interests.** This means that we can process your personal data if (i) we have a genuine and legitimate reason; and (ii) are not harming any of your rights and interests. *[Where the processing is based on the legitimate interests of the data controller, you will need to set out what are the legitimate interests].*

- Processing is necessary for the performance of a contract with the data subject or to take steps to enter into a contract** *[If so, insert details of the contract];*

- Processing is necessary for compliance with a legal obligation;

*[You will need to provide details of whether there is a statutory or contractual requirement to provide the data and if so, the consequences of not supplying the data].*

- Processing is necessary to protect the vital interests of a data subject or another person;

[This only applies in a life or death situation]

- Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller;

*[If you are processing special category personal data (i.e. sensitive personal data), as well as satisfying one of the processing conditions set out in Article 6 (above), you will also need to satisfy one of the processing conditions set out in Article 9 (below). You should note that the same colour coding as detailed above applies. Personal data which reveals religious belief is classed as sensitive personal data under the GDPR].*

#### **Article 9 Processing**

- Explicit consent of the data subject;

**[Use this for example, to be able to tell people about events, news, services]**

- Processing is carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided: -

- the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes); and
  - there is no disclosure to a third party without consent.

**[This allows you to collect and process data without consent. However, it applies only to use by the Vestry or the Cleric. Sensitive personal data cannot be transferred to a third party without consent which is why exhibiting the Communicants' Roll to the congregation or Bishop or Dean needs specific consent.]**

- Processing is necessary for carrying out obligations under employment, social security or social protection law, or a collective agreement;

- Processing is necessary to protect the vital interests of a data subject or another individual where the data subject is physically or legally incapable of giving consent;

- Processing relates to personal data manifestly made public by the data subject;

- Processing is necessary for the establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity;

- Processing is necessary for reasons of substantial public interest on the basis of EU or Member State law;

- Processing is necessary for reasons of preventative or occupational medicine, for assessing the working capacity of an employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of EU or Member State law or a contract with a health professional;
- Processing is necessary for the reasons of public interest in the area of public health;
- Processing is necessary for archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes.

*[Where the personal data are collected direct from the data subject, the data subject must be informed whether he or she is obliged to provide the personal data and the consequences, if he/she does not provide the data].*

*[The wording to the GDPR including full details of the processing conditions contained in Article 6 and Article 9 can be found here - <https://gdpr-info.eu/>]*

### **Sharing your personal data**

Your personal data will be treated as strictly confidential, and will be shared only with *[insert the recipients or categories of recipients of any personal data]*.

### **How long do we keep your personal data?**

*[We keep your personal data for no longer than reasonably necessary for a period of *[insert relevant period]* in order to *[insert sufficient reason for retaining personal data – (“just in case” it might come in useful one day, is not be a sufficient reason)]*. Examples could be: - in case of any legal claims/complaints; for safeguarding purposes etc.].*

OR

*[If you cannot state a specific period, you will need to set out the criteria that you use in order to determine a retention period].*

*[We keep your personal data for no longer than reasonably necessary and we only retain your data for the following purposes and use the following criteria to determine how long to retain your personal data *[insert relevant purposes and criteria for retention]*].*

### **Your rights and your personal data**

Unless subject to an exemption *[under the GDPR]*, you have the following rights with respect to your personal data: -

- The right to request a copy of your personal data which the *[insert name of data controller]* holds about you;
- The right to request that the *[data controller]* corrects any personal data if it is found to be inaccurate or out of date;
- The right to request your personal data is erased where it is no longer necessary for *[data controller]* to retain such data;

- [The right to withdraw your consent to the processing at any time] [*Only insert if consent is relied upon as a processing condition*];
- The right to request that the data controller provide the data subject with his/her personal data and where possible, to transmit that data directly to another data controller, (known as the right to data portability), (where applicable) [*Only applies where the processing is based on consent or is necessary for the performance of a contract with the data subject and in either case the data controller processes the data by automated means*].
- The right, where there is a dispute in relation to the accuracy or processing of your personal data, to request a restriction is placed on further processing;
- The right to object to the processing of personal data, (where applicable) [*Only applies where processing is based on legitimate interests (or the performance of a task in the public interest/exercise of official authority); direct marketing and processing for the purposes of scientific/historical research and statistics*]
- The right to lodge a complaint with the Information Commissioners Office.

### **[Transfer of Data Abroad**

*If the personal data is to be transferred to countries or territories outside the EU you must include details of how the data will be protected, together with details of how to obtain copies of the relevant safeguards].*

### **Further processing**

If we wish to use your personal data for a new purpose, not covered by this Data Protection Notice, then we will provide you with a new notice explaining this new use prior to commencing the processing and setting out the relevant purposes and processing conditions. Where and whenever necessary, we will seek your prior consent to the new processing.

### **Contact Details**

To exercise all relevant rights, queries or complaints please contact the [Vestry Secretary / Church Administrator] at [*insert contact details*] or the cleric at [*insert contact details*].

You can contact the Information Commissioners Office on 0303 123 1113 or via email <https://ico.org.uk/global/contact-us/email/> or at the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF.

**March 2018**