VODA

An Independent Charity No. 1075060

Information Sheet 3.9

Data Protection

This information sheet provides a brief overview of the main requirements of the Data Protection Act 1998 and its implications for voluntary and community groups.

What is Data Protection?

Data Protection is all about treating personal information in a fair way and making sure that it can't be used or misused.

The data covered are information in manual or written files and also that which is held on a computer or other electronic system. It also covers other information, including photos, CCTV footage or other images. It covers the processing of the data, from collecting it to storing it, using it, organising it, updating it, amending it, sharing it and finally destroying it.

There are eight Data Protection Principles, which should be adhered to when processing personal data to ensure fairness:

1. Data must be processed lawfully and fairly.
2. Data must only be used for specified purposes
3. Data must be adequate, relevant and not excessive
4. Data must be accurate and kept up to date
5. Data must not be kept longer than necessary
6. Data subject's rights must be respected
7. Organisations must take appropriate steps to maintain security - that is, prevent unauthorised processing or accidental loss, damage or destruction
8. Data must not be transferred abroad unless that country maintains similar data protection rights or other conditions are met

Glossary of Key Terms:

Data Controller: Anybody (a person or an organisation) who decides what personal data to collect and how to process it.

Data Subject: Any living person about whom you collect, hold or use personal information.

Data Protection Compliance Officer: The person in your organisation who makes sure you comply with the Data Protection Act 1998.

Data Processing: From the moment you take someone's details to the moment you shred or delete their file, you process data about them.

Personal Data: Any information about a person could be personal data, from name and phone number to family history and financial details.

Sensitive Data: The Act defines certain types of information (e.g: about medical issues, criminal records, religion, membership of Trade Unions) as sensitive and there are special rules to follow.

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Getting Started

1. Check whether you process personal data in a way that falls under the Act. I.e. Are you a Data Controller?

At the very least, your organisation will probably keep a list of its members' contact details. If you are a not-for-profit organisation, and that is all the information you collect and use ever, then you are not likely to be a data controller as defined by the Data Protection Act 1998 and probably need do nothing more - look at further sources of information to check to make sure.

If you keep any other information about any individuals and keep it in any kind of filing system that would allow you to look somebody up then you probably are a data controller and you will need to make sure you are processing that information lawfully.

It doesn't matter whether your organisation has premises and staff, or whether your secretary does it all from home, you need to comply with the Data Protection Act. Having a policy about rules and confidentiality is not enough. Data Protection is not the same thing as confidentiality.

2. If you are a data controller check whether any of the data processing you do means that have to notify the Data Protection Commission. I.e. Do we have to register with the Data Protection Commission?

Under the 1998 Act, you have to notify the Data Commissioner if you process data for certain purposes. There are some exemptions (including membership lists for not-for-profit organisations). If all the processing you do is exempt you can still notify the Commission voluntarily.

If the data processing you do is required to be notified, it is a criminal offence not to do so.

TOP TIP

The Information Commissioner's Office (ICO) provides an easy step-by-step process to help you decide if you need to register. Visit www.ico.org.uk for more information.

3. Adopting a Data Protection Statement and Policy I.e. Do we need a Data Protection Statement and Policy?

A statement or a policy will provide guidelines for your staff, volunteers, trustees and users on the basics of Data Protection.

A statement will show that your organisation complies with the Data Protection Act 1998.

A policy can vary depending on the size and scale of the organisation and the scope of the work you do. If all you do is keep a newsletter mailing list your policy will be straightforward. If you keep records on vulnerable clients; staff and volunteers; people who donate money; networking groups, and the financial details of people who pay you money, then you will need a much more robust policy.

Your policy should cover a few key points:

- Who is designated as your Data Protection Compliance Officer who will ensure that your organisation complies with the requirements of the Data Protection Act 1998
- The data you process including what data you collect, whose data it is, how and why you process it
- Your systems and procedures for keeping it all up to date and accurate
- Your systems and procedures for storing and handling it
- Any rules your staff, volunteers and members have to follow
- Any rules about sharing information with other organisations
- Your system and procedures for disposing of information you no longer need or that is out of date
- How you are going to make sure all your staff and volunteers know what they can and can't do
- References to related policies such as confidentiality policy, staff recruitment and selection policy, vulnerable adults policy use of ICT policy
- How you make sure people know what you do with their details
- The date your committee or other governing body adopted your policy and when it will be revised

4. Check that all the data processing that you do conforms to the Eight Principles in the Data Protection Act. I.e. Do we need a Data Processing Audit?

You need to list all the processing of personal data that you do to check whether things come under the Act. Examples include:

- Databases
- Staff or volunteer records
- Client files
- Referral forms
- Mailing lists
- Correspondence files
- Email address books
- Website reply forms
- CCTV footage
- Booking or application forms
- Invoices

Then you need to check whether any of these have special considerations, for instance if you keep notes on medical conditions of staff or clients, this counts as sensitive data, and you need to be sure that you are processing this lawfully.

You also need to look at who in your group or organisation processes or uses personal data and make sure they comply with your policy and with the requirements of the Data Protection Act 1998.

You might already be handling some of these well enough. Or you might find you need to change or add to some of things you do. Contact VODA on 0191 643 2626 for further advice on Data Protection.

For more information:
Information Commissioner's Officer: www.ico.org.uk
The ICO runs a scheme whereby small charitable organisations can request a free advisory visit.

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