

Strengthening Parent Carer Participation

Welcome!

Welcome to this Contact Webinar

If there is a technical hitch, please do bear with us

Those of you joining by pc, laptop, tablet or smart phone should now be able to see this introduction slide



Timings and Questions

As there are so many attendees, it is not practical for verbal questions to be taken, therefore you will all remain 'muted' throughout

If at any point you have questions, please use the question icon on your GoToWebinar tool bar on your screen

- This will allow you to type your question in to the text box and submit this to the Webinar administrator
- I will select as many relevant questions to answer as time allows, if similar questions are received I will condense these where possible



Q & A

- Further relevant questions, not covered in the time allowed, will be answered and posted on the Contact website along with the recording of this Webinar, details of which will be circulated next week
- At the end of the Webinar a short questionnaire will launch, please take the time to complete this as this will assist with future online training events

Please Note; the following recorded webinar/ presentation provides general information in relation to Getting ready for the new General Data Protection Regulations. This webinar/presentation cannot and should not be relied on as case specific and no warranty is given that the information is correct or up to date. Forums, families or individuals with specific data protection concerns should contact specialist or advice organisations.



Advising Communities

Getting ready for the new General Data Protection Regulations



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A webinar to support Parent Carer Forums to meet data protection laws and prepare for the new General Data Protection Regulations which come into effect from May 25th 2018.

Presented by

Kobie Cadle and **Stephenie Linham** from Advising Communities



Agenda today:

- Introduction to the new data protection legislation
- The key principles of the new General Data Protection Regulations 2018
- Differences between data controllers and data processors and responsibilities/liability of each
- Understanding the legal basis for processing information
- New rights for individuals and what this means for forums
- Understanding the difference between active consent as opposed to implied/passive consent
- Privacy policy and notices and the information you need to give to individuals about the information you hold and process
- Key issues we expect to arise for small organisations handling data
- Processing information about children and young people
- The impact and consequences on organisations if they breach the regulations/don't have everything necessary in place
- Key steps for the forum to take to be ready for GDPR



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#1

**Background information on data
protection legislation**



Background information on data protection legislation

- 27 April 2016: the General Data Protection Regulation (GDPR) was adopted by the European Parliament
- Comes into effect in the UK from 25 May 2018 and will replace the current Data Protection Act 1998. It reaches further than the 1998 Act and is designed to take into account modern technology and the rights of individuals.
- We have been told by Parliament and the Information Commissioners Office (ICO) that the Regulations will come into effect in the UK, despite Brexit.

BUT

- There are areas of the Regulations which are open to the UK to legislate and currently the Data Protection Bill is being debated in Parliament.
- The Information Commissioners Office is still writing the detailed guidance- we just have the big headlines and overarching principles.
- While the legislation does apply to employees, the detail has also to comply with current employment legislation and workers' rights. Watch this space
- There have been no court cases to set precedents



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#2

The key principles of the new General Data Protection Regulations 2018



The key principles of the new General Data Protection Regulations 2018

The GDPR applies to organisations operating within the European Union and does not only apply to large organisations. The GPDR includes **micro, small and medium sized enterprises**. It also applies to services provided by organisations across the European Union.

The overriding and first principle is not to cause harm to individuals

It applies to data/information being held about:

- Employees- current and past
- Volunteers
- Apprentices
- Job applicants
- Donors
- Members
- Service users/clients
- Suppliers



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The GDPR:

respects all fundamental rights and observes the freedoms and principles recognised in the Charter (the Charter of Fundamental Rights of the European Union) as enshrined in the Treaties, in particular the respect for private and family life, home and communications, the protection of personal data, freedom of thought, conscience and religion, freedom of expression and information, freedom to conduct a business, the right to an effective remedy and to a fair trial, and cultural, religious and linguistic diversity



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#3

Differences between data controllers and data processors and responsibilities of each



Data Controller

Data Controllers decide what data is obtained and what it is used for. This is the Board/Management committee whether incorporated or not, as they are ultimately liable/responsible.

*“the natural or legal person, public authority, agency or other body which, alone or jointly with others, **determines the purposes and means of the processing of personal data**; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law”.*



Data Controller

Responsibility –To ensure that data is collected, stored, and processed in a way which complies with the Regulations.

- To ensure any Data Processors have a written agreement with them, and that they comply with the regulations
- To put in place the technical and organisational measures – policies, procedures, technical measures and training for staff, Boards, Trustees and volunteers



Data Protection Officer

Companies whose core activity entails regular and systematic collection of personal data on a large scale, as well as firms that handle sensitive data, must hire a data protection officer. This requirement is also in place for any public authorities or bodies.

- A qualified person to act as the Data Protection Officer is required **ONLY** by very large organisations
- This does not apply to you but the likes of the NHS, your local authority, Amazon and Google.
- This is a different role to the one no doubt included in your current policy covering the last Act.



Data Processor

“a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller”

Responsibility – to process data for the Data Controller (The Board etc.) and is the person appointed by the Board or Management committee.

- To comply with the **written** agreement with the Data Controller and the Regulations
- To ensure they process and store data in accordance with the Regulations (a Data Processor can be personally penalised if they breach the Regulations)
- Not an attractive role and the personal financial liability could cause a major barrier.
- How can the organisation protect them? Adhere to best practise. Legal liability insurance perhaps? Cover in the required written agreement



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#4

Understanding the legal basis for processing information



Legal basis for processing information..

The legal basis becomes important under the GDPR because it directly affects the rights of the individual. For example, if you rely on someone's consent then they will have stronger rights

- The legal basis is as follows but gives no detailed guidance:
 - Consent of the data subject/individual. Formal and appropriate consent, or evidence that verbal permission has been given.
 - Processing is necessary for the performance of a contract with the data subject or to take steps to enter into a contract. Obviously details of the parties are necessary in this case to draw up the contract.
 - Processing is necessary for compliance with a legal obligation- E.g. A statutory obligation to disclose information to the government



Legal basis for processing information..

- Processing is necessary to protect the vital interests of a data subject or another person –An example might be a Safeguarding concern.
- 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 controller. –An example might be data or information collected for scientific research purposes such as cancer research.
- Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject
- The legal basis you choose needs to be included in a privacy notice and data protection policy



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#5

**New rights for individuals and what this
means for forums**



New rights for Data Subjects/individuals include the follow 8 rights to..

- Be forgotten and able to delete (or request this to happen) their information
- Change any information
- Be informed as to why and what data will be stored and for how long
- Access any data held about them (NB you are unlikely to be able to charge for this now)
- Restrict processing of their data
- Object/complain
- Not be subjected to automated decision making
- Data portability e.g. copy of their data to be sent electronically but only applies when:
 - It is personal data provided by an individual to the Data Controller
 - Where the processing of this data is based on the individual having provided consent or the performance of a contract; and
 - When processing is automated.

Raises obvious problems re employees data and files. We expect detailed guidance on the practical necessity for employers to be able to keep some specific data. Similar problems with volunteers



What does this mean for Parent Carer Forums?

The legislation is yet to be tested and implemented in the UK, so here's what we know so far:

- Parent Carer Forums will need to have systems and processes in place to handle requests
- You will have **one month** to comply with an individual's requests or notify them of a refusal to comply
 - You can refuse a request but you will need to tell the individual why and they can complain to the Information Commissioners Office, after which they can seek legal action



Consent for children and young people?

- Children and young people will need their parent's consent to access social media/forums and
- Parent Carer Forums will need parental consent before processing/storing any data
- The GDPR allows for the UK to set the age limit, but suggests no less than 13 years of age – this detail is yet to be determined by the Data Protection Bill



Impact for Parent Carer Forums

- You need a clear **data protection policy** stating what personal data will be stored, and what it will be used for.

For example, online/on social media, you would need a disclaimer somewhere obvious and easy to access and in clear, plain language which states that all information is collected, stored and used by the Parent Carer Forum for research and evidence (etc.), with a link to a full data protection policy.

- You may need to check if you already have consent from existing users, and if not then request it
- You will need to ask **consent** for users of forums, attendees at events or meetings before obtaining any of their information (this can be verbal but will need to be documented and kept as evidence of consent)
 - All consents need documenting and storing - We expect detailed guidance from the Information Commissioners Office on how long consents need to be stored for.



Impact for Parent Carer Forums Continued

- When using data from other agencies, you could be considered a Data Processor and will need an agreement in place with the provider which sets out where the data has come from, how it is to be used, how you will store it etc.
- You will also need to record where the data has come from, when you received it and who you share it with as you need to maintain records of your processing activities
- If any of the data is inaccurate, or needs changing you will need to be able to tell the other organisation about this
- **Systems** to show when and how people provided consent
 - To send people the data held about them if requested
 - Check age –of children as appropriate and gather/store consents



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#6

Understanding the difference between active consent as opposed to implied/passive consent



Implied/passive consent

Implied/passive consent – relies on people's inaction as a form of consent

EG: *Thank you for donating to our organisation. We will add your details to our mailing list, unless we hear otherwise*

Issue – you cannot prove that the person read this statement and provided consent



Active consent

Active consent – requires a person to actively acknowledge that they have provided consent

EG *I have read and understood Parent Carer Forum's Data Privacy Policy. By proceeding, I consent to my personal data being collected and used as stated in this Data Privacy Policy.*

I agree

I do not agree

Why this is preferred - you can then pinpoint the date, and how the person provided consent which makes it easier to comply with the Regulations



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#7

**Privacy notices and the information you need
to give to individuals about the information
you hold and process**



Privacy notices

GDPR requires you to give people certain information, for example;

- you must provide your identity,
- state how you intend to use their information,
- Explain your lawful basis for processing the data,
- How long you will retain the data for and
- Notify individuals of their right to request/change/delete their information and
- Their right to complain to the Information Commissioners Office (website: <https://ico.org.uk/>)

Privacy Notices therefore should be updated to include this, and be available for anyone whose information you will be storing.

The GDPR also requires the Privacy Notice to use clear language, be concise and easy to understand and easy to access



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#8

Key issues we expect to arise for small organisations handling data



Key issues we expect to arise for small organisations handling data

- Controlling data storage and use can be difficult for smaller organisations
- Many smaller organisations use third parties to store/process data such as: online payments processors, online forums, cloud storage facilities etc. – small organisations are now responsible for ensuring that they have clear agreements in place with these third parties and that they are complying with the Regulations



The GDPR brings in strict data processing and storage requirements

- Parent Carer Forums will need to:
 - ensure that all staff, the Trustees/Board, volunteers are all trained and comply with Data Protection policies – this can be a challenge for smaller organisations which rely on volunteers.
 - Challenges in reporting any breaches to Management and ensuring that this is reported to the ICO within 72 hours (or if its not a serious breach, being able to prove to the ICO why it has taken longer)
 - Larger organisations will have teams which oversee data protection. Even in a smaller organisation, we recommend they appoint at least one person who can be the central contact point



The GDPR brings in strict data processing and storage requirements

Article 30 contains an exemption that organisations with fewer than 250 employees are not required to maintain a record of processing activities (i.e. records of processing activities that contains the name and contact details of the controller, the reason for the processing, a description of the type of personal data or category being processed, how long the data will be kept before it will be deleted, and some other requirements.) **unless the:**

- Processing of data is likely to result in a risk to the rights and freedoms of data subjects,
- **The processing is a regular activity and not occasional or,**
- The processing includes the special categories of data (for national security etc.)

Therefore, a company that processes data on a regular basis or processes special category content such as racial, political or genetic (and others listed in Article 9) material, even if quite small, will not be excluded from this requirement.



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#9

**Processing Information about children
and young people**



Processing information about children and young people

- As mentioned previously, Parent Carer Forums will need explicit consent from all parents/carers before obtaining and storing any details for any children and young people.
 - (this includes the use of any photographs)
 - You will also need systems to be able to verify the age of the child/young person if they are to give their own permission or need parental consent — and ensure consent is received
- The Regulations allow for the UK to set the age from which this is required so this is currently unknown
- The Regulations recommend that the age which consent is required for should not be lower than 13 years
- Watch this space – again!



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#10

**The impact on organisations if they breach
the regulations**



The GDPR provides penalties for breach of the Regulations

The Information Commissioners Office (ICO) will monitor compliance

Reporting

- If a breach occurs which carries a risk to the individual/Data Subject, this needs to be reported within 72 hours to the ICO
- If reported later than 72 hours, you will need to provide a 'reasoned justification' (the definition is still under examination and it is just to be tested)
- If the breach is a high risk to the rights and freedoms of individuals, the Data Controller will need to notify the individual/Data Subject
- The ICO has the power to take action to change the behaviour of organisations, and can impose penalties for organisations which cannot demonstrate robust policies and procedures.

Financial penalties

- Up to €20,000 or 4% of worldwide annual turnover, or whichever is the highest for Data Controllers for breaches
- Additional fines of up to £500,000 for Data Controllers in order to change their behaviour
- Data Processors may also receive a financial penalty for breach.
- The ICO can also use criminal prosecution powers

We are yet to see how this is implemented



#11

**Key steps for the Parent Carer forums to
take to be ready for GDPR**



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Provide training to staff and volunteers, Boards and Trustees on what the GDPR means, how to process data, what to do with requests and how to prevent breaches.



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Put in place appropriate data protection policies and procedures which are signed off by the Board/Management Committee and applied throughout the whole organisation including volunteers.



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Must have a person or team (depending on the size of the organisation) whose role is to oversee data protection.



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Update the organisation's privacy policy. If your organisation does not have a privacy policy but does use surveys, websites and any other form of data gathering, now is the time to adopt a policy.



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Update websites or online presence where your organisation gathers data, to include the above information.

Introduce systems to verify the age of users, where necessary, and to obtain consent from parents



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Update any surveys and methods of obtaining data to ensure that you do not rely on consent which is implied, or as a result of inactivity.



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Review the data you already have –
can you provide evidence of the
user's consent, can you identify
where it came from and when etc.?



Keeping up to date and informed

- Advising Communities is developing information, advice and model policies for data protection and privacy. Keep an eye on our website.
- You can also sign up online to our free newsletters which will keep you informed of progress:
<https://advisingcommunities.uk/help-your-organisation/email-signup>
- The Information Commissioners Office will also be publishing guidance and have a help line for small businesses: 0303 1231113



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Your questions



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Thank you!



Thank You!

- Thank you for attending with us today
- A short questionnaire will launch at the end of this webinar
- Please take the time to complete this it will help us plan future online training events including other topics you would like to see
- The recording of this Webinar, presentation and questions will be on the parent participation Resources page of Contact website next week – an email confirming this will be sent to you once this is available

