

# **Daventry Photographic Society Data Protection Fair Processing & Privacy Policy.**

**Version 3 b - Dated 20<sup>th</sup> June,2018**

## **Scope/ Aim of this document**

This document is primarily written as advice to PAGB Affiliated Clubs, such as Daventry Photographic Society (DPS) but also applies to member Federations and to the Photographic Alliance of Great Britain. Each of these is an independent data controller/Processor. Daventry Photographic Society (DPS) has taken advice from the Information Commissioners Office (ICO) telephone helpline who said that DPS did not need to have a Data Controller, just have a person(s) in DPS to act as Data Processors. They (ICO)also believed that DPS did not need to register under the Data Protection act or General Data Protection Regulations(GDPR) but we did need to be compliant with the requirements of GDPR and they asked us to take their online 'need for registration test ' to definitively establish if we needed to register which has been completed and that stated we did not need to register. A copy of that test result is held by DPS.

Daventry Photographic Society is acting as a 'Not for Profit Organisation'. It regularly contacts its members, but only for the effective operation and management of the Society and does not electronically market the products or services of other organisations. To claim 'Not for Profit Organisation' exemption, under GDPR, we shall be asking members at an Extraordinary General Meeting to confirm if they want to amend the DPS Constitution to reflect this statement and define ourselves as a 'Not for Profit Organisation'. We will then claim 'Not for Profit Organisation' exemption, under GDPR, once the DPS Constitution is updated.

## **Summary**

The Data Protection Act 2018, which incorporates the European Union General Data Protection Regulations (GDPR), replaces the current legislation (the Data Protection Act 1998). The current data protection principles, as first introduced by the Data Protection Act 1984, are continued effectively unchanged. The new legislation adds a requirement for all data controllers and processors to demonstrate their compliance. We need to inform volunteers and members about the requirements for holding and using personal data.

## ***A Summary of how your personal data is held / used as :***

1. *Personal data about member is only as requested/ shown on the Membership application/ renewals form. This data is checked every year as we require members to complete the membership renewal form.*
  - a. *We use members' personal data for the efficient operation of DPS and to communicate with them about events the DPS may be holding.*
  - b. *We only analyse personal data and competition results for the efficient running of the DPS.*
  - c. *We do not share personal data apart from as in clause 'a' above and shall not sell members data or share it unless we are required to divulge it by law to appropriate legal authorities.*
2. *Personal data about judges and speakers are simply their contact details such as emails and telephone numbers. Judges data is as supplied By the PAGB and DPS shall rely on that data being supplied to us in the Membership handbook.*
3. *DPS remains reliant upon the PAGB for the advice they give in their document to create this document.*

Clubs do not need explicit consent to collect personal data, but implied consent is only valid within a published policy. The ICO helpline praised DPS in that we had already sought the explicit consent of our members to hold their data and communicate with them on our membership forms.

The data controllers/processors of Inter-Club and similar events will need to ensure they have consent from individual photographers whose work is entered via a third party.

No additional requirements arise for vulnerable individuals.

Subject access to personal data continues.

The 'right to be forgotten' will not apply in practice.

Existing restrictions on electronic marketing are not affected and continue, except that if a member does not want their data used on selected or all social Media).

## Principles

There has been data protection legislation based on European Union Directives, since 1984. The Data Protection Act 1984 was replaced by the Data Protection Act 1998, which in turn is replaced by the European Union General Data Protection Regulations (GDPR), as incorporated into UK law by the Data Protection Act 2018. Throughout, data protection has been based on a set of principles, with which all data controllers must comply. A data controller collects and uses personal data. The principles apply to personal data collected by the controller on any data subject, meaning a natural living person.

GDPR Article 5(1) gives the principles in detail, but they can be summarised.

- The controller / Processor(s) may only collect personal data relevant for lawful purposes, and where the data is sufficient and adequate, is not excessive, and is kept accurate and up to date. Personal data must be destroyed when it is no longer relevant or required.
- The controller/ Data Processor(s) must keep personal data secure, but also available for the relevant purposes.
- The controller Data Processor(s) must respect the rights of data subjects, including the right of access. Where any member wishes to see and review their data at any time they may do so by emailing either the current DPS Chairman by emailing the current chairman's email\* on our website ([www.daventryphotographicsociety.co.uk](http://www.daventryphotographicsociety.co.uk)).

\*[chairman@daventryphotographicsociety.co.uk](mailto:chairman@daventryphotographicsociety.co.uk)

or if the Chairman is unavailable to respond then email the current Secretary using [secretary@daventryphotographicsociety.co.uk](mailto:secretary@daventryphotographicsociety.co.uk) .

## Compliance

Previously, compliance with the principles by data controllers was checked via notification to the Information Commissioner (ICO). Non-profit organisations, such as Clubs, were exempt from notification, and all notification was abolished by the Digital Economy Act 2017.

GDPR Article 5(2) introduces a new and important requirement for all data controllers to demonstrate their compliance with the principles in Article 5(1). For non-profit organisations, this will be an additional duty. In practice this would appear to fall into two parts:

As a simple example, it is desirable for the contact details of all Club members to be restricted to the Daventry Photographic Society management committee. If a committee member then circulates information to all members by email, the sender should place the circulation list in the 'Bcc' section of the email header, and not in the 'To' section. That will only happen if senders are advised appropriately.

## Volunteers

Clubs have volunteers working from home. A volunteer may work for several different organisations, each being a different data controller. The previous practice, whereby personal data kept solely for domestic use is exempt from data protection legislation, is continued. However, volunteers have been advised that personal data acquired via one data controller may not be used for the purposes of another data controller.

## Consent

There is a common misunderstanding that all collection of personal data requires explicit consent. It does not.

GDPR Article 6(1) sets out the available lawful purposes for processing personal data. It will be simplest for Clubs to rely on Article 6(1)f, where personal data may be collected for the legitimate interests of the data controller. For a Club, it is obviously necessary to know who its members are, and to have sufficient contact details so that the members can be uniquely identified. It is also normal for Clubs to handle images from members and make records of entries to events and of any results. Implied consent will be an essential feature of membership, given that membership is voluntary. But consent will only be valid if members and potential members are adequately informed e.g., via a published policy. Daventry Photographic Society shall request active consent on its annual membership forms as per the best practice recommended by the Information Commissioners office as we have done for the last two years.

A Club may also need to know about members in the recent past, about potential members and about contacts within other organisations. There will also be retained historical records e.g., programmes, catalogues and award winners.

### **Consent via a Third Party**

Normal activity for many Clubs includes facilitating submission of members' images to Inter-Club, Federation or PAGB events. In that case, the Club is passing personal data to another data controller. The receiving data controller has no direct relationship with the data subject, and must rely on consent passed on by the Club. A similar issue arises with contact lists circulated in handbooks or placed on web sites, where policies and documentation also need to be reviewed.

### **Children**

The PAGB has published separate guidance on the safeguarding of children and others, collectively referred to as 'vulnerable individuals'. The guidance remains applicable, and no additional issues arise for Clubs from the change of data protection legislation. DPS has a Safeguarding Policy which can be seen on our website under the 'Constitution' page tab.

### **Subject Access**

Data subjects are entitled to access their personal data held by a data controller. That is in addition to making a data protection policy generally available. The data subject does not have to give a reason for the request, and the few exemptions are unlikely to apply.

### **The 'Right to be Forgotten'**

GDPR includes the right to be forgotten i.e. to have personal data erased. The right is not automatic and there are exclusions which in practice mean that the right does not apply to the circumstances discussed in this document.

### **Electronic Marketing**

The Privacy and Electronic Communications (EC Directive) Regulations 2003 are separate from and additional to the data protection legislation. Essentially, the circulation of marketing material by electronic means is prohibited without express consent by the data subject, and a data subject is entitled to withdraw consent at any time. The definition of marketing material includes any offer of goods or services addressed to an individual. The Information Commissioner's Office has more detailed guidance.

### **Complaints**

Should you wish to complain about the use of your information, We would ask that you contact us to resolve this matter in the first instance. You also have the right to complain to the Information Commissioner's Office in relation to my/our use of your information.

The Information Commissioner's contact details are

Information Commissioner's Office,  
Wycliffe House,  
Water Lane,  
Wilmslow.  
Cheshire SK9 5AF

Telephone 0303 123 1113  
Email [casework@ico.org.uk](mailto:casework@ico.org.uk)