

# Data Protection Policy

## Introduction

National Galleries of Scotland holds and processes personal data relating to potential, current and past members of staff, volunteers, freelancers, suppliers, artists, sitters, lenders, donors, Friends & Patrons, eBulletin recipients and many other types of contact, to enable us to perform our functions effectively.

The data we hold about an individual may include names and addresses, photographs or electronic images, salary and pension details, bank account numbers, declared equalities characteristics and biographical information, some of which is classed as 'sensitive' personal data. It may be held in a variety of formats and on different systems.

As an organisation which processes personal data, the National Galleries of Scotland (NGS) is required to comply with the Data Protection Act 1998 (the DPA) and as such is registered as a Data Controller by the UK Information Commissioner. The DPA gives individuals the right to know what information is held about them, how and why it is being processed, prevent processing in certain circumstances, and ensure it is accurate and up-to-date. It provides a framework to ensure a balance between the legitimate needs of organisations to collect and use personal data for business purposes against the rights of individuals to respect for the privacy of their personal details.

The Act is underpinned by eight Data Protection Principles to ensure that personal information is handled properly by the organisations which hold that information. These ensure that personal data is:

1. Fairly and lawfully processed
2. Processed for limited purposes
3. Adequate, relevant and not excessive
4. Accurate and up to date
5. Not kept for longer than is necessary
6. Processed in line with your rights
7. Secure
8. Not transferred to other countries without adequate protection

This Policy sets out NGS' commitment to compliance with the Data Protection Act 1998 when responding to requests for personal data as well as collecting, storing, processing, sharing and disposing of personal data.

## Scope

This Policy covers the activities of the National Galleries of Scotland (NGS) and the NGS Trading Company Ltd, a wholly-owned subsidiary. For ease of reference, 'NGS' refers to both when used in this policy document.

All personal data and sensitive personal data processed by NGS pertaining to any individuals with which we have or have had contact is covered by this Policy. Personal data may be held electronically or within paper files.

All members of staff and anyone collecting, processing or with access to personal data on behalf of NGS are required to act in accordance with this policy. This includes permanent and temporary employees, agency staff, trustees, volunteers, interns, freelancers and third parties acting on behalf of NGS. The term 'staff' used throughout this document covers anyone working on our behalf. A breach of the data protection policy may result in disciplinary or legal action being taken.

This document is available to staff on the NGS intranet, and available to the public on [www.nationalgalleries.org](http://www.nationalgalleries.org) or on request. Detailed procedures and training for specific systems in use within NGS are available separately for staff.

A set of useful definitions and terminology is included at Appendix 1.

# NGS Data Protection Policy Statement

The National Galleries of Scotland (NGS) is committed to protecting the rights and freedoms of employees and contacts with respect to the processing of their personal data, and to collecting and storing this data in line with the requirements of the Data Protection Act 1998 (DPA). This commitment extends to include the NGS Trading Company, a wholly owned subsidiary.

NGS recognises that the lawful and correct treatment of personal information is of fundamental importance to its successful operations and in maintaining effective relationships. To this end, NGS is committed to embedding the eight principles of data protection as set out in the Act in our systems and procedures for the management of personal data as follows:

- NGS will only collect personal data which is directly necessary and appropriate for the fulfilment of the organisation's business needs. Any processing of that data will also be undertaken solely for the effective delivery of NGS' functions and services and in a way which is not prejudicial to the interests of the person(s) to whom the data relates. When collecting data, NGS will state clearly what our policy and procedures are for handling that data. In the majority of cases, consent will be sought from the data subjects for data collection, storage and processing. NGS will put measures in place to ensure data is accurate, secure and current.
- NGS will retain personal information only for as long as it is necessary for the fulfilment of our legitimate purposes and for no longer than it is required, at which point it will be securely destroyed.
- Legitimate requests for access to personal data will be handled according to the appropriate legislation.
- In addition to the commitments set out above, NGS will take due care in the collection, recording, processing and storage of any sensitive data. Explicit consent will be sought for processing of this data.
- NGS will implement appropriate procedures to ensure anyone with access to personal data held by the organisation is fully aware of and abides by their duties under the DPA.

Our arrangements for dealing with requests for information are set out below.

## Requests for Access to Personal Data

The DPA provides individuals with important rights, including the right to find out what personal information is held about them by an organisation, whether on computer (including CCTV footage), audio and video systems, telephone logs and most paper records, how this data is being processed and why. Individuals also have the right to prevent direct marketing and to object to processing of personal data in certain circumstances.

Requests from an individual regarding their personal data (known as a subject access request) should be made in writing (including by electronic means) to:

The Data Protection Officer  
Director-General's Office  
National Galleries of Scotland  
73 Belford Road  
Edinburgh  
EH4 3DS

or by email to Elaine Anderson, [eanderson@nationalgalleries.org](mailto:eanderson@nationalgalleries.org).

Existing and former employees should submit requests to the HR department.

Requests made in ways other than in writing will be responded to if there are justified reasons for doing so.

NGS will strive to provide the requested data, if appropriate, as soon as possible and at all times within the 40 calendar days limit, as set out under the Act. It should be noted that some data, such as video and audio recordings, are not kept for long periods of time and may be deleted after a month.

Depending on the nature of the request, the response may include:

- a copy of the personal information in permanent form
- an explanation of any technical or complicated terms
- any information the NGS has about where the information came from
- a description of the data, the purpose(s) for which it is being processed and those who have access to view and alter this information, and
- whether the NGS is the organisation personally processing that individual's personal data or if a third party representative is or has been involved.

The National Galleries of Scotland may charge a fee for this, which will be no more than £10. Some information held by the NGS can be withheld under certain circumstances (see below).

Information which can be withheld

Individual contacts have a right of access to personal data held about them by the NGS with the following exceptions:

- information relevant to crime prevention or detection;
- information on negotiations with the requester;
- management forecasting or planning;
- references given or to be given in confidence by the NGS
- references given to NGS about the data subject where the referee has not given consent;
- information used for research, historical or statistical purposes; and
- information covered by legal professional privilege.

A record will be kept of all requests for access to personal data by the Data Protection Officer.

NGS will normally only respond to disclosure requests submitted in writing (postal or email), unless there are justified reasons why a verbal request should be responded to.

Data Protection and the Freedom of Information (Scotland) Act 2002

NGS may receive a request under the Freedom of Information (Scotland) Act 2002 (FOISA) which relates to personal data about individuals. Section 38 of FOISA outlines the relationship with the DPA. In essence, information is exempt from release under FOISA where it constitutes personal data under the DPA and its release would be in contravention of any of the data protection principles outlined above. In this situation, the exemption is absolute and no public interest test needs to be applied. The Planning and Performance Team coordinates requests for information under FOISA.

## **Disclosure of Personal Data to a Third Party**

The NGS will not disclose personal data to any third party unless:

- The individual has consented to the disclosure;
- The NGS is legally obliged to disclose the data;
- The disclosure is one that would normally be made in the course of the employment relationship e.g. tax information to the Inland Revenue, reference requests, information to the pension provider; or
- A third party organisation is acting directly as an agent for the NGS.

Measures will be taken to ensure that the transfer of data to a third party is undertaken for legitimate purposes only and that the transfer itself ensures the security of the data.

Immunity from seizure

If the lender of a work requests immunity from seizure then it is a condition that details of the owner and work are published. Details of this are set out on the loan form.

## Exemptions to Provisions of the DPA

There are certain situations under which Data Protection rules do not apply, due to consideration of what is in the public interest for example. Those which are most relevant to the NGS include:

- Use of information for research, historical or statistical purposes
- Information available to the public by law
- Use of information for the purposes of journalism, literature or art
- The prevention and detection of crime and the apprehension or prosecution of offenders
- Regulatory activity designed to protect the public and other bodies such as charities against, for example, financial loss due to dishonesty or malpractice by those involved in financial services or seriously improper conduct by professional people
- Disclosures required by law or order of a court or where it is necessary to disclose information in connection with legal proceedings, to obtain legal advice or is otherwise necessary to establish, exercise or defend legal rights

The provisions made under the DPA for the processing of data do not always apply in these circumstances.

## Complaints

If you wish to make a complaint about the way in which a subject access request has been handled by NGS (e.g. if you have not received a response, or you do not think all of the relevant information has been disclosed), you should submit a request for review to the Data Protection Officer. If you remain dissatisfied, you can contact the UK Information Commissioner for advice. Their hotline number is 0303 123 1113.

If you have concerns about NGS' practices in relation to the DPA, you can also raise these with the [UK Information Commissioner](#).

Please note that FOISA and the Environmental Information (Scotland) Regulations 2004 have their own appeals procedure. If you are dissatisfied with the way in which a request for information was handled you should submit a request for review to NGS. If you remain dissatisfied you can write to the [Scottish Information Commissioner](#).

## Further Information

Further information on Data Protection and this policy can be obtained from the Data Protection Officer (postal address provided under section 4).

Useful guidance on the application of the DPA is available on the UK Information Commissioner's