

# West Sussex Record Office



## Searchroom Leaflet No 12: Data Protection

If you wish to carry out research into someone who lived within the last 100 years then you may find that the records you need to look at have restricted access under the terms of data protection legislation.

**So please read this leaflet as it may affect your use of documents held by the Record Office.**

### Data Protection Legislation 2018

The Data Protection Act 1998 was replaced by the Data Protection Act 2018, which together with the General Data Protection Regulation 2018 (GDPR) has updated and strengthened data protection legislation in respect of the processing of personal data. Personal data is any information relating to an identified or identifiable "natural person" who can be identified directly or indirectly. Examples of personal data are name, address, date of birth, location data, an online identifier or factors specific to the physical, genetic, mental, economic, cultural or social identity of that "natural person".

The legislation sets out certain rules which **all** users of personal information must obey, and rights which they must respect.

### The Principles of GDPR

Personal data shall be: (1) Processed lawfully, fairly and in a transparent way; (2) Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; (3) Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed; (4) Accurate and, where necessary, kept up to date; (5) Kept for no longer than is necessary (although it can be kept for longer for research purposes); and (6) Processed in a way that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage.

### Our responsibilities under the GDPR

West Sussex Record Office takes its data protection responsibilities seriously. The legislation is applied retrospectively in order to protect the personal data of living individuals and applies to electronic and manual records.

Due to the data protection legislation there will be **restricted access** to records that contain personal details about living individuals that may cause material or non-material damage. In some cases records, such as registers, will contain such personal data about more than one individual.

Please be aware that, in some circumstances, you may be required to provide a copy of a death certificate to prove that the person has died before we can release information.

### What does 'restricted access' mean?

It means that some documents can only be viewed as long as you are willing to sign a GDPR/DPA statement first.

Some documents, however, are so sensitive that we are not able to produce them in the searchroom but, where this is the case, a procedure exists for you to request access to the information.

And some records have a set closure period and you will not be able to access these records within this time frame without written authorisation from the appropriate body. We will also occasionally need to restrict access due to **third party information** contained within the records.

## What is 'third party information'?

Information about Mr Smith who died in 1970, for example, dating from the 1960s may have personal information about Mrs Brown and Mr Green, and this would be regarded as 'third party information'. In this instance, as the third parties could reasonably be considered to still be alive, if the information may cause Mrs Brown and Mr Green damage or distress then you will be unable to view the original record. You will, however, have the option of using our Research Service to access Mr Smith's information after providing a copy of his death certificate.

## Examples of records subject to the GDPR and DPA

Records containing information on people who have lived and died within the last 100 years fall within the terms of the legislation. Some categories of records are, potentially at least, particularly sensitive and are therefore subject to restricted access: school, hospital, court, police, prison, social service records, for example.

We are constantly reviewing the records we keep to ensure that they are dealt with appropriately. In some cases, a decision about public access will rest not with the Record Office as custodian but with the owners (e.g. the Police Authority or the Coroner).

Should you believe your research may be affected by the GDPR you are advised to discuss your research needs with the Searchroom Archivist or Duty Archivist.

## What are my responsibilities under the GDPR and DPA as a researcher?

The GDPR includes an exemption from the 2nd and 5th principles provided that data are used for historical, statistical or scientific research **only** and do not compromise the rights and freedoms of the data subject.

**By signing our searchroom visitors book you are agreeing to comply with these conditions and also with GDPR principles 1, 3, 4 and 6.**

The usual closure periods on particularly sensitive records will apply and you should note that fairness to people about whom

personal data are held is the overriding concern of the legislation.

Once access is granted to records which are subject to the GDPR and DPA you are responsible for ensuring that your use of the data and the information obtained, whether transcribed, abstracted or copied in any way, does not infringe the GDPR, the DPA, the Human Rights Act, the Copyright, Designs and Patents Act 1988 and any subsequent amendments to relevant legislation.

If you are unsure whether the activity you wish to perform comes under the GDPR, please contact the County Archivist.

## Have you other advice about accessing records that are affected by the GDPR and DPA?

It would be useful to have a copy of the person's death certificate to prove that the person has died and that their information is not covered by the GDPR and DPA. However, the information you require will often be contained in documents that do not conveniently have what you need separated from other people's information. It may, therefore, be appropriate to contact us prior to your visit to discuss how best to proceed with your research.

We understand that restrictions to accessing records can be frustrating, but we are here to help so please do not hesitate to contact us to discuss your enquiry. Our contact details are on our website ([www.westsussex.gov.uk/ro](http://www.westsussex.gov.uk/ro)) and general information leaflet.

## What if I can't visit to do the research myself?

We have a research service and can search the records on your behalf to try and find the information you require. You can find out the current fees for this service and complete an online application form from our website, or contact us to request a hard-copy application form.

*A large-print version of this leaflet is available in a folder in the Searchroom*