

DATA PROTECTION (GDPR) POLICY DSDT

	Date	Name/signature
Last updated	2/6/2023	MR
Reviewed by Managing Director on behalf of the trustees	19/6/23	SS
Date for next review	regularly	

Data Protection (GDPR) Policy

Data Protection Legislation

The data protection legislative framework changed at the start of 2021 following the end of the Brexit transition period. The following data protection requirements apply in the UK and to the charity whenever we are processing personal data:

The Data Protection Act 2018,

- The UK's General Data Protection Regulation, and
- Any codes of practice issued by the Information Commissioner's Office.

Although the UK is no longer part of the European Union, the EU's General Data Protection Regulation 2016/679 does still apply where the charity is processing personal data related to i) the offering of goods and services to EU citizens or ii) monitoring of the behaviour of EU citizens, where behaviour takes place within the EU.

We collectively refer to the above as 'Data Protection legislation' rather than list the different laws individually. So when you see reference to 'Data Protection

legislation' in our webpages, policies and guidance, this is what it means.

The Down Syndrome Development Trust follows the strict UK General Data Protection Regulation (GDPR) guidelines and staff undertake regular training to make sure our charity is up to date with regulations and guidelines.

1. The Data Protection Act

The [Data Protection Act 2018](#) controls how your personal information is used by organisations, businesses or the government.

The Data Protection Act 2018 is the UK's implementation of the General Data Protection Regulation (GDPR).

Everyone responsible for using personal data has to follow strict rules called 'data protection principles'. They must make sure the information is:

- used fairly, lawfully and transparently
- used for specified, explicit purposes
- used in a way that is adequate, relevant and limited to only what is necessary
- accurate and, where necessary, kept up to date
- kept for no longer than is necessary
- handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction or damage

There is stronger legal protection for more sensitive information, such as:

- race
- ethnic background
- political opinions
- religious beliefs

- trade union membership
- genetics
- biometrics (where used for identification)
- health
- sex life or orientation

There are separate safeguards for personal data relating to criminal convictions and offences.

Data Protection Officer

The charity has appointed [Senay Smallwood, Managing Director](#) as the Data Protection Officer.

The role of the Data Protection Officer is to:

- Inform staff about their obligations to comply with Data Protection legislation and raise awareness of data protection issues, for example, through training;
- Monitor compliance with Data Protection legislation and with the charity's Data Protection Policy;
- Act as the first point of contact for the Information Commissioner's Office and for individuals whose personal data the charity processes.

The Data Protection Officer needs to be notified immediately of any **personal data breach** and any request from individuals in relation to their **data subject rights**, such as a request to see what personal data is held about them.

- Contact the Data Protection Officer [SENAY SMALLWOOD DSDT DESIGNATED DATA PROTECTION OFFICER ON 01323 893323](#)
sensmallwood.dsdtd@gmail.com

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Processing Personal Data

What is the lawful basis for processing of personal data?

Under the General Data Protection Regulation, the charity must have a valid lawful basis in order to process personal data and, in most cases, will also need to be satisfied that it is 'necessary' to process personal data to achieve the purpose.

There are six lawful bases for processing:

1. Public task – this means that the processing is necessary for the charity to perform a task in the public interest or as part of its official functions.

2. Legitimate interests - the processing is necessary for the legitimate interests of the charity or a third party, unless there is a good reason to protect the individual's personal data which overrides those legitimate interests.

The purpose of the charity is to support children and young people with Down syndrome and their families with various services so, in most cases, the charity will rely on 'public task' and 'legitimate interests' as the lawful basis for processing.

3. Contract – the processing is necessary for a contract the charity has with an individual, or because they have asked the charity to take specific steps before entering into a contract. When relying on a contract as the legal basis, any processing of personal data must be targeted and proportionate.

4. Legal obligation – the processing is necessary for the charity to comply with the law (not including contractual obligations). This can relate to legal, regulatory and other compliance obligations, as well as matters such as the prevention or detection of crime.

5. Vital interests – the processing is necessary to protect the vital interest of

someone, in other words, to protect someone's life.

6. Consent – the individual has given clear consent for the charity to process their personal data for a specific purpose.

Special category data

Special category data is personal data that is more sensitive and needs more protection. In order to lawfully process special category data, the charity must have a lawful basis as well as an additional condition for processing.

Special category data relates to:

- Racial or ethnic origin,
- Political opinions,
- Religious or philosophical beliefs,
- Trade Union membership,
- Genetic data
- Biometric data (where used for ID purposes)
- Physical and mental health, and
- Sex life or sexual orientation.

There are ten conditions which allow the processing of special categories of personal data. The most relevant in the context of the charity are set out below:

a) The individual has given explicit consent to processing for one or more specified purposes. In most cases, the charity will process special category data on this basis;

b) Processing is necessary in relation to employment, social security and social protection law;

c) Processing is necessary to protect the vital interests of a person, where they are physically or legally incapable of giving consent;

d) Processing relates to personal data which is already in the public domain;

e) Processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;

f) Processing is necessary for preventive or occupational medicine, for example, assessment the working capacity of the employee and providing health or social care.

Further information about the legal basis for processing personal data and the conditions for processing special categories of data can be found on the [Information Commissioner's Office's website](https://ico.org.uk/for-the-public/privacy/information-commissioners-office-website).

The specific requirements in relation to special categories of data are set out in Article 9 of the General Data Protection Regulation and can be found [here](#).

Privacy Notice

Read about how we process personal data and find out about your rights in our separate [privacy notice](#) document.

Where more specialised or specific processing is taking place, individual privacy notices are provided accordingly.

Reporting Data Breaches

What is a personal data breach?

Under data protection legislation, a personal data breach is a "breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed".

Breaches can be small, relating to one person, or can affect many hundreds of individuals. The impact of a breach can be significant, for the individuals affected and the charity.

Breaches can affect information held electronically or in paper files, and personal data can be lost or compromised

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in a number of ways. The cause might be an email sent to the wrong person, a lost or stolen device such as a laptop or memory stick, hard copy paperwork being lost or disposed of incorrectly, or unauthorised or incorrect access being given to systems.

The majority of data breaches are accidental but can also be caused by unlawful actions, such as cyber security incidents.

What should you do if you discover a personal data breach?

Any personal data breach, however minor, must be reported **immediately** to the Data Protection Officer. This is so the matter can be assessed and we can take steps to limit the impact of a breach where possible. If you're not sure if something is a breach, please still report it immediately.

Email: sensmallwood.dsd@gmail.com to report a breach or a suspected breach

A **Breach Notification Form** will then be sent to you and asks for the information that we need to establish if a data breach has occurred, and to decide what immediate steps we need to take, including whether the breach should be reported to the Information Commissioner's Office ('ICO').

If a breach is likely to have a significant impact on the individual(s), then it must be reported to the ICO within 72 hours of the charity becoming aware of the breach. So it is important that all breaches are reported to the Data Protection Officer without delay.

If you don't have all the information for the form, please just provide what you can – don't delay in making the report whilst you gather information. Any delay can affect the steps that we can take to reduce the impact of any data breach and may also mean we do not meet the legal timescales for reporting to the ICO.

You can also contact the Data Protection Officer directly

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DESIGNATED DATA PROTECTION
OFFICER ON 01323 893323

sensmallwood.dsd@gmail.com

What happens next?

On receipt of the breach notification form, the Data Protection Officer or a colleague from the Information Management team will assess the matter and will work with you and other relevant colleagues to make sure that any personal data is secured and any impacts of the breach are minimised.

When assessing whether a breach must be reported to the ICO, the Data Protection Officer will establish the likelihood of the breach impacting the rights and freedoms of those affected, and assess the severity of any potential consequences for the individual. If there is a risk of a significant impact, then the charity must notify the ICO – the Data Protection Officer is responsible for making any notification.

If we need to make a report to the ICO we will need to provide details about the nature of the personal data breach, as well as approximate numbers of individuals affected and who those individuals are. We will also need to include details of the personal data involved. We will need to report the likely consequences of the breach and the measures we have taken, or propose to take, to deal with the breach and mitigate any possible adverse effects.

Should you notify the affected data subjects?

If the breach is likely to result in a high risk to the rights and freedoms of the affected individual(s), then the charity will also need to inform those concerned directly and without undue delay. The Data Protection Officer will assess if notification

is required and will advise on the content of any notification, such as the steps that individuals may wish to take to mitigate the impact of the breach.

Even where the breach is not likely to result in a high risk, there may be some limited cases where we decide to notify individuals anyway. However, any notification should be discussed with the Data Protection Officer first.

Who is responsible?

The charity, as the Data Controller, has legal responsibility for all personal data breaches, so staff should not be concerned about reporting a breach to us. We understand that mistakes happen and the vast majority of breaches are accidental.

However, if it is found that a personal data breach is the result of deliberate misconduct or a continued failure to comply with policies, procedures or safe data handling practices, the charity may consider taking appropriate disciplinary action against those involved.

To reduce the risk of handling personal data inappropriately, staff should be familiar with the policy. Staff must ensure:

- that they process personal data in line with the policy and that there are adequate safeguards in place to protect personal data; and
- that they report any personal data breaches they become aware of immediately via this process.

Common breaches

Breaches are often caused by emails being sent to the wrong person or an email is sent to the right person, but it includes the wrong documents or information.

Please read our guidance on **data protection for email correspondence**

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which sets out advice on how to reduce the risk of data breaches by email.

Rights of Individuals

One of the aims of the Data Protection policy is to give individuals (commonly known as 'data subjects') better control over how and why their personal data is processed. So the legislation gives data subjects a number of rights in relation to their personal data.

A data subject can exercise their rights by making a request, either verbally or in writing. We must respond to data subject requests within statutory timescales so please contact senssmallwood.dsdt@gmail.com **immediately** if you receive a request. Generally, we have one calendar month to respond.

Information about each of the rights is summarised below.

1. Right to be informed

One of the important principles in the legislation is transparency and individuals have the right to be informed about the collection and use of their personal data. This information should be provided at the time that personal data is collected and should, amongst other things, set out the following:

- What data is being collected
- How it will be used and why
- How long the data will be kept
- If the data will be shared with other parties
- Whether the data will be transferred overseas

The charity also needs to provide information to data subjects about their rights, including their right to complain to the Information Commissioner's Office ('ICO').

The charity provides this information to data subjects in its **Privacy Notice**. We also have a number of specific privacy notices, such as for processing of Alumni and Donor personal data.

Individuals should also be informed about the use of any **special category data or criminal offence data**. This is set out in our **Appropriate Policy Document**.

2. Right of access

In addition to understanding why the charity is processing personal data, individuals have a right to access that data. This is known as a subject access request.

The charity must confirm whether or not we are processing personal data about the individual and, if so, provide access to that data along with certain information about the processing. This enables individuals to check how and why the charity is using their personal data, and to receive a copy of the data.

Please remember that an individual is only entitled to their own personal data, and not to information relating to other people although a third party, such as a lawyer, can make a request on an individual's behalf with their consent.

For more guidance on the right of access and information on how to make a request, please see our **guidance on subject access requests**.

3. Right to rectification

Individuals have a right to ask the charity to rectify any personal data that is inaccurate or not up to date. If the personal data being held is incomplete, individuals have a right to ensure that the data is completed. This is particularly important if the charity is using the information to make decisions about the individual.

If we have shared inaccurate data with any third parties we will also need to contact those third parties and provide them with the updated information.

Please note that the right to rectification does not extend to opinions about an individual. For example, opinions about a person might be held in relation to disciplinary matters, or as part of the appraisal process. As long as those opinions are clearly recorded as such they do not fall within the scope of the right to rectification.

4. Right to erasure

In some cases, individuals have the right to have their personal data erased, also known as the 'right to be forgotten'. The right is intended to allow an individual to have personal data erased when there is no lawful requirement for the charity to retain or use it. However, it is not an absolute right and only applies in certain circumstances.

For example, an individual can ask for personal data to be erased where it is no longer necessary for the purpose it was originally provided, or where consent was given which is then withdrawn, or where the data is being used for direct marketing purposes.

5. Right to restrict processing

Individuals have the right to request the restriction or suppression of their personal data. This means they can ask that the charity limits the way that it uses their personal data, but only in certain circumstances.

For example, if personal data is inaccurate or an individual objects to the basis for processing, they can ask that any processing is restricted whilst the data is updated or the matter is considered.

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6. Right to data portability

The right to data portability gives individuals more control over their personal data by allowing them to access and reuse their personal data for their own purposes. It enables them to transfer or copy personal data to different IT environments, service providers etc.

This right only relates to personal data that the individual has provided to the controller and which is processed by automated means (i.e. excluding paper files). The right also only applies when the lawful basis for processing is consent or performance of a contract.

When an individual has the right to data portability, we must provide the data in a structured, commonly used and machine-readable format.

7. Right to object

Individuals have a right to object to the processing of their personal data in certain circumstances. Where personal data is used for direct marketing, this is an absolute right and the charity is obliged to comply. But in other cases, it depends on our purpose for processing and the lawful basis that the charity is relying on.

Where the right arises, the charity should cease to process the personal data unless there are compelling legitimate grounds for doing so.

How to make a request?

Individuals, or those acting on their behalf, can make a request relating to data subject rights either in writing or verbally. For ease, though, requests can be made to the Data Protection Officer either by emailing senssmallwood.dsdt@gmail.com or by post to Data Protection Officer,

If your request is for access to your data, please see our [guidance on subject access requests](#).

If your request is for erasure of your personal data, the charity can provide a [Right to Erasure Request Form](#) which may assist you in making your request.

If you have any queries about your rights or how to make a request, please contact the Data Protection Officer senssmallwood.dsdt@gmail.com. Further information about the individual's rights under the legislation can be found on the ICO's [Your Data Matters webpages](#).

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