

## GSA Archives and Collections: Data Protection Guidelines for Researchers

Section 41 of the Data Protection Act 2018<sup>1</sup> allows researchers to use records containing personal data of identifiable living individuals for historical or statistical research purposes provided that:

- this use is not carried out for the purposes of, or in connection with, measures or decisions with respect to a particular data subject, or
- this use is not likely to cause substantial damage or substantial distress to a data subject,

AND that they also abide by the Data Protection Principles set out in Chapter II Article 5 of the General Data Protection Regulation (GDPR)<sup>2</sup>, that:

- a) The processing of personal data for any of the law enforcement purposes must be lawful and fair;
- b) The law enforcement purpose for which personal data is collected on any occasion must be specified, explicit and legitimate, and personal data so collected must not be processed in a manner that is incompatible with the purpose for which it was collected;
- c) Personal data processed for any of the law enforcement purposes must be adequate, relevant and not excessive in relation to the purpose for which it is processed;
- d) Personal data processed for any of the law enforcement purposes must be accurate and, where necessary, kept up to date, and every reasonable step must be taken to ensure that personal data that is inaccurate, having regard to the law enforcement purpose for which it is processed, is erased or rectified without delay;
- e) Personal data processed for any of the law enforcement purposes must be kept for no longer than is necessary for the purpose for which it is processed;
- f) Personal data processed for any of the law enforcement purposes must be so processed in a manner that ensures appropriate security of the personal data, using appropriate technical or organisational measures (and, in this principle, “appropriate security” includes protection against unauthorised or unlawful processing and against accidental loss, destruction or damage).

If a researcher uses personal data they have accessed at GSA Archives and Collections for any purposes other than historical and statistical research or publication of journalistic, literary or artistic material in the public interest, or they process this personal data to support measures or decisions about the subject of the data without their consent, they may be guilty of an offence under part 6 section 170 of the Act, and could be prosecuted.<sup>3</sup>

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<sup>1</sup> Data Protection Act 2018 <https://www.legislation.gov.uk/ukpga/2018/12/contents>

<sup>2</sup> General Data Protection Regulation Directive 95/46/EC <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

<sup>3</sup> Adapted from National Records of Scotland *Research Use of Personal Data in Archival Records* June 2018 <https://www.nrscotland.gov.uk/files//research/historical-search-room/nrs-research-use-of-personal-data-in-archival-records.pdf>

Further advice on how to identify personal data can be found at: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/what-is-personal-data/what-is-personal-data/>

### Your Responsibilities as a Researcher:

- As a researcher, you are responsible for any personal data concerning living individuals that you collect from GSA's archives whether in the form of notes taken or copies of records obtained.
- When you take away information from our holdings, you become the data controller of this information and you are liable for it and any subsequent use made of it. It is your responsibility under the GDPR and the Data Protection Act 2018, to ensure that the personal data which you have gained access to is used only for historical or statistical research.
- You must not use data to cause substantial damage or distress to data subjects.
- You must not use data to support measures or decisions concerning individuals.
- You should anonymise identities wherever possible. This is good practice when taking notes as it reduces the risk of subsequent unauthorised disclosure or misuse. Also data subjects have a right of access to their information so if you anonymise information it will not be open to subject access requests.
- If you intend to publish personal information you should give consideration to the following:
  - Whether the data subject is still living.
  - Whether the information has already been published or placed in the public domain.
  - Whether the individual is a public figure. If so the information is more likely to have already been made public.
  - Whether it is in the public interest to publish. Schedule 2 part 5 section 26(1) allows the processing of personal data with a view to the publication for the purposes of journalism, academic purposes, artistic purposes or literary purposes, if a researcher believes publication would be in the public interest.<sup>4</sup>
  - Whether the information includes special categories of personal data as defined in Article 9 of General Data Protection Regulation. If so you may need to obtain the permission of the data subject prior to publication unless you anonymise the information. Processing must be in the substantial public interest.

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<sup>4</sup> National Records of Scotland *Research Use of Personal Data in Archival Records* June 2018  
<https://www.nrscotland.gov.uk/files//research/historical-search-room/nrs-research-use-of-personal-data-in-archival-records.pdf>

## **Information on Closure Periods**

The Archives and Collections also provides information on closure periods of records under GDPR and the Data Protection Act, see 'Data Protection and Closure Periods in the GSA Archives & Collections'.

Guidelines updated: April 2020