

DATA PROTECTION: policy and practice

INTRODUCTION

The National Benevolent Charity, as a necessary part of its charitable work, must collect, handle and hold data about individuals. As a benevolence charity making financial payments to people in need and maintaining housing accommodation for people who might be vulnerable the handling of personal information, and often sensitive information, about beneficiaries is essential. The Charity also holds records about members of staff, and limited information about its trustees, and limited information about its donors.

The National Benevolent Charity is committed to protecting the rights and privacy of individuals and to holding information about them in the strictest confidence.

The National Benevolent Charity is compliant with the law of data protection and with good practice. The most important pieces of legislation are the Data Protection Act 2018 (DPA 2018) and the EU General Data Protection Regulation (GDPR). For the purposes of the law, the Charity is a *data controller* (i.e. an organisation which determines what personal data is to be held and for what reasons).

The National Benevolent Charity is registered with the Information Commissioner's Office.

The Trustees are responsible for ensuring that TNBC is compliant with law and good practice and this is delegated to the chief executive on a day to day basis. However, it is the responsibility of every trustee and every employee to ensure that the Charity's data protection policy and practice is followed

WHAT IS PERSONAL DATA?

Personal data is defined as "any information relating to an identified or identifiable...person" and so it includes names and addresses, telephone numbers and e-mail addresses, family circumstances, financial circumstances, bank statements, benefits statements, health records, references, criminal records etc. By its nature, some of this information will be sensitive, and require special protection.

Personal data can be collected and held on paper in a filing system or electronically or through any other means, e.g. an audio tape.

DATA PROTECTION POLICY

The National Benevolent Charity reviews data protection policy on a regular basis and it is included on the Charity's register of risks. The most recent review and revision has taken place following passage of the EU regulation which, together with the DPA 2018. The policy has eight key principles to be followed.

The eight principles of the Charity's policy:

1. the data must be processed in a transparent manner which is fair and lawful;

The Charity will only collect and store personal data openly and transparently and will not pass that data to any other organisation or person without the consent of the individual concerned.

2. that the data should only be used in the manner which it was intended to be used;

The Charity will only use personal data for the purposes of administering its programme of benevolence and the provision of housing or, in the case of the personal data of trustees, volunteers and members of staff, for the purpose of managing the organisation or, in the case of donors for managing their donations.

3. that the data must be processed in a way which is adequate, relevant and not excessive;

The charity will only collect and store personal data which is required for 2. above, and any personal data collected which is not so required will be destroyed.

4. that the data should be accurate and kept up to date;

The Charity will take reasonable steps to ensure that personal data stored for current beneficiaries, residents, trustees, volunteers and members of staff is accurate and up to date.

5. that the data should not be retained for longer than necessary to meet its purpose;

The Charity will retain personal data for a period of up to six years following the subject's last contact with the organisation for the purposes of 2. above. Personal data will be destroyed by shredding or by wiping or by some other permanent means.

6. that the data should be processed only in accordance with the rights of the individual;

The Charity will not pass personal data to any third party without the consent of the individual concerned. Under no circumstances whatsoever will personal data be used for any marketing or fundraising purpose. The Charity will, as required by law, provide an individual with a copy of any personal data held about them within 40 days of receiving a request and will remove or correct any inaccurate personal data.

- 7. that the data should be protected by adequate security within the organisation;
and**

The Charity will ensure that all personal data held in paper or other solid form will be kept securely in locked cabinets and cupboards and that personal data held in electronic form will be protected by secure systems and robust passwords.

- 8. that the data is not transferred to non-EU countries which do not have a similar guarantee of data protection.**

The Charity will not transfer any personal data outside of the UK.

DISCLOSURE OF PERSONAL DATA

The National Benevolent Charity will not pass personal data to any third party without the consent of the individual concerned, unless the disclosure is authorised.

The usual reasons for authorising disclosure to a third party are to process an application for financial assistance or housing accommodation; to provide a reference for a current or former employee or volunteer or for a resident; for the prevention or detection of crime; for the assessment of any tax or duty; or when it is necessary to exercise a right or obligation imposed by law.

Under no circumstances whatsoever will personal data be used for any marketing or fund-raising purpose.

RIGHTS OF INDIVIDUALS

The National Benevolent Charity has an obligation to comply with the rights of individuals set out in the GDPR. The Charity will comply with these rights in the following ways.

1. Right of Access (subject access request)

The Charity will, as required by law, provide an individual with a copy of the personal data held about them within one month of receiving a request. All requests should be sent to the chief executive. Access to records will be refused in cases where an exemption applies, e.g. if the disclosure will place an individual at risk of significant harm. A subject access request must be made in writing and an individual only has the right to personal data about themselves.

2. Right to Object to Processing

An individual has the right to object to the processing of their personal data, but this is likely to mean that the Charity will not be able assist the individual with financial help or housing accommodation.

3. Right to Rectification

An individual has the right to request the correction of data that is inaccurate. Any such request should be sent to the chief executive and where proof of the inaccuracy is given the personal data will be amended and the individual informed.

4. Right of Erasure

An individual has the right to have personal data erased permanently in certain circumstances: e.g. where the personal data is no longer required for the purpose for which was given; or when an individual has objected to the processing as in 2. above; or when consent for processing has been withdrawn; or where personal data is being processed unlawfully etc.

A request for erasure should be sent to the chief executive. If a decision is made to erase the data and the data has been passed to other data controllers (e.g. other benevolence charities) then reasonable attempts will be made to inform those other data controllers of the request.

5. Right to Restrict Processing

The processing of personal data will be restricted where the accuracy of the data has been contested and the Charity is in the process of verifying this; where the processing has been found to be unlawful but the individual has asked for a restriction rather than an erasure; and where an individual has exercised the right to object and the Charity is considering the objection.

6. Right to Portability

Where an individual wishes to send their personal data to another organisation they have the right to request that this information is provided to the third party in a machine readable format.

BREACHES OF THE DPA 2018

Any and all breaches of the DPA 2018, including any breach of the data protection principles shall be reported as soon as it is discovered to the chief executive, who shall assess the extent of the breach, the risks to the data subjects as a consequence of the breach, any security measures in place that will protect the information, and any measures that can be taken immediately to mitigate the risk to the individuals. Unless the chief executive concludes that there is unlikely to be any risk to individuals from the breach, it must be notified to the Information Commissioner's Office within 72 hours of the breach having come to the attention of the Charity unless a delay can be justified.

The Information Commissioner will be advised of the details of the breach, the likely consequences of the breach, measures taken or proposed to deal with the breach, and the contact point for enquiries.

If the breach is likely to result in a high risk to the rights and freedoms of the affected individuals then the chief executive will notify the individuals concerned of the breach without undue delay unless the data would be unintelligible to those not authorised to have access to it, or measures have been taken to mitigate any risk to them. Affected individuals will be told the nature of the breach, the measures taken to mitigate any risks, and who to contact with any questions.

DATA PROTECTION PRACTICE

a) Applications for financial assistance

- All applications for financial assistance and the personal data provided within them shall be treated in the strictest confidence. The personal data shall not be shared with any third party other than those for whom the applicant has given consent. These might include the referees nominated by the applicant; a third party acting on behalf of the applicant; another charity with whom the applicant is or has been in contact; or some other third party approved by the applicant. These might also include a supplier of goods or services nominated by the Charity to provide goods or services to the beneficiary.
- Both on-line and paper application forms shall include a *privacy statement and data processing consent form* and directions as to where the Charity's *Data Protection: policy and practice* document may be found.
- Paper applications and any attached personal data, when not in use, shall be held in locked cupboards and cabinets, the keys for which should be held in the locked office key cabinet.
- Under no circumstances should paper applications etc. be removed from the office other than for home working or some other proper purpose agreed by the chief executive, and any applications etc. held at home should be given the same security as if they were held in the office.
- Electronic applications and attached personal data shall be held on the Charity's IT system securely behind robust internet security and passwords.
- Under no circumstances should electronic applications etc. be sent by e-mail communication to other parties other than those mentioned above, apart from to the e-mail addresses of the trustees of the Charity in connection with their management of the organisation. The trustees shall ensure that their personal IT systems are equally protected by robust internet security and passwords.
- Beneficiaries who are approved for regular assistance shall be invited on a quarterly basis to confirm their circumstances and to amend or correct any personal data about them held by the Charity.
- Six years after a beneficiary last received financial assistance from TNBC, or six years after an application for financial assistance was refused, the individual's personal data will be destroyed.

b) Applications for housing and residents' files

- All applications for housing accommodation and all residents' files and the personal data provided within them shall be treated in the strictest confidence. The personal data shall not be shared with any third party other than those for whom the applicant has given consent. These might include the referees nominated by the applicant; a third party acting on behalf of the applicant; or some other third party approved by the applicant, for example a general practitioner, social worker or next of kin.
- Both on-line and paper application forms shall state include a *privacy statement and data processing consent form* and directions as to where the Charity's *Data Protection: policy and practice* document may be found.
- Paper applications and all attached personal data and residents' files, when not in use, shall be held in locked cupboards and cabinets, the keys for which should be held in the locked office key cabinet.
- Electronic applications and attached personal data and residents' files shall be held on the TNBC's IT system securely behind robust internet security and passwords.
- Residents shall be invited on an annual basis to confirm their next of kin and to amend or correct any personal data about them held by the Charity.
- Six years after a resident vacates the Charity's accommodation their personal data will be destroyed

c) Trustee, volunteer and staff records

- All paper records will be held in locked cupboards and cabinets, the keys for which shall be held by the member of staff responsible for controlling the data and the chief executive.
- All electronic staff records shall be held on the Charity's IT system behind robust internet security with the password known only to the member of staff responsible for controlling the data and the chief executive.
- Under no circumstances will personal data about a trustee, volunteer or employee, past or present, be shared with any third party other than with the permission of the subject concerned.
- Six years after a trustee ceases to be a trustee, or a volunteer ceases to volunteer, or an employee leaves the Charity's employ their personal data will be destroyed.

- Twelve months after an applicant for employment with the Charity has been contacted by the Charity their personal data will be destroyed.

d) Donor records

- All paper records will be held in locked cupboards and cabinets, the keys for which shall be held by the member of staff responsible for controlling the data and the chief executive.
- All electronic staff records shall be held on the Charity's IT system behind robust internet security with the password known only to the member of staff responsible for controlling the data and the chief executive.
- Under no circumstances will personal data about a donor be shared with any third party other than with HM Revenue and Customs for the purpose of claiming tax relief through the Gift Aid scheme where the donor has consented to this.
- Six years after a donor last donates to the Charity their personal data will be destroyed.

e) Removing personal data from the office

- Personal data in paper or other form apart from electronic form shall not be removed from the office other than with the approval of the chief executive.
- The chief executive will only give permission for personal data in paper or other form apart from electronic form to be removed from the office if it is for some purpose connected with the subject's application for benevolence or housing or the subject's residency, e.g. where an employee is working from home, or transferring data from one office to another.
- Where personal data is removed from the office it must be transported securely, and held securely in a locked cupboard or cabinet. Under no circumstances will personal data be given to, or shared with a third party other than as allowed in sections a) and b) above.
- Personal data held in electronic form will not be sent by e-mail or other electronic method to third parties other than as allowed in sections a) and b) above.

Privacy Statements and Data Processing Consents

- A** application for benevolence
- B** application for housing accommodation
- C** residents
- D** donors

Privacy Statement and Data Processing Consent (A)

Your privacy and the confidentiality of your application are very important and The National Benevolent Charity has adopted privacy and data protection policies to protect them. These are set out in full in the document *Data Protection Policy and Practice* which is available on the Charity's website (www.natben.org.uk) or on request from the Charity's office.

If you, or someone on your behalf, completes the application form an electronic and/or paper file will be opened for you which will contain the information in the application form and any subsequent correspondence with you, your doctors, referees, or others such as advice workers and social workers. The file might, also, contain other information about you which is in the public domain.

The Charity is collecting this information so that it can consider your application for financial assistance on the basis that you have given your consent for your personal data to be used in this way. You can withdraw your consent at any time but this is likely to mean that your application will not be able to be considered.

The file(s) will be kept securely and in strict confidence and be used only in connection with your application. Data will not be passed to any other individual or organisation without your consent, except where required to do so by law or as explained in the next two paragraphs.

Information in your file(s) may be shared with other charities to whom you have applied for help, and to charities which are currently providing you with support or which have supported you in the past. Information may also be shared with your referees and with any of your advisers and helpers named in the application, and with any other person for which you have given your permission.

Should the Charity agree to provide you with any goods or services then relevant information in your file will be shared with the Charity's supplier(s).

You have a number of data protection rights, including the right to see a copy of your file(s) except for any information held within it about another person, and to erase or correct any errors. A copy of your file(s) will be sent to you within one month of receiving a request from you. You also have the right to complain to the Information Commissioner's Office. For further information please refer to our *Data Protection: policy and practice* document.

Your file(s) will be destroyed six years after your last contact with the Charity.

Privacy Statement and Data Processing Consent (B)

Your privacy and the confidentiality of your application are very important and The National Benevolent Charity has adopted privacy and data protection policies to protect them. These are set out in full in the document *Data Protection Policy and Practice* which is available on the Charity's website (www.natben.org.uk) or on request from the Charity's office.

When you apply for housing accommodation the Charity will open an electronic and/or paper file for you which will contain the information in the application form and any subsequent correspondence with you, your doctors, referees, or others such as advice workers and social workers. The file might, also, contain other information about you which is in the public domain.

The Charity is collecting this information so that it can consider your application for housing accommodation on the basis that you have given your consent for your personal data to be used in this way. You can withdraw your consent at any time but this is likely to mean that your application will not be able to be considered.

The file will be kept securely and in strict confidence and be used only in connection with your residency. Data will not be passed to any other individual or organisation without your consent, except where required to do so by law.

You have a number of data protection rights, including the right to see a copy of your file(s) except for any information held within it about another person, and to erase or correct any errors. A copy of your file(s) will be sent to you within one month of receiving a request from you. You also have the right to complain to the Information Commissioner's Office. For further information please refer to our *Data Protection: policy and practice* document.

If your application is successful, your file(s) will be destroyed six years after you vacate the Charity's accommodation. If it is unsuccessful, it will be destroyed two years after your last contact with the Charity.

Privacy Statement and Data Processing Consent (C)

Your privacy and the confidentiality of your application are very important and The National Benevolent Charity has adopted privacy and data protection policies to protect them. These are set out in full in the document *Data Protection Policy and Practice* which is available on the Charity's website (www.natben.org.uk) or on request from the Charity's office.

When your tenancy began the Charity opened an electronic and/or paper file for you which contains your application for housing, your tenancy agreement, letters from your referees and any subsequent correspondence with you or with third parties approved by you, e.g. your next of kin.

The Charity is collecting this information so that it can continue to provide you with housing accommodation on the basis that you have given your consent for your personal data to be used in this way. You can withdraw your consent at any time but this might mean that the Charity will no longer be able to provide you with housing accommodation.

The file will be kept securely and in strict confidence and be used only in connection with your residency. Data will not be passed to any other individual or organisation without your consent, except where required to do so by law.

You have a number of data protection rights, including the right to see a copy of your file(s) except for any information held within it about another person, and to erase or correct any errors. A copy of your file(s) will be sent to you within one month of receiving a request from you. You also have the right to complain to the Information Commissioner's Office. For further information please refer to our *Data Protection: policy and practice* document.

Your file(s) will be destroyed six years after you vacate the Charity's accommodation.

Privacy Statement and Data Processing Consent (D)

Your privacy and the confidentiality of your application are very important and The National Benevolent Charity has adopted privacy and data protection policies to protect them. These are set out in full in the document *Data Protection Policy and Practice* which is available on the Charity's website or on request from the Charity's office.

If you make a donation to the Charity an electronic and/or paper file will be opened for you which will contain your name, address, the amount of the donation and any other relevant information which you provide.

The Charity is collecting this information in order to process your donation and comply with our accounting obligations on the basis that you have consented to the Charity using your data for this purpose. You can withdraw your consent at any time, but the Charity may still be obliged to keep some information for accounting and tax purposes (see below).

The file(s) will be kept securely and in strict confidence and be used only in connection with your donation. Data will not be passed to any other individual or organisation except, where you have consented, to HM Revenue & Customs in connection with a claim for tax relief under the Gist Aid scheme.

You have a number of data protection rights, including the right to see a copy of your file(s) except for any information held within it about another person, and to erase or correct any errors. A copy of your file(s) will be sent to you within one month of receiving a request from you. You also have the right to complain to the Information Commissioner's Office. For further information please refer to our *Data Protection: policy and practice* document.

Your file(s) will be destroyed six years after your last donation to the Charity.

