

# **THE DATA PROTECTION ACT (1998)**

## AND YOUR CLUB/ COUNTY ASSOCIATION

October 2010

Guidance



# THE DATA PROTECTION ACT 1998 (“THE ACT”) AND YOUR CLUB/COUNTY ASSOCIATION

## WHY IS THE ACT IMPORTANT?

- It is the law
- It is designed to protect information about ourselves
- Non compliance can led to complaints being made to the Information Commissioners Office – more information can be found at [www.ico.gov.uk](http://www.ico.gov.uk)

## TERMINOLOGY:

### Personal Data

Data which relate to a living individual who can be identified:

- From those data; or
- From those data and other information which is in the possession of, or likely to come into the possession of, the data controller.

Includes information about living people, facts and opinions. Can be held electronically or on paper.

### Sensitive personal data

Information containing facts or opinions about a living individual and relating to:

- Racial or ethnic origin
- Political opinions
- Religious beliefs
- Trade Union Membership
- Health
- Sex life
- Criminal proceedings or convictions

### Processing

Includes the concepts of – obtaining, recording, retrieval, consultation, holding, disclosing and using.

### Data Subject

The living individual who the personal data relates to.

### Data Controller

A person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed.

### Data Processor

In relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the Data Controller.

# WHAT IS THE DATA PROTECTION ACT 1998 ALL ABOUT?

## THE EIGHT PRINCIPLES OF THE ACT ARE:

**1 Personal data will be processed fairly and lawfully.**

Have a legitimate reason for collecting and using the data and tell the individual what you will be doing with their data.

**2 Processed for specified, lawful and compatible purposes.**

Open about the reasons for obtaining personal data.

**3 Adequate, relevant and not excessive.**

Hold sufficient personal data about an individual to do the job and not hold more information that is needed.

**4 Accurate and up to date.**

Take reasonable steps to ensure the information is accurate and up to date.

**5 Not kept for longer than necessary.**

Consider the purpose for why you hold the information and review accordingly how long you keep it.

**6 Processed in accordance with the rights of the individual.**

The Act gives certain rights to individuals. The main ones to note are – any individual has the right to view certain information that is held about them, the right to prevent the processing of their personal information and the right to say no to marketing information. More information can be found in Appendix A.

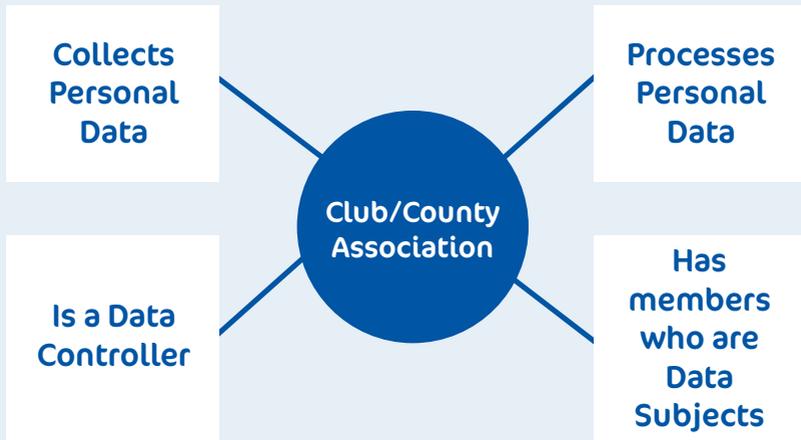
**7 Processed with appropriate security.**

Be aware of how personal and sensitive personal data is protected. Lock filing cabinets, change passwords regularly on computers, password protect documents.

**8 Not transferred outside the European Economic Area without adequate protection.**

Do not transfer outside of the EEA unless that country has adequate protection for personal and sensitive personal data e.g. USA have 'Safe Harbor' scheme.

# HOW DOES THIS RELATE TO A CLUB/COUNTY ASSOCIATION?



## WHAT DO CLUBS/COUNTY ASSOCIATIONS NEED TO DO TO COMPLY?

- Ensure any forms that collect Personal Data include a data protection statement – example in Appendix B
- Ensure all members have access to the ASA/British Swimming Data Protection Notice – Appendix C
- Ensure all records are kept securely and up to date – locked away, password protected documents on computers
- Inform the ASA of any changes to the Personal Data that is held e.g. addresses, names – this is normally done via renewals but should be done any time Personal Data is changed
- Do not give any contact details for any members to anyone outside of the Club/Association
- Ensure that only nominated (no more than three) club officials have access to Personal Data and understand how to comply with the Act
- Do not disclose – written or verbal – any personal data to anyone other than the ASA or other club officials
- Ensure that any emails that are sent to more than one individual, email addresses are BCC'd (blind copied).

For further information about Data Protection you can visit the Information Commissioners Office at [www.ico.gov.uk](http://www.ico.gov.uk)

For any queries regarding Data Protection and your members please contact the organisation's Data Protection Officer – Rachel Washington – [rachel.washington@swimming.org](mailto:rachel.washington@swimming.org)

# APPENDIX A

## FULL EXPLANATION OF THE EIGHT DATA PROTECTION PRINCIPLES

### First Principle

Personal Data shall be processed fairly and lawfully and in particular, shall not be processed unless -

- At least one of the conditions of Schedule 2 is met, and
- In the case of sensitive Personal Data, at least one of the conditions of schedule 3 is also met.

### Schedule 2

- The Data Subject has given consent
- The processing is required to meet a legal obligation
- It is required for the performance of a contract
- It is necessary to protect the vital interests of the individual; carry out public functions
- It is necessary to pursue the legitimate interests of the Data Controller or third parties.

### Schedule 3

- Explicit consent of the Data Subject
- To comply with the employers legal duty
- To protect the vital interests of the Data Subject or another person
- Carried out by certain not for profit bodies
- In legal proceedings
- To exercise legal rights
- To carry out public functions
- For medical purposes
- For equal opportunities monitoring
- As specified by order.

### Second Principle

Personal Data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with purpose or those purposes.

### Third Principle

Personal Data shall be adequate, relevant and not excessive in relationship to the purpose for which they are processed.

### Fourth Principle

Personal Data shall be accurate and, where necessary, kept up to date.

### Fifth Principle

Personal Data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

## **Sixth Principle**

Personal Data shall be processed in accordance with the rights of Data Subjects under this Act.

### **Data Subject Rights:**

- To subject access
- To prevent processing
- To prevent processing for direct marketing
- In relation to automated decision-making
- To rectification, blocking, reassurance and destruction
- To ask the Information Commissioner to assess whether the Act has been contravened
- To compensation

### **The three most important and relevant ones to clubs/associations:**

#### **To subject access**

An individual who makes a written request and pays a fee is entitled to be:

- Told whether any Personal Data is being processed;
- Given a description of the Personal Data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- Given a copy of the information comprising the data; and
- Given details of the source of the data (where this is available).

#### **To prevent processing**

- An individual has a right to object to processing only if it causes unwarranted and substantial damage or distress. If it does, they have the right to require an organisation to stop (or not to begin) the processing in question.
- So, in certain limited circumstances, you must comply with such a requirement. In other circumstances, you must only explain to the individual why you do not have to do so.

#### **To prevent processing for direct marketing**

- An absolute right - individuals have the right to prevent their Personal Data being processed for direct marketing. An individual can, at any time, give you written notice to stop (or not begin) using their Personal Data for direct marketing. Any individual can exercise this right, and if you receive a notice you must comply within a reasonable period.

## **Seventh Principle**

Appropriate technical and organisation measures shall be taken against unauthorised or unlawful processing or Personal Data and against accidental loss or destruction or, or damage to, Personal Data.

## **Eighth Principle**

Personal Data shall not be transferred to a country or territory outside the EEA unless that country or territory ensures an adequate level of protection for the rights and freedoms of Data Subjects in relation to the processing of Personal Data.

# APPENDIX B

## EXAMPLE DATA PROTECTION STATEMENT

The ASA/British Swimming will use your personal data for the purpose of your involvement in the <insert purpose here> and I understand that by submitting this form, I am consenting to receiving information about the <insert purpose here> by post, email, SMS/MMS, online or phone unless stated otherwise.

# APPENDIX C

## THE ASA/BRITISH SWIMMING DATA PROTECTION NOTICE

### COLLECTION AND USE OF YOUR INFORMATION

#### About us

The Amateur Swimming Association (ASA) is a constituent member of British Swimming Limited (British Swimming). The other members are the Welsh Amateur Swimming Association (WASA) and the Scottish Amateur Swimming Association (SASA). The ASA has a number of subsidiary companies details of which can be found at [www.swimming.org](http://www.swimming.org).

#### Purposes

The ASA (which includes its subsidiaries) and British Swimming will each hold the details provided on this registration form with other information it holds or obtains from or about you and will use this for the following purposes:

- for maintaining records
- to respond to any enquiries you make
- to administer any events in which you participate or may wish to participate and to deal with any incidents involving you
- to create an individual profile for you so that we can understand and respect your preferences
- to create anonymised aggregated information about members and swimmers to enable us to secure funding
- to contact you about swimming events, offers and opportunities available from the ASA or British Swimming or any commercial partner of either of them by post, email, online or phone (where you have indicated you are happy to hear about these)

#### Recording images

The ASA and British Swimming may record the competition events in which you participate and general images of swimmers will form part of the information we hold and use. In addition to the purposes for general information set out above, the ASA and/or British Swimming may use these recordings and images for the purposes of education and training, swimmer analysis, promotion, performance, development and selection and event analysis.

### **Other uses**

Where your information may be used for additional purposes, such as medical information, you will be provided with further details of how your information will be used at the relevant time

## **DISCLOSURE OF YOUR INFORMATION**

### **Publication on websites**

Details of your achievements in events will be included on the British Swimming website(s) and these will be available to the general public. If you do not want your details to be visible in this way you can block them by registering via the Home Country Membership Check webpage and selecting the 'hide' option, by ticking the appropriate tick box at the end of this form, or by contacting the ASA Rankings department with your request to hide your details.

### **Caution**

If you hide your details they will not be visible on the Rankings Database which may affect your ability to enter events. Event organisers may in these cases require proof of age and/or of eligibility to enter and you should contact the particular organiser to check.

Regions, Sub-Regions, County Associations and Clubs that organise their own competitions may publish details on this website and if you wish to hide this information you should contact the Region/ County/Club directly.

### **Data use outside of the EU**

If you apply for or take part in an event that takes place outside the European Union, your information will be disclosed to the relevant event organiser(s) in the host nation. These nations may not have laws as stringent as ours to protect your personal data.

### **Images**

Images may be disclosed to those Regions, Sub-Regions, County Associations and Clubs for which you are a member for swimmer selection purposes. They may also be disclosed to the media for promoting swimming and the reporting of events. You should see the data protection policy for the relevant Region, Sub-Region, County Association and Club(s) for details of how your information will be used.

### **WASA and SASA**

As constituent members of British Swimming, WASA and SASA will be able to view your information for swimming administration purposes only.

### **Doping Control**

If you enter swimming competitions, you may be subject to doping control as part of the ASA/British Swimming commitment to a drug free sport. At the time of sample collection, your personal data will be collected by UK Sport which undertakes the testing and administers the programme. You should see the data protection notice for UK Sport for details of how your information will be used.

# MARKETING

## Partners

The ASA and British Swimming each work with a number of sponsors and commercial partners (details of these can be found at [www.swimming.org](http://www.swimming.org)) to promote swimming, raise funding for the sport and to secure opportunities for members. The ASA and British Swimming would like to contact you by post or electronically to tell you more about the offers available to you. Partners help us serve you better by telling us if you express an interest in their goods and services.

## Opt outs

You have the right to refuse direct marketing and can do so by contacting the ASA.

You are entitled to a copy of your personal data from the ASA and/or British Swimming (a small fee will be payable in each case) and to correct any inaccuracies in it. For details of how to do this you should contact the Regulatory Compliance Manager, The ASA, SportPark, 3 Oakwood Drive, Loughborough, Leicestershire, LE11 3QF.

# FAQ Section

**Q:** Does the law apply to computer records, paper files and video footage?

**A:** Yes it generally applies to all files containing personal data whether those files are physical or electronic including computer records, mobile phone data and video recordings.

For certain public authorities (such as local government departments and police authorities), even unstructured physical files are subject to the act.

**Q:** We video swimmers to help with coaching, how does the Act apply to that?

**A:** First you need to consider whether the recording will constitute personal data. Once you establish this is the case (and it will be if you record individual players or small groups), you have to comply with all of the acts principles.

In particular you will need to inform the swimmers they will be recorded by providing a data protection notice. You will need to ensure the security of the footage you record. If you use a third party to manipulate the images (for example, an outside organisation to edit the footage to compile a video of stroke technique) they will need to be appointed as a data processor.

You will also need to ensure that the ASA's notification with the Information Commissioner specifically mentions video recordings.

**Q:** What do we need to think about with the junior swimmers?

**A:** The age of the data subject if generally irrelevant so all of the general principles apply. However, when serving a data protection notice, you need to consider carefully the language used and ensure that it is appropriate to and readily understandable by the child of the relevant age to which it is directed.

For very young athletes, which would include those under 12, you should always get parental consent for the processing of personal data. It may be prudent to seek parental consent anyway for any child under 18, particularly when processing sensitive personal data, although case law suggests that once a child is capable of understanding what they are consenting to, they should be able to give consent of their own accord. Further, you should ensure compliance with the ASA Child Protection Procedure outlined in Wavepower.

**Q:** We may want to publish personal information on our website, in directories, annual reports or in our handbook, is this allowed under the Act?

**A:** The same general principles apply in these situations. If you are not planning to publish the personal data itself, you probably do not need to worry about the Act, for example, if you are merely publishing aggregated statistics.

However, if you are planning to publish personal data in these ways, you need to ensure that your notification covers this. You also need to ensure that the data protection notice that you give to the data subject covers the publication.

It is important that you consider the implications of publishing swimmer information as this may have an effect on any personal commercial arrangements they may have such as image rights contracts. It is also important to consider the implications of publishing details of children.



**The ASA**

Pavilion 3, SportPark, 3 Oakwood Drive, Loughborough University, Leicestershire LE11 3QF  
Tel: 01509 618700 | Fax: 01509 618701 | [www.swimming.org](http://www.swimming.org)

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