



# General Data Protection Policy

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### Introduction

The General Data Protection Act (GDPR) (which came into force on 25th May 2018) affects how Prism LGBTQ processes personal data, and gives greater rights to individuals over the data held, modernises the law in respect to new technologies, and increases transparency. The aim of this policy is to set out how Prism LGBTQ will comply with this law.

Prism LGBTQ notes that Safeguarding is more important than Data Protection. Therefore personal data including special category data will be shared with the Police, Social Services (Local Area Designated Officer & Multi Agency Safeguarding Hub) as is required to protect children and vulnerable adults from abuse, although effort will be made to obtain consent from the child or vulnerable adult where possible. See Prism LGBTQ Safeguarding Policy for more information.

We note that Prism LGBTQ is not required to register as a Data Handler or Data Controller with the Information Commissioner Office (status confirmed by ICO in April 2018).

Prism LGBTQ must establish a legal basis for processing personal data.

We have chosen to use the legal basis of "Legitimate Interest" for the majority of the data we process (Sections 1, 3, 4) We must justify why we have chosen to use this legal basis by conducting a legitimate interest assessment.



For some data we process we have chosen the legal basis of “Legal Obligation” (Section 2)

Some of the data we process is classified as Special Category Personal Data, whereby we must satisfy Article 9(2) by identifying additional risks and additional safeguards relevant conditional for processing (for which ‘Legitimate Interest’ has been selected) (Section 5)

This Policy and its implementation will be reviewed as required to keep in line with changing legislation and at least every three years.

If any training needs are identified relating to this policy or its implementation then these will be met as appropriate.

All Prism LGBTQ Mentors must abide by this Policy. Any breach of this Policy will be investigated and may result in disciplinary action.

## **Section 1 - Processing Personal Data of Mentors (Over the Age of 18)**

**Legal Basis for Processing Data:** Legitimate Interest

Legitimate Interest Assessment:

We need to be able to contact Mentors to inform them of information relating to the organisation and communicate as a team.

We need to process next of kin details in case of emergency.

We need to process data relating to references, to help decide if a potential candidate is suitable.

Balancing Test

We are required to process this data to run the youth group safely, so we are satisfied that legitimate interest outweighs individual interest.

## **Section 2 - Processing Data Relating to Criminal Activity**

**Legal Basis for Processing Data:** Legal Obligation

For Mentors, DBS checks are authorised by law, as the role involves working with children and vulnerable adults. Mentors are required to undergo enhanced DBS checks with child safeguarding lists, but not adult safeguarding lists.

Evidence of this legal requirement can be found on the Disclosure & Barring Service website

## **Section 3 - Processing Personal Data of Members (Over the Age of 18)**

**Legal Basis for Processing Data:** Legitimate Interest

Legitimate Interest Assessment:



We need to be able to contact group members to communicate to them information relating to the group, eg special events, venue changes, etc.

We need to hold next of kin details in case of emergency, or in case we perceive or suspect that a vulnerable young adult group member is placing themselves or someone else at risk of harm, or abuse may be taking place.

#### Balancing test

We are required to process this data to run the youth group safely, so we are satisfied that legitimate interest outweighs individual interest.

### **Section 4 - Processing Personal Data of Members (Under the Age of 18)**

#### **Legal Basis for Processing Data: Legitimate Interest**

#### Legitimate Interest Assessment:

We need to be able to contact group members to communicate to them information relating to the group, eg special events, venue changes, etc.

We need to hold next of kin details in case of emergency, or in case we perceive or suspect that a vulnerable young adult group member is placing themselves or someone else at risk of harm, or abuse may be taking place.

#### Balancing test

We are required to process this data to run the youth group safely, so we are satisfied that legitimate interest outweighs individual interest.

### **Section 5 - Processing Special Category Personal Data of Members**

#### **Legal Basis for Processing Data: Legitimate Activities**

#### Additional risk identified:

Increased risk of harm to the individual's rights or freedoms if special category data was leaked, eg placing individual at risk of discrimination (eg homophobia).

The Relevant Conditions for Processing - Article 9(2)(d) of the GDPR:

"...processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subjects;"

#### Safeguards implemented to comply with Article 9:



- Information to minimise impact is held in conjunction with special category data. eg if any data is held on sexual orientation or gender identity, corresponding information will also be held about whether they are “out” to next of kin. Therefore should we have to contact next of kin, we will be able to minimise impact of our processing of the special category data.
- All special category information processed is optional and explicit consent is obtained to process it. This satisfies LIA requirements to consider whether to offer an opt out, and minimises impact and intrusivity. Relevant condition to process is still held as legitimate activity as the purpose is for safety and inclusivity.
- No special category data will be processed regarding any person who is not a member, former member or volunteer of Prism LGBTQ.
- If any special category data is required to be shared with any other agency, without there being an existing legal basis (eg police warrant or court mandate etc) or a very good reason relating to the safety of the individual or another person, this will then be done under Relevant Condition 9 a) “Consent”, whereby a referral form will be completed that requires explicit consent of the young person, or their parent or guardian if they are under 16.

## **Section 6 - Confidentiality & Disclosure of Information**

See “Confidentiality Policy”



## Appendix - Legitimate Interest Checklist

- We have checked that legitimate interest is the most appropriate basis.
- We understand our responsibility to protect the individual's interests.
- We have conducted a legitimate interests assessment (LIA) and kept a record of it, to ensure that we can justify our decision.
- We have identified the relevant legitimate interests.
- We have checked that the processing is necessary and there is no less intrusive way to achieve the same result.
- We have done a balancing test, and are confident that the individual's interests do not override those legitimate interests.
- We only use individuals' data in ways they would reasonably expect, unless we have a very good reason.
- We are not using people's data in ways they would find intrusive or which could cause them harm, unless we have a very good reason.
- When we process children's data, we take extra care to make sure we protect their interests.
- We have considered safeguards to reduce the impact where possible.
- We have considered whether we can offer an opt out.
- If our LIA identifies a significant privacy impact, we have considered whether we also need to conduct a DPIA.
- We keep our LIA under review, and repeat it if circumstances change.
- We include information about our legitimate interests in our privacy information.