



# Section 1: Data Protection Policy<sup>1</sup>

## Introduction

In order to operate efficiently, The Mighty Creatives must collect information about people with whom we work. These may include members of the public, current, past and prospective employees, funded bodies and suppliers.

This personal information must be handled properly under the Data Protection Act 1998 ('the Act'). The Act regulates the way that we handle 'personal data' that we collect in the course of carrying out our functions and gives certain rights to people whose 'personal data' we may hold.

We consider that the correct treatment of personal data is integral to our successful operations and to maintaining trust of the persons we deal with. We fully appreciate the underlying principles of the Act and support and adhere to its provisions.

We are registered with the Information Commissioner to process personal data – registration number Z1567367.

## Information covered by the Act

The Act uses the term 'personal data'. For information held by The Mighty Creatives, personal data essentially means any recorded information held by us and from which a living individual can be identified. It will include a variety of information including names, addresses, telephone numbers, photographs of people and other personal details. It will include any expression of opinion about a living individual or any indication of our intentions about that individual.

## Data protection principles

We will comply with the eight enforceable data protection principles by making sure that personal data is:

1. fairly and lawfully processed
2. processed for limited purposes
3. adequate, relevant and not excessive
4. accurate and kept up to date
5. not kept longer than necessary
6. processed in accordance with the individual's rights
7. secure
8. not transferred to countries outside the European Economic area unless the country to which the data is to be transferred has adequate protection for the individuals

## Conditions

We will ensure that at least one of the following conditions are met before we process any personal data:

1. the individual has consented to the processing
2. the processing is necessary for the performance of a contract with the individual
3. the processing is required under a legal obligation (other than one imposed by a contract)
4. the processing is necessary to protect vital interests of the individual

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<sup>1</sup> Previous policy review (Data Protection): January 2016; Revised policy adopted: April, 2009



5. the processing is necessary to carry out public functions eg. administration of justice
6. the processing is necessary in order to pursue our legitimate interests or those of third parties (unless it could unjustifiably prejudice the interests of the individual)

Under the Act, one of a set of additional conditions must be met for 'sensitive personal data'. This includes information about racial or ethnic origin, political opinions, religious and other beliefs, trade union membership, physical or mental health condition, sex life, criminal proceedings or convictions. We will ensure that one of the following additional conditions are met before we process any sensitive personal data:

1. the individual has explicitly consented to the processing
2. we are required by law to process the information for employment purposes
3. we need to process the information in order to protect the vital interests of the individual or another person
4. the processing is necessary to deal with the administration of justice or legal proceedings

### Individuals' rights

We will ensure that individuals are given their rights under the Act including:

- the right to obtain their personal information from us except in limited circumstances
- the right to ask us not to process personal data where it causes substantial unwarranted damage to them or anyone else
- the right to claim compensation from us for damage and distress caused by any breach of the Act

### Legal requirements

While it is unlikely, The Mighty Creatives may be required to disclose user data by a court order or to comply with other legal requirements. We will use all reasonable endeavours to notify the user before we do so, unless we are legally restricted from doing so.

### No commercial disposal to third parties

The Mighty Creatives shall not sell, rent, distribute or otherwise make user data commercially available to any third party, except as described above or with your prior permission.

### Our commitment to data protection

We will ensure that:

- everyone managing and handling personal information understands that they are responsible for following good data protection practice
- there is someone with specific responsibility for data protection in the organisation
- staff who handle personal information are appropriately supervised and trained
- queries about handling personal information are promptly and courteously dealt with
- people know how to access their own personal information
- methods of handling personal information are regularly assessed and evaluated
- any disclosure of personal data will be in compliance with approved procedures.
- we take all necessary steps to ensure that personal data is kept secure at all times against unauthorised or unlawful loss or disclosure
- all contractors who are users of personal information supplied by the council will be required to confirm that they will abide by the requirements of the Act with regard to information supplied by us.



## Our Data Protection Action Plan

Action	Date	Consequence
Ensure that all marketing material contains an 'unsubscribe' options.	Ongoing	
Collate existing personal data into single source ahead of migration.	Feb-March 2016	Assess whether there is any record of dated permission.
Devise new marketing personal related Terms and Conditions for new subscribers/members of The Mighty Creatives.	Feb-March 2016	Need to ensure that these comply with our obligations under the Act and enable us to communicate with our key markets.
Make company policy that is forbidden to save personal data on any other source that isn't our Cloud Server.	February/March 2016	
Build into CRM 20 month reminder function so that client records can be refreshed for permission.	March 2016	
E-mail existing contacts seeking permission.	April-June 2016	Need to reduce %age of lost contacts to minimum.

### Personal data – Young People

The nature of our work at The Mighty Creatives means that we need to hold personal data (name and contact details) relating to the Young People that we work with (see our safeguarding and child protection policies). As with all personal data, we are committed to following the Data Protection principles outlined above.

In addition to this however, and as part of our overall approach to Safeguarding, additional rules have been set to ensure complete clarity regarding the retention of personal data relating to Young People:

- Personal data relating to young people is to be saved on TMC's CRM cloud based database for security (personal data must be transferred onto the CRM database within 1 week of gaining that data, the original data must then be destroyed after the transfer has taken place)
- No personal data shall be stored in any source other than the Cloud.
- Individual names should be allocated to a TMC Project Name and a TMC member of staff (to ensure that a TMC member of staff is responsible for the data)
- Permissions must be in place (showing date permission granted) and clearly documented for each individual on the database
- Any photographs of young people must be stored on TMC's CRM database and connected to the young people in the photographs along with their permissions
- Permissions are applicable for a period of **2 years only**. At the end of the 2 year time frame the young person must be contacted to ask whether they give their permission for their information to be kept for another 2 year period

### Personal data – Correct Disposal

In line with Data Protection principle 5 'personal data should not be kept longer than is necessary', TMC will regularly review the records that are held on file and ensure the safe disposal of those that it is no longer necessary or appropriate to hold.

As noted above, this review will take place every 2 years at the **maximum** and as per permissions held. Any paper documents containing personal details and /or holding sensitive information should be shredded.

Regular review - and correct disposal where necessary – of personal data should be carried out by the staff members who contribute to the data collection held on the CRM.

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## Conclusion

The Mighty Creatives is committed to meeting its obligations under the Data Protection Act of 1998. All TMC Board Members, staff, whether permanent or temporary, and voluntary workers, must be aware of the requirements of the Data Protection Act when they collect or handle data about an individual. The Mighty Creatives must not disclose data except where there is subject consent, or legal requirement. Data sent to outside agencies must always be protected by a written contract. The Commercial Director will keep records of the following;

- complaints by data subjects
- any subsequent follow up;
- data access requests;
- statements of Data Protection Law compliance; and
- contact made with the Data Protection Registrar.

This information will be available to staff and data subjects on request.

The Mighty Creatives will inform data subjects of any processing, disclosure or overseas transfer that does not fall within its core purpose and will do so in a way that any individual could be expected to understand. The Mighty Creatives will keep registration (now called notification) up to date.



## Section 2: Data Protection Practice – January 2015

In order to comply with the Data Protection as of January 2015, the following practices shall be conducted by all staff of The Mighty Creatives.

We will treat all contacts on the CRM as 'personal' for two reasons, irrespective of the perceived working relationship we have or the protection afforded through our contracts with Arts Council England, CC Skills or Trinity College. First, in order to protect ourselves from not complying with the Data Protection Act and second, because as a business we need to secure and cultivate 'personal data' in order to better manage our key working relationships. As such, we will seek specific consent from all individuals on the CRM to receive direct marketing from The Mighty Creatives.

As the data set we currently hold has been collated over a long period of time, we are not in a position to be clear as to how we should retain their information or whether they have given what would qualify as consent at any stage during our contacts with them. We can no longer work under the assumption of implied consent. So that we no longer work under this assumption the following actions will occur in 2015:

- as part of our move to a new web platform and CRM system, we are able under precedent, to contact all existing contacts to ask whether they want to remain in touch with The Mighty Creatives. This will be an explicit opportunity for current contacts to remain in touch as well as directing them to a revised website and our wider offer;
- this will be logged formally on the CRM and this will trigger an automatic 2 year review;
- this does not apply to 'office@' or equivalent emails which do not fall under the definition of 'personal data' where an individual can be identified;
- all new contacts secured will work under revised terms and conditions as part of the membership and subscription which ask for specific consent for the data to be used for unsolicited marketing purposes;
- all marketing and promotional e-mails will contain an unsubscribe option;
- no personal data sets will be transferred to memory/USB sticks, hard drives, or laptops and will remain stored only on the cloud;



# The Mighty Creatives

## Document Retention Policy, 2013-15

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### Introduction

At the Mighty Creatives we recognise that a clear and systematic approach to Document Retention is essential to ensure our funders, partners, stakeholders and staff have confidence in the way we process and store important information relating to our work. This Policy sets out our commitment to complying with all the relevant legislation which governs both the use and storage of information. In the table below we categorise the various types of documentation and indicate the amount of time that is appropriate to retain each type. This provides the Framework of our Document Retention Policy (Section 1). Following on from this we then highlight specific areas which warrant further attention – there are 2 additional sections, Section 2 which covers the enhanced retention schedules required by the European Regional Development Fund (ERDF) and Section 3 which outlines our commitment to Data Protection principles as part of our Data Protection Policy which is incorporated into this document.

### Section 1: Framework for Document Retention

DOCUMENT TYPE	TMC RETENTION PERIOD	REASON FOR RETENTION
<b>Purchase invoices and supplier documentation</b>		
Record of payments made/purchase ledger/invoices - revenue/petty cash	<b>6 years</b> from the end of the financial year in which the transaction was made	<b>Companies Act/Charities Act</b> (it is the Charities Act that states 6 years, 3 years is normally sufficient for private companies under the Companies Act) Petty cash records are also required by <b>HMRC</b>
Invoice – capital item	<b>10 years</b>	<b>Companies Act/Charities Act/HMRC</b>
Successful quotations for capital expenditure	<b>Permanently</b>	<b>Commercial considerations</b>
<b>Income/monies received</b>		
Bank paying in slips, bank statements and bank reconciliations. Remittance advices, correspondence re donations	<b>6 years</b> from the end of the financial year in which the transaction was made	<b>Companies Act/Charities Act</b>
Receipts cash book/Sales Ledger	<b>10 years</b>	<b>Companies Act/Charities Act and HMRC</b>
Deeds of covenant/Gift Aid declarations	<b>6 years</b> after the last payment made. <b>12 years</b> if payments outstanding or dispute regarding he deed	<b>Data Protection Act</b>
Legacies	<b>6 years</b> after the estate has been wound up	<b>Data Protection Act</b>



<b>Payroll Documentation</b>		
Income tax records re employees leaving i.e P45	<b>6 years</b> plus current year	<b>Taxes Management Act</b>
Notice to employer of tax code (P6), Annual return of employees and directors expenses and benefits (P11D), Certificate of pay and tax deducted (P60), Notice of tax code change, Annual return of taxable pay and tax deducted	<b>6 years</b> plus current year	<b>Taxes Management Act</b>
Records of pension deductions (including superannuation)	<b>6 years</b> plus current year	<b>Pensions Act</b>
Payroll and payroll control account	<b>6 years</b> plus current year	<b>Companies Act/Charities Act and Taxes Management Act</b>
<b>Employee/Personnel records</b>		
Accident books, accident records/reports	<b>3 years</b> after last entry or end of investigation if later	<b>RIDDOR 1995</b>
Organisation charts	Permanently	<b>Commercial</b>
Personnel files and training records	<b>6 years</b> after employment ceases	<b>Limitations Act 1980</b>
Wages and salary records, Expenses accounts/records, Overtime records/authorisation	<b>6 years</b> plus the current year	<b>Taxes Management Act</b>
Redundancy details, calculations of payments, refunds	<b>6 years</b> after employment has ceased	<b>Data Protection Act</b>
Applications forms and interview notes (for unsuccessful candidates)	<b>6 months to a year</b>	<b>Disability Discrimination Act 1995 and Race Relations Act 1976</b> recommend 6 months.
Statutory Maternity Pay records, calculations, medical certificates	<b>3 years</b> after the end of the tax year in which maternity period ends	<b>The Statutory Maternity Pay Regulations</b>
Statutory Sick Pay records, calculations, certificates, self-certificates	<b>3 years</b> after the end of each tax year for Statutory Sick Pay purposes	<b>Statutory Sick Pay (General) Regulations</b>
Records relating to working time	<b>2 years</b> from date on which they were made	<b>The Working Time Regulations</b>
National minimum wage records	<b>3 years</b> after the end of the pay reference period following the one that the records cover	<b>National Minimum Wage Act</b>
<b>Pension records</b>		
All trust deeds and rules/Trustees' minutes relating to pensions/Annual Accounts	<b>Permanently</b>	<b>Companies Act, Commercial, Pensions Act</b>
Pension scheme investment policies	<b>12 years</b> from the ending of any benefit payable	<b>Companies Act, Commercial, Pensions Act</b>
Actuarial reports and contribution records	<b>Permanently</b>	<b>Companies Act, Commercial, Pensions Act</b>
<b>Insurance documents</b>		
Policies	<b>3 years</b> after lapse	<b>Data Protection Act</b>
Claims correspondence	<b>3 years</b> after settlement	<b>Data Protection Act</b>
Employer's Liability insurance certificate	<b>40 years</b>	<b>Employers' Liability (Compulsory Insurance) Regulations 1998</b>
Accident reports and relevant correspondence	<b>3 years</b> after settlement	<b>Data Protection Act</b>
<b>Other company documents</b>		
Trustee/director minutes of meetings including decisions/	<b>Permanently</b>	<b>Data Protection Act</b>

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agreements of significance to company Annual accounts and annual review		
Investment certificates	<b>Permanently</b>	<b>Companies Act, Charities Act, Commercial</b>
Health and safety records	<b>3 years</b> for general records ( Permanently for records relating to hazardous substances)	<b>Personal injury actions</b> must generally be commenced within three years of injury
Investment ledger and Fixed assets register	<b>Permanently</b>	<b>Companies Act, Charities Act, Commercial</b>
Contract with customers, suppliers or agents, licensing agreements, rental/ hire purchase agreements, indemnities and guarantees and other agreements or contracts	<b>6 years</b> after expiry or termination of the contract (If the contract is executed as a deed, the limitation period is twelve years)	<b>Limitations Act 1980</b>

## Section 2: Specialist Retention Schedules – ERDF

At the Mighty Creatives, we recognise that some of our grant funders may require enhanced retention schedules to meet their own audit requirements. This is the case with the European Regional Development Fund (ERDF) and therefore, as The Mighty Creatives is a Grant Recipient of this fund, additional details are included here to ensure we comply fully with ERDF record keeping standards:

The ERDF National Handbook states that 'Applicants must ensure that all original ERDF project documentation relating to the project and its implementation and financing are retained until **'3 years after the closure of the Programme currently estimated to be at least 31 December 2025'**. The following **core documentation** must therefore be retained:

- all ERDF related documentation including work carried out during the development, pre application, application and during and after the project;
- the Funding Agreement including any revised versions supported by appropriate correspondence from DCLG (Department for Communities and Local Government) of the approval of changes to the Funding Agreement;
- correspondence from/to DCLG;
- quarterly or monthly claim forms; working papers showing how claims were calculated, including any flat rate methodologies;
- the audit trail for all procurement undertaken for the project;
- the State Aid approved scheme used where relevant; and
- an Asset Register.

In addition, as a Grant recipient, all **documentation relating to the ERDF project** must be retained. This includes:

- evidence of all project expenditure. This must include invoices and bank statements or equivalent to show the payments were made



- where indirect overhead costs and salaries have been apportioned to the project, records must show the agreed methodology for calculating these costs
- records of eligible beneficiaries and the steps taken to discern their eligibility, including proof that an organisation qualifies as an SME (as per ERDF definition)
- evidence of open and fair procurement of goods and services. Including proof of advertising and contract notices, quotations or tenders received and the scoring methodology used for selecting the successful candidate. This will include details of all preparatory work prior to the procurement process and the delivery/use of the procured service and goods (This will be carried out in reference to The National Procurement Requirements ERDF-GN-004)
- evidence of auditable, accountable match funding, including copies of match funding acceptance letters and bank statements showing receipt of match funding
- compliance with publicity requirements. Copies of all publicity materials, including press releases and marketing must be retained to demonstrate the correct use of the EU logo and required text. (This will be carried out in reference to the ERDF Publicity Requirements ERDF-GN-1-005)
- compliance with Equal Opportunities and Environmental Sustainability requirements (with reference to section 4 of The National ERDF Handbook)
- clear records of businesses supported for state aid purposes, including signed SME declarations and that they are operating under any state aid rules, such as de minimis, or any other state aid ruling (with reference to ERDF State Aid Law Requirements ERDF-GN-1-003)
- documentary evidence substantiating the outputs and results declared in ERDF claims and on completion of projects. This could include, for example, evidence of the types of assistance provided, and evidence of jobs created or safeguarded as a result of this assistance

### **Additional notes on acceptable forms of documentation**

It is noted in the ERDF National Handbook that Paper documentation is preferred by auditors and that original documentation will need to be kept wherever possible. Paper documents will therefore be retained as the primary source with Electronic document storage utilised as back up.

Where photocopies or electronic versions of original documents are retained, each copy must be certified as conforming to the original document. A declaration as per the example below will be used to satisfy this condition:

**I certify that this is a true copy of the original document**

**Signed:**

**Date:**

**Position in organisation:**

**Name of organisation:**

