

## Data Protection Policy

Issue	Updates	Date	Responsibility
1		Apr 2009	Bev Wynne
2		Jan 2016	Madelyn Brown
3		Aug 2017	Danny Myers
4		Apr 2018	Nick Owen
5		08/05/2019	Nick Owen
6		29/04/2020	Nick Owen

## Glossary of terms:

Personal data	Any information relating to a natural person (the “Data Subject”) who may be identified directly or indirectly from that information
Sensitive data	A special category of personal data relating to a data subject’s racial or ethnic origin, their politics, their religious beliefs, their physical or mental health, their sexual orientation, or their trade union affiliation
Data Controller	The organisation which collects and determines the use of personal data
Processing	Any operation performed on personal data such as collection, storage, retrieval, transfer or transmission, dissemination, deletion/destruction, or adaption and alteration
Consent	The consent of a data subject means any freely given, specific, informed and unambiguous indication by statement or clear affirmative action, signifying agreement to the processing of their personal data
Data breach	A breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data

## INTRODUCTION

The Mighty Creatives which for the purposes of this document includes its affiliates and associates and are collectively referred to as The Mighty Creatives, has a legal obligation to comply with all appropriate data protection legislation, primarily the EU General Data Protection Regulation (GDPR), but also such legislation as the Privacy and Electronic Communications Regulations (PECR).

The Mighty Creatives also has a duty to comply with guidance issued by the Department of Health, the NHS executive, NHS Information Authority, Information Commissioner’s Office, and other relevant advisory groups.

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 (“data subjects”). This personal information will be collected and dealt with appropriately whether collected on paper, stored in a computer database, or recorded on other material, and there are safeguards to ensure this in the GDPR.

The Mighty Creatives is the Data Controller as defined by the GDPR, which means that it determines what purposes personal information held will be used for. It is also responsible for notifying the Information Commissioner of the data it holds or is likely to hold, and the general purposes that this data will be used for.

The Mighty Creatives may need to share data with other agencies such as, but not necessarily limited to, a local authority, regulated health service providers, police, Inland Revenue and other Government bodies.

### **DATA PROTECTION PRINCIPLES**

The Individual/Service User will be made aware in most circumstances how and with whom their information will be shared. However, there are circumstances where the law allows disclosure of personal data (including sensitive data) without the data subject's consent.

These are:

- Carrying out a legal duty or as authorised by the Secretary of State
- Protecting the vital interests of an Individual/Service User or other person
- The Individual/Service User has already made the information public
- Conducting any legal proceedings, obtaining legal advice or defending any legal rights
- Monitoring for equal opportunities purposes – e.g. race, disability or religion
- Providing a confidential service where the Individual/Service User's consent cannot be obtained or where it is reasonable to proceed without consent: e.g. where we would wish to avoid forcing stressed or ill Individuals/Service Users to provide consent signatures

The Mighty Creatives intends to ensure that personal data is treated lawfully and correctly. To this end it will adhere to the principles of the GDPR. Specifically, the GDPR requires that personal information:

- Shall be processed fairly and lawfully and, in particular, shall not be processed unless specific conditions are met
- Shall be obtained only for one or more of the purposes specified in the GDPR, and shall not be processed in any manner incompatible with those purposes
- Shall be adequate, relevant and not excessive in relation to those purposes
- Shall be accurate and, where possible, kept up to date
- Shall not be kept for longer than is necessary
- Shall be processed in accordance with the rights of data subjects under the GDPR
- Shall be kept secure by the Data Controller who takes appropriate technical and other measures to prevent the unauthorised or unlawful processing or accidental loss or destruction of, or damage to, personal information
- Shall not be transferred to a country or territory outside European Economic Area unless that country or territory ensures an adequate and approved level of protection for the rights and freedoms of Individuals/Service Users in relation to the processing of personal information
- Any data used for non-operational analysis purposes will be fully anonymised

The Mighty Creatives will, through appropriate management and strict application of criteria and controls:

- Observe fully conditions regarding the fair collection and use of information
- Meet its legal obligations to specify the purposes for which information is used
- Collect and process appropriate information, and only to the extent that it is needed to fulfill its operational needs or to comply with any legal requirements
- Ensure the quality of information used
- Ensure that the rights of people about whom information is held, can be fully exercised under the GDPR. These include:
  - The right to be informed that processing is being undertaken
  - The right of access to one's personal information
  - The right to prevent processing in certain circumstances
  - The right to correct, rectify, block or erase information which is regarded as wrong or inaccurate information
- Take appropriate technical and organisational security measures to safeguard personal information
- Ensure that personal information is not transferred abroad without suitable safeguards
- Treat people justly and fairly whatever their age, religion, disability, gender, sexual orientation or ethnicity when dealing with requests for information

When collecting data, The Mighty Creatives will ensure that the Individual/Service User:

- Clearly understands why the information is needed
- Understands what it will be used for
- Understands what the consequences are should they decide not to give consent to processing
- Grants explicit consent, either written or verbal, for data to be processed
- Has given consent freely

The Mighty Creatives will ensure that:

- It has a Data Protection Officer with specific responsibility for ensuring compliance with all data protection legislation and guidelines
- Everyone handling or coming into contact with personal information understands that they are contractually responsible for following good data protection practice
- Everyone handling personal information is appropriately trained and supervised
- It will regularly review and audit the ways it holds, manages and uses personal information
- It makes all personnel aware that a breach of the rules and procedures identified in this policy may lead to disciplinary action being taken against them

## **DATA RETENTION POLICY**

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.

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 will be carried out by the staff members who contribute to the data collection held on the CRM.

Data will always be deleted if an individual has withdrawn consent, if a contract has been entirely completed or if the data is no longer up to date.

## **LINKS TO THE TMC SAFEGUARDING POLICY: THE USE OF CHILDREN AND YOUNG PEOPLE'S DATA AND IMAGES**

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.

Informed consent must be given by young people for TMC to collect, store and use their personal details. Only necessary data should be collected when:

1. meeting young people for first time at event or via a website enquiry – initial contact
2. young people are taking part in activity – active engagement

Personal information about young people must be kept digitally in a central password protected folder on SharePoint. Personal information should not be held in hard copy, on individual laptops, communications devices or computer networks such as SharePoint. The exception to this is whilst a young person is taking part in a project and contact details (name, email, phone number) can be held if necessary, on individual contacts, deleted at the end of the project.

- 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 securely on the TMC cloud-based system and connected to the young people in the photographs along with their permissions

Data is reviewed, deleted or renewed every two years. Data will only be held once a young person is contacted and consent given again to continue holding information whilst ensuring that it remains accurate and up to date.

## **PERMISSIONS AND CONSENTS**

Written permission from a parent or person with legal parental responsibility must be given for a child or young person to do the following:

- use ICT and internet equipment if under 16
- be photographed or filmed if under 12, recommended if under 16
- take part in activity and projects if under 18

## **USE OF PHOTOGRAPHS, VIDEO AND AUDIO FILES ('DIGITAL MEDIA')**

- Parents or guardians of children and young people will be asked to give their permission for digital media to be taken
- Parents or guardians of children and young people must give prior written permission for the use of any digital media
- Children's names will not usually accompany digital media. Where they are used we will have the permission of either their parent or school. Then only first names will be used by TMC.

The following templates must be used:

- TMC Participation and Consent Form, under 18
- TMC Young Person Image Permissions Form
- TMC Group Image Permission Form
- TMC Consent Form, 18 and over

## **DATA STORAGE**

Information and records relating to all data subjects will be stored securely and will only be accessible by authorised personnel for the performance of their specified roles.

Information will be stored for only as long as it is needed, is relevant, or as required by statute, and will be disposed of appropriately (e.g. un-recoverable deletion of digital data; shredding of paper documents)

## **RIGHT OF ACCESS**

All Individuals/Service Users have the right to know what information The Mighty Creatives holds about them. In accordance with the GDPR, The Mighty Creatives will respond to a Subject Access Request (SAR) within 1 calendar month, or if the request is particularly complex will advise the requester of the extended timescale. The Mighty Creatives will make no charge for responding to an SAR unless the request is complex, frivolous, or a repeat. Any charge will be sufficient to cover The Mighty Creatives direct cost of handling the request.

The process will involve the following steps:

- establishing that the request is a “Subject Access” request – i.e. are they asking for information about themselves;
- confirming the ID of the person requesting the information;
- establishing whether we need any other information before we can respond to the request.

Once these steps have been confirmed , we will:

- Assess whether we have the information that is being requested. If we do, no changes to any of the data that we hold will be made e.g. inaccurate, embarrassing or sensitive information is embarrassing.
- Assess whether the information requested includes data about other people. If not, then we will share this with the individual with no further issues. If part or all of the data includes anything about other individuals, we cannot share that unless we have the specific permission of the other people detailed in the data.

The Business Manager will be the first point of contact for right of access requests.

## **RIGHT TO BE FORGOTTEN**

All Individuals/Service users have the right to have their data deleted/destroyed, the “Right To Be Forgotten” (RTBF). The Mighty Creatives will comply with an RTBF request without undue delay unless the data is being retained for statutory purposes or where The Mighty Creatives can demonstrate that retention is necessary within the provisions of the GDPR (e.g. for the establishment, exercise, or defence of a civil claim).

## **3<sup>rd</sup>- PARTY DATA SHARING**

The Mighty Creatives will not, without the explicit consent of the data subject, share personal data with any 3<sup>rd</sup>-party unless the sharing is strictly for the performance of The Mighty Creatives operational functions (e.g. outsourcing of business functions); unless the sharing

is required by law or statute; or otherwise legitimate without consent as set down in the GDPR.

## **BREACH REPORTING**

In the event of a serious data breach The Mighty Creatives will:

- Notify the Information Commissioner's Office (ICO) of a reportable data breach within the mandatory 72 hours of any personnel becoming aware of the breach
- Will notify without undue delay all data subjects who have been, or could potentially be, adversely affected by the breach

This policy will be updated as necessary to reflect best practice in data management, security and control and to ensure compliance with any changes or amendments made to the GDPR.

Further information regarding the GDPR can be found at:

[www.ico.org.uk](http://www.ico.org.uk)  
[www.eugdpr.org](http://www.eugdpr.org)

## **KEY INFORMATION**

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

Our Data Protection Officer, is Caroline Frankland, Business Manager,  
[carolin@themightycreatives.com](mailto:carolin@themightycreatives.com)

## **CONCLUSION**

The Mighty Creatives is committed to meeting its obligations under the Data Protection Act. 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 CEO 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.