

DATA PROTECTION ACT POLICY

1 INTRODUCTION

The Museum collects and processes for a variety of reasons personal data relating to visitors, etc. It also collects certain personal data relating to its employees to allow it to monitor performance, achievements, and health and safety, for example, and processes this personal data so that staff can be recruited and paid, and to fulfill various legal obligations.

The Museum is therefore required to comply with the terms of the Data Protection Act.

2 PURPOSE OF THE POLICY

The purpose of the Royal Armouries' Data Protection Policy is to ensure the provisions of the Data Protection Act 1998 are adhered to, in particular that:

- the principles of good information handling are followed at all times
- the processing of personal data is only carried out where strict conditions are met
- the processing of personal sensitive data is only carried out where strict conditions are met
- the rights of individuals are respected
- the Information Commissioner is notified annually of the purposes for which personal data is processed, the personal data processed, the recipients of the personal data processed, and the places overseas to which the data are transferred

3 RESPONSIBILITY

The Data Controller

The Board of Trustees will nominate a designated Data Controller who will be responsible for:

- notifying the Information Commissioner annually of the purposes for which personal data is processed, the personal data processed, the recipients of the personal data processed, and the places overseas to which the data are transferred
- dealing with requests for access to personal data
- dealing with other requests from individuals
- dealing with Court Orders
- dealing with Information Notices and Enforcement Notices issued by the Information Commissioner

- dealing with any other day-to-day matters relating to Data Protection

The Human Resources Manager

The Head of Human Resources will be responsible for maintaining personal data relating to staff.

Staff

Staff who set up systems, either manual or computer, which process or use any personal data are required to:

- Inform the Data Controller of the purposes for which personal data is processed, the personal data processed, the recipients of the personal data processed, and the places overseas to which the data are transferred
- Ensure that staff collecting and processing the data follow the principles of good information handling
- Ensure that where the services of an external data processor are used appropriate security arrangements are agreed to as part of the written contract

All staff who collect, process or use any personal data in the course of their duties must ensure that:

- The principles of good information handling are followed at all times
- Any personal data, which they hold, is kept securely
- Any personal information is not disclosed either orally or in writing or accidentally or otherwise to any unauthorised third party

4 NOTIFICATION

Notification is the process by which the Data Controller informs the Information Commissioner of certain details about the processing of personal data carried out by the Museum. These details are used by the Commissioner to make an entry describing the processing in a register which is then available to the public for inspection.

The information required for notification (known as the registrable particulars) include:

- The name of the Data Controller
- The address of the Museum
- A description of the personal data being/to be processed and of the category/categories of data subject to which they relate

- A description of the purposes for which the data are being/are to be processed
- A description of any recipients to whom the data controller intends or may wish to disclose the data
- The name or a description of any countries or territories outside the European Economic Area to which the data controller transfers or intends or may wish to transfer the data
- Where the personal data are of a type which is exempt from the prohibition against processing personal data without notification and where the notification does not extend to such data, a statement of that fact

The Data Controller must also provide, in addition to the registrable particulars, a general description of any measures taken to protect the personal data, and a general description of any security measures taken to restrict access to the personal data; this information will not appear on the register.

5 PRINCIPLES OF GOOD INFORMATION HANDLING

Personal data covers both facts and opinions about the individual. It also includes information regarding the intentions of the data controller towards the individual.

The eight principles of good information handling are that personal data shall:

1. Be obtained and processed fairly and lawfully and shall not be processed unless certain conditions are met
2. Be obtained for a specified and lawful purpose and shall not be processed in any manner incompatible with that purpose
3. Be adequate, relevant and not excessive for those purposes
4. Be accurate and kept up to date
5. Not be kept for longer than is necessary for that purpose
6. Be processed in accordance with the data subject's rights
7. Be kept safe from unauthorised access. Accidental loss or destruction
8. Not be transferred to a country outside the European Economic Area, unless that country has equivalent levels of protection for personal data

Processing Personal Data

Processing is broadly defined as any operation or set of operations that is carried out on personal data. Personal data may only be processed where one of the following conditions has been met:

- The individual has given his or her consent to the processing
- The processing is necessary for the performance of a contract with the individual
- The processing is required under a legal obligation
- The processing is necessary to protect the vital interests of the individual
- The processing is necessary to carry out public functions
- The processing is necessary in order to pursue the legitimate interests of the data controller or third parties (unless it could prejudice the interests of the individual)

Processing Sensitive Personal Data

Sensitive personal data includes: racial or ethnic origin; political opinions; religious or other beliefs; trade union membership; health; sex life; criminal proceedings or convictions. Sensitive personal data may only be processed where one of the following conditions has been met:

- Having the explicit consent of the individual
- Being required by law to process the data for employment purposes
- Needing to process the information in order to protect the vital interests of the data subject or another
- Dealing with the administration of justice or legal proceedings

Rights of Individuals

Individuals have the rights under the Act:

- To know what information is held about themselves by the Museum on computer and some paper records; the purposes for which the data are being processed; the recipients to whom the data may be disclosed; and in some cases the source of the data
- To ask for a copy of any information that is held about themselves by the Museum
- To ask the Data Controller to rectify, block, erase or destroy personal details if they are inaccurate or contain expressions of opinion which are based on inaccurate data
- To prevent processing where it is causing, or is likely to cause, substantial unwarranted damage or substantial distress to themselves or anyone else
- To ask to stop or not to begin processing data for direct marketing purposes
- To claim compensation for damage or damage and distress caused by any breach of the Data Protection Act

- To ask to ensure that no decision which significantly affects them is based solely on processing his or her personal data by automatic means

6 EXEMPTIONS

There are a number of exemptions from various provisions of the Act. These may be exemptions from the data protection principles, or notification, or the rights if individuals (in particular exemptions from the 'subject information provisions', and/or 'exemptions from the non-disclose provisions').

Exemption from the non-disclosure provisions is available in circumstances where the Act recognizes that the public interest requires disclosure of personal data which may otherwise be in breach of the Act. In order to rely upon an exemption from the non-disclosure provisions the Data Controller must satisfy a two-stage test:

1. He must be satisfied that the disclosure falls within one of the following sections: section 29(3) (the third crime and taxation exemption); section 34 (information made available to the public by or under any enactment); or section 35 (disclosures required by law or made in connection with legal proceedings).
2. If disclosure does fall into one of these categories, he must consider each of the non-disclosure provisions in turn and decide which, if any, would be inconsistent with the disclosure in question. The Data Controller is then entitled to disapply only those provisions, the application of which would give rise to an inconsistency, and only then to the extent of that inconsistency.

The following is a brief guide to the exemptions under the Act:

National Security (S28)	Exempt from the Data Protection Principles, individuals' rights, notification, enforcement and unlawful obtaining of personal data
Crime and Taxation (S29)	Exempt from subject information provisions and non-disclosure provisions if processing of personal data are for the purposes of the prevention or detection of crime, the apprehension or prosecution of offenders or the assessment or collection of any tax or duty
Health, Education and Social Work (S30) (SI 2000 No. 413) (SI 2000 No. 414)	May be exempt from the subject information provisions and other provisions of the Act that may be ordered by the Secretary of State if personal data relate to the physical or mental health or condition of an individual; if personal data relate to

(SI 2000 No. 415)	present or past pupils of a school; and if personal data are processed for the purposes of carrying out social work by government departments, local authorities, voluntary organisations or other bodies designated by the Secretary of State.
Regulatory Activity (S31)	Exempt from subject information provisions where personal data are processed for the purposes of protecting health and safety at work, if to provide access would adversely affect the discharge of those functions
Special Purposes (Journalism, Art, Literature) (S32)	Exempt from Data Protection Principles (except the Seventh Data Protection Principle), subject access, right to prevent processing likely to cause damage or distress, rights in relation to automated decision-taking, provisions relating to rectification, blocking, erasure and destruction of inaccurate data where personal data are being processed for the purposes of journalism, or for artistic purposes or for literary purposes. The following conditions must all be present before the processing of personal data for the special purposes can qualify for exemption: the personal data are processed only for the special purposes; the processing is undertaken with a view to the publication by any person of any journalistic, literary or artistic material; the Museum reasonably believes that publication would be in the public interest; the Museum reasonably believes that compliance with the provision in respect of which the exemption is claimed is incompatible with the special purposes
Research, History and Statistics (S33)	Exempt from the second part of the Second Data Protection Principle (ie. personal data collected for one piece of research may be used for other research), the Fifth Data Protection Principle and subject access. To claim these exemptions, processing of personal data must be exclusively for research, history and/or statistical purposes, the results of any research, history and/or statistics must not be made available in a form which identifies a data subject, the data must not be processed to support measures/decisions relating to particular individuals and the data must not be processed in such a way that substantial damage or substantial distress is, or is likely to be, caused to any data subject. <i>However, some areas of research, particularly in the social sciences, may require the processing of sensitive personal data. It is unclear at</i>

	<i>present whether the current exemptions will cover such processing and some lobbying of the Secretary of State may yet be required</i>
Information made available by the Museum to the public by or under enactment (S34)	Exempt from subject information provisions, the Fourth Data Protection Principle, rights relating to rectification, blocking erasure and destruction, and the non-disclosure provisions.
Disclosures required by law; Disclosures made in connection with legal proceedings (S35)	Exempt from non-disclosure provisions
Domestic Purposes (S36)	Exempt from the Data Protection Principles, individuals' rights and notification provided personal data are processed for an individual's personal, family or household affairs (including recreational purposes). However, that individual can still be subject to enforcement proceedings brought by the Commissioner.
Confidential References (Schedule 7 (1))	<p>Exempt from subject access for personal data which consist of a confidential reference <i>given or to be given</i> by the Museum for the purposes of education, training or employment, appointment to office or provision of any service. This exemption is not available for confidential references received by the Museum. In other words, a data subject is entitled to see a reference received by the Museum even if it is marked "confidential". Issues to consider include:</p> <ul style="list-style-type: none"> • whether it is possible to keep the referee's identity confidential (i.e by blanking out names and other identifying information). If this is not possible, this may be grounds for refusing to disclose the reference • whether the Museum's requirement to disclose the reference will affect the willingness of referees to write candid references in the future • the length of time references should be held by the Museum before being destroyed
Armed Forces	Exempt from the subject information provisions if to

(Schedule 7 (2))	supply the personal data would be likely to prejudice the combat effectiveness of any of the armed forces
Judicial Appointments and Honours (Schedule 7 (3))	Exempt from subject information provisions if personal data are processed for assessing suitability for judicial office, assessing suitability for the office of Queen's Counsel or the conferring of any honour
Crown employment and Crown or Ministerial appointments (Schedule 7 (4))	Exempt from subject information provisions where personal data are processed for the purposes of assessing suitability for employment by the Crown or Ministerial appointments
Management Forecasts / Management Planning (Schedule 7 (5))	Exempt from the subject information provisions where personal data are processed for the purposes of management forecasts and management planning. Note that the exemption will only apply during the course of the process and that once the process is complete, staff will have the right to see records and information about themselves in connection with such "management forecasts". Guidance from the Office of the Data Protection Commission suggests that once the process is complete, retaining such information would be considered to be "excessive personal data" and should therefore be destroyed.
Corporate Finance (Schedule 7 (6))	Exempt from the subject information provisions where personal data are processed for the purposes of, or in connection with, a corporate finance service.
Negotiations (Schedule 7 (7))	Exempt from the subject information provisions where personal data are processed for the purposes of negotiations. Note that the exemption will only apply during the course of the process and that once the process is complete, staff will have the right to see records and information about themselves in connection with such "negotiations". Guidance from the Office of the Data Protection Commission suggests that once the process is complete, retaining such information would be considered to be "excessive personal data" and should therefore be destroyed.
Examination Marks (Schedule 7 (8))	This is not an exemption as such, but is an adaptation of the requirements to comply with a subject access request within the legal time limit of forty days. If a subject access request is received,

	<p>then a School, College or University is not obliged to respond to it until the earlier of (a) forty days after the announcement of the results (whether by publication or provision of information to the candidate); or (b) five months from receipt of the subject access request. The point of this is to ensure that candidates cannot get their results in advance of the formal announcement. A further issue to consider includes:-</p> <ul style="list-style-type: none"> • There is no justification under the new Act for withholding examination marks from candidates who have failed to pay fees or are otherwise in financial arrears to the University. However, candidates in arrears are not entitled to particular documents and it is perfectly proper to withhold award certificates.
Examination Scripts (Schedule 7 (9))	Exempt from subject access where personal data consist of information recorded by the candidate. Note that a candidate has the right of subject access where personal data consist of information recorded by an examiner onto the examination script.
Legal Professional Privilege (Schedule 7 (10))	(i.e where the Museum provides personal data to a solicitor for the purposes of receiving legal advice) exempt from the subject information provisions
Self Incrimination (Schedule 7 (11))	This refers to a situation where if the Museum was to disclose personal data to a data subject under a subject access request and such disclosure meant that the Museum would be breaking the law and exposing the institution to proceedings, then the Museum would not need to disclose that information.

7 MUSEUM ARCHIVES AND PUBLIC RECORDS

Under the terms of the National Heritage Act 1983 the Museum can claim that there is a definite obligation on the institution to maintain an archive, as the archival purpose would be compatible with the purpose of the collection (exemption from the second principle of data protection). Such data could be kept as long as it was of archival interest (exemption from the fifth principle of data protection).

However, further processing for non-archival purposes would not be compatible with the archival purpose and would be a breach second principle of data protection.

Allowing access to, and publication of, personal data in archives comes within the definition of processing with the Act. As such it must comply with the data protection principles.

8 DEALING WITH REQUESTS

Dealing with Requests for Access to Personal Information from Members of the Public

The Data Controller will deal with requests from individuals to:

- know what information is held about themselves by the Museum on computer and some paper records; the purposes for which the data are being processed; the recipients to whom the data may be disclosed; and in some cases the source of the data
- ask for a copy of any information that is held about themselves by the Museum

The Museum will make a charge of £10 on each occasion that access is requested.

The Museum will comply with requests for access to personal information as quickly as possible, and in any event within 40 days of the receipt of the request, and the fee.

The Museum may ask for proof of identify of the person making the request and for further details to assist in the location of the information which that person seeks.

The information supplied should be all that is contained in the personal data at the time the request was received. Routine amendments and deletions of the data may continue to be made between the date of any request and the date of reply, but no special amendment or deletion must be made which would not otherwise have been made. The information must not be tampered with in order to make it acceptable to the data subject.

The Museum may not supply the data subject with information about a third party who could be identified from that information, unless the other individual has consented to the disclosure, or it a reasonable in the circumstances to comply with the request without the consent of the third party.

The Museum does not have to comply with a request where it has already complied with an identical or similar request by the same individual unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

Dealing with Requests for Access to Personal Information from Members of Staff

The Data Controller will deal with any other requests from individuals to:

- rectify, block, erase or destroy personal details if they are inaccurate or contain expressions of opinion which are based on inaccurate data
- prevent processing where it is causing, or is likely to cause, substantial unwarranted damage or substantial distress to themselves or anyone else
- stop or not to begin processing data for direct marketing purposes
- ensure that no decision which significantly affects them is based solely on processing his or her personal data by automatic means

Dealing with Court Orders

The Data Controller will deal with any Court orders received to comply with a request for information or a requirement under the Data Protection Act.

Dealing with Information Notices and Enforcement Notices issued by the Information Commissioner

The Data Controller will deal with any Information Notices, Special Information Notices or Enforcement Notices received from the Information Commissioner.

An Information Notice may be served by the Commissioner:

- In response to receiving a request for an assessment from an individual in respect to any processing of personal data
- Where they reasonably require any information to decide whether or not the Data Controller has complied, or is complying, with the Data Protection Principles

In circumstances where a request for an assessment is made, or the Data Controller claims the special purposes exemption, a Special Information Notice may be served by the Commissioner with the purpose of ascertaining whether or not:

- The personal data are being processed only for the special purposes
- The personal data are being processed with a view to the publication by any person of any journalistic, literary or artistic materials which has not been previously published by the Data Controller.

An Enforcement Notice may be served by the Commissioner where they are satisfied that the Data Protection Principles have been contravened.

9 RISK

The associated risk of non compliance of this policy is:

Impact of non compliance: HIGH

Likelihood of non compliance: MEDIUM

Risk will be mitigated by continuous staff monitoring. The risk associated with non compliance of this policy will be included on the risk register.

Policy name: Data Protection Act Policy

Version: 1.0

Approved by	
Approval date	
Review date	August 2011
Risk assessment score Details of risk assessment passed to (if high impact/high probability) Date passed to risk officer	High (I) Medium (C)
Policy owner	

Note: Circumstances may arise where changes are required to this policy before the review date. The policy owner is responsible for ensuring the completeness and relevance of this policy at all times. On each review sign off must be completed.