

Answers to Frequently-Asked Questions (FAQs) sent to gdpr@dioceseofbrentwood.org

1. The Sick and Housebound – no consent needed for listing in the Parish Newsletter...but!!

Do we have to insist on consent given by the Sick/Housebound person to include their name in the parish newsletter on the list of the Sick to be prayed for?

- *No – we can rely on “legitimate interests in pursuance of the Roman Catholic faith and the Pastoral Care it provides to members of the Parish/church community” as our legal basis for including this information. There is no need for consent as long as all we are publicly referring to is their name, and no other details about them (such as their contact details or the nature of their illness).*
- *Full names such as Mary Smith can be used.*
- ***However***, *we have been advised that the names of the Sick cannot be included in the version of the parish newsletter posted on the parish website – this is because we are making that information available to the public at large. (Even though anyone from the “public at large” can theoretically walk into a church and pick up a hard copy of the newsletter, this is less likely...).* *In other words, all that can appear on the website version is “please pray for the Sick of the Parish” – no names. Unless you have the consent of the Sick and Housebound person – see item 2.*

2. Visiting the Sick and Housebound – consent IS needed for

- i. Sharing address details among Ministers for the purpose of creating rotas for visits
- ii. The reading out of their names at Mass
- iii. The listing of their name in the website version of the parish newsletter

Please see the Consent Form for the Sick and Housebound on the Data Protection page of the website

2.1. Can we ask a relative to consent on the person’s behalf, if the relative doesn’t have a Power of Attorney over the sick person’s affairs?

- 2.1.1. *Yes, provided the individual is next of kin, or a direct relative. At the time of getting consent from them make the appropriate enquiries.*
- 2.1.2. *If possible, check the relative’s identity to verify their surname, and enquire about their relationship with the sick person.*
- 2.1.3. *Always explain to the relative who is giving consent that you are relying on their representations, and that the Diocese will not be liable under the GDPR if they provide false or misleading information.*
- 2.1.4. *You should keep full notes of your investigations, along with a record of the conversation.*

2.2. Is verbal consent from the sick person or their relative sufficient?

- 2.2.1. *Under the GDPR there has to be evidence of consent, so make a note of the conversation. Written consent is best, but not always possible.*
- 2.2.2. *Keep a record of the dates and times of the visit. When seeking consent, attend with a witness, and (if in a hospital or nursing home) ask the nurse to make a note of the visit in the nursing records.*

- 2.3. If we cannot get consent for the sharing of the sick person's contact details, then do we need to exclude them from the visiting rotas?

Pastoral discretion applies, and much will depend upon what the Priest knows about the individual and the family.

3. Mass intentions listed in the Newsletter

- 3.1. Can we print the person's name in the newsletter where it is for a "special intention"?

Yes – as above, we can rely on "legitimate interests" as our legal basis. There is no need for consent as long as all we are publicly referring to is their name, and no other details about them (such as their contact details).

- 3.2. What if the data subject [the person for whom the Mass is being said] isn't aware that someone has asked the priest to say Mass for them? Is this a breach of data protection and are we liable?

3.2.1. *No, there is no GDPR breach, provided we take all reasonable steps. Proportionality and the merits of each case must be considered, and pastoral judgment is required.*

3.2.2. *If the individual seeking the intention attends church, and/or the Priest knows him/her, then it is fine to name the data subject (the person for whom the intention is sought). It is likely that such action can be justified on the grounds of "legitimate interests".*

3.2.3. *However, a priest who doesn't know the relative or the parishioner who is seeking the intention should take care. Ask for information from the data subject's family or friends. If the individual is in hospital ask what ward – maybe phone up and check. It is a matter of judgment.*

- 3.3. Is the Church required to publish the intention(s)?

No – there is no requirement in law to publish a Mass intention, although it is generally regarded as procedure. An alternative is a private intention. The Priest may use his discretion.

- 3.4. Do we need to include Mass Intentions on the Parish Data Processing Record?

No – we are not collecting personal information, just a name. No other information is being collected which allows us to identify the individual.

4. Old newsletters – do they need to be removed from the parish website?

- *No – again "legitimate interests" apply.*
- *However, for the future, it would be helpful to make an announcement in church about Data Protection generally, adding that if anyone disagrees to information about them being used, then to speak to the Priest.*
- *The priest can go on to explain that the old Parish newsletters are important to the community and they promote the church and Parish. He can also refer parishioners them to the diocese's Data Protection procedure and Privacy Notice at <http://www.dioceseofbrentwood.net/diocese/data-protection/>.*

5. Card index held in a parish – does it need to be destroyed?

No – but it needs to be stored securely with access restricted. The GDPR covers all data, not just personal data on IT systems. You need to remove or delete old names, personal information about people who have left the Parish, or names of people who don't want to be contacted.

6. What kind of Privacy Notice/Consent Form is required for a parish's "School Certificate Information" (for completion by parents requesting a "Certificate of Catholic Practice")?

- *The form needs to explain why the information is being collected (usually "legitimate activities", or for legal reasons), and how the information will be used.*
- *The Privacy notice should confirm that the parish will store the information securely with restricted access, and state the length of retention, following which it will be securely destroyed or deleted.*

7. What is the minimum age at which a person can give their consent for their information to be held? (In respect of an Application Form for Confirmation.)

I have had 12 confirmed as the age at which a child is considered able to give consent if:

- *His/her parents also agree that he/she can give their own consent. In other words, our advice is always to check with the parents first.*
- *The child – for some reason – wants help (which means handing over their personal data), but doesn't want their parents to be involved (maybe in cases of abuse).*

8. When do we need a person's consent to process their data, and when can we instead rely on fulfilling the requirements of Article 9.

- In other words, do we need consent when we process the data to pursue our legitimate interests AND if we process it according to Article 9 of the regulation:
 - With appropriate safeguards;
 - In the course of the Diocese's legitimate activities;
 - Relating solely to the members or former members of the Diocese or to persons who have regular contact with the Diocese in connection with its purposes; and
 - The personal data are not disclosed outside the Diocese without the consent of the data subjects
- *In most instances, the Diocese and Parishes will collect personal data on the grounds of "legitimate interests".*
- *A legitimate interest includes helping an organisation to function, and to achieve its goal or primary objective in accordance with its charitable aim (in our case, this aim would be "in pursuance of the Roman Catholic faith and Pastoral Care provided to members of the Parish/church community").*
- *So, if you are collecting information from an individual to e.g. volunteer for an event, you don't need explicit consent, provided that the contact form which the individual completes (and which contains personal details) contains a Privacy Notice (i.e. a clear explanation about why the information is being collected). See the Data Protection website page for examples.*
- **However**, *if you are collecting Special Data (sensitive personal data – including religion), the safest approach is to obtain consent.*

- *There are exemptions to obtaining consent to share Special Data. For example, you may need to share this data to prevent a crime, or out of vital interests (e.g. to save a life). The best approach if you are unsure is to seek guidance.*

9. Do we have GDPR obligations to commercial tenants of parish properties which are managed by letting agents on our behalf?

- *The safest approach is that you should store and treat all information – even commercial information – as confidential. This is standard procedure.*
- *If you treat information about commercial tenants as confidential, then if some of the information does contain personal details there is less likelihood of a breach of the regulations.*
- *In the case of tenancy agreements where the parish is the landlord, your third party providers (i.e. the letting agents) should refer to GDPR in their communications with you. They become the processors of the tenant's data, but – as the landlord – the parish remains liable as data controller.*
- *It is advisable for both the parish and the letting agent to sign a data processing agreement (DPA) – it is very likely that the letting agents will have their own DPA.*

10. Use of people's names in an Order of Service (First Holy Communion, Confirmation, even Marriage!) – do we need consent?

- *No – it is very unlikely that you will be in breach of GDPR by just including a name in the order of service. The Priest would be justified in including the name in the order of service because it is being used on the grounds of a legitimate purpose (achieving the function of the church), and because it helps deliver the sacrament to the individual and family that require it. Without certain information the full service and pastoral care /approach is not possible.*
- *The safest approach is to ask the individual and family, and make a note that verbal consent has been given.*
- **However**, any forms which you use to collect personal information should contain a privacy notice – such as those already on the diocesan website:
<http://www.dioceseofbrentwood.net/diocese/data-protection/>

11. Parish Newsletters – when do we need people's consent to publish their names/contact details?

- *Probably just a name in a newsletter would be fine. However, if they wish to add personal details (such as a telephone number and/or a personal e-mail address) then the safest approach is to ask the individual for their consent. Make a note in a diary that they have given permission.*
- *If the person has asked for the information (with their personal details) to be included in all deanery newsletters, or all parish newsletters, then that request needs to be spelled out in the consent form. ["I consent to my personal details appearing in the newsletters of..."]*

12. What do we do about historic records (e.g. on Confirmation and other sacramental participants), where we did not obtain consent? Can we hold on to them, or do we need to get consent to do so?

- *No – there is no need to obtain consent to hold historical records. You collected the information before GDPR was introduced, and the retention can be justified on the grounds that historic records are justified under the “public interest” criterion for processing data.*
- *Also, legitimate purposes apply, as records are retained in accordance with the purpose and objective of the Roman Catholic Faith and procedures under Canon Law.*
- ***However,** for future participants from 25th May 2018 onwards, it is key that the form you use to collect information about an individual in preparation for a sacrament or event contains a privacy notice, including assurances around secure storage of the data.*

13. Use of the parish computer – how do we ensure that multiple users of a parish PC only see what they are allowed to, and not all of the information kept there?

- *For employees, the obligation to comply with data protection legislation is a contractual requirement.*
- *Volunteers and other individuals who access information which they are not allowed to see should simply be denied access to the system, or asked not to volunteer.*
- *The key is to police the use of the parish PC very carefully, train people to take care, and continue to warn people of the consequences of data breaches.*
- *You should password protect sensitive documents.*
- *The Diocesan Finance Board is considering the use of diocesan e-mail addresses by everyone who is processing diocesan data.*
- *The policy for using your own computer [“Bring Your Own Device”, or BYOD] is still being debated.*

14. Do we need permission from individuals to set up WhatsApp groups?

With any form of social media there is always a risk. The recommendation is to obtain consent from the members of the group. There would also need to be a clear privacy notice on the site prior to them joining the group so that they are aware how their information will be processed.

15. Do we need consent from people to whom we are sending the parish newsletter by e-mail?

*Yes – the reason you need the consent of people receiving the parish newsletter is that (in addition to GDPR!!!) there is a separate piece of legislation in play, the Privacy and Electronic Communications Regulations (PECR), which **“requires pre-existing consent for electronic communications”**. So you need to obtain this before sending out any more e-mails. The fact that no-one has objected in the past to receiving the parish newsletter is not sufficient.*

However, you cannot simply e-mail people to get this consent. *Instead you should place the following notice in the parish newsletter:*

“The Diocese of Brentwood (“the Diocese”) and the Parish of [Name] are committed to ensuring that the information we hold about individuals (including personal e-mail addresses) is properly and securely managed in accordance with legal requirements on data protection and direct marketing.

Please confirm by e-mail to [person in charge of distributing the newsletter by e-mail] if you would like to give your consent to the Parish (i) holding and processing your personal data for the purpose of corresponding with you on parish financial matters, and (ii) sending you the parish newsletter.

You can find out more about how we use your data from our Privacy Notice, which is available [on our parish noticeboard or] on the diocesan website at: <http://www.dioceseofbrentwood.net/diocese/data-protection/>

You can withdraw or change your consent at any time by contacting [relevant person in the parish] at [ADDRESS] or by email at [•].

Please note that all processing of your personal data will cease once you have withdrawn consent, other than where this is required or permitted by law. This will not affect any personal data that has already been processed prior to that point.”

If you don't get a positive reply from someone, then you must remove that individual from your list.

Any other questions? Please e-mail GDPR@dioceseofbrentwood.org