

Data Protection and Closure Periods in the GSA Archives & Collections (A&C)

These guidelines are for use by The Glasgow School of Art's Archives and Collections staff. They support compliance with General Data Protection Regulation (GDPR)¹ in conjunction with the Data Protection Act (DPA) 2018².

GSA's Archives and Collections' Access Policy states that:

- *The majority of records which are over 30 years old and which have been catalogued are available for public consultation.*³
- *Records which are less than 30 years old can be accessed with the permission of the Head of the relevant department of the School.*⁴
- *There is restricted access to records containing special categories of personal data until they are 75 years old in order to maintain personal confidentiality.*

General Data Protection Regulation (GDPR)

GDPR relates to the processing of personal data, defined in the following way:

'Personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

The Data Protection Act 2018

The Data Protection Act strengthens the requirements of GDPR. Section 41 of the Act allows records containing personal data of identifiable living individuals to be used for historical or statistical research purposes provided that:

- it is not carried out for the purposes of, or in connection with, measures or decisions with respect to a particular data subject, or
- it is not likely to cause substantial damage or substantial distress to a data subject.

Further advice on how to identify personal data can be found at: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/what-is-personal-data/what-is-personal-data/>

¹ General Data Protection Regulation Directive 95/46/EC <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

² Data Protection Act 2018 <https://www.legislation.gov.uk/ukpga/2018/12/contents>

³ Access cannot be granted to un-catalogued records until they have been checked for special categories of personal data. Any requests for access to such material will be managed on a case-by-case basis taking into consideration the type and volume of records in question and the researcher's requirements.

⁴ Please see note 3 above.

Special Categories of Personal Data

Access to archives containing **special categories of personal data as defined in Article 9 of GDPR**, the disclosure of which could cause substantial damage or distress to the data subject, **should be restricted** for the lifetime of the individual.⁵ These categories of data were formerly referred to as **sensitive personal data**, in Part I, Section 2 of the Data Protection Act 1998.⁶

Special categories of data which cannot be accessed includes:

‘personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation’.

Section 11 of The Data Protection Act extends this to include personal data relating to criminal convictions and offences or related security measures, including personal data relating to:

- the alleged commission of offences by the data subject, or
- proceedings for an offence committed or alleged to have been committed by the data subject or the disposal of such proceedings, including sentencing.

In addition to the areas above, GSA's records may contain information about the following, which are treated as special categories of personal data:

- documents including expressions of opinion;
- student assessment and marks;
- staff career reviews;
- student or staff disciplinary proceedings and/or outcomes;
- CVs and/or recruitment information.

Student Record Cards

GSA's archival student record cards contain **special categories of personal data**. In order to comply with Data Protection legislation researchers can access student record cards that are more than 75 years old (this presumes that individuals studying at this time are now deceased and is in line with the practice of other HEIs).

⁵ National Records of Scotland *Research Use of Personal Data in Archival Records* June 2018 <https://www.nrscotland.gov.uk/files//research/historical-search-room/nrs-research-use-of-personal-data-in-archival-records.pdf>

⁶ Data Protection Act 1998 <http://www.legislation.gov.uk/ukpga/1998/29/contents>

Any enquirers who request access to information in student record cards, about students who studied at GSA less than 75 years ago, must complete a *Student Data Request* form.

They must satisfy one of the following conditions and provide evidence of this:

- the student in question has given permission for their file to be accessed
- the student in question is deceased
- the student in question was born over 100 years ago

Other Archival Material such as Committee Papers and Correspondence Files

Special categories of personal data may also appear in other archival files including, but not limited to, committee papers and correspondence files.

In order to promote use of GSA's archives while also preventing access to **special categories of personal data**, the A&C identifies records containing **special categories of personal data** (previously denoted as **sensitive personal data**) as part of its cataloguing work. These records are placed within a separate archival sleeve within their original folder and /or box and the folder and box are both marked up to state that they contain sensitive personal information. This keeps relevant files together while allowing for records containing sensitive information to be quickly removed from a folder or box before being given to a researcher.

Advice for Researchers

The Archives and Collections also provides guidance to researchers about their responsibilities under the GDPR and the Data Protection Act, see 'Data Protection Guidelines for Researchers'.

Guidelines updated: April 2020