**Privacy Notice Drafting Notes**

These notes in red should be deleted from the finished privacy notice and are only for your information to aid completing and amending the privacy notice ready for your organisation’s use.

**Background**

This privacy notice is intended to make the individual whose data you are processing aware of how their personal data is being used and what personal data relating to them is being processed.The obligation to provide a privacy notice only applies to data controllers and there is no requirement to provide one if you are only a data processor in relation to the relevant personal data. However, please note that it is possible to be both a data controller and a data processor in relation to the same personal data, so whether an organisation is a data controller or data processor for any particular processing activity will require careful consideration.  A data controller is defined as ‘a natural or legal person, public authority, agency or other body, which, alone or jointly with others, determines the purposes and means of the processing of personal data’ whereas a data processor is defined as ‘a natural or legal person, public authority, agency or other body which processes personal data on behalf of the data controller’.

So a data controller is the person that controls how the data is used and processed.  For example, an employer will always be a data controller of personal data relating to its employees.  A data processor is a person who processes the personal data in accordance with the instructions of the data controller.  They are usually a supplier to the data controller, but not all suppliers are data processors.  For example, an outsourced payroll provider will be a data processor, as they will process the payroll information they are provided with by the employer strictly in accordance with the instructions of the data controller.  However, a health insurance provider providing health insurance to the employer’s employees would be a data controller because, although they are supplying a product to the employees of the employer, they will decide how they use and process the personal data they are provided with in order to provide the insurance product.

Essentially a sports organisation will always be the data controller of the personal data relating to its members, its representatives and its staff/employees but, occasionally, if say it is giving presentations for or arranging workshops or training sessions on behalf of other organisations, it might only be a data processor of the personal data of the attendees/participants.

**Amending the Privacy Notice**

This privacy notice has been prepared with sports organisations in mind for the category of individual described in the heading, but as each and every sports organisation will process and store personal information in different ways, its content may not always be applicable or appropriate and it has only been designed to be used as a starting point.

Therefore the content may need to be amended to take account of this and this has been highlighted on this drafting note where applicable.  In particular the categories of personal data processed by your organisation as a data controller *(paras 1 (****Personal Information we may collect from you****) and 2 (****Special Categories of Personal Information****))* together with the list of processing activities and the purposes for processing *(para 4 (****Uses made of the Information****))* may need to be amended/added to as appropriate.  The purposes for processing will include any activities where you pass the personal data to a data processor to process on your behalf.

Where possible, the privacy notice should be amended to include any future processing activities which are planned or likely in order to minimise the need to update and re-issue a revised data privacy notice in the future.

The requirement is that the privacy notice must be fair and transparent, but it should also be easy to understand and clear.  These two aims can conflict so it is always a balance as to how much detail to include (to promote transparency) and how much to keep it simple (so that is easily readable).

**Providing the Privacy Notice**

Once completed, the privacy notice should be sent to individuals either at the time the personal information is collected (where you have obtained personal information from an individual directly) or atfirst point of contact with the individual/ within one month of data collection (whichever is the first to occur) (where the personal information has been obtained indirectly). It is often convenient to use the same medium you use to collect the personal information to deliver privacy notices.

So, if you are collecting information through an online form, for example, you should provide a link to the notice as the individual fills out the form or you may wish to use a layered approach, as it allows you to provide the key privacy information immediately, e.g. what you will be using the personal information for and have a link to more detailed information in the form of the privacy notice elsewhere for those that may want it.  It would not be best practice to collect information through the form and then email the individual with a separate link to a privacy notice, as it is not providing the privacy notice at the time of collection of the personal data.

Where personal information is collected and consents sought via a paper-based form, again it would be advisable to provide a copy of the privacy notice, together with the form at the point of data collection. Where there is not enough space to provide more detail on a form or this would be entirely impractical, adopting a layered approach again can be useful as it allows you to include key information on the bottom of the form, together with a prominent reference to the organisation’s detailed privacy notice to ensure that it is as easy as possible for individuals to view the terms of the notice before providing their personal information if they wish.

**Consents**

Please note that the requirement to provide a privacy notice is a separate legal issue as to whether any consents are required from the individual for any activities which involve the processing of their personal data. Whilst the issue of obtaining consents is often combined with a privacy notice, legally they do not need to be combined and could be separated *(see Advice Note on Direct Marketing for example consent wording).*

If you do wish to obtain consents in the privacy notice, e.g. a member will sign and return it to the organisation, then wording can be added to the end of the privacy notice to obtain the required consents.  Please note that a separate consent should be obtained for each different activity for which consent is required, and any consent boxes should not be pre-ticked.  You should not take a global consent covering a range of different uses of personal data where consent is being relied upon as the basis of processing.

The key issue to address on consents is “**what do you need consent for**?” In many cases consent will not be required for how you want to use personal data. The specific issues to think about are:

* + In relation to all personal data that you process (*other than* *special categories of personal data or personal data you process relating to criminal convictions and offences, information for which see below),* **you will only need to obtain explicit consent to process this data if and to the extent that you are unable to rely on one or more of the other lawful means for processing**. **These other lawful means are:**
		- the processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract e.g. for the performance of an employment contract or for the purposes of administering someone’s club membership;
		- it is necessary for compliance with a legal obligation e.g. where you hold records of a spectator’s attendance to comply with health and safety legislation;
		- it is necessary for the purposes of the legitimate interests pursued by you as the controller or by a third party e.g. you may have a legitimate interest to retain records in relation to club members in order to properly administer and manage their membership *(see below for further clarification)*
		- it is necessary in order to protect the vital interests of the data subject or of another natural person; or
		- it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.
	+ This means that aside from consents for direct marketing (see *Advice Note on Direct Marketing*) then you are unlikely to need consent to process ordinary personal data in the normal activities of the sports organisation.
	+ However if you are processing special category personal information (such as *health data to assess someone’s suitability to participate in a competition or disability information about a participant or employee*) or criminal records information it is likely that you will need some consents from individuals that the personal information relates to.
	+ It can be difficult for the private sector to process ‘*special categories of personal data’* (*i.e. information about an individual’s 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*) without obtaining consent. You will need to obtain explicit consents unless you can demonstrate that:
		- the processing is necessary for reasons of substantial public interest, on a lawful basis;
		- it is necessary for the establishment, exercise or defence of legal claims; or
		- it is necessary for the purposes of carrying out the obligations and exercising rights in the field of employment and social security and social protection law.
	+ You will need to obtain explicit consents in relation to any personal data you process relating to criminal convictions and offences unless the processing is authorised by Union or Member State law. This means that unless processing information about criminal convictions is a legal requirement, then you will need consent from the individual.
	+ Where personal data are processed for direct marketing purposes (including any profiling to the extent that it is related to such marketing) you will need explicit consent from the data subject (see *Advice Note on Direct Marketing for further detail*).   Where the data subject objects to processing for direct marketing purposes, you must promptly stop processing their data for direct marketing purposes.

Examples of where you may need to obtain consents include; (i) sending a member marketing information such as newsletters or information about your commercial partners that is not included within the membership package they signed up to or (ii) carrying out DBS checks on an individual where not required to do by law will require their consent.

Once you have determined what consents are required, the privacy notice will also need to be amended to take account of when consent is or is not being relied upon as a basis for processing personal data.  Where any consent is being obtained then the basis for processing that personal data for that reason can be included in the privacy notice as consent.  Where consent is not being used as a basis for processing then the reference to consent should be removed from the privacy notice.

Where the privacy notice refers to the “special category reasons for processing special category data” then to the end can be added “but excluding consent” in these cases.  Also where consent is not being used as basis for processing criminal records history, then again the reference to consent should be removed from the table in the privacy notice.

**Assessing whether your processing activities are necessary for legitimate interests**

Legitimate interests are most likely to be an appropriate basis for processing where you use data in ways that people would reasonably expect and that have a minimal privacy impact. Where there is an impact on individuals, it may still apply if you can show there is an even more compelling benefit to the processing and the impact is justified.

There are three elements to the ‘legitimate interests’ basis for processing and it helps to think of this as a three-part test. You need to:

* + identify a legitimate interest;
	+ show that the processing is necessary to achieve it; and
	+ balance it against the individual’s interests, rights and freedoms.

‘*Necessary*’ means that the processing must be a targeted and proportionate way of achieving your purpose. You cannot rely on legitimate interests if there is another reasonable and less intrusive way to achieve the same result.

You must balance your interests against the individual’s interests. In particular, if they would not reasonably expect you to use data in that way, or it would cause them unwarranted harm, their interests are likely to override yours. However, your interests do not always have to align with the individual’s interests. If there is a conflict, your interests can still prevail as long as there is a clear justification for the impact on the individual.

The biggest change under the GDPR is that you now need to document your decisions on legitimate interests so that you can demonstrate compliance under the new GDPR accountability principle. Once you have carried out the three part test to assess whether legitimate interests applies, you must therefore keep a record of your assessment and the outcome. There is no standard format for this, but it’s important to record your thinking to help demonstrate that you have proper decision-making processes in place and to justify the outcome.

For further guidance please see <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/legitimate-interests/>.

**REMEMBER**

**EACH AND EVERY SPORTS ORGANISATION WILL PROCESS AND STORE PERSONAL INFORMATION IN DIFFERENT WAYS, THEREFORE YOU MUST MAKE SURE THAT THE LIST OF PROCESSING ACTIVITIES YOU INCLUDE IN YOUR PRIVACY NOTICE IS A TRUE REFLECTION OF YOUR ORGANISATION'S CURRENT AND FUTURE PROCESSING ACTIVITIES.**

**A PRIVACY NOTICE SHOULD GIVE INDIVIDUALS ENOUGH DETAIL TO ALLOW THEM TO UNDERSTAND WHAT YOU DO AND INTEND TO DO WITH THEIR INFORMATION AND CAN ALLOW FOR DEVELOPMENT IN THE WAY YOU USE PERSONAL DATA. HOWEVER, YOU SHOULD NOT DRAW UP A LONG LIST OF POSSIBLE FUTURE USES IF, IN REALITY, YOU DO NOT INTEND TO PROCESS PERSONAL DATA FOR THOSE PURPOSES.**

**[INSERT NAME OF CLUB]**

**PRIVACY NOTICE FOR OUR MEMBERS**

We are committed to respecting your privacy. This notice is to explain how we may use personal information we collect before, during and after your membership with us. This notice applies to you if you have registered to become or are a member of our club. This notice explains how we comply with the law on data protection, what your rights are and for the purposes of data protection we will be the controller of any of your personal information.

References to **we**, **our** or **us** in this privacy notice are to the **[insert full details of Club including any registered number and details of any subsidiaries].**

We have [not] appointed a Data Protection Officer to oversee our compliance with data protection laws [as we not required to do so, but our [Data Protection Compliance Manager] has overall responsibility for data protection compliance in our organisation. Contact details are set out in the "Contacting us" section at the end of this privacy notice.

1. Personal Information we may collect from you

Depending on the type of membership you register for with us, you may initially provide us with or we may obtain **personal information** about you, such as information regarding your:

* + personal contact details that allows us to contact you directly such as name, title, email addresses and telephone numbers;
	+ date of birth;
	+ gender;
	+ membership start and end date;
	+ references and other information included in a CV or cover letter or as part of the application process for membership;
	+ records of your interactions with us such as telephone conversations, emails and other correspondence and your instructions to us;
	+ any credit/debit card and other payment details you provide so that we can receive payments from you and details of the financial transactions with you;
	+ [use of and movements through our online portal, passwords, personal identification numbers, IP addresses, user names and other IT system identifying information;]
	+ records of your attendance at any events hosted by us;
	+ CCTV footage and other information obtained through electronic means such as swipecard and key fob records;
	+ images in video and/or photographic form and voice recordings;
	+ your marketing preferences so that we know whether and how we should contact you.
	+ identification documents such as passport and identity cards;
	+ details of any county membership;
	+ details of next of kin, family members, coaches and emergency contacts;
	+ records and assessment of any player rankings, grading or ratings, competition results, details regarding [events/matches/games] attended and performance (including that generated through player pathway programme);
	+ any disciplinary and grievance information;
	+ [any others?]
1. **SPECIAL CATEGORIES OF PERSONAL INFORMATION**

We may also collect, store and use the following “**special categories**” of more sensitive personal information regarding you:

* + information about your race or ethnicity, religious beliefs and sexual orientation;
	+ information about your health, including any medical condition, health and sickness records, medical records and health professional information; and
	+ biometric information about you, for example fingerprints, retina scans.

We may not collect all of the above types of special category personal information about you. In relation to the special category personal data that we do process we do so on the basis that

* + the processing is necessary for reasons of substantial public interest, on a lawful basis;
	+ it is necessary for the establishment, exercise or defence of legal claims;
	+ it is necessary for the purposes of carrying out the obligations and exercising our or your rights in the field of employment and social security and social protection law; or
	+ based on your explicit consent.

In the table below’ we refer to these as the “special category reasons for processing of your personal data”.

We may also collect criminal records information about you. For criminal records history we process it on the basis of legal obligations or based on your explicit consent.

1. **WHERE WE COLLECT YOUR INFORMATION**

We typically collect personal information about our members when you apply to become a member of the club, you register an account with us at [insert domain name address], when you purchase any services or products we offer, when you make a query and/or complaint or when you correspond with us by phone, e-mail or in some other way.

We also may collect personal information about you from any third party references you provide as part of the application process for membership.

If you are providing us with details of referees, next of kin, beneficiaries, family members and emergency contacts they have a right to know and to be aware of how what personal information we hold about them, how we collect it and how we use and may share that information. Please share this privacy notice with those of them whom you feel are sufficiently mature to understand it. They also have the same rights as set out in the “**Your rights in relation to personal information**” section below.

[Any other sources of data collection?]

1. Uses made of the information

The table below describes the main purposes for which we process your personal information, the categories of your information involved and our lawful basis for being able to do this.

|  |  |  |
| --- | --- | --- |
| **Purpose** | **Personal information used** | **Lawful basis** |
| **To administer any membership you have with us and managing our relationship with you, including dealing with payments and any support, service or product enquiries made by you** | All contact and membership details, transaction and payment information, records of your interactions with us, and marketing preferences. | This is necessary to enable us to properly manage and administer your membership contract with us.  |
| **To arrange and manage any contracts for the provision of any services or products** | Contact details, transaction and payment information.Records of your interactions with us.  | This is necessary to enable us to properly administer and perform any contract for the provision of any services and products you have purchased from us.  |
| **To send you information which is included within your membership benefits package, including details about advanced ticket information, competitions and events, partner offers and discounts and any updates on *[insert details of sport]*** | Contact and membership details. | This is necessary to enable us to properly manage and administer your membership contract with us.  |
| **To send you other marketing information we think you might find useful or which you have requested from us, including our newsletters, information about membership, events, products and information about our commercial partners** | Contact details andmarketing preferences. | Where you have given us your explicit consent to do so. [NB. Need for consent for any direct marketing that is not included as part of any membership package.] |
| **To answer your queries or complaints** | Contact details and records of your interactions with us  | We have a legitimate interest to provide complaint handling services to you in case there are any issues with your membership. |
| **Retention of records** | All the personal information we collect. | We have a legitimate interest in retaining records whilst they may be required in relation to complaints or claims. We need to retain records in order to properly administer and manage your membership and run our club and in some cases we may have legal or regulatory obligations to retain records.We process special category personal data on the basis of the “special category reasons for processing of your personal data” referred to in section 2 above.For criminal records history we process it on the basis of legal obligations or based on your explicit consent. |
| **The security of our IT systems** | Your usage of our IT systems and online portals. | We have a legitimate interest to ensure that our IT systems are secure. |
| **To conduct data analytics studies to better understand event attendance and trends within the sport**  | Records of your attendance at any events or competitions hosted by us.  | We have a legitimate interest in doing so to ensure that our membership is targeted and relevant.  |
| **For the purposes of promoting the club, our events and membership packages.** | Images in video and/or photographic form. | Where you have given us your explicit consent to do so.[***[Note: Best practice would be to obtain consents where you intend to use any images or footage of members in any promotional campaigns, particularly where there are children involved. ]*** |
| **To comply with health and safety requirements** | Records of attendance, CCTV footage and other information obtained through electronic means such as swipecard and key fob records, medical information about your health*[biometric information about you, for example fingerprints, retina scans]* | We have a legal obligation and a legitimate interest to provide you and other members of our organisation with a safe environment in which to participate in sport.We process special category personal data on the basis of the “special category reasons for processing of your personal data” referred to in section 2 above. ***Note the potential need to obtain consent*** |
| **To administer your attendance at any courses or programmes you sign up to** | All contact and membership details,transaction and payment data.Details of any county membership and performance data. | This is necessary to enable us to register you on to and properly manage and administer your attendance on the course and/or programme. |
| **To arrange for any trip or transportation to and from an event** | Identification documents details of next of kin, family members and emergency contacts, transaction and payment information, health and medical information. | This is necessary to enable us to make the necessary arrangements for the trip and/or transportation to an event.We process special category personal data on the basis of the “special category reasons for processing of your personal data” referred to in section 2 above. ***Note the potential need to obtain consent*** |
| **To use information about your physical or mental health (including any injuries) or disability status, to ensure your health and safety and to assess your fitness to participate in any events or activities we host and to provide appropriate adjustments to our sports facilities.** | Health and medical information | We process special category personal data on the basis of the “special category reasons for processing of your personal data” referred to in section 2 above. ***Note the potential need to obtain consent*** |
| **To gather evidence for possible grievance or disciplinary hearings** | All the personal information we collect | We have a legitimate interest in doing so to provide a safe and fair environment for all members and to ensure the effective management of any disciplinary hearings, appeals and adjudications.We process special category personal data on the basis of the “special category reasons for processing of your personal data” referred to in section 2 above. ***Note the potential need to obtain consent***For criminal records history we process it on the basis of legal obligations or based on your explicit consent. |
| **For the purposes of equal opportunities monitoring** | Name, title, date of birthgender, information about your race or ethnicity and health and medical information  | We have a legitimate interest to promote a sports environment that is inclusive, fair and accessible.We process special category personal data on the basis of the “special category reasons for processing of your personal data” referred to in section 2 above. ***Note the potential need to obtain consent*** |
| **To comply with legal obligations, for example, regarding people working with children or vulnerable adults to comply with our safeguarding requirements** | Information about your criminal convictions and offences | For criminal records history we process it on the basis of legal obligations or based on your explicit consent. |
| **Any other processing activities?** |  |  |

For some of your personal information you will have a legal, contractual or other requirement or obligation for you to provide us with your personal information. If you do not provide us with the requested personal information we may not be able to admit you as a member or we may not be able to properly perform our contract with you or comply with legal obligations and we may have to terminate your membership. For other personal information you may not be under an obligation to provide it to us, but if you do not provide it then we may not be able to properly perform our contract with you.

Where you have given us your consent to use your personal information in a particular manner, you have the right to withdraw this consent at any time, which you may do by contacting us as described in the "Contacting us" section below.

Please note however that the withdrawal of your consent will not affect any use of the data made before you withdrew your consent and we may still be entitled to hold and process the relevant personal information to the extent that we are entitled to do so on bases other than your consent. Withdrawing consent may also have the same effects as not providing the information in the first place, for example we may no longer be able to provide certain member benefits to you.

1. **DIRECT MARKETING**

**Email, post and SMS marketing**: from time to time, we may contact you by email, post or SMS with information about products and services we believe you may be interested in.

We will only send marketing messages to you in accordance with the marketing preferences you set. You can then let us know at any time that you do not wish to receive marketing messages by completing this form [link/emailing us at [insert contact details]]. You can also unsubscribe from our marketing by clicking on the unsubscribe link in the marketing messages we send to you.

1. Disclosure of your PERSONAL information

We share personal information with the following parties:

* + **Any party approved by you.**
	+ **To any governing bodies or regional bodies for the sports covered by our club:** to allow them to properly administer the sports on a local, regional and national level.
	+ **Other service providers**: for example, email marketing specialists, payment processors, data analysis CCTV contractors, promotional advisors, contractors or suppliers and IT services (including CRM, website, video- and teleconference services);
	+ Our supply chain partners and sub-contractors, such as couriers, import/export agents, shippers, [ ]];
	+ **Our Commercial Partners:** for the purposes of providing you with information on any tickets, special offers, opportunities, products and services and other commercial benefits provided by our commercial partners [as part of your membership package] [where you have given your express for us to do so][Delete as applicable];
	+ **The Government or our regulators**: where we are required to do so by law or to assist with their investigations or initiatives.
	+ **Police, law enforcement and security services**: to assist with the investigation and prevention of crime and the protection of national security.
	+ [any others?]
1. **TRANSFERRING YOUR PERSONAL INFORMATION INTERNATIONALLY**

[The personal information we collect is not transferred to and stored in countries outside of the UK and the European Union.]

[The personal information we collect may be transferred to and stored in countries outside of the UK and the European Union. Some of these jurisdictions require different levels of protection in respect of personal information and, in certain instances, the laws in those countries may be less protective than the jurisdiction you are typically resident in. We will take all reasonable steps to ensure that your personal information is only used in accordance with this privacy notice and applicable data protection laws and is respected and kept secure and where a third part processes your data on our behalf we will put in place appropriate safeguards as required under data protection laws. For further details please contact us by using the details set out in the "Contacting us" section below.]

1. **HOW LONG DO WE KEEP PERSONAL INFORMATION FOR?**

The duration for which we retain your personal information will differ depending on the type of information and the reason why we collected it from you. However, in some cases personal information may be retained on a long-term basis: for example, personal information that we need to retain for legal purposes will normally be retained in accordance with usual commercial practice and regulatory requirements. Generally, where there is no legal requirement we retain all physical and electronic records for a period of [6] years after your last contact with us or the end of your membership. Exceptions to this rule are:

* + CCTV records which are held for no more than [30 days] unless we need to preserve the records for the purpose of prevention and detection of crime;
	+ Details regarding unsuccessful membership applicants where we hold records for a period of not more than [12] months;
	+ Information that may be relevant to personal injury or discrimination claims may be retained until the limitation period for those types of claims has expired. For personal injury or discrimination claims this can be an extended period as the limitation period might not start to run until a long time after the event.

It is important to ensure that the personal information we hold about you is accurate and up-to-date, and you should let us know if anything changes, for example if you change your phone number or email address. You may be able to update some of the personal information we hold about you through [our membership portal]. Alternatively, you can contact us by using the details set out in the "**Contacting us**" section below.

1. **YOUR RIGHTS IN RELATION TO PERSONAL INFORMATION**

You have the following rights in relation to your personal information:

* the right to be informed about how your personal information is being used;
* the right to access the personal information we hold about you;
* the right to request the correction of inaccurate personal information we hold about you;
* the right to request the erasure of your personal information in certain limited circumstances;
* the right to restrict processing of your personal information where certain requirements are met;
* the right to object to the processing of your personal information;
* the right to request that we transfer elements of your data either to you or another service provider; and
* the right to object to certain automated decision-making processes using your personal information.

You should note that some of these rights, for example the right to require us to transfer your data to another service provider or the right to object to automated decision making, may not apply as they have specific requirements and exemptions which apply to them and they may not apply to personal information recorded and stored by us. For example, we do not use automated decision making in relation to your personal data. However, some have no conditions attached, so your right to withdraw consent or object to processing for direct marketing are absolute rights.

Whilst this privacy notice sets out a general summary of your legal rights in respect of personal information, this is a very complex area of law. More information about your legal rights can be found on the Information Commissioner’s website at https://ico.org.uk/for-the-public/.

To exercise any of the above rights, or if you have any questions relating to your rights, please contact us by using the details set out in the "Contacting us" section below.

If you are unhappy with the way we are using your personal information you can also complain to the UK Information Commissioner’s Office or your local data protection regulator. We are here to help and encourage you to contact us to resolve your complaint first.

1. **CHANGES TO THIS NOTICE**

We may update this privacy notice from time to time. When we change this notice in a material way, we will update the version date at the bottom of this page. For significant changes to this notice we will try to give you reasonable notice unless we are prevented from doing so. Where required by law we will seek your consent to changes in the way we use your personal information.

1. **CONTACTING US**

In the event of any query or complaint in connection with the information we hold about you, please email [INSERT CONTACT ADDRESS] or write to us at [INSERT ADDRESS]:

**Version dated [ ] April 2018**