

Lawful Basis Policy (Data Protection)

1.0 Document Control

Formal document control is a cornerstone of effective governance. It provides a clear and auditable trail essential for maintaining regulatory compliance, demonstrating accountability to stakeholders, and ensuring the charity's policies remain relevant and consistently applied. The following table provides the formal control details for this policy.

Attribute	Details
Policy Title:	Lawful Basis Policy (Data Protection)
Document Reference:	ORG/DP/003
Version:	1.0
Effective Date:	
Next Review Date:	

2.0 Purpose and Legal Basis

Establishing a clear purpose and legal basis is the foundational step for all lawful data handling. This serves not only to ensure regulatory compliance but, more importantly, to build and maintain the trust of beneficiaries by demonstrating a principled and legally sound approach to data processing.

The primary purpose of this policy is to ensure that all personal data processing undertaken by the charity is grounded in a specific, appropriate, and pre-determined lawful basis, as mandated by data protection legislation.

This policy is underpinned by and must be implemented in accordance with the following key legislation and regulations.

Primary Legislation

- The UK General Data Protection Regulation (UK GDPR)
- The Data Protection Act 2018

Related Legislation

- The Equality Act 2010
- The Privacy and Electronic Communications Regulations (PECR)

Future Considerations

- The charity's governance review noted the "Data (Use and Access) Act 2025."
- While the charity actively monitors future legislation, all current practices are based on existing law, particularly the UK GDPR principles of purpose limitation.

This legal framework informs the application of this policy to the specific people and activities within the charity's operational scope.

3.0 Scope

A clearly defined scope is strategically important for ensuring that all individuals and data processing activities are covered by consistent data protection standards, thereby mitigating the risk of non-compliance and safeguarding the rights of data subjects.

This policy applies to all personal data and special category data processed by the charity, irrespective of the format in which it is held, including electronic and paper records. The policy applies to, and must be adhered to by, the following individuals and groups:

- Charity Trustees
- Volunteers
- External Contractors and Third-Party Service Providers who handle personal data on behalf of the charity.
- All Beneficiaries of the charity, defined in Clause 3(1) of the Constitution

This definition of scope provides the foundation for the charity's formal commitment to data protection, which is articulated in the following policy statement.

4.0 Policy Statement

A formal policy statement serves as the Board of Trustees' definitive mandate. It translates legal duty into organisational intent, establishing the non-negotiable standard for data governance and providing the foundational principle against which all data processing activities must be audited.

The Board of Trustees of the charity affirms that:

- The charity is committed to processing personal data transparently, fairly, and lawfully in accordance with data protection legislation.
- A lawful basis under UK GDPR will be identified, assessed as appropriate, and documented for every data processing activity before that processing begins.
- To mitigate the risk of 'purpose creep' and ensure compliance with the purpose limitation principle, the charity will process personal data only for the specific purposes for which it was collected, in direct support of the charity's objects as stated in its constitution.

To ensure consistent application of this statement, it is essential to establish a shared understanding of the key terms used within this policy.

5.0 Definitions

Clear, context-specific definitions are vital for the consistent application of data protection law within the charity's unique operational environment. This section demystifies key legal terms and applies them within the specific operational context of the charity and its unique beneficiary community.

Term	Definition
Personal Data	Any information relating to an identified or identifiable living individual. This includes obvious identifiers like a name or email address, as well as less obvious information that, when combined, could identify a person.
Special Category Data	Personal data that is more sensitive and therefore needs greater protection. This includes information about an individual's race, ethnic origin, political opinions, religious beliefs, trade union membership, genetics, biometrics, health, sex life, or sexual orientation. Given the potential health implications for the beneficiary community, this category is particularly relevant to the charity.

Processing	Any operation performed on personal data, such as collection, recording, organising, storing, using, disclosing, or destroying it.
Data Controller	The organisation that determines the purposes and means of the processing of personal data. For the purposes of this policy, the Data Controller is the charity , acting through its Board of Trustees.
Data Processor	A person or organisation that processes personal data on behalf of the Data Controller (e.g., a third-party service provider).
Lawful Basis	The specific justification, as defined in Article 6 of the UK GDPR, that makes the processing of personal data lawful. At least one of these bases must apply whenever personal data is processed.
Beneficiary Community	As defined in Clause 3(1) of the charity's Constitution.

6.0 Procedures

This section provides the mandatory, non-negotiable procedures that translate legal principles into defensible actions. Adherence to these steps is the primary mechanism by which the Board demonstrates and audits its compliance with UK GDPR.

6.1 Identifying the Six Lawful Bases

Under Article 6 of the UK GDPR, there are six available lawful bases for processing personal data. The charity must select the most appropriate basis for each of its processing activities.

1. **Consent:** The individual has given clear, affirmative consent for the charity to process their personal data for a specific purpose. This must be freely given, specific, informed, and unambiguous.
2. **Contract:** The processing is necessary for a contract the charity has with the individual, or because they have asked the charity to take specific steps before entering into a contract (e.g., a grant agreement).

3. **Legal Obligation:** The processing is necessary for the charity to comply with a common law or statutory obligation (e.g., financial reporting to the Charity Commission).
4. **Vital Interests:** The processing is necessary to protect someone's life. This basis is very limited in scope and generally only applies in emergency situations.
5. **Public Task:** This basis is primarily for public authorities or organisations exercising official authority. As a charitable incorporated organisation, the charity does not perform tasks under a statutory mandate, making this basis inappropriate for its core activities.
6. **Legitimate Interests:** The processing is necessary for the charity's legitimate interests or the legitimate interests of a third party, unless there is a good reason to protect the individual's personal data which overrides those legitimate interests.

6.2 Procedure for Establishing a Lawful Basis

For any new data processing activity, the following mandatory steps must be taken:

1. **Purpose Identification:** Clearly define the purpose of the proposed processing and confirm that it directly aligns with one or more of the charity's objects as defined in the charity's Constitution.
2. **Basis Assessment:** Evaluate the six lawful bases and select the one that is most appropriate for the specific processing activity. The choice must be justifiable and should not be changed once selected without a compelling reason.
3. **Documentation:** Record the chosen lawful basis and a clear justification for its selection in a central register of processing activities. This documentation must be completed before the processing activity begins.
4. **Privacy Notice Update:** Ensure the new processing activity, its purpose, and its lawful basis are clearly and transparently communicated to data subjects via the charity's Privacy Notice.

6.3 Lawful Bases for Charity Activities

The following table provides guidance on the most likely primary lawful basis for the charity's core activities, which are derived directly from its constitutional objects.

Lawful Bases for the Charity's Activities

Charity Activity (Based on Constitutional Objects)	Likely Primary Lawful Basis	Justification

Processing applications for financial assistance/grants	Legitimate Interests / Contract	Processing is necessary to assess eligibility and administer support, which is a core legitimate interest of the charity and may be necessary for the performance of a grant agreement (a contract).
Education, research, and support activities	Legitimate Interests	Processing data is necessary to provide support and conduct research that furthers the charity's core mission to ease suffering and increase wellbeing for its beneficiaries.
Maintaining a communications network (e.g., newsletters)	Consent/ Legitimate Interests	Consent is the mandatory basis for unsolicited electronic marketing communications under PECR. Legitimate interest may apply for purely informational service updates to existing beneficiaries, provided a Legitimate Interests Assessment (LIA) has been completed and documented to balance the charity's interests against the individual's rights.
Preserving heritage and facilitating remembrance	Legitimate Interests	Processing personal stories and records is necessary for the legitimate purpose of fulfilling the charity's object to preserve the community's heritage.
Managing trustee, volunteer, and contractor information	Contract / Legal Obligation	Processing is necessary for the performance of contracts (e.g., volunteer agreements, service contracts) and to meet legal obligations (e.g., financial record-keeping).

6.4 Processing Special Category Data

Due to the nature of the beneficiary community, it is highly likely that the charity will need to process special category data, particularly information relating to health.

When processing special category data, in addition to establishing a lawful basis under Article 6 (as detailed in section 6.1), a separate, specific condition for processing under

Article 9 of the UK GDPR must also be identified and met. The charity will identify and document this separate Article 9 condition for any special category data it processes.

These procedures dictate how the policy is enacted; the following section defines who is responsible for its oversight and implementation.

7.0 Roles and Responsibilities

A clear allocation of responsibility is critical for ensuring accountability and the effective management of this policy, translating principles into operational reality. This section designates specific data protection duties across the charity's governance structure.

The Board of Trustees

- Holds ultimate responsibility for ensuring the charity's compliance with data protection law and the principles of this policy.
- Is responsible for formally approving this policy and ensuring it is reviewed on a regular basis.
- Must ensure that adequate resources are available for the policy's effective implementation.

The Data Protection Officer (DPO) / Designated Data Lead. The Board of Trustees will appoint an ordinary Trustee to the role of DPO and will keep the appointment under active review to ensure the independence of the data protection function is maintained. This arrangement will be formally recorded in the charity's risk register and reviewed as a standing agenda item at the first Board meeting following the annual governance review. The DPO's responsibilities include:

- Acting as the primary advisor to the Board of Trustees on all data protection matters.
- Maintaining the central register of processing activities and their associated lawful bases.
- Providing guidance to trustees and contractors on selecting the appropriate lawful basis for any new processing activities.

Contractors/Third-Party Processors

- They are required by formal contract to process personal data only in accordance with the charity's documented instructions and for the purposes and lawful basis identified by the charity.

These defined roles are central to the plan for implementing the policy across the charity.

8.0 Implementation

A policy's effectiveness depends on a practical and structured plan to embed its principles into the organisation's culture and daily operations. This section outlines the plan for ensuring the principles of this policy are understood and followed.

Timeline: This policy will be implemented immediately upon its formal approval by the Board of Trustees.

Training: All trustees are required to be trained on the principles of this policy, with a particular focus on the procedures for identifying, assessing, and documenting a lawful basis for data processing. This training will form a mandatory part of the induction process for all new trustees.

Resource Requirements: The primary resource required for the implementation of this policy is the time of the trustees and the DPO/Designated Data Lead. A central register for documenting lawful bases and their justifications will be established and maintained as a core operational tool.

Successful implementation will be measured through the ongoing monitoring of the policy's effectiveness.

9.0 Monitoring and Review

Ongoing monitoring and regular review are essential components of good data governance, ensuring this policy remains compliant with legislation, effective in practice, and fit for the charity's purposes.

Key Performance Indicators (KPIs) The Board of Trustees will measure the effectiveness of this policy against the following non-negotiable targets:

- 100% of new data processing activities have a lawful basis and justification documented in the central register prior to the commencement of processing.
- The central register of lawful bases is complete, accurate, and kept up-to-date.

Reporting The DPO/Designated Data Lead will report to the Board of Trustees on the status of compliance with this policy at least annually, or more frequently if significant issues arise.

Review Schedule: This policy will be reviewed by the Board of Trustees at least annually. A review will also be triggered by any significant changes to data protection legislation or to the charity's data processing activities.

This policy forms part of a wider network of documents that collectively define the charity's approach to governance.

10.0 Related Policies and Documents

Effective governance relies on an integrated framework of documents that are consistent and mutually supportive. This policy should be read in conjunction with the following key governance and data protection documents:

- The charity's Constitution
- Privacy Notice
- Information Security Policy
- Subject Access Request (SAR) Policy
- Data Breach Notification Policy
- Document Retention and Archiving Policy

Adherence to the principles and procedures outlined in this Lawful Basis Policy is mandatory for all individuals and groups falling within its scope.