
The General Data Protection Regulations came into force across Europe on 25 May 2018. The Regulations (and associated enabling legislation) apply to those engaged in economic activity who collect, store and use Personal Data.

As a result, Personal Data processed as part of coaching activities by those who are engaged in “economic activity” will be subject to the GDPR. Information obtained for personal use, e.g. personal address books are not covered by the regulations.

What is personal data?

Any information relating to an identified or identifiable natural person (referred to as the Data Subject). A person is identifiable if they “*can be identified, directly or indirectly, in particular by reference to an identifier such as name, an identification number, location data, an online identifier or to one or more factors, specifically the physical, physiological, genetic, mental, economic, cultural or social identity of that actual person*”. This means that names and email addresses which can identify an individual are regarded as Personal Data. Medical information carries additional protections and is referred to as Special Category Data.

What are the obligations in respect of Personal Data?

The GDPR makes principles of accountability and transparency far more significant than under the Data Protection Act 1998. It must be possible to demonstrate compliance with the regulations, and for the Data Subject to be able to exercise certain rights in respect of their data. Ultimately, noncompliance may lead to substantial fines. Of particular relevance to coaches is an increasing awareness of the rights of Data Subjects which may lead to those rights being exercised with greater regularity against even the smallest of entities who collect and use Personal Data (Data Controllers).

How does this affect Coaches?

Coaches may be grouped into two broad categories; A) those working for or providing a service to another organisation and B) those working independently. This distinction will determine the extent of the coach’s obligations under the GDPR. It is of course possible that a coach may fall within both categories, for instance when undertaking both private coaching and coaching on behalf of a class association,.

Group A

Many coaches will fall within group A). They will have agreed to provide services on behalf of another organisation, such as a club class association, or the RYA. They may be an

employee of such an organisation, or independent contractor. These coaches should establish what procedures that organisation has for dealing with Personal Data and comply with those procedures.

Group B

Some coaches fall within category B), and work independently. They may take bookings directly from sailors (or parents), will control what Personal Data is collected and how it is used, and are likely to implement their own procedures and processes. As a result they will be considered a Data Controller and will be required to adhere to the requirements imposed on Data Controllers.

There is a considerable amount of information for Data Controllers on the [ICO website](#), however, in summary, a Data Controller should firstly carry out an audit of the information they already hold, and consider if they still have a need for it. If there is no need for it then it should not be retained.

Booking forms etc. should be reviewed to see if the Personal Data collected serves a purpose. If it does not, (and this could not be justified if asked) then forms should be amended.

Care should be taken with Special Category Data (Medical information) as this is subject to additional safeguards. Broadly, express consent must be provided in order to collect and use Special Category Data, while care should be taken to ensure it is relevant, and up to date. For many coaching activities, where medical treatment is limited to basic first aid, a full medical history is unlikely to be of practical use, although information relating to performance from a coaching perspective may be appropriate in some situations.

Personal Data should only be collected when there is a legal basis (there are six legal basis specified in the GDPR) for doing so. The most relevant legal basis in a coaching context include necessity for the performance of a contract, (i.e. a name and contact details are needed in order to deliver coaching services) Consent (which must be positive) i.e. the Data Subject has said you can use their picture to publicise your business or legitimate interest (i.e. it may be in the data subjects interest to know of other sailing opportunities, or in your interest to promote such activities provided your interest is not outweighed by the Data Subjects own rights and interests.)

A key principal of the GDPR is transparency, and Data Controllers are obliged to be clear about how data will be used. Including a statement on your booking form, stating why the information is being collected, how it is being used, if it is being shared, with who, and the legal basis for doing so will go some way to meet the transparency requirement, while a written Data Privacy Policy should be put in place and made available to Data Subjects. The

RYA's own privacy policy, while more detailed than would be necessary for a coach may provide some useful ideas.

Consideration should be given to the practicalities of storing Personal Data. Whether stored electronically or in hard copy it must be stored securely, and protected from unauthorised access. Particular care must be taken when using cloud based storage systems, not only to ensure the security but to comply with the requirement for there to be a written agreement in place when a data processor (someone engaged by a data controller to perform a task in respect of Personal Data, e.g. store it) is engaged by a Data Controller.

It is for the Data Controller to decide how long Personal Data should be retained for, and an independent coach may wish to consider both for how long they will need to use that information, and if there are any legal reasons suggesting an appropriate retention period, perhaps for accounting/ tax records, or for the limitation period of 6 years for breach of contract or negligence claims, (if there is a reason to suggest a claim may be made against them).

Data Subjects have increased rights under the GDPR, and are likely to have greater awareness of those rights, which notably include a right to access any Personal Data held about them, and a right to request such data be updated or deleted in certain circumstances. A student may therefore request that you provide copies of information held about them, which may well result in a need to disclose private notes made about their performance.

How does the GDPR affect those Coaches providing services to the RYA as a contractor?

Those engaged by the RYA as contractors fall within Group A. In this relationship, Personal Data about participants is collected by the RYA (who is considered the Data Controller) and is then provided to coaches for a specific purposes: to run training on behalf of the RYA.

That relationship results in the Coach being classified as a "data processor" opposed to a Data Controller in their own right. The GDPR provides that there must be a written contract in place between data controllers and data processors, and sets out certain prescribed terms that must be included in that contract.

For convenience, the RYA has included those terms in its standard contractor's agreement, although others may use separate documents to meet the requirement. Your agreement with the RYA states:

- The Contractor acknowledges that the RYA is a data controller for the purposes of data protection legislation and that the transfer of any data relating to individuals (Personal Data) to the Contractor in connection with the [WCP] (Programme Personal Data) will be subject to data protection legislation.

- During the term of the engagement, the Contractor undertakes:
 - To process the Programme Personal Data strictly in accordance with the RYA's written instructions from time to time and in accordance with data protection legislation.
 - To have in place appropriate technical and organisational measures to ensure appropriate security of any Programme Personal Data.
 - To notify the RYA immediately of any loss or unauthorised use of Programme Personal Data.
 - To maintain records of all activities carried out by it in respect of the Programme Personal Data.
 - Not to disclose or allow access to the Programme Personal Data to any third party other than at the specific request of the RYA.
 - Not to engage any sub processors or sub-contractors without written approval of the RYA.
 - To assist the RYA with any requests in relation to the Programme Personal Data as may be received from data subjects and to notify the RYA if it receives any requests from data subjects.
 - To provide such information as may be necessary to satisfy the RYA that it is itself complying with data protection legislation.
 - To provide the RYA with such assistance as the RYA requires in relation to carrying out its obligations as a data controller under data protection legislation.
 - To comply with instructions issued by the RYA regarding the use, processing, return or deletion of Programme Personal Data.
 - To indemnify and keep indemnified the RYA on demand against any losses, costs or other sums arising as a result of a breach this Clause.
- On expiry or termination of the engagement, the Contractor will immediately cease using the Programme Personal Data and will, at the RYA's request either return such Programme Personal Data or delete or destroy such Programme Personal Data.
- In the event that the Contractor is obliged to retain any Programme Personal Data to comply with any legal obligations by virtue of itself being a data controller under data protection legislation, the Contractor may retain such Programme Personal Data as is necessary to comply with such legal obligations.

If you act as a contractor to another organisation you are likely to have entered an agreement on similar terms with them.

What does this mean for you as a contractor?

- Follow any instructions we give
- Don't lose any data you hold on our behalf, and let us know if you do
- Do not share the information we give you, or use it for other purposes
- Assist us if we receive any requests from the data subject
- If asked, reassure us you are complying with these obligations

- Return or destroy Personal Data when our agreement ends, unless you are under a legal obligation to retain it.

Practical steps

Sharing Personal Data

With the RYA when contracted as a coach to the RYA

Ideally Personal Data should be shared electronically using either RYA Dropbox for business, RYA ShareFile or Encrypted transmission (The RYA would need to initiate the encryption process via when sharing via email). For certain events, encrypted memory sticks may be issued.

Paper containing Personal Data should be transferred directly to RYA Staff at the event or by special delivery, if using postal services.

Generally

Consider the security of Personal Data, both during the transfer process and on arrival. Do not forget basic checks, such as ensuring email addresses are correct, and that the CC function is not misused.

Particular consideration must be taken if asked to share Personal Data with a third party, for instance class association or other coaching professional. For coaches who fall within B) (those who are data controllers), the Data Subject should be made aware that their Personal Data may be shared and the legal basis for doing so, which may require obtaining the Data Subject's consent. For those coaches acting as processors for another entity, an instruction to share data with a third party should be made in writing in order that the coach (as a processor) has a clear record of the instruction given by the Data Controller.

Storage and use of Personal Data

Consider what Personal Data will be needed, and when. Leaving a file containing Personal Data concerning all participants in a RIB over lunch may not be appropriate. Taking only the information that could be needed, e.g. an emergency contact number would be more sensible. Indeed, consider if any Personal Data is needed afloat, or could that information remain in a secure place ashore until needed.

If you do decide to keep medical information with you while coaching, consider how it is presented. Could it be kept in a sealed envelope and only opened if necessary? Could a locked box be used if there is no secure office for paperwork? If information is stored electronically, it is suggested that devices have a Pin Lock with a minimum of 6 digits (Those providing services to the EIS may require 8 digits) which locks automatically after 1 minute.

However, security should be balanced with practicality, such as the need to access information quickly if it is needed.

Minimising the amount of Personal Data will reduce the risks of loss, and so it must always be asked, is this information needed?

Take pictures or video for coaching purposes

The RYA has published guidance on using images (which may amount to Personal Data). This can be accessed [here](#).

Disposal of Personal Data

If operating under a contract for the RYA, the RYA will explain what to do with Personal Data when it is no longer required.

Generally Personal Data must be disposed of securely. It is recommended that paper is cross shredded, possibly by a secure GDPR compliant contractor and old electronic devices wiped before disposal.

If you have any further questions, please contact dpo@rya.org.uk.

RYA Responsibility Statement:

The RYA Legal Team provides generic legal advice for RYA members, affiliated clubs, class associations and Recognised Training Centres. The information contained in this Guidance represents the RYA's interpretation of the law as at the date of this edition. The RYA takes all reasonable care to ensure that the information contained in this Guidance is accurate and that any opinions, interpretations and guidance expressed have been carefully considered in the context in which they are expressed. However, before taking any action based on the contents of this Guidance, readers are advised to confirm the up to date position and to take appropriate professional advice specific to their individual circumstances.