

# Kirk of Calder Church of Scotland Congregation

## Scottish Charity Number SCO13461

### Response procedures for data subject access requests

This is an internal policy document setting out the procedures in place for responding to requests from individuals in respect of the rights that data subjects have under the General Data Protection Regulation and Data Protection Act 2018.

#### 1. ABOUT THESE PROCEDURES

**1.1** Under the GDPR and the Data Protection Act 2018 (“the Act”), individuals have certain rights in respect of their personal data. When we process an individual’s personal data, we shall respect those rights. These procedures provide a framework for responding to requests to exercise those rights. It is our policy to ensure that such requests are handled in accordance with applicable law.

**1.2** For the purposes of these procedures, “*personal data*” means any information relating to an identified or identifiable data subject. An identifiable data subject is anyone who can be identified, directly or indirectly, by reference to an identifier, such as a name, identification number or online identifier. “*Processing*” means any operation or set of operations that is performed on personal data, such as collection, use, storage, dissemination and destruction.

**1.3** These procedures only apply to individuals whose personal data we process (“*data subjects*”).

#### 2. RESPONDING TO REQUESTS TO ACCESS PERSONAL DATA

**2.1** Data subjects have the right to request access to their personal data processed by us. Such requests are called subject access requests (“SAR”s). When a data subject makes an SAR we shall take the following steps:

- a) log the date on which the request was received (to ensure that the relevant timeframe of one month for responding to the request is met);
- b) confirm the identity of the data subject, if necessary by requesting additional information from the data subject to enable us to do so;
- c) immediately inform the Presbytery Clerk as the data controller that the SAR has been received;
- d) ask the data subject to complete and return a Subject Access Request Form, if more information is needed to narrow the parameters of the search for personal data;
- e) search databases, systems, files, applications and other places where the personal data which are the subject of the SAR may be held; and

f) confirm to the data subject whether or not their personal data is being processed.

**2.2** If personal data of the data subject is being processed, we shall provide the data subject with the following information in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in writing or by other (including electronic) means:

- a) the purposes of the processing;
- b) the categories of personal data concerned, for example, contact details and whether any of the information held is special category in nature;
- c) the recipients or categories of recipient to whom the personal data have been or will be disclosed (if applicable);
- d) where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;
- e) the existence of the right to request rectification or erasure of personal data or restriction of processing of personal data or to object to such processing;
- f) the right to lodge a complaint with the Information Commissioner's Office (ICO); and
- g) where personal data are transferred outside the EU, details of the appropriate safeguards to protect the personal data.

**2.3** We shall also, unless there is an exemption in terms of the Act (see [Paragraph 9](#) below), provide the data subject with a copy of the personal data processed by us in a commonly used electronic form (unless the data subject either did not make the request by electronic means or has specifically requested not to be provided with the copy in electronic form) within one month of receipt of the request. If the request is complex, or there are a number of requests, we may extend the period for responding by a further two months. If we extend the period for responding we shall inform the data subject within one month of receipt of the request and explain the reason(s) for the delay.

**2.4** Before providing the data to the data subject making the SAR, we shall review the material to ascertain if it contains the personal data of third parties. If so, we may redact the personal data of those other individuals prior to providing the data subject with their personal data, unless those individuals have consented to the disclosure of their personal data.

**2.5** If the SAR is manifestly unfounded or excessive, for example, because of its repetitive character, we may charge a reasonable fee, taking into account the administrative costs of providing the personal data, or refuse to act on the request.

**2.6** If we are not going to respond to the SAR we shall inform the data subject of the reason(s) for not taking action and of the possibility of lodging a complaint with the ICO.

### **3. RESPONDING TO REQUESTS TO RECTIFY PERSONAL DATA**

**3.1** Data subjects have the right to have any inaccurate personal data rectified. Rectification can include having incomplete personal data completed (for example, by a data subject providing a supplementary statement regarding the data). Where such a request is made, we shall, unless there is an exemption (see [Paragraph 9](#) below), rectify the personal data without undue delay.

**3.2** We shall also communicate the rectification of the personal data to each recipient to whom the personal data have been disclosed (for example, any third party service providers who process the data on our behalf), unless this is impossible or involves disproportionate effort. We shall also inform the data subject about those recipients if the data subject requests it.

### **4. RESPONDING TO REQUESTS FOR THE ERASURE OF PERSONAL DATA**

**4.1** Data subjects have the right, in certain circumstances, to request that we erase their personal data. Where such a request is made, we shall, unless there is an exemption (see [Paragraph 9](#) below), erase the personal data without undue delay if:

- a. the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;
- b. the data subject withdraws their consent to the processing of their personal data (if consent was the basis on which the personal data were processed and there is no other legal basis for the processing);
- c. the data subject objects to the processing of their personal data and there is no overriding legitimate interest for us to continue the processing;
- d. the data subject objects to the processing of their personal data for direct marketing purposes;
- e. the personal data have been unlawfully processed;
- f. the personal data have to be erased for compliance with a legal obligation to which we are subject; or
- g. the personal data have been collected in relation to the offer of online services.

**4.2** When a data subject makes a request for erasure in the circumstances set out above, we shall, subject to [Paragraph 4.5](#) and [Paragraph 9](#) below, take the following steps:

- a. log the date on which the request was received (to ensure that the relevant timeframe of one month for responding to the request is met);
- b. confirm the identity of the data subject who is the subject of the personal data. We may

- request additional information from the data subject to do this;
- c. inform the Presbytery Clerk as the data controller;
  - d. establish or clarify what erasure of data is sought by the request;
  - e. search databases, systems, files, applications and other places where such personal data may be held and erase such data within one month of receipt of the request. If the request is complex, or there are a number of requests, we may extend the period for responding by a further two months. If we extend the period for responding we shall inform the data subject within one month of receipt of the request and explain the reason(s) for the delay;
  - f. where we have made the personal data public, we shall inform those who are processing the personal data that the data subject has requested the erasure by them of any links to, or copies or replications of, those personal data; and
  - g. communicate the erasure of the personal data to each recipient to whom the personal data has been disclosed unless this is impossible or involves disproportionate effort. We shall also inform the data subject about those recipients if the data subject requests it.

**4.3** If the request is manifestly unfounded or excessive, for example, because of its repetitive character, we may charge a reasonable fee, taking into account the administrative costs of erasure, or refuse to act on the request.

**4.4** If we are not going to respond to the request we shall inform the data subject of the reasons for not taking action and of the possibility of lodging a complaint with the ICO.

**4.5** In addition to the exemptions in [Paragraph 9](#) below, we may also refuse to erase the personal data to the extent processing is necessary:

- a. for exercising the right of freedom of expression and information;
- b. for compliance with a legal obligation or for the performance of a task carried out in the public interest or in the exercise of official authority vested in us;
- c. for reasons of public interest in the area of public health;
- d. for archiving purposes in the public interest, scientific or historical research purposes, or statistical purposes in so far as the right to erasure is likely to render impossible or seriously impair the achievement of the objectives of that processing; or
- e. for the establishment, exercise or defence of legal claims.

## **5. RESPONDING TO REQUESTS TO RESTRICT THE PROCESSING OF PERSONAL DATA**

**5.1** Data subjects have the right, unless there is an exemption (see [Paragraph 9](#) below), to restrict the processing of their personal data if:

- a. the data subject contests the accuracy of the personal data, for a period to allow us to verify the accuracy of the personal data;
- b. the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of their use instead;
- c. we no longer need the personal data for its original purposes, but it is required by the data subject for the establishment, exercise or defence of legal claims; or
- d. the data subject has objected to the processing, pending verification of whether we have legitimate grounds to override the data subject's objection.

**5.2** Where processing has been restricted, we shall only process the personal data (excluding storing it):

- a. with the data subject's consent;
- b. for the establishment, exercise or defence of legal claims;
- c. for the protection of the rights of another person; or
- d. for reasons of important public interest.

**5.3** Prior to lifting the restriction, we shall inform the data subject of the lifting of the restriction.

**5.4** We shall communicate the restriction of processing of the personal data to each recipient to whom the personal data have been disclosed, unless this is impossible or involves disproportionate effort. We shall also inform the data subject about those recipients if the data subject requests it.

## **6. RESPONDING TO REQUESTS FOR THE PORTABILITY OF PERSONAL DATA**

Data subjects have the right, in certain circumstances, to receive the personal data that they have provided to an organisation in a structured, commonly used and machine-readable format that they can then transmit it on to a different organisation. This right is available where organisations are carrying out automated processing. This does not apply to us as we do not carry out automated processing.

## **7. RESPONDING TO OBJECTIONS TO THE PROCESSING OF PERSONAL DATA**

**7.1** Data subjects have the right to object to the processing of their personal data where such

processing is on the basis of our performance of a task carried out in the public interest or in the exercise of official authority vested in us, or on the basis of our legitimate interests which override the data subject's interests or fundamental rights and freedoms, unless we either:

- a. can show compelling legitimate grounds for the processing which override those interests, rights and freedoms; or
- b. are processing the personal data for the establishment, exercise or defence of legal claims.

**7.2** Data subjects also have the right to object to the processing of their personal data for scientific or historical research purposes, or statistical purposes, unless the processing is necessary for the performance of a task carried out for reasons of public interest.

**7.3** Where such an objection is made, we shall, unless there is an exemption (see [Paragraph 9](#) below), no longer process a data subject's personal data.

**7.4** Where personal data are processed for direct marketing purposes, data subjects have the right to object at any time to the processing of their personal data for such marketing. We do not process personal data on such grounds.

## **8. RESPONDING TO REQUESTS NOT TO BE SUBJECT TO AUTOMATED DECISION-MAKING**

Data subjects have the right, in certain circumstances, not to be subject to a decision based solely on the automated processing of their personal data, if such decision produces legal effects concerning them or similarly significantly affects them. This does not apply to us as we do not carry out automated processing.

## **9. EXEMPTIONS**

**9.1** Before responding to any request we shall check whether there are any exemptions that apply to the personal data that are the subject of the request. Exemptions may apply where it is necessary and proportionate not to comply with the requests described for the following reasons:

- a. to safeguard national security, defence or public security;
- b. for the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
- c. for other important objectives of general national public interest, in particular an important national economic or financial interest, including monetary, budgetary and taxation matters, public health and social security;
- d. the protection of judicial independence and judicial proceedings;

- e. the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
- f. a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority in the cases referred to in [Paragraph 9.1\(a\)](#) and [Paragraph 9.1\(g\)](#) above;
- g. the protection of the data subject or the rights and freedoms of others; or
- h. the enforcement of civil law claims.