Art Fund_

Art Fund response to DCMS consultation on the implementation of the EU GDPR

May 2017

1. Introduction

1.1. Art Fund welcomes the invitation from DCMS to submit written evidence on the implementation of the EU General Data Protection Regulation (GDPR).

1.2. For further information about this submission please contact

2. Who are we?

2.1. Art Fund is the national fundraising charity for art. In the past five years alone Art Fund has given £34 million to help museums and galleries acquire works of art for their collections. It also helps museums share their collections with wider audiences by supporting a range of tours and exhibitions, and makes additional grants to support the training and professional development of curators. Art Fund is independently funded, with the core of its income provided by 123,000 members who receive the National Art Pass and enjoy free entry to over 240 museums, galleries and historic places across the UK, as well as 50% off entry to major exhibitions and subscription to Art Quarterly magazine. In addition to grant-giving, Art Fund's support for museums includes Art Fund Museum of the Year and a range of digital platforms.

2.2. We are responding to this consultation in our capacity as a charity which is independently funded and relies entirely on donations from our members and supporters.

3. Art Fund's views on the implementation of GDPR: Lawfulness of processing and codes of conduct.

3.1. In order to carry out our charitable purpose Art Fund, like many other small charities, holds the data of a range of subjects, including members, donors, corporate and charitable trust

contacts, partner museums and their employees and other sector contacts we work with such as artists, journalists, and influencers. Types of processing varies from contact to contact depending on the nature of our relationship with each individual.

3.2. We are committed to offering our data subjects real control over their information and how we use it. To ensure we stay within the confines of the law and good practice, we have been following the Information Commissioners Office's (ICO) guidance together with that of the Fundraising Regulator.

3.3. Article 6 (1) of GDPR details the six lawful bases for processing data, this includes allowing data to be lawfully processed if "*It is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data.*" [1]

3.4. Art Fund welcomes the recent news that the ICO will produce guidance on legitimate interest alongside their guidance on consent within GDPR. [2] We believe such guidance is required due to a lack of clarity regarding the existence of a hierarchy within the legal bases for processing data.

3.5. A code of conduct on the legitimate interests condition, as outlined in Article 40 (1) of GDPR, would clarify this issue and allow for the proper application of the Regulation. It will empower micro, small and medium sized organisations, such as Art Fund, to correctly and confidently handle data for the benefit of the communities we serve.

[1] General Data Protection Regulation, *Official Journal of the European Union*, 2016. Available online at < http://ec.europa.eu/justice/data-protection/reform/files/regulation_oj_en.pdf> Article 6 (1)(f).
[2] Letter from Elizabeth Denham, Information Commissioner, to Mr K Burnett. April 2017. Available online at <http://www.kenburnett.com/KB%20assets/76ltr4ICO's%20reply%20to%20Kenburnett2.pdf>