

YCAT GDPR Compliance

Introduction

The following document details the approach taken by the Young Classical Artists Trust (YCAT) to be compliant with the new General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) applicable from 25 May 2018

Identifying a Lawful Basis for GDPR Compliance

1. The Lawful Basis for processing under the GDPR

There are six Lawful Bases for processing Personal Data, as detailed in Article 6.1 of the GDPR. The Controller (YCAT) needs to select the most appropriate Lawful Basis for the processing of Personal Data.

It is important to note that there is no hierarchy of Lawful Bases for processing Personal Data: all are equally valid.

The six Lawful Bases are:

- A. CONSENT – the individual has given their Consent to the processing of their Personal Data.
- B. CONTRACTUAL - processing of Personal Data is necessary for the performance of a contract to which the individual is a party or for the Controller to take pre-contractual steps at the request of the individual.
- C. LEGAL OBLIGATION - processing of Personal Data is necessary for compliance with a legal obligation to which the Controller is subject.
- D. VITAL INTERESTS - processing of Personal Data is necessary to protect the vital interest of the individual or of another individual.
- E. PUBLIC TASK - processing of Personal Data is necessary for the performance of a task carried out in the public interest or in the exercise of official authority.
- F. LEGITIMATE INTERESTS – processing is necessary under the Legitimate Interests of the Controller or Third Party, unless these interests are overridden by the individual's

interests or fundamental rights.

2. Which Lawful Basis is the most appropriate for YCAT?

Following an initial review of the extent of Personal Data held by YCAT and the processing of Personal Data performed by YCAT, a Legitimate Interests approach has been considered the most appropriate.

3. Is YCAT able to rely on Legitimate Interests?

When considering Legitimate Interests as a ground for processing it is important to take note of the specific wording in Article 6 (1)(f):

*'Processing will be lawful if it is **necessary** for the **purposes** of the **legitimate interests** pursued by the controller or 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, in particular where the data subject is a child.'*

In practice, Legitimate Interests can only be relied upon as a Lawful Basis of processing to the extent that such activity is 'necessary'.

Whilst evaluating whether processing is 'necessary', Controllers also need to take into account whether on balance their Legitimate Interests are outweighed by the rights and freedoms of the individual and that the processing would not cause unwarranted harm. This is called a 'balancing test'.

In order to determine whether YCAT can rely on Legitimate Interests, it is advisable to perform a Legitimate Interests Assessment.¹

4. What is a Legitimate Interests Assessment?

A Legitimate Interests Assessment (LIA) is a recommended assessment in which the Controller balances its right to process the Personal Data against the individuals' data protection rights.

In certain circumstances, an LIA might be straightforward.
The three key stages of an LIA are:

¹ *Guidance on the use of Legitimate Interests under the EU General Data Protection Regulation: for commercial, not-for-profit organisations, and for individuals.* Data Protection Network (2018) p. 6

1. Identify a Legitimate Interest

What is the purpose for processing the Personal Data and why is it important to you as a Controller? Even if the Controller's interest in processing Personal Data for a specific purpose is obvious and legitimate, based on the objectives of the Controller, it must be clearly articulated and communicated to the individual.

2. Carry out a Necessity Test

Controllers should consider whether the processing of Personal Data is "necessary" for the pursuit of its commercial or business objectives.

3. Carry out a Balancing Test

A Controller can only rely on a genuine Legitimate Interest where the rights and freedoms of the individual whose Personal Data will be processed have been evaluated, and these interests do not override the Controllers' Legitimate Interest.

There are several factors to consider in carrying out a Balancing Test:

- The nature of the **interests**: would or should the individual expect the processing to take place?
- The **impact** of processing: have any positive or negative impacts on the individual been considered?
- Any **safeguards** which are or could be in place: has the Controller implemented a range of compensating controls or measures which may be put in place to protect the individual, or to reduce any risks or potentially negative impacts of the processing.

5. What documents need to be created following an LIA?

Under the GDPR individuals have the right to be informed about how their Personal Data is being processed. The Regulation clearly stipulates that this must be done in a *concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child.*

YCAT needs to create a new Privacy Notice, which would meet a Controller's obligation to provide information to individuals.

Additionally, it is advisable that in order to ensure compliance with Article 5(2) or the GDPR, YCAT maintains a written record that it has carried out an LIA and the reasons why it came to the conclusion that it met the balancing test elements.

Legitimate Interests Assessments

I. Direct Marketing for (i) YCAT Concerts (ii) Sounding Board events (iii) YCAT News (including YCAT Auditions) (iv) YCAT Artists File distribution

Identifying a Legitimate Interest		
	Question	Answer
1.	What is the purpose of the processing operation?	To use Personal Data (name, email address, postal address) to deliver selected Direct Marketing materials for the promotion of YCAT Concerts, Sounding Board events, YCAT News (including YCAT Auditions) and for the distribution of the YCAT Artists File.
2.	Is the processing necessary to meet one or more specific organisational objectives?	Yes. The processing is necessary for YCAT to promote its beneficiaries to promoters, agents, supporters and selected individuals. Additionally, it is necessary to promote its additional activities to further beneficiaries through YCAT Sounding Board.
3.	Is the processing necessary to meet one or more specific objectives of any Third Party?	Yes, if the Third Party supplies mailing and distribution services for YCAT and hosts the information. (e.g. Romax, Mailchimp)
4.	Why is the processing activity important to the Controller?	It is important to YCAT in order to deliver maximum impact to its beneficiaries.
5.	If applicable, why is the processing activity important to Third Parties the data may be disclosed to?	YCAT requires the use of Third Parties in order promote its activities and beneficiaries.
The Necessity Test		
1.	Is there an alternative way to achieve the objective without conducting this processing activity?	We have considered any alternative solutions and can find none that meet our purpose.
The Balancing Test		
1.	Would the individual expect the processing activity to take place?	Yes. We have reviewed the Personal Data held and processed by YCAT and determined that the individual would reasonably expect the processing activity to

		take place.
2.	Does the processing add value to a product or service that the individual uses?	Yes. The processing is essential to the promotion of YCAT's activities and beneficiaries, which are of interest to the individuals concerned.
3.	Is the processing likely to negatively impact the individual's interests and/or rights?	No. The processing is not considered to negatively impact the individual's interests and / or rights, such that it may lead to discrimination, financial loss, reputational damage, loss of confidentiality or professional secrecy, or any other economic or social advantage. Additionally, the processing does not prevent data subjects exercising control over their personal data.
4.	Would the processing limit or undermine the rights of individuals?	No, in our assessment.
5.	Is the processing likely to result in unwarranted harm or distress to the individual?	No, in our assessment.
6.	Would unwarranted harm or distress to the individual occur if the processing did not take place?	No, in our assessment.
7.	Would there be a prejudice to the Data Controller if processing does not happen?	Yes, there would be significant negative organisational impact on YCAT if this processing were not to take place.
8.	If applicable, would there be a prejudice to the Third Party if processing does not happen?	Yes, it would not be possible for a Third Party to implement necessary activities if the processing does not happen.
9.	Is the processing in the interests of the individual whose personal data it relates to?	Yes, as it provides them with information on YCAT's activities and beneficiaries.
10.	Are the interests of the individual aligned with the party looking to rely on their legitimate interests for the processing?	Yes, we believe that the interests of the individual are aligned with YCAT
11.	What is the connection between the individual and the organisation?	Business client, beneficiary, donor / funder

12.	What is the nature of the data to be processed? Does data of this nature have any special protections under GDPR?	Name, email, postal address. None in relation to special protections under GDPR.
13.	Is there a two-way relationship in place between the organisation and the individual whose personal information is going to be processed? If so, how close is that relationship?	There is an ongoing relationship
14.	Has the personal information been obtained directly from the individual, or obtained indirectly?	Directly
15.	Is there any imbalance in who holds the power between the organisation and the individual?	Not really, in YCAT's case
16.	Is it likely that the individual may expect their information to be used for this purpose?	Yes.
17.	Could the processing be considered intrusive or inappropriate? In particular, could it be perceived as such by the individual or in the context of the relationship?	No. Contact is relatively infrequent and highly selective.
18.	Is a Fair Processing Notice provided to the individual, if so, how? Are they sufficiently clear and up front regarding the purposes of the processing?	It will be, through an updated Privacy Policy
19.	Can the individual, whose data is being processed, control the processing activity or object to it easily?	Yes, there are clear methods to object in the Privacy Policy
Safeguards and compensating controls		
1.	What existing safeguards are in place?	We have policies and procedures to comply with applicable law. We keep personal data no longer than is necessary and store personal data securely.

Reaching a decision and documenting the outcome	
Having carried out the above balancing test and LIA we believe that the policies and procedures we have put in place will ensure that our legitimate interests are not overreached by the rights of individuals whose personal data will be processed by YCAT in the above instance.	
Signed by:	Role:
Dated:	
Review date:	

II. Fundraising & Development

Identifying a Legitimate Interest		
	Question	Answer
1.	What is the purpose of the processing operation?	To use Personal Data (name, email address, postal address) for Fundraising & Development communications, campaigns and initiatives.
2.	Is the processing necessary to meet one or more specific organisational objectives?	Yes. The processing is necessary for YCAT to raise voluntary donations in order to deliver benefits to its beneficiaries.
3.	Is the processing necessary to meet one or more specific objectives of any Third Party?	Yes, if the Third Party supplies mailing and distribution services for YCAT and hosts the information. (e.g. Romax, Mailchimp)
4.	Why is the processing activity important to the Controller?	It is important to YCAT in order to deliver maximum impact to its beneficiaries.
5.	If applicable, why is the processing activity important to Third Parties the data may be disclosed to?	YCAT requires the use of Third Parties in order promote its activities and beneficiaries.
The Necessity Test		
1.	Is there an alternative way to achieve the objective without conducting this processing activity?	We have considered any alternative solutions and can find none that meet our purpose.

The Balancing Test		
1.	Would the individual expect the processing activity to take place?	Yes. We have reviewed the Personal Data held and processed by YCAT and determined that the individual would reasonably expect the processing activity to take place.
2.	Does the processing add value to a product or service that the individual uses?	Yes. The processing is essential to the promotion of YCAT's activities and beneficiaries, which are of interest to the individuals concerned.
3.	Is the processing likely to negatively impact the individual's interests and/or rights?	No. The processing is not considered to negatively impact the individual's interests and / or rights, such that it may lead to discrimination, financial loss, reputational damage, loss of confidentiality or professional secrecy, or any other economic or social advantage. Additionally, the processing does not prevent data subjects exercising control over their personal data.
4.	Would the processing limit or undermine the rights of individuals?	No, in our assessment.
5.	Is the processing likely to result in unwarranted harm or distress to the individual?	No, in our assessment.
6.	Would unwarranted harm or distress to the individual occur if the processing did not take place?	No, in our assessment.
7.	Would there be a prejudice to the Data Controller if processing does not happen?	Yes, there would be significant negative organisational impact on YCAT if this processing were not to take place.
8.	If applicable, would there be a prejudice to the Third Party if processing does not happen?	Yes, it would not be possible for a Third Party to implement necessary activities if the processing does not happen.
9.	Is the processing in the interests of the individual whose personal data it relates to?	Yes, as it provides them with information on YCAT's activities and beneficiaries.
10.	Are the interests of the individual aligned with the party looking to rely	Yes, we believe that the interests of the individual are aligned with YCAT

	on their legitimate interests for the processing?	
11.	What is the connection between the individual and the organisation?	Donor / Funder
12.	What is the nature of the data to be processed? Does data of this nature have any special protections under GDPR?	Name, email, postal address. None in relation to special protections under GDPR.
13.	Is there a two-way relationship in place between the organisation and the individual whose personal information is going to be processed? If so, how close is that relationship?	There is an ongoing relationship
14.	Has the personal information been obtained directly from the individual, or obtained indirectly?	Directly
15.	Is there any imbalance in who holds the power between the organisation and the individual?	Not really, in YCAT's case
16.	Is it likely that the individual may expect their information to be used for this purpose?	Yes.
17.	Could the processing be considered intrusive or inappropriate? In particular, could it be perceived as such by the individual or in the context of the relationship?	No. Contact is relatively infrequent and highly selective.
18.	Is a Fair Processing Notice provided to the individual, if so, how? Are they sufficiently clear and up front regarding the purposes of the processing?	It will be, through an updated Privacy Policy
19.	Can the individual, whose data is being processed, control the processing activity or object to it easily?	Yes, there are clear methods to object in the Privacy Policy
Safeguards and compensating controls		

1.	What existing safeguards are in place?	We have policies and procedures to comply with applicable law. We keep personal data no longer than is necessary and store personal data securely.
Reaching a decision and documenting the outcome		
Having carried out the above balancing test and LIA we believe that the policies and procedures we have put in place will ensure that our legitimate interests are not overreached by the rights of individuals whose personal data will be processed by YCAT in the above instance.		
Signed by:		Role:
Dated:		
Review date:		

III. Contracting

Identifying a Legitimate Interest		
	Question	Answer
1.	What is the purpose of the processing operation?	To use Personal Data (name, email address, postal address) to complete business contracts between YCAT and a Third Party.
2.	Is the processing necessary to meet one or more specific organisational objectives?	Yes. The processing is necessary for YCAT to conduct its work for its beneficiaries.
3.	Is the processing necessary to meet one or more specific objectives of any Third Party?	Yes, if the Third Party supplies mailing and distribution services for YCAT and hosts the information. (e.g. Romax, Mailchimp)
4.	Why is the processing activity important to the Controller?	It is essential in order to complete business contracts between YCAT's beneficiaries and Third Parties
5.	If applicable, why is the processing activity important to Third Parties the data may be disclosed to?	YCAT requires the use of Third Parties in order promote its activities and beneficiaries.

The Necessity Test		
1.	Is there an alternative way to achieve the objective without conducting this processing activity?	We have considered any alternative solutions and can find none that meet our purpose.
The Balancing Test		
1.	Would the individual expect the processing activity to take place?	Yes. We have reviewed the Personal Data held and processed by YCAT and determined that the individual would reasonably expect the processing activity to take place.
2.	Does the processing add value to a product or service that the individual uses?	Yes. The processing is essential to the promotion of YCAT's activities and beneficiaries, which are of interest to the individuals concerned.
3.	Is the processing likely to negatively impact the individual's interests and/or rights?	No. The processing is not considered to negatively impact the individual's interests and / or rights, such that it may lead to discrimination, financial loss, reputational damage, loss of confidentiality or professional secrecy, or any other economic or social advantage. Additionally, the processing does not prevent data subjects exercising control over their personal data.
4.	Would the processing limit or undermine the rights of individuals?	No, in our assessment.
5.	Is the processing likely to result in unwarranted harm or distress to the individual?	No, in our assessment.
6.	Would unwarranted harm or distress to the individual occur if the processing did not take place?	No, in our assessment.
7.	Would there be a prejudice to the Data Controller if processing does not happen?	Yes, there would be significant negative organisational impact on YCAT if this processing were not to take place.
8.	If applicable, would there be a prejudice to the Third Party if processing does not happen?	Yes, it would not be possible for a Third Party to implement necessary activities if the processing does not happen.

9.	Is the processing in the interests of the individual whose personal data it relates to?	Yes, as it provides them with information on YCAT's activities and beneficiaries.
10.	Are the interests of the individual aligned with the party looking to rely on their legitimate interests for the processing?	Yes, we believe that the interests of the individual are aligned with YCAT
11.	What is the connection between the individual and the organisation?	Business client
12.	What is the nature of the data to be processed? Does data of this nature have any special protections under GDPR?	Name, email, postal address. None in relation to special protections under GDPR.
13.	Is there a two-way relationship in place between the organisation and the individual whose personal information is going to be processed? If so, how close is that relationship?	There is an ongoing relationship
14.	Has the personal information been obtained directly from the individual, or obtained indirectly?	Directly
15.	Is there any imbalance in who holds the power between the organisation and the individual?	Not really, in YCAT's case
16.	Is it likely that the individual may expect their information to be used for this purpose?	Yes.
17.	Could the processing be considered intrusive or inappropriate? In particular, could it be perceived as such by the individual or in the context of the relationship?	No. Contact is relatively infrequent and highly selective.
18.	Is a Fair Processing Notice provided to the individual, if so, how? Are they sufficiently clear and up front regarding the purposes of the processing?	It will be, through an updated Privacy Policy
19.	Can the individual, whose data is	Yes, there are clear methods to object in the

	being processed, control the processing activity or object to it easily?	Privacy Policy
Safeguards and compensating controls		
1.	What existing safeguards are in place?	We have policies and procedures to comply with applicable law. We keep personal data no longer than is necessary and store personal data securely.
Reaching a decision and documenting the outcome		
Having carried out the above balancing test and LIA we believe that the policies and procedures we have put in place will ensure that our legitimate interests are not overreached by the rights of individuals whose personal data will be processed by YCAT in the above instance.		
Signed by:		Role:
Dated:		
Review date:		

YCAT Privacy Policy

1. How do we use your personal information?

We may process your personal information for our legitimate business interests e.g. direct marketing, promotional campaigns, communications in relation to fundraising and development, processing of business contracts

See (2) below to learn more about what we mean by legitimate interests, and when we process your data for our legitimate interests.

You have the right to object to this processing if you wish and if you wish to do so please see (3) below.

2. What are 'Legitimate Interests'?

"Legitimate Interests" means the interests of YCAT in conducting and managing the organisation in such a way that enables us to give you the best service and communications and the best and most secure experience.

For example, we have an interest in making sure our promotional campaigns are relevant for you, so we may process your information to send you marketing that is tailored to your interests.

When we process your personal information for our legitimate interests, we make sure to consider and balance any potential impact on you (both positive and negative), and your rights under data protection laws. Our legitimate business interests do not automatically override your interests - we will not use your Personal Data for activities where our interests are overridden by the impact on you (unless we have your consent or are otherwise required or permitted to by law).

If you have any concerns about the processing below, you have the right to object to processing that is based on our legitimate interests. If you would like to object, please [click here](#).

3. How can I object to the processing of Personal Data?

If you would like to raise an objection as to the processing of your Personal Data, please write to YCAT at info@ycat.co.uk