

Oral History

Help Sheet 3: Legal and ethical issues to consider

Data Protection

The Data Protection Act (DPA) of 2018 governs how personal data is to be protected in the UK. Under its terms, personal information can only be processed in a way that protects the rights of the individual who is the subject of the information.

This is especially relevant to the collection of oral history in cases where the person providing the reminiscence has, for instance,

- disclosed information of a deeply personal nature about themselves
- made comments about another individual in a manner that could cause distress to both people if the comments are made public.

In these cases it would be desirable to discuss closing either these specific sections or the whole interview for an agreed period of years. Note that it would then be the responsibility of you as the custodian of the interview to ensure that the terms of this agreement are observed.

Even if it is agreed that there is no sensitive material in the content of the interview, the DPA still requires the individual (or individuals, if more than one person is providing the reminiscence) to provide evidence of consent for their material to be collected, and to give permission for the uses you intend to make of it.

Copyright and Intellectual Property

The Copyright Designs and Patents Act of 1988 protects the rights of individuals to be recognised as the owner of any material that they create. In an oral history recording this would include:

- the words being recorded by both the person conducting the interview and the person(s) being interviewed. The words used by both parties remain in copyright for 70 calendar years after they die (i.e. until 1 January of the 71st year after death), with rights in the recordings passing to their legally appointed heirs until this period has passed.
- the actual audio recording, which will be in copyright to the individual or organisation who are responsible for creating the recording. This period of copyright lasts for 50 calendar years from the year that the oral history is

recorded (i.e. until 1 January of the 51st year after its creation), with rights in the recordings passing to their legally appointed heirs until this period has passed.

If copies of photographs or other documents that were **created** by the people being interviewed are scanned (as material to support the interview), these also remain in copyright for 70 calendar years after their creator dies (i.e. until 1 January of the 71st year after their death), with rights in the recordings passing to their legally appointed heirs until this period has passed.

If a current photograph of the person(s) providing the oral history is required for the project or to publicise it in any way, copyright in the image will rest with the photographer as the creator of the image, rather than with the person or group being photographed. That said, it is still advisable to agree with the people being interviewed the exact uses that will be made of their images. These also remain in copyright for 70 calendar years after their creator dies (i.e. until 1 January of the 71st year after their death), with rights in the recordings passing to their legally appointed heirs until this period has passed.

To share any of this material in any way (for instance on a website, in a transcript, or through making a digital story or film out of it), you need to obtain the permission of the rights holder.

Obtaining permissions for material recorded or collected

You must create two permissions forms. The first will summarise how you will use and protect the interviewee's personal data and should be signed by the interviewee before the interview. The second will contain both data protection and copyright elements. Indicate on the form that the signatory is agreeing to the use of their recorded words, their own image (if captured as part of the interview process), and scans of any documents that they have created, in any way that will support the stated aims of your project. Include space to note any specific reservations that the signatory may have around the use of their material, and any points agreed as a result of this

Before asking the interviewee(s) to sign the forms, make sure you take time to explain their intent and content to them, and be sure they are clear about the uses that may be made of their oral history and any other collected material.

Samples of both forms are provided as downloads (Permissions to Record agreement and Use of Recordings & Materials agreement).