
https://www.ohs.org.uk/

Oral History Society definition:-

Oral history is the recording of people’s memories, experiences and opinions. It is:

- A living history of everyone’s unique life experiences
- An opportunity for those people who have been ‘hidden from history’ to have their voice heard
- A rare chance to talk about and record history face-to-face
- A source of new insights and perspectives that may challenge our view of the past.

What Can People Remember?

Everyone forgets things as time goes by and we all remember things in different ways. Some people’s memories are better than others and for reasons we don’t really understand, many people actually remember their early years more as they get older. This is helpful when we want to record peoples’ memories. All memories are a mixture of facts and opinions, and both are important. The way in which people make sense of their lives is valuable historical evidence in itself. Few of us are good at remembering dates, and we tend to telescope two similar events into a single memory. So when we interview people it is important to get them to tell us about direct personal experiences – eye-witness testimony – rather than things that might have been heard second hand.

Ethical considerations

Ethical considerations apply to all projects, whether in higher education or not, and these continue throughout the course of the project: from the first contact with an interviewee to preserving, sharing and disseminating the results of interviews.

The following principles or ‘duties’ have been identified by the UK Data Archive:

- a duty of confidentiality (though not necessarily anonymity) towards informants and participants
- a duty to protect participants from harm, by not disclosing sensitive information
- a duty to treat participants as intelligent beings, able to make their own decisions on how the information they provide can be used, shared and made public (through informed consent)
- a duty to inform participants how information and data obtained will be used, processed, shared, disposed of, prior to obtaining consent
- a duty to wider society to make available resources produced by researchers with public funds (data sharing is required by some funders)
**During The Interview**

Once the interview is underway it is important to remember the interviewee’s wishes from both a social and an ethical perspective.

**The interview relationship**

A good interview is only achievable if there is mutual trust and rapport between the people involved. If for any reason an interviewee asks that the interview be ended or broken off and resumed at some later date, that preference should be respected. With this in mind it is often helpful before the interview begins to agree a time to finish the recording session, or perhaps to arrange to have a break.

**Maintaining confidentiality**

Interviewers, and project staff/volunteers processing interview data, should treat the content of the interview as **confidential** until a Recording Agreement or other access agreement has been finalised. If a duty of confidentiality is not included in standard employment contract terms and conditions, or in volunteer contracts, then project managers should consider asking project staff and volunteers to sign a **Confidentiality Agreement, (PDF – 70Kb)**. Ensure this is extended to remote workers such as home-based freelance transcribers to encompass the deletion of data on local drives at the conclusion of the project.

**Awareness of defamation and libel**

Interviewers should be aware of potential **libel or defamation** and the disclosure of sensitive personal data which might cause ‘substantial damage and distress’ to people mentioned as the interview process progresses. They should record these instances (with time codes) on an **Interview Sensitivity Review Form** as the interview is being summarised (or transcribed) and then subsequently bring any concerns to the attention of interviewees and project leaders so that everyone involved can weigh up the likely risks of disclosure involved. This ensures that risks have been assessed and that decisions made resulting in the **closure** or partial closure of the interview have been properly documented.
Data Protection and GDPR

Introduction

Many of the ethical and legal practices already routinely used by oral historians, and those holding and providing public access to oral history data, ensure that they are largely compliant with the new data protection regulations (www.ohs.org.uk/advice/ethical-and-legal/). However, some changes and additional actions need to be taken, especially around the documentation of ‘informed consent’ and a need for greater vigilance around reviewing data prior to public access to oral history interviews (both onsite and online). These are summarised at the end of this document.

It is important to remind ourselves of our essential democratic mission as oral historians to document the past through first-hand personal testimonies and to enable these memories and stories to be validated, valued and heard, subject of course to the wishes of our interviewees.

What is personal data?

Personal data is anything that allows a living individual to be identified directly, or in combination with other information such as:

- Name
- Address
- Phone number
- Email address
- What they look like
- Where they live
- What they do for a living
- What they earn
- What their relationship is with another person
- What their hobbies are
- What their opinions are
- The opinions of others about them

As oral historians we collect much of this personal data about our interviewees, and additionally in a typical oral history interview there will be personal data about identifiable living third parties, referred to by the interviewee.

How should personal data be collected?

The organisation or individual collecting, storing and using (‘processing’) personal data needs to follow six basic principles:

- The personal data should be processed lawfully, fairly and in a transparent manner in relation to individuals
- The data should be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. Further processing for archiving purposes in the public interest, scientific or historical
research purposes or statistical purposes is considered compatible with the initial purposes.

- The data collected should be **relevant** and limited to what is necessary in relation to the purposes.
- The data should be **accurate** and, where appropriate, kept up to date.
- The data should be **retained and stored** in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed. **But personal data may be stored for longer periods if it will be processed solely for archiving purposes in the public interest, scientific or historical research purposes** or statistical purposes.
- The data should be processed in a manner that ensures appropriate **security** of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Do archives and similar bodies have any other special rights or exemptions?

Yes, the activity of ‘Archiving in the Public Interest’ has several rights and exemptions under GDPR. Any organisation or individual which archives personal data ‘for purposes having public value beyond the immediate interests of the organisation itself’ is ‘archiving in the public interest’. The act of processing data to secure the permanent availability of recorded memory is more important than the type of organisation doing it.

**Firstly**, every instance of personal data processing must be justified with a ‘legal basis for processing’. For example, you may be using the personal data with the data subject’s consent, or under a contract or other licensing arrangement with the interviewee. Some organisations (such as national libraries, museums and galleries, universities, local libraries, regional archives, and some charities or commercial organisations providing similar services to government) may lawfully process personal data under the performance of their ‘public task’: ‘a specific task in the public interest that is set out in law’. It’s important to note that you only need one legal basis for each type of processing, so if processing personal data in a certain way (such as recording and storing oral histories) is part of your public task then you do not need to rely upon consent or any other condition.

**Secondly**, the processing of Special Category Data (previously called ‘sensitive personal data’: see below) also needs to be justified with a legal basis, one of which is ‘Archiving in the public interest’. This means that, for example, it is allowable to collect and even publish quite sensitive personal information as part of an oral history recording without further considering a legal basis, as long as such processing would not cause ‘substantial damage or distress’ to any person (see below).

**Thirdly**, the wider concept of ‘Archiving in the public interest’ under GDPR allows the long-term retention of personal data long after its original purpose has expired for the purpose of maintaining the historic record.

And **finally**, GDPR grants several exemptions from an individual’s normal rights (see above) where these would prevent or impair the activity of ‘archiving in the public interest’. Where data processing is for the purpose of ‘archiving in the public interest’ then the processing is exempt from:
- The right to access and confirmation of processing (for example you do not have to search your entire archive in response to a Subject Access Request for ‘everything you hold about me’)
- The right to rectification (for example you do not have to ‘correct’ a historical record, although you may wish to add commentary in the event of disputed material)
- The right to restrict processing or object to processing (for example you do not have to suppress access to an archival recording upon request, unless the processing is causing ‘substantial damage or distress’ to one of the persons mentioned in it or related to it in some other way)

What sort of consent is required from interviewees about the storage and use of their personal data and interview recording?

It is important to recognise that the notion of ‘informed consent’ that has underpinned oral history ethical best practice (and much other research) is different from the GDPR definition of the term ‘consent’. Interviewees still need to be fully ‘informed’ about, agree to, and be able to withdraw from the process which they are participating in. This can be achieved by using a pre-interview participation agreement (see below).

Consent is only one of the legal bases available under GDPR to legitimise the processing of personal data, such as the making, storage and use of an oral history interview. You should be certain of your legal basis before beginning the interview, and the interviewee should be informed of the basis on which the recording is being made. **Note that the legal basis that you choose to use determines which of the individual’s rights and which exemptions may apply to the activity.**

You should also be aware that, when relying on consent for the publication or dissemination of an archive recording, you will also need the consent of every person who is identifiable from the interview, not just the interviewee, and this may be prohibitively difficult.

If you do choose to use consent as your legal basis, one of the key changes under GDPR is that consent to the use of personal data must be active (no pre-ticked boxes), clear, affirmative and distinguishable from other matters, and provided in an intelligible and easily accessible form, using clear and plain language. Consent needs to cover both the holding of personal data and its further processing (use).

**OHS advice therefore (drawing on British Library policy) is that for the processing of personal data for archival purposes a data controller should normally rely on the legal basis of ‘the performance of a task carried out in the public interest’ where legally able to do so, or on ‘legitimate interests’ where they are not.**

The processing of Special Category Data (previously called ‘sensitive personal data’: see below) requires an additional legal basis. For the processing of Special Category Data for archival purposes, a Data Controller should rely on Section 4(a) of Schedule 1 of the Data Protection Act 2018 – ‘necessary for archiving purposes... in the public interest’.

One of the characteristics of consent under GDPR is that it can be withdrawn at any time. **If consent is withdrawn then you cannot substitute another legal basis to continue processing**
that data. This is why it is advisable to use one of the other legal bases other than consent when creating material for a permanent historic archive, hence the OHS recommendation above.

Most organisations which publish personal data online (like the British Library) have a ‘Notice and Takedown Policy’ which provides for the withdrawal of online personal data. Third parties can also use such policies to request that material causing them ‘significant damage and distress’ (see below) be removed and redacted.

This means that two documents now need to be signed by interviewees:

- An interview participation agreement completed before the interview begins which includes information about the aims and objectives of the project, what personal data will be collected, where it will be stored, how it will be used and the legal basis for its use, and how the interviewee can contact the project to access their data. If any of the data will be stored outside the EEA at any time (including, for example, future cloud storage) interviewees need to be informed about this as well. Where the organisation has a privacy and data storage policy this should be referred to in this document. The Oral History Society’s Privacy and Data Storage Policy is here. The British Library’s is here. Some oral history projects already use a separate consent form signed prior to the interview but not all. Some already use Information Sheets with which a participation agreement could be combined.

- An interview recording agreement completed after the interview has been finished which covers copyright and access conditions. The current form routinely used by oral historians can continue largely as it is. The form is crucial as it provides interviewees with the opportunity to restrict or embargo all or part of the interview for a period of time. It also provides interviewers with the opportunity to recommend closures or redactions of parts of the interview which might be libellous or contain ‘sensitive personal data’ about third parties mentioned in the recording (see below), so as to prevent damage or distress. And it also clarifies copyright assignment.

What is ‘special category data’ (previously called ‘sensitive personal data’)?

GDPR introduces new categories of sensitive personal data relating to identifiable living individuals, and regulates the use of this data where its public release is likely to cause ‘substantial damage and distress’ to those individuals.

<table>
<thead>
<tr>
<th>Categories of special category data/sensitive personal data</th>
<th>Example</th>
</tr>
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<tbody>
<tr>
<td>Religious/philosophical</td>
<td>An interview where an individual talks about the religious views and worshipping practices of their family.</td>
</tr>
<tr>
<td>Political</td>
<td>A recording where an individual comments on the political views and party membership of a former colleague.</td>
</tr>
<tr>
<td>Sexual/sexuality</td>
<td>An interview where an individual talks about his sexuality and personal relationship history.</td>
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Trade union activities

An interview where a former business owner complains about the activities of the trade union at his business and names union members.

Corporate or industry

An interview where an employee talks about the unpublicised financial difficulties of the private company they work for.

Illegal/criminal/bad behaviour/bullying/malpractice

An interview describes a former manager as a known bully, alleging that they were responsible for the departure of a number of employees.

Race or ethnicity related

An interview where an individual talks about the racial background of another individual without their knowledge.

War/violence/Northern Irish troubles/Colonial military activity

An interview where a number of named individuals are reported to have had an affiliation with the IRA.

Medical or health related

A recording where an individual talks about the mental health of a friend, the treatment they received and the medication they took.

Scurrilous content/gossip/rumours

An interview where an individual questions the paternity of a man based on a rumour that his mother had an extramarital affair.

What does ‘substantial damage and distress’ mean?

This is not defined by GDPR but the Information Commissioner’s Office (ICO) guideline defines it as:

- Financial loss
- Physical harm
- A level of upset or emotional or mental pain that goes beyond annoyance, irritation, strong dislike, or a feeling that the data’s release is morally abhorrent

If an individual complained to the ICO that a data breach had occurred the organisation making the data publicly available would need to show what due diligence steps they had taken to assess the material for sensitive personal data before its release. Ultimately the test of what ‘substantial damage and distress’ means can only be tested in court (for example it might be part of an individual’s case that they had been libelled).

What practical steps do oral historians and those providing public access to interview data therefore need to take?

We need to be more vigilant than previously to third party references in recorded interviews. Even if an interviewee has given consent to the use of their own personal data it might still not be possible to make their interview publicly available if it contains sensitive data about other living and identifiable people which might lead to those third parties suffering ‘substantial damage and distress’.

For new and on-going oral history projects all staff need to be made aware of the kinds of sensitive data that might exist in a typical interview and be encouraged to flag up any such
occurrences. The original recording need not be changed in any way if it is only being archived and not accessed. But where any of these occurrences are deemed likely to cause ‘substantial damage and distress’ then those passages need to be embargoed and muted prior to any public access. The only exception to this would be where the identified third party could be contacted to approve public access. But this could be hugely time-consuming, impractical and is not recommended (see appendix on sensitivity reviews).

This assessment of interview content is not a major departure from current oral history practice. The key change is that the bar has been lowered about what is deemed ‘sensitive data’. Project staff thus need to be properly trained to identify such data, especially about identifiable third parties, and projects need to put in place procedures for assessing interviews before they are made publicly available.

In all cases it is vital that the original recording is not edited or redacted in any way, but that playback or publicly-accessible copies are generated and then passages muted, each redaction being carefully annotated on any content summaries and transcripts.
Recording Equipment

Because you can’t write down everything that someone tells you it is a good idea to use an audio or video recorder.

Your recordings will be unique historical “documents” which other people need to be able to hear and understand easily, so it’s worth getting a good quality recording. If you can’t afford to buy any equipment you might be able to borrow some, maybe from another oral history group.

Whichever model of digital recorder you choose it should have the following features:

- Be able to record in stereo using two external microphones (preferably with professional XLR sockets)
- Be able to record uncompressed PCM WAV (or .wav) files at 44.1kHz 16 bit and/or 48kHz 16bit. This is a good standard of recording quality using a widely-recognised format. 3 hours of stereo audio at 48kHz/16bit roughly equates to 2GB of storage space on a memory card (different recorders use different types of card).
- Have a USB2 connection to allow the recorded files to be uploaded easily to a computer for renaming, security copying and long-term storage.
- Be capable of being powered by both rechargeable batteries and mains supply.

As these recorders create digital files rather than physical objects that sit on shelves, it is vital that all your computer systems are capable of dealing with large audio files, and are secure and backed up. Careful thought needs to be given to naming the audio files with unique numbers so they can be easily located later. Expert advice about backing-up digital files has changed in recent years and multiple computer external hard disc drives are now favoured over CD-Rs and DVD-Rs for long-term storage (see below).

Microphones

Whatever recorder you decide to use you will generally get better results if you use an external microphone. The internal microphones built into the recorder can be OK but only if the recorder is mounted on a tripod to help eliminate handling noise and is carefully placed near enough to the speaker to get good audio levels. For one-to-one interviews indoors, the best external microphone is a small tie clip or lapel microphone. If your recorder is stereo and has two microphone sockets you can get two microphones – one of for your interviewee and one for yourself. They can be attached discreetly to your clothing and usually give excellent results. For interviews outdoors a uni-directional (or cardioid) hand-held microphone is best as it will pick up less unwanted noise. There are also special microphones designed to record groups of people sitting around a table. Remember to adjust the settings on your recorder depending on whether you’re using an internal or external microphone. The best recorders have something called ‘phantom power’ which allows certain kinds of microphone to be powered by the recorder (rather than having their own batteries).

Video

Many oral historians favour audio for its ease-of-use, portability, and intimacy; but video equipment has fallen in price and size in recent years and is becoming a more affordable option. However the long-term storage of video remains a challenge as it takes up large amounts
of memory space and there are very few international standards or agreed preservation formats. Video has the benefit that it allows us to see an interviewee’s expressions and the location in which they were filmed. But some oral historians have mixed views about the impact of a video camera on the intimacy of the interview relationship and video is not suited for all interview projects (for example where body image is an issue). Others favour a hybrid approach: a longer audio interview followed by a short video interview, perhaps at a significant location or with something visual which really makes a virtue of use of video. Using video is a more complex and potentially expensive option than using audio and needs careful planning and up to date advice. To get the best results it might be worth working with a trained videographer or cameraman/woman.

Recording using a smartphone

The British Library and Oral History Society do not recommend recording oral history interviews on a smartphone or mobile device for the following reasons:

Quality
Most smartphones and tablets can record audio, but they were not designed for this purpose. Most phones only record severely compressed audio, keeping as little as 1/20th of the original data, so the audio quality will be variable and the battery life and storage capacity may limit the amount of high-quality audio that can be recorded at any one time. The internal microphones are not positioned to capture audio from a 1:1 interview, therefore the balance and capture of audio is not ideal. Even if it is possible, recording an interview of any length in an archival format (such as a wav file at 16bit/44.1kHz) will require a significant amount of data storage, or will need to be recorded at a non-archival poorer quality in order to record at length.

Data security and confidentiality
We take our smartphones everywhere and they are therefore items very easily lost or stolen. Interviews stored on phones are therefore vulnerable to being lost entirely or they might be hacked and confidential data stolen from the phone.

Data file formats
Unless a special application is downloaded the default file format in which the audio is recorded will often be low resolution and/or be in a proprietary format which will be difficult to access in the future. Even what appears to be a standard wave file might include proprietary elements. It is also difficult to move audio files around securely, for example by applying checksum software to ensure data integrity. Some apps will only allow transfer of files to the internet (such as SoundCloud) which has obvious security risks.

Expense
In order to improve the audio quality (to record PCM wav files) from a smartphone or tablet it will be necessary to download a suitable application and buy a good quality microphone, plus perhaps a pre-amplifier, and in some cases increase storage capacity. You will also need a tripod to get the device off a surface and avoid handling noise. It may simply prove cheaper to buy a mid-range recorder, rather than these add-ons – which are likely to be tied to a particular make and model of smartphone, and not work with an upgrade. See Doug Boyd’s useful posts about microphones for iPhones: http://digitalomnium.com/ios-and-iphone-recording-for-oral-history/ and http://digitalomnium.com/ios-recording-rode-ixy-i/. At September 2017 prices the
Rode i-XLR interface which turns an iPhone into a digital recorder cost £130 plus over £100 for a mike, whilst a Zoom H5 digital recorder (with in-built mikes) is £250.

*Obsolescence*
A stand-alone audio recorder will need to be updated periodically, but probably with far less frequency than a phone or other mobile device, so will give more years of service than a smartphone with extra purchased add-on kit. Apps and operating systems need regular updates and over time become incompatible and/or unsupported.

If, after all of these considerations, a person does wish to record on their smartphone or tablet, we suggest following the sensible tips outlined here: [http://oralhistorycentre.ca/introduction-recording-interviews-ios-devices-smartphones-and-tablets](http://oralhistorycentre.ca/introduction-recording-interviews-ios-devices-smartphones-and-tablets).

These tips cover:

- how to adjust the smartphone settings to ensure the recording is not interrupted by phone calls, notifications or messages
- how to assess the battery life and storage capacity required to record an interview
- how to source the best recording app for the make and model of smartphone
- whether an external microphone is needed to enhance the recording
- how to export the audio files to another device or application
Reminiscences

- Everybody has a story to tell.
- Some people need more encouragement than others to relate it.
- Can be spoken or written or mixture
- Who to ask depends on focus of work and why it is being carried out
- Recruitment of Interviewees: through existing groups and contacts and/ or advertise
- Interviewer / interviewee relationship
  - Often informal setting
  - Directed conversation with questions and prompts
- Objective v. Personal for both parties
- Selective memories & some surprises
  - Good anecdotes but ...
  - Treat all views with respect
  - Prepare for the unexpected
- First-hand accounts which can go back at least one generation
- Associated photographs and family documents
- Topics for interviews can vary depending on the project:
  - Life story / biography
    - Childhood; Home life; Working Life; Social Life; Leisure Interests
    - Changes people have seen / lived through
  - Specific Focus
    - Particular occupations e.g. Engineer
    - Particular time periods e.g. Schooldays, WW2.
    - Particular events e.g. Air shows, Sports events
- Make notes whilst recording especially names.
- Type up transcript as soon as possible after interview.
  - Decide if use dialect words / how to represent speech.
  - Don’t underestimate time for this!
- Let interviewee have copy of transcript and opportunity to make amendments; obtain consent & permission to use any material gathered.
- Ideally deposit in an accessible archive Sound recording & typed up interview.