**Employee Data Policy**

This document sets out \_\_\_\_\_\_\_\_\_\_\_\_\_’s (referred to as the employer) policy on the protection of information relating to staff members, workers, contractors & volunteers (referred to as staff members). Protecting the confidentiality and integrity of personal data is a critical responsibility that the employer takes seriously at all times. The employer will ensure that data is always processed in accordance with the provisions of relevant data protection legislation, including the General Data Protection Regulation (GDPR).

**Key Definitions**

**Data processing**

Data processing is any activity that involves the use of personal data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data including organising, amending, retrieving, using, disclosing, erasing or destroying it. Processing also includes transmitting or transferring personal data to third parties.

**Personal data**

Personal data is any information identifying a data subject (a living person to whom the data relates). It includes information relating to a data subject that can be identified (directly or indirectly) from that data alone or in combination with other identifiers that the employer possesses or can reasonably access. Personal data can be factual (eg, a name, email address, location or date of birth) or an opinion about that person’s actions or behaviour.

**Sensitive personal data**

Sensitive personal data is a special category of information that relates to a data subject’s racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual life, sexual orientation, biometric or genetic data. It also includes personal data relating to criminal offences and convictions.

**Privacy Notice**

This policy, together with the information contained in the table of staff member data appended to the policy, constitutes a privacy notice setting out the information that the employer holds about staff members, the purpose for which this data is held and the lawful basis on which it is held. The employer may process personal information without staff members’ knowledge or consent, in compliance with this policy, where this is required or permitted by law.

If the purpose for processing any piece of data about staff members should change, the employer will update the table of staff member data with the new purpose and the lawful basis for processing the data and will notify staff members.

**Fair Processing of Data**

**Fair processing principles**

In processing staff members’ data, the following principles will be adhered to. Personal data will be:

* Used lawfully, fairly and in a transparent way;
* Collected only for valid purposes that are clearly explained and not used in any way that is incompatible with those purposes;
* Relevant to specific purposes and limited only to those purposes;
* Accurate and kept up to date;
* Kept only as long as necessary for the specified purposes; and
* Kept securely.

**Lawful processing of personal data**

Personal information will only be processed when there is a lawful basis for doing so. Most commonly, the employer will use personal information in the following circumstances:

* when it is needed to perform staff members’ contracts of employment;
* when it is needed to comply with a legal obligation; or
* when it is necessary for the employer’s legitimate interests (or those of a third party) and staff members’ interests and fundamental rights do not override those interests.

The employer may also use personal information in the following situations, which are likely to be rare:

* when it is necessary to protect staff members’ interests (or someone else’s interests); or
* when it is necessary in the public interest.

**Lawful processing of sensitive personal data**

The employer may process special categories of personal information in the following circumstances:

* In limited circumstances, with explicit written consent;
* in order to meet legal obligations;
* when it is needed in the public interest, such as for equal opportunities monitoring or in relation to the employer’s pension scheme; or
* when it is needed to assess working capacity on health grounds, subject to appropriate confidentiality safeguards.

The employer may also process this type of information where it is needed in relation to legal claims or where it is needed to protect a staff member’s interests (or someone else’s interests) and the staff member is not capable of giving consent, or where a staff member has already made the information public. The employer may use particularly sensitive personal information in the following ways:

* information relating to leaves of absence, which may include sickness absence or family related leaves, may be used to comply with employment and other laws;
* information about staff members’ physical or mental health, or disability status, may be used to ensure health and safety in the workplace and to assess fitness to work, to provide appropriate workplace adjustments, to monitor and manage sickness absence and to administer benefits;
* information about race or national or ethnic origin, religious, philosophical or moral beliefs, or sexual life or sexual orientation, may be used to ensure meaningful equal opportunity monitoring and reporting; and
* information about trade union membership may be used to pay trade union premiums, register the status of a protected staff member and to comply with employment law obligations.

**Lawful processing of information about criminal convictions**

The employer envisages that it will hold information about criminal convictions and will only use this information where it has a legal basis for processing it. This will usually be where such processing is necessary to carry out the employer’s obligations. The employer may use information relating to criminal convictions where it is necessary in relation to legal claims, where it is necessary to protect a staff member’s (or someone else’s) interests and the staff member is not capable of giving consent, or where the staff member has already made the information public.

The employer will only collect information about criminal convictions if it is appropriate given the nature of the role and where it is legally able to do so. Where appropriate, the employer will collect information about criminal convictions as part of the recruitment process or may require staff members to disclose information about criminal convictions during the course of employment.

**Consent to data processing**

The employer does not require consent from staff members to process most types of staff member data. In addition, the employer will not usually need consent to use special categories of personal information in order to carry out legal obligations or exercise specific rights in the field of employment law. If a staff member fails to provide certain information when requested, the employer may not be able to perform the contract entered into with the staff member (such as paying the staff member or providing a benefit). The employer may also be prevented from complying with legal obligations (such as to ensure the health and safety of staff members).

In limited circumstances, for example, if a medical report is sought for the purposes of managing sickness absence, staff members may be asked for written consent to process sensitive data. In those circumstances, staff members will be provided with full details of the information to be sought and the reason it is needed, so that staff members can carefully consider whether to consent. It is not a condition of staff members’ contracts that staff members agree to any request for consent.

Where staff members have provided consent to the collection, processing and transfer of personal information for a specific purpose, they have the right to withdraw consent for that specific processing at any time. Once the employer has received notification of withdrawal of consent it will no longer process information for the purpose or purposes originally agreed to, unless it has another legitimate basis for doing so in law.

**Automated Decision-Making**

Automated decision-making takes place when an electronic system uses personal information to make a decision without human intervention.

The employer does not envisage that any decisions will be taken about staff members using automated means, however staff members will be notified if this position changes.

**Collection and Retention of Data**

**Collection of data**

The employer will collect personal information about staff members through the application and recruitment process, either directly from candidates or sometimes from an employment agency or background check provider. The employer may sometimes collect additional information from third parties including former employers, credit reference agencies or other background check agencies, such as Disclosures or PVGs.

The table of staff member data appended to this policy relates to information which is collected at the outset of employment. From time to time, the employer may collect additional personal information in the course of job-related activities throughout the period of employment. If the employer requires to obtain additional personal information, this policy will be updated.

**Retention of data**

The employer will only retain staff members’ personal information for as long as necessary to fulfil the purposes it was collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements. Details of retention periods for different aspects of personal information are set out in the table of staff member data appended to this policy.

When determining the appropriate retention period for personal data, the employer will consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of personal data, the purposes for which the personal data is processed, whether the employer can achieve those purposes through other means, and the applicable legal requirements.

In some circumstances, the employer may anonymise personal information so that it can no longer be associated with individual staff members, in which case the employer may use such information without further notice to staff members. After the data retention period has expired, the employer will securely destroy staff members’ personal information.

**Data Security and Sharing**

**Data security**

The employer has put in place appropriate security measures to prevent personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. Access to personal information is limited to those staff members, agents, contractors and other third parties who have a business need to know. They will only process personal information on the employer’s instructions and are subject to a duty of confidentiality. The employee expects staff members handling personal data to take steps to safeguard personal data of staff members (or any other individual) in line with this policy.

**Data sharing**

The employer requires third parties to respect the security of staff member data and to treat it in accordance with the law. The employer may share personal information with third parties, for example in the context of restructuring of the organization. The employer may also need to share personal information with a regulator or to otherwise comply with the law.

The employer may also share staff member data with third-party service providers where it is necessary to administer the working relationship with staff members or where the employer has a legitimate interest in doing so.

**Staff Member Rights and Obligations**

**Accuracy of data**

The employer will conduct regular reviews of the information held by it to ensure the relevancy of the information it holds. Staff members are under a duty to inform the employer of any changes to their current circumstances. Where a staff member has concerns regarding the accuracy of personal data held by the employer, the staff member should contact the employer to request an amendment to the data.

**Staff member rights**

 Under certain circumstances, staff members have the right to:

1. **Request access** to personal information (commonly known as a “data subject access request”).
2. **Request erasure** of personal information.
3. **Object to processing** of personal information where the employer is relying on a legitimate interest (or those of a third party) to lawfully process it.
4. **Request the restriction of processing** of personal information.
5. **Request the transfer** of personal information to another party.

If a staff member wishes to make a request on any of the above grounds, they should contact the employer in writing. Please note that, depending on the nature of the request, the employer may have good grounds for refusing to comply. If that is the case, the staff member will be given an explanation by the employer.

**Data subject access requests**

The employer may need to request specific information from the staff member to help confirm their identity and ensure the right to access the information (or to exercise any of the other rights). This is another appropriate security measure to ensure that personal information is not disclosed to any person who has no right to receive it.

**Compliance with this Policy**

**The Employer responsibility for compliance**

The employer is tasked with overseeing compliance with this policy. If staff members have any questions about this policy or how the employer handles personal information, they should contact the the employer. Staff members have the right to make a complaint at any time to the Information Commissioner’s Office (ICO), the UK supervisory authority for data protection issues.

**Data security breaches**

The employer has put in place procedures to deal with any data security breach and will notify staff members and any applicable regulator of a suspected breach where legally required to do so.

In certain circumstances, the employer will be required to notify regulators of a data security breach within 72 hours of the breach. Therefore, if a staff member becomes aware of a data security breach it is imperative that they report it to the CEO immediately.

**Privacy by design**

The employer will have regard to the principles of this policy and relevant legislation when designing or implementing new systems or processes (known as “privacy by design”).

**Staff members’ responsibility for compliance**

All staff members, particularly those tasked with regularly handling personal data of colleagues or third parties, have responsibility for ensuring that processing meets the standards set out in this policy. Staff members should observe, as a minimum, the following rules:

* Staff members must observe to the letter any instruction or guidelines issued by the employer in relation to data protection.
* Staff members should not disclose personal data about the employer, colleagues or third parties unless that disclosure is fair and lawful, in line with this policy.
* Staff members must take confidentiality and security seriously, whether the staff member considers the information to be sensitive or not.
* Any personal data collected or recorded manually which is to be inputted into an electronic system should be inputted accurately and without delay.
* Staff members must not make any oral or written reference to personal data held by the employer about any individual except to staff members of the employer who need the information for their work or an authorised recipient.
* Great care should be taken to establish the identity of any person asking for personal information and­­­­ to make sure that the person is entitled to receive the information.
* If any staff member is asked by an unauthorised individual to provide details of personal information held by the employer the staff member should ask the individual to put their request in writing and send it to the employer. If the request is in writing the staff member should pass it immediately to the employer.
* Staff members must not use personal information for any purpose other than their work for the employer.
* If a staff member is in doubt about any matter to do with data protection they must refer the matter to the employer immediately.
	+ Passwords should only be disclosed to the employer.
	+ Staff member or third party personal data should not be left unsecured or unattended, e.g. on public transport.
	+ Unauthorised use of computer equipment issued by the employer is not permitted.
	+ Staff members must ensure that all confidential information, whether containing staff member or third party personal data or not, is secured when it is not in use or when the staff member is not at work.
	+ Staff members may use work or personal equipment to carry out work but must ensure that devices are password protected, locked when not in use and must not store any staff member or third party personal data locally on their personal device.
	+ Documents containing sensitive information should be password protected and, if the document requires to be transmitted, the document and password should be transmitted separately.

**Declaration**

I confirm that I have received a copy of this policy and that I have read and understood it.

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |
| --- |
| **STAFF MEMBER DATA**  |
| **Type of personal data** | **Sensitive data?** | **Purpose of processing** | **Potential transfer to third parties** | **Lawful basis for processing**  | **Grounds for processing sensitive personal data** | **Retention period** |
| Contact details | No | Administering the employment contract | HMRC /Professional advisors | Legal obligation / Performance of contract / Legitimate interests | N/A | 6 years post-employment |
| Date of birth | No  |  Equal opportunities monitoring | Professional advisors | Legal obligation / Performance of contract / Legitimate interests |  N/A |  6 years post-employment |
| Gender |  Yes | Equal opportunities monitoring  |  Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / statistics / conduct of legal claims |  6 years post-employment |
| Marital status |  Yes | Equal opportunities monitoring  | Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / statistics / conduct of legal claims |  6 years post-employment |
| Information about race |  Yes | Equal opportunities monitoring  |  Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / statistics / conduct of legal claims |  6 years post-employment |
| Information about ethnicity |  Yes |  Equal opportunities monitoring  | Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / statistics / conduct of legal claims |  6 years post-employment |
| Information about religious beliefs |  Yes |  Equal opportunities monitoring  |  Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / statistics / conduct of legal claims |  6 years post-employment |
| Information about sexual orientation |  Yes |  Equal opportunities monitoring  |  Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / statistics / conduct of legal claims |  6 years post-employment |
| Information about political affiliations |  Yes |  Equal opportunities monitoring  | Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / statistics / conduct of legal claims |  6 years post-employment |
| Next of kin / emergency contact |  No | Safety and security  |  N/A | Legal obligation / Performance of contract / Legitimate interests |  N/A | During employment  |
| NI number |  No | Payroll  | HMRC / Professional advisors | Legal obligation / Performance of contract / Legitimate interests |  N/A | 6 years post-employment |
| Salary information |  No |  Payroll |  HMRC / Professional advisors |  Legal obligation / Performance of contract / Legitimate interests  |  N/A |   6 years post-employment |
| Bank details | No | Payroll | HMRC | Legal obligation / Performance of contract / Legitimate interests | N/A | 6 months post-employment |
| Tax details | No | Payroll | HMRC | Legal obligation / Performance of contract / Legitimate interests | N/A | 6 years post-employment |
| Pension details | No | Payroll / liaising with pension providers | HMRC / pension providers | Legal obligation / Performance of contract / Legitimate interests | N/A | 75 years post-employment |
| Driving license | No | Making recruitment decisions / ascertaining ability to work | N/A | Legal obligation / Performance of contract / Legitimate interests | N/A | 6 years post-employment |
| CV/Application Form | No | Making recruitment decisions / ascertaining ability to work | N/A | Legal obligation / Performance of contract / Legitimate interests | N/A | 6 years post-employment |
| Right to work documents | Yes  | Checking right to work in the UK  | Professional advisors  | Legal obligation / Performance of contract / Legitimate interests | employment purposes / conduct of legal claims | 2 years post-employment  |
| Sick leave details | No | Managing absence | Professional advisors | Legal obligation / Performance of contract / Legitimate interests |  N/A | 6 years post-employment |
| Performance details | No | Managing performance | Professional advisors | Legal obligation / Performance of contract / Legitimate interests | N/A | 6 years post-employment |
| Qualifications | No | Making recruitment decisions / ascertaining ability to work | Professional advisors | Legal obligation / Performance of contract / Legitimate interests | N/A | 6 years post-employment |
| Employment history | No | Making recruitment decisions / ascertaining ability to work | N/A | Legal obligation / Performance of contract / Legitimate interests | N/A | 6 years post-employment |
| Information about Impairments/Conditions | Yes | Managing staff / health and safety requirements / ascertaining fitness to work | Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / statistics / conduct of legal claims | 6 years post-employment |
| Training records | No | Education, training and development requirements  |  Professional advisors | Legal obligation / Performance of contract / Legitimate interests |  N/A |  6 years post-employment |
| Professional memberships | No |  Education, training and development requirements | N/A  | Legal obligation / Performance of contract / Legitimate interests |  N/A | 6 years post-employment  |
| Disciplinary and grievance information | No | Staff management |  Professional advisors | Legal obligation / Performance of contract / Legitimate interests |  N/A | 6 years post-employment  |
| Trade union membership | Yes | Deducting trade union fees |  Professional advisors |  Legal obligation / Performance of contract / Legitimate interests | employment purposes / conduct of legal claims | 6 years post-employment  |
| Health records | Yes | Managing absence / ascertaining fitness to work  |  Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / conduct of legal claims | 6 years post-employment  |
| Genetic information and biometric data | Yes |  Managing absence / ascertaining fitness to work | Professional advisors  | Legal obligation / Performance of contract / Legitimate interests |  employment purposes / conduct of legal claims | 6 years post-employment  |
| Criminal convictions and offences | Yes | Making decisions about recruitment / continued employment  |  Professional advisors | Legal obligation / Performance of contract / Legitimate interests | employment purposes / conduct of legal claims  | 6 years post-employment  |