

## PRIVACY NOTICE AND POLICY FOR APPLICANTS

### Overview

- A. The Company takes the security and privacy of your data seriously. We need to gather and use information or 'data' about you as part of our business and to manage our relationship with you whilst you are applying for a position working for us. We intend to comply with our legal obligations under the **Data Protection Act 2018** (the '2018 Act') and the **EU General Data Protection Regulation** ('GDPR') in respect of data privacy and security. We have a duty to notify you of the information contained in this policy.
- B. This policy applies to all prospective employees or casual workers. If you fall into one of these categories then you are a 'data subject' for the purposes of this policy. You should read this notice.
- C. The Company has measures in place to protect the security of your data in accordance with our Data Security Policy, which is also contained within this policy.
- D. The company will hold data in accordance with our Data Retention Policy. Found later in this part of the handbook. We will only hold data for as long as necessary for the purposes for which we collected it.
- E. The Company is a 'data controller' for the purposes of your personal data. This means that we determine the purpose and means of the processing of your personal data.
- F. This policy explains how the Company will hold and process your information. It explains your rights as a data subject. It also explains your obligations when obtaining, handling, processing or storing personal data in the course of working for, or on behalf of, the Company.
- G. This policy applies to all personal data whether it is stored electronically, on paper or on other materials.

In this policy the following terms have the below meanings:

- **'PERSONAL DATA'** means:
  - information which relates to a living person who can be identified from that data (a 'data subject') on its own, or when taken together with other information which is likely to come into our possession. It includes any expression of opinion about the person and an indication of the intentions of us or others, in respect of that person. It does not include anonymised data.
  - This personal data might be provided to us by you, or someone else (such as a former employer, your doctor, or a credit reference agency), or it could be created by us. It could be provided or created during the recruitment process.

- **‘SPECIAL CATEGORIES OF PERSONAL DATA’** are types of personal data consisting of information about:
  - your racial or ethnic origin;
  - your political opinions;
  - your religious or philosophical beliefs;
  - your trade union membership;
  - your genetic or biometric data;
  - your health;
  - your sex life and sexual orientation; and
  - any criminal convictions and offences.
- We may hold and use any of these special categories of your personal data in accordance with the law.

## **1 Data Protection Principles**

**1.1** Personal data must be processed in accordance with six ‘Data Protection Principles. It must:

- 1.1.1 be processed fairly, lawfully and transparently;
- 1.1.2 be collected and processed only for specified, explicit and legitimate purposes;
- 1.1.3 be adequate, relevant and limited to what is necessary for the purposes for which it is processed;
- 1.1.4 be accurate and kept up to date. Any inaccurate data must be deleted or rectified without delay;
- 1.1.5 not be kept for longer than is necessary for the purposes for which it is processed; and
- 1.1.6 be processed securely.

**1.2** We are accountable for these principles and must be able to show that we are compliant.

## **2 The data we hold about you**

**2.1** We will collect and use the following types of personal data about you:

- 2.1.1 recruitment information such as your application form and CV, references, qualifications and membership of any professional bodies and details of any pre-employment assessments as well as the answers to your interview questions and results of any application process, test or assessment. We may also store or process your previous employment history;
- 2.1.2 your contact details, name, address, telephone number, email and date of birth;
- 2.1.3 your gender or details of any gender reassignment;
- 2.1.4 your marital status and family details;
- 2.1.5 your identification documents including passport, photographic identification, driving licence, proof of address both past and present, your National Insurance Number and information about your immigration status and right to work for us;

- 2.1.6 your images and/or voice (whether captured on CCTV, by photograph, recording or video);
- 2.1.7 any other category of personal data which we may notify you of from time to time.

### **3 What is processing?**

**3.1 “Processing”** means any operation which is performed on personal data such as:

- 3.1.1 collection, recording, organisation, structuring or storage;
- 3.1.2 adaption or alteration;
- 3.1.3 retrieval, consultation or use;
- 3.1.4 disclosure by transmission, dissemination or otherwise making available;
- 3.1.5 alignment or combination; and
- 3.1.6 restriction, destruction or erasure.

**3.2** This includes processing personal data which forms part of a filing system and any automated processing.

### **4 How will we process your personal data?**

**4.1** The Company will process your personal data (including special categories of personal data) in accordance with our obligations under the 2018 Act.

**4.2** We will use your personal data for:

- 4.2.1 Deciding whether to employ or engage you;
- 4.2.2 Deciding whether you have the right to work in the UK;
- 4.2.3 Deciding whether you are safe and/or appropriate to work with vulnerable adults;
- 4.2.4 complying with any legal obligation; or
- 4.2.5 if it is necessary for our legitimate interests (or for the legitimate interests of someone else). However, we can only do this if your interests and rights do not override ours (or theirs). You have the right to challenge our legitimate interests and request that we stop this processing. See details of your rights below.

**4.3** We need your consent to process certain pieces of personal data. You do not have to consent to providing us with the information requested. However, if you withhold your consent, we may not be able to take your application further.

**4.4** Once data is received we can process your personal data for these purposes without your knowledge. We will not use your personal data for an unrelated purpose without telling you about it and the legal basis that we intend to rely on for processing it.

**4.5** You can withdraw your consent to us using your personal information at any time simply by emailing us or telling us by phone. We will then cease processing it other than keeping it on file for the legal period of time necessary to maintain data protection records.

## **5 Examples of when we might process your personal data**

**5.1** We have to process your personal data in various situations during your recruitment.

**5.2** For example (and see section 5.5 below for the meaning of the asterisks):

- 5.2.1 to decide whether to employ (or engage) you;
- 5.2.2 to decide how much to pay you, and the other terms of your contract with us;
- 5.2.3 to check you have the legal right to work for us;
- 5.2.4 to determine whether we need to make reasonable adjustments to your workplace or role because of your disability\*;
- 5.2.5 to monitor diversity and equal opportunities\*;
- 5.2.6 to monitor and protect the security (including network security) of the Company, of you, our other staff, customers and others;
- 5.2.7 to monitor and protect the health and safety of you, our other staff, customers and third parties\*;
- 5.2.8 monitoring compliance by you, us and others with our policies and our contractual obligations\*;
- 5.2.9 to comply with employment law, immigration law, health and safety law, tax law and any other laws which affect us\*;
- 5.2.10 to answer questions from insurers in respect of any insurance policies which relate to you or others\*;
- 5.2.11 running our business and planning for the future;
- 5.2.12 the prevention and detection of fraud or other criminal offences;
- 5.2.13 to defend the Company in respect of any investigation or litigation and to comply with any court or tribunal orders for disclosure\*;
- 5.2.14 to comply with obligations to our local authority partners and any Regulators and
- 5.2.15 for any other reason which we may notify you of from time to time.

**5.3** We will only process special categories of your personal data (see above) in certain situations in accordance with the law. For example, we can do so if we have your explicit consent. If we asked for your consent to process a special category of personal data then we would explain the reasons for our request. You do not need to consent and can withdraw consent later if you choose by contacting us by phone or in writing.

**5.4** We do not need your consent to process special categories of your personal data when we are processing it for the following purposes, which we may do:

- 5.4.1 where it is necessary for carrying out rights and obligations under employment law;
- 5.4.2 where it is necessary to protect your vital interests or those of another person where you/they are physically or legally incapable of giving consent;

- 5.4.3 where you have made the data public;
  - 5.4.4 where processing is necessary for the establishment, exercise or defence of legal claims;
  - 5.4.5 where processing is necessary for the purposes of occupational medicine or for the assessment of your working capacity; and
  - 5.4.6 Where processing of your criminal convictions, cautions or other relevant information held by the DBS is necessary to comply with obligations under the Care Act or any other obligations imposed because we care for vulnerable adults.
- 5.5** We might process special categories of your personal data for the purposes in paragraph 5.2 above which have an asterisk beside them. In particular, we will use information in relation to:
- 5.5.1 your race, ethnic origin, religion or beliefs, age, sexual orientation or gender to monitor equal opportunities; and
  - 5.5.2 your sickness absence, health and medical conditions to assess your fitness for work, to comply with our legal obligations under employment law including to make reasonable adjustments and to look after your health and safety.
- 5.6** We do not take automated decisions about you using your personal data or use profiling in relation to you.

## **6 Sharing your personal data**

- 6.1** Sometimes we might share your personal data with group companies or our contractors and agents to carry out our obligations under our contract with you or for our legitimate interests.
- 6.2** We require those companies or organisations to keep your personal data confidential and secure and to protect it in accordance with the law and our policies. They are only permitted to process your data for the lawful purpose for which it has been shared and in accordance with our instructions.
- 6.3** We may also need to share your personal data with local authorities including safeguarding, the DBS and regulators such as the Equalities Commission, CQC and the ICO.
- 6.4** The legitimate activities that third parties may do for us are:
- 6.4.1 Providing advice to us about any legal issues;
  - 6.4.2 Providing health and safety advice and guidance; and
  - 6.4.3 Providing medical opinions about you and your ability to work.
- 6.5** We do not send your personal data outside the European Economic Area. If this changes you will be notified of this and the protections which are in place to protect the security of your data will be explained.

## **7 How we deal with data breaches**

- 7.1** We have robust measures in place to minimise and prevent data breaches from taking place. Should a breach of personal data occur (whether in respect of you or someone else) then we must take notes and keep evidence of that breach.

**7.2** If the breach is likely to result in a risk to the rights and freedoms of individuals then we must also notify the Information Commissioner's Office within 72 hours.

### **7.3 Disclosure**

**7.3.1** Information that can identify a client must not be used or disclosed for purposes other than their care and support without the clients' explicit consent.

**7.3.2** However such information can be released if the law requires it or where there is a wider public interest.

**7.3.3** Under common law, information can be disclosed if it will help to prevent, detect, investigate or punish serious crime or if it will prevent, abuse or serious harm to others.

## **8 Subject access requests**

**8.1** Data subjects can make a 'subject access request' ('SAR') to find out the information we hold about them. This request must be made in writing. If you receive such a request you should forward it immediately to your unit manager who will coordinate a response.

**8.2** If you would like to make a SAR in relation to your own personal data you should make this in writing to Krishana Devi. We must respond within one month unless the request is complex or numerous in which case the period in which we must respond can be extended by a further two months.

**8.3** There is no fee for making a SAR. However, if your request is manifestly unfounded or excessive we may charge a reasonable administrative fee or refuse to respond to your request.

## **9 Your data subject rights**

**9.1** You have the right to information about what personal data we process, how and on what basis as set out in this policy.

**9.2** You have the right to access your own personal data by way of a subject access request (see above).

**9.3** You can correct any inaccuracies in your personal data. To do so you should contact Krishana Devi.

**9.4** You have the right to request that we erase your personal data where we were not entitled under the law to process it or it is no longer necessary to process it for the purpose it was collected. To do so you should contact Krishana Devi.

**9.5** While you are requesting that your personal data is corrected or erased or are contesting the lawfulness of our processing, you can apply for its use to be restricted while the application is made. To do so you should contact Krishana Devi.

**9.6** You have the right to object to data processing where we are relying on a legitimate interest to do so and you think that your rights and interests outweigh our own and you wish us to stop.

**9.7** You have the right to object if we process your personal data for the purposes of direct marketing.

- 9.8** You have the right to receive a copy of your personal data and to transfer your personal data to another data controller. We will not charge for this and will in most cases aim to do this within one month.
- 9.9** With some exceptions, you have the right not to be subjected to automated decision-making.
- 9.10** You have the right to be notified of a data security breach concerning your personal data.
- 9.11** If we do however request your consent to the processing of your personal data for a specific purpose, you have the right not to consent or to withdraw your consent later. To withdraw your consent, you should contact Krishana Devi.
- 9.12** You have the right to complain to the Information Commissioner. You can do this by contacting the Information Commissioner's Office directly. Full contact details including a helpline number can be found on the Information Commissioner's Office website ([www.ico.org.uk](http://www.ico.org.uk)). This website has further information on your rights and our obligations.

## **10 Fraud Prevention and Detection**

- 10.1** Payroll information and other information may be used by the Home in order to prevent or detect fraud.
- 10.2** Such information will not be disclosed to other organisations, for example the Department of Society Security, for the prevention or detection of fraud unless:
  - 10.2.1** The employee has given their consent; or
  - 10.2.2** The Home is required by law to make the disclosure; or
  - 10.2.3** In the circumstances of a particular request from an organisation the Home is satisfied that if it failed to disclose the data, the prevention or detection of crime is likely to be prejudiced.

## **11 References**

- 11.1** There is no obligation under the Data Protection laws for the Home to provide employees or former employees access to a confidential reference provided by the Company.
- 11.2** If the Home is the recipient of a reference the potential employee concerned is entitled to request access to the reference, however, the Company is entitled to take steps to protect the identity of third parties such as the author of the reference.

## **12 Retention of Records**

- 12.1** The Company will retain certain categories of information in accordance with set retention periods.
- 12.2** The records will be assessed on a yearly basis to ensure records are not kept beyond the set periods. Records may be kept beyond the set periods where this is justified for legitimate business reasons.

**12.3** Records will be retained as follows in line with our legal and insurance obligations. Applicable retention periods for applicants are below:

Application Forms & Interview Notes for Unsuccessful Candidates	1 year from date of application
Risk Assessments	Retain the last until a new one replaces it.
Records/documents related to any form of litigation (complaints including accident/incident reporting)	10 years
Government Departments & Agencies -Contracts	6 years after the end of the contract
General operating policies and procedures	Retain the current version and previous version for 3 years