

# **DATA PROTECTION POLICY**

## **DATA PROTECTION & DATA CONSENT**

### **1. Application**

This Data Protection Policy (GDPR 2018) is intended for use by all Derbyshire Carers Association employees and volunteers. Each individual employed by/or volunteering with Derbyshire Carers Association is required to adhere to and comply with the terms of this Policy. Any breach of this Policy will be deemed to be a breach of the Derbyshire Carers Association's Dismissal and Disciplinary Policy and Procedure. In addition, Derbyshire Carers Association may, if it considers it appropriate, report a breach of this Policy to the appropriate authorities.

This policy is non-contractual in nature and Derbyshire Carers Association may alter or withdraw it at any time.

Data Protection is an important consideration in the workplace. Legislation has placed obligations on employers that process personal data and created rights for people whose personal data is processed. The legislation applies to personal information that is processed by computer and also to personal information held in paper files. A limited number of individuals in the organisation may have access to personal data relating to employees and/or workers and/or volunteers and/or other individuals during the course of their work with Derbyshire Carers Association.

This Policy aims to:

- set out practical guidelines on the Data Protection Act ("the Act") GDPR 2018;
- indicate responsibilities that individuals have in relation to the processing of personal data; and
- prevent unfair or unlawful processing of personal data by, e.g. unauthorised retention, disclosure, modification or destruction.

### **Policy Statement**

*Derbyshire Carers Association is committed to:*

- protecting the personal data of individuals from unintended loss, destruction, damage, modification, disclosure or other security risk; and
- to processing the personal data of individuals fairly and lawfully in accordance with current data protection legislation.

### **2. Definitions**

Data Protection legislation has a language of its own. Some helpful definitions are set out below to assist in understanding this Policy.

- Data Controller** – means a person or company who decides the purposes for which and the way in which personal data is processed. Derbyshire Carers Association is the Data Controller in respect of personal data of Derbyshire Carers Association's

workers, volunteers and the Carers on our database.

- Personal Data** – means information that relates to a living person who can be identified by that information or by that information together with other information that the Data Controller has or is likely to obtain which:
  - affects that person’s privacy;
  - is biographical of that person to a significant degree;
  - which has that person as its focus (as opposed to something else like a business transaction where the employee’s or volunteer’s involvement is incidental); and which, in addition
  - is either stored (or to be stored) on a computer or in a Relevant Filing System (see below at section 4 for what we mean by a 'Relevant Filing System').

There may also be a requirement that the information be capable of affecting that person’s privacy in an adverse fashion.

- Data Subject** – business contacts and every one of Derbyshire Carers Association’s workers and volunteers are all data subjects under the Act.

Other definitions are set out in the body of the text where appropriate.

### **3. Personal Information held in Paper form**

As previously indicated, the Act applies to personal information held on both computers and in paper filing systems. The Act only applies to personal information held on paper records where the paper record is, or forms part of, a Relevant Filing System. To constitute a Relevant Filing System, the system must be of sufficient sophistication to provide the same or similar level of accessibility as a computerised filing system. It must be referenced or indexed in such a way as to enable the identification, at the outset and with reasonable certainty and speed, of the file(s) in which the requested data is located and to locate the relevant information within the file(s) without having to make a manual search of them.

It should be assumed, as a general rule, that personnel files and separate files relating to such criteria as disciplinary warnings or appraisals are covered by the Act. Derbyshire Carers Association will, upon receipt of a properly made subject access request, assess whether or not the information in a particular file is information to which the Act applies prior to making any such disclosure.

### **5. Data Protection Principles**

All personal data must be processed in accordance with the eight Data Protection Principles. The essence of these principles is set out below together with brief, non-exhaustive practical examples of when these principles might impact on employment. Personal data must:

- be processed fairly and lawfully;
- be obtained only for one or more specified or lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes;

- be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed;
- be accurate and, where necessary, kept up-to-date;
  - Workers, volunteers and Carers on our Database must notify changes of name, address, telephone number, bank (if applicable) and marital status to the Administration Manager or in the case of the Carers to any administration worker as soon as possible after any such change. Derbyshire Carers Association endeavours, periodically, to ask workers, volunteers and Carers on our Database to confirm that such personal data held by it is accurate;
- not be kept for longer than is necessary;
  - Some parts of workers' pay and personal records (excluding pension documentation) will be deleted from computer or destroyed (if manually recorded) at the end of the seventh year following the year in which the worker leaves Derbyshire Carers Association's employment. The reason that Derbyshire Carers Association retains this information for so long is because it may be competent for either a worker or Derbyshire Carers Association to raise a legal issue arising out of the worker's employment up to six years after employment with Derbyshire Carers Association has come to an end.
- be processed in accordance with the rights of data subjects;
  - For example, individuals have a right of access to certain information that Derbyshire Carers Association holds about them. Such requests should be addressed to the Administration Manager.
- be protected by appropriate technical and organisational measures against unauthorised or unlawful processing, against accidental loss or damage;
  - Derbyshire Carers Association may take steps to put in place technical methods (i.e. firewalls, encryption, password protection, etc.) or organisational methods (hierarchy of access to personnel file, locking cabinets etc.) of protecting personal data where the importance of the personal data makes this appropriate.

All workers and volunteers who have access to personal data whether or not on computer, and whether in the office or at home or elsewhere, must take adequate precautions to ensure confidentiality so that neither Derbyshire Carers Association nor any individual who works for it becomes exposed to criminal or civil liability as a result of the loss, destruction or disclosure of personal data. Each individual worker and volunteer must fully comply with all Derbyshire Carers Association's procedures and requirements in this regard, this includes paper files being locked away whilst working from home and laptops being locked in the boot of your car whilst being transported.

- not be transferred to a country or territory outside the European Economic Area unless there is a clear legal basis for making the transfer;
  - Any individual who receives any request to make or facilitate such a transfer of information should contact the Data Control Officer straight away and before any transfer of information takes place.

#### **4. Statement detailing the meaning of processing and the purposes of processing.**

Personal data provided by or about an individual to Derbyshire Carers Association will be processed in accordance with the Act. Derbyshire Carers Association will have regard to the Employment Practices Data Protection Code issued by the Information Commissioner in drafting and applying procedures and policies in this area. Generally “processing” means using information in any way.

Data about an individual will only be processed for lawful and fair purposes. Derbyshire Carers Association is the legal person who determines the manner in which and the purposes for which personal data may be used. The Data Protection Officer who has the main responsibility internally for managing data protection issues and compliance is currently the Business Development Manager.

Derbyshire Carers Association in carrying out its administration of the employment relationship may process data. Such data may include Personal Data and Sensitive Personal Data about individuals including but not limited to:

- Identification data (such as name, address, date of birth, age);
- Family and emergency contact details (such as next of kin details);
- Educational and Training data (such as educational awards, vocational records and in-house training attendance);
- Employment related data (such as pensionable pay or contributions, years of service, matters relating to pregnancy and maternity leave, gender, matters of discipline, criminal convictions);
- Payroll related data (such as salary payments, employment related benefits, trade union dues);
- Equal Opportunities data (such as race or ethnic origin);
- Health data (such as disability, matters relating to mental or physical health (including dates of absence due to illness and the reason for the absence));
- Trade Union data (such as membership details).

Derbyshire Carers Association may process Personal Data for the purposes of the employment contract, including:

- for staff administration including appointment or removal, discipline, monitoring absence or sickness, dealing with emergency contacts;
- for administering (or assisting in the administration of) pay, pension and/or any other employee benefit, the operation of any statutory or contractual sickness benefits or other payments due under each contract of employment;
- for administering the statutory and contractual sick pay system;
- for administering staff travel;
- to facilitate management decisions between associated companies;
- for monitoring and assessing performance and or compliance with **any** of Derbyshire Carers Association's policies;
- for training and development including administration of staff appraisals, any bonus Schemes;
- for crime prevention;
- negotiations with trade union or staff representatives, redundancy;

Or to provide a service to Carers and to comply with any statutory or other legal obligation on Derbyshire Carers Association.

There may be other purposes for which an employee's, volunteer's or Carer's information is used and, where these are not obvious, Derbyshire Carers Association will make a note of those purposes available to the employee or volunteer or Carer at the point it obtains this information.

## **5. Sensitive Personal Data**

Certain personal data is given special status in data protection legislation. This personal data is called sensitive personal data. Examples of sensitive personal data include racial or ethnic origin, health data and so on. Subject to the exceptions set out below and elsewhere in this Policy, sensitive personal data shall generally only be processed after the worker or volunteer has given express consent. Derbyshire Carers Association may, in certain situations, process the data without the worker's or volunteer's consent if it is necessary for processing taking place for one of the following purposes:

- carrying out certain obligations or enforcing certain rights under employment law;
- participating in legal proceedings or obtaining legal advice;
- for the administration of justice;
- for medical purposes by a health professional; and
- to monitor the effectiveness of Derbyshire Carers Association's Equal Opportunities Policy and Procedure.

**Or** to provide a Carers Service.

Derbyshire Carers Association also has the right to request and/or process data about a worker's or volunteer's criminal record in accordance with the Police Act 1997, providing that it does not involve the infringement of an individual's right under the Rehabilitation of Offenders Act 1974.

## **6. Requests for information**

Individuals have a right of access to certain information that Derbyshire Carers Association holds about them. Requests can be made in writing to the Administration Manager or the Data Protection Officer.

## **7. Management of Personal Data**

No decision about a worker's work performance, remuneration, grading, job evaluation, career potential, liability, conduct, suitability for promotion, transfer or redeployment or other decision significantly affecting any worker will be based exclusively upon the results of analysis carried out by automated means unless the decision relates to the worker's employment with Derbyshire Carers Association and either the effect is to grant the relevant worker's request or the relevant worker has been able to make representations on the outcome of that decision (perhaps as part of a formal grievance procedure).

In the event of a potential intended or actual transfer of the business of Derbyshire Carers Association, it will be required to disclose personal data about its employees and volunteers to the prospective purchaser(s) of the business. This information will include:

- The identity and age of the employee and volunteer;

- Those particulars of employment which an employer is obliged to provide to their employees pursuant to s1 Employment Rights Act 1996 (written statement of employment particulars);
- Information regarding any:
  - o disciplinary procedure taken against an employee; and/or
  - o grievance procedure taken by an employee under the Employment Act 2002 (Dispute Resolution) Regulations 2004 within the previous two years.
- Information regarding any Court or Tribunal case, claim or action brought against Derbyshire Carers Association in the previous two years by an employee;
- Information regarding any potential Court or Tribunal case, claim or action arising out of an employee's employment which Derbyshire Carers Association has reasonable grounds to believe might be brought an employee.
- Information of any collective agreements affecting the employees which will still have effect after the transfer of the business.

Derbyshire Carers Association will take all reasonable steps to limit disclosure of personal data regarding its employees and volunteers to that which is required by law. Derbyshire Carers Association will take all reasonable steps to place contractual obligations on the prospective purchaser(s) to keep the information which is disclosed safe and confidential.

## **8. Responsibilities**

Derbyshire Carers Association expects all workers and volunteers to use its electronic media and services, including its computers, e-mail facilities and the Internet/Web responsibly and be aware of the data protection principles. Each worker/volunteer should make himself / herself aware of the provisions contained in Derbyshire Carers Association's Internet and Email Policy and Procedure.

Derbyshire Carers Association's workers who manage others are expected to adhere to this Policy and to ensure that those for whom they are responsible both adhere to this Policy and protect computer systems and personal data from security risks. Where necessary, managers should seek advice from the Data Protection Officer to assist in these goals.

Workers and volunteers must become familiar with the aims of this policy and follow the guidelines set out. In particular workers and volunteers should:

- seek advice from the Data Protection Officer where they have any doubts as to whether or not the processing of personal data that they require to carry out in the course of their employment complies with the Act;
- not use personal information that they hold in the course of their employment for any reason other than the performance of their employment duties;
- provide all assistance to the Data Protection Officer in the conduct of any audit or preparing a response to a subject access request;
- keep information that they process in the course of their employment safe and secure in accordance with any procedures issued by Derbyshire Carers Association. Where no procedures are set out explicitly, they should exercise a degree of care over the

personal data that they process by considering the harm that may result were the information to be disclosed unintentionally. Guidance on appropriate levels of security can be obtained from the Data Protection Officer;

- not keep duplicate records relating to workers and volunteers for the purposes of Derbyshire Carers Association's employment where a centralised filing option is available. By keeping records unnecessarily, this can complicate the process of responding to subject access requests;
- notify the Data Protection Officer immediately should any potential or actual breach of the Act be detected. Workers and volunteers should be aware that failure to do so can be the grounds for beginning disciplinary proceedings.

## **9. Security**

Any breaches of this Policy in relation to personal data security will result in disciplinary action and, in serious cases, may result in dismissal. Workers and volunteers will be authorised to gain access to certain computer systems, programs and data. No worker or volunteer must attempt, alone or with others, to gain access to data or programs to which they have not been authorised to gain access to.

Workers and volunteers must not disclose personal details of other workers, volunteers or that of Carers on our Database to unauthorised third parties.

## **10. Monitoring at work**

Derbyshire Carers Association has a legitimate interest in monitoring the behaviour of its workers and volunteers. For instance, it may wish to carry out monitoring in order:

- to assess compliance with this and other Policies;
- to assess and monitor performance;
- to maintain security of persons and property;
- to detect crime;
- to protect workers and volunteers from harassment;
- to protect it from liability arising from the action of others;
- to ensure the proper use of its resources.

Monitoring can take several forms and can include monitoring by way of closed circuit television (CCTV), e-mail and Internet monitoring or telephone monitoring.

## **11. CCTV Cameras**

In carrying out such monitoring as is set out in 12 above Derbyshire Carers Association may use CCTV cameras in what it considers to be "public" area of its premises. The use of such CCTV cameras shall generally be notified by using suitable signage at obvious places at the entrance to the monitored areas. However, even in the absence of such signage, workers and volunteers should be aware that public space within Derbyshire Carers Association's premises may be monitored in this way. Derbyshire Carers Association has notified such monitoring to the Information Commissioner and will use the footage in disciplinary or other proceedings where appropriate.

Derbyshire Carers Association may also monitor through the use of covert CCTV but shall only do so where specific criminal activity has been identified. Before beginning any use of covert CCTV Derbyshire Carers Association will have made an impact assessment concluding that notifying workers and volunteers of the use of such covert monitoring would prejudice the investigation and that the use of covert monitoring techniques is a proportionate response to the behaviour in question. Where appropriate, but at its absolute discretion) Derbyshire Carers Association will involve the police in such monitoring.

## **12. Confidentiality**

Employees and volunteers must not transmit confidential, personal or other sensitive information by e-mail, unless appropriate encryption is applied to protect it.

## **13. Telephone, E-Mail and Internet Monitoring**

Derbyshire Carers Association carries out certain monitoring of its electronic media and services. Employees and volunteers should be aware that they have no expectation of privacy in relation to their usage of such facilities and that restrictions apply to their usage of such facilities. Employees and volunteers should refer to Derbyshire Carers Association's Information, Technology and Communications and Acceptable Usage Policy for further information.

## **14. Training**

Derbyshire Carers Association will provide training for all staff and volunteers as required to enable them to effectively and efficiently use any of the electronic or other data storage systems in use and also understanding in more detail the General Data Protection Regulations from 2018 and the handling of personal data.