
Data Protection Policy

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1 Introduction

- 1.1 In order to perform our statutory function, and carry out associated corporate functions, the Public Services Ombudsman for Wales (PSOW) will need to process special category data and criminal conviction data. In doing so, the PSOW must identify an appropriate condition for processing from either the UK General Data Protection Regulation (GDPR) or the Data Protection Act 2018 (DPA 2018).
- 1.2 As set out in Schedule 1, Part 4 of the DPA 2018, a number of conditions require that the PSOW has an 'appropriate policy document' in place. This policy constitutes the 'appropriate policy document', although details of processing may also be contained within other PSOW policies.
- 1.3 This policy applies to all personal data (as defined by Data Protection laws), whether in paper, electronic or any other format. References to PSOW will include individuals performing a function set out in their job description or delegated authority – for example, HR officers accessing and processing special category data obtained from staff in the employment context; casework officers accessing and processing special category data obtained in the performance of our statutory function.

2 Purpose of Policy

- 2.1 Schedule 1, Part 4 of the DPA 2018 requires that an 'appropriate policy document' must be in place for reliance upon conditions under Schedule 1, Parts' 1-3 of that Act. The appropriate policy document must include the following:
 - Explain the controller's procedures for securing compliance with the principles in Article 5 of the GDPR (principles relating to processing of personal data) in connection with the processing of personal data in reliance on the condition in question, and;

- Explain the controller's policies as regards the retention and erasure of personal data processed in reliance on the condition, giving an indication of how long such personal data is likely to be retained.

2.2 Additionally, PSOW must retain, review and update the policy document, and make it available to the ICO, on request, without charge. PSOW must take these steps for the duration of time between the commencement of processing in reliance on the specified condition and six months following end of the processing.

3 Special category data

3.1 In performing our statutory function, and carrying out associated corporate functions, PSOW may process the following special categories of data:

- Racial or ethnic origin;
- Political opinions;
- Religious or philosophical beliefs;
- Trade union membership;
- Genetic data;
- Biometric data for the purposes of uniquely identifying a natural person;
- Data concerning health;
- Data concerning a natural person's sex life or sexual orientation.

3.2 This data may relate to a variety of individuals, including, but not limited to, service users; representatives; third parties associated with matters under consideration; and, staff.

4 Criminal conviction data

- 4.1 PSOW may process data relating to criminal convictions or offences. This data may relate to variety of individuals, including, but not limited to, service users; representatives; third parties associated with matters under consideration; and, staff.

5 Conditions for processing data

- 5.1 PSOW may process personal data, including special category data and/or criminal conviction data, for one or more of the following purposes set out in the DPA 2018¹:

Conditions relating to Employment, social care and social protection

Paragraph 1 – Employment, Social Security and Social Protection;

Conditions relating to Substantial Public Interest

Paragraph 6 – Statutory and government purposes;

Paragraph 7 – Administration of justice;

Paragraph 8 – Equality of opportunity or treatment;

Paragraph 9 – Racial and ethnic diversity at senior levels of organisations

Paragraph 10 – Preventing or detecting unlawful acts;

Paragraph 11 – Protecting the public against dishonesty;

Paragraph 12 – Regulatory requirements relating to unlawful acts and dishonesty;

Paragraph 17 - Counselling

Paragraph 18 – Safeguarding of children and of individuals at risk;

Paragraph 21 – Occupational pensions;

Paragraph 24 - Disclosure to elected representatives;

Conditions relating to Criminal Convictions

Paragraph 30 – Protecting individual's vital interests;

Paragraph 32 – Personal data in the public domain;

Paragraph 33 – Legal claims

Paragraph 36 – Extension of Public Interest Conditions in Part 2

¹ PSOW may also process special category data for one or more of the purposes set out in Article 9 of the GDPR for which an appropriate policy document is not required.

6 Procedures for securing compliance with Principles

- 6.1 The Data Protection principles are set out at Article 5 of the GDPR. In summary, these principles require that personal information must be:
- a) processed fairly, lawfully and in a transparent manner;
 - b) collected for specified, explicit and legitimate purposes
 - c) adequate, relevant and limited to what is necessary for the purposes for which it is processed;
 - d) accurate and where necessary kept up to date
 - e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which those data are processed;
 - f) processed in manner that ensures appropriate security of the personal data, protecting against unlawful or unauthorised processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.
- 6.2 The general procedures for securing compliance with the principles are set out below. The information is not definitive and is intended to provide examples of procedures implemented by PSOW.
- 6.3 PSOW provides provide clear and concise information setting out the general way in which personal data is processed. This information is provided at the point of collection, or as close to it as reasonably possible.
- 6.4 PSOW will process special category and criminal conviction data for the purposes of performing our statutory function is set out in the Public Services Ombudsman (Wales) Act 2019 and the Local Government Act 2000; in connection with employment functions; or, in order to meet legislative requirements.
- 6.5 PSOW may share special category or criminal conviction data obtained in the performance of our statutory function, for any of the purposes set out under the governing legislation.

- 6.6 PSOW will generally seek access to any relevant data required for the purposes of performing our statutory function. The extent of data required will not always be apparent at the outset of an investigation and bodies in jurisdiction may over-disclose to PSOW, to ensure that all relevant information is provided. PSOW does not consider that such processing is incompatible with the principles and, in particular, the third principle requiring that data is adequate, relevant and not excessive. PSOW will take steps to delete any data that is not related to the matter under investigation.
- 6.7 PSOW will take reasonable steps to correct an inaccurate data, having regard for the purposes for which it is processed. Whereas PSOW will normally take steps to amend or append inaccurate staff data, it may not be possible to amend inaccurate records obtained for the purposes of an investigation. Any decision not to correct inaccurate data will be recorded.
- 6.8 All retention periods are set out in PSOW's retention schedule.
- 6.9 PSOW has applied appropriate physical, technical and procedural controls to physical and electronic material.

7 Other relevant documentation

- 7.1 PSOW maintains other documentation relating to compliance with Data Protection legislation, including other organisational policies, a Record of Processing Activities contained within an Information Asset Register, Record Retention Schedule and Privacy Notices. This policy document should be read in conjunction with other relevant documentation.