



**Ombwdsmon
Ombudsman**
Cymru • Wales

Data Protection Policy

Mae'r ddogfen hon hefyd ar gael yn y Gymraeg.
This document is also available in Welsh.

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1 Introduction

- 1.1 The Public Services Ombudsman for Wales (PSOW) is committed to meeting its obligations under the UK General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).
- 1.2 In order to perform our statutory and corporate functions, we collect and use personal information about staff, individuals who use our services, suppliers and others. This includes the processing of special category data and criminal conviction data.
- 1.3 The Data Protection principles set out at Article 5 of the GDPR require that personal data must be:
- Processed fairly, lawfully and in a transparent manner.
 - Used for specified, explicit and legitimate purposes.
 - Adequate, relevant and limited to what is necessary .
 - Accurate and where necessary kept up to date
 - Not kept for longer than necessary.
 - Kept safe and secure.
- 1.4 The accountability principle also requires us to demonstrate our compliance with the principles and ensure we do not put individuals at risk from the processing of their personal data. Failure to do so can result in a breach of the legislation as well as pose reputational and financial risks. To meet our obligations we have put in place appropriate measures to ensure compliance.

2 Purpose

- 2.1 This policy sets out the basis on which we will process any personal data to ensure compliance with data protection legislation.

- 2.2 The DPA requires an Appropriate Policy Document (APD) to be in place when processing special category and criminal offence data under certain specified conditions. This policy also constitutes our APD, although details of processing may also be contained within other PSOW policies.

3 Scope

- 3.1 This policy applies to all personal data (as defined by Data Protection laws), whether in paper, electronic or any other format.
- 3.2 The policy applies to all PSOW staff (including permanent staff, contract staff, temporary staff) and individuals or organisations contracted directly by PSOW).

4 Special category data

- 4.1 Some personal data is more sensitive and requires greater levels of protection. This is referred to as special category data and relates to:
- Racial or ethnic origin.
 - Political opinions.
 - Religious or philosophical beliefs.
 - Trade union membership.
 - Genetic data.
 - Biometric ID data.
 - Health data.
 - Sexual life and/or sexual orientation.
 - Criminal data (convictions and offences).

5 Conditions for processing special categories of personal data and criminal offence data

5.1 We process special categories of personal data because it is necessary under the following GDPR Article 9 conditions.

Article 9(2) condition		Examples of processing
(a)	Explicit consent.	Staff dietary requirements and health information we receive for anyone who may require a reasonable adjustment to access our services.
(b)	Employment, social security and social protection.	Managing and recording of staff sickness absence.
(c)	To protect vital interests.	Using health information about an employee in a medical emergency.
(f)	For the establishment, exercise or defence of legal claims.	Employment tribunal or other litigation.
(g)	Reasons of substantial public interest.	We are required under law to consider complaints made to us. We receive or obtain information for the purposes of considering such complaints.
(j)	Archiving, research and statistics.	Public interest investigation reports are published to our website.

5.2 We also process criminal offence data under Article 10 of the GDPR. For example, when processing is necessary for pre-employment checks.

6 Descriptions of data processed

6.1 We process special category data of our employees because it is necessary for us to fulfil our obligations under employment law.

This includes information about employee health and wellbeing, ethnicity, photographs and trade union membership. Further information is available in the [Employee Privacy Notice](#).

- 6.2 We permanently retain some information from our complaints investigations for archiving, research and statistical purposes where it is in the public interest to do so. However, we take steps to minimise the data we keep and ensure that individuals cannot be identified once the appropriate retention period has ended.
- 6.3 When processing special category data for reasons of substantial public interest we ensure that at least one of the following Schedule 1, Part 2 of the DPA conditions is met:
- Paragraph 6(1) and (2)(a) – Statutory purpose.
 - 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 18 – Safeguarding of children and of individuals at risk.
 - Paragraph 24 – Disclosure to elected representatives.
- 6.4 We process criminal offence data for the following purposes in parts 1 and 2 of Schedule 1 of the DPA:
- 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.

7 Procedures for ensuring compliance with principles

7.1 The information below demonstrates how we comply with the data protection principles. It is not definitive and is intended to provide examples of the procedures we implement.

Accountability principle

7.2 We have put in place appropriate technical and organisational measures to meet the requirements of accountability. These include:

- The appointment of a data protection officer.
- Taking a 'data protection by design and default' approach to our activities as set out in our [Data Protection Impact Assessment Policy](#).
- Our contracts and data sharing agreements include appropriate clauses around data protection and security. We require our suppliers to demonstrate their compliance with their obligations under data protection legislation.
- Maintaining records of our processing activities within an information asset register.
- Adopting and implementing data protection policies and ensuring we have written contracts in place with our data processors.
- Implementing appropriate security measures in relation to the personal data we process.
- Recording and investigating information security incidents to identify any lessons learned and where necessary, reporting any personal data breaches.

- 7.3 We have an [Information Governance Strategic Framework](#) that enables us to regularly review our accountability measures and update or amend them when required. The Strategy also sets out the key roles and responsibilities.

Lawfulness, fairness and transparency

- 7.4 We consider complaints made to us about public bodies in Wales and that councillors have breached their local authority Code of Conduct. Our statutory functions are set out in the Public Services Ombudsman (Wales) Act 2019 (PSOW Act) and the Local Government Act 2000 (LGA).
- 7.5 Our processing for the purposes of employment relates to our obligations as an employer.
- 7.6 The lawful basis on which we process personal data is explained in our [privacy notices available on our website](#) and in the [Employee Privacy Notice](#).

Purpose limitation

- 7.7 We will only process personal data for a specified purpose and to fulfil our statutory functions. We will not process personal data for a purpose other than those included in the Privacy Notice applicable when the data was collected.
- 7.8 Section 69(2) of the PSOW Act and section 69E of the LGA provide the conditions for disclosure to another controller.

Data minimisation

- 7.9 We collect personal data necessary for the relevant purposes and ensure that we do not collect more than we need. We will take steps to delete any data that is not related to the matter we are considering or

the purpose for which we are processing the personal data.

Accuracy

- 7.10 When we become aware that personal data we hold is inaccurate or out of date we will take reasonable steps to correct it without delay. Sometimes we cannot agree to erase or correct personal data and where this is the case we will document our reasons for this and explain this to the data subject. Where information has been provided to us by a third party, we are unable to correct that information. However, we will record that the accuracy of the personal data held is disputed or, if appropriate, that it is inaccurate.

Storage limitation

- 7.11 Our [record retention schedule](#) sets out how long we keep information for. This includes where we have determined there is substantial public interest to keep information permanently for historical research and statistical purposes. Our record retention schedule is reviewed regularly.

Integrity and confidentiality (security)

- 7.12 We have put in place appropriate physical, technical and procedural controls to safeguard and secure physical and electronic information. These are outlined in our [Information Security Policy](#). The policy is regularly reviewed and staff training is updated annually.
- 7.13 Our electronic systems allow us to erase or update personal data when this is required.

8 Further information

- 8.1 This policy should be read in conjunction with other relevant information governance policies, procedures and guidance, including:

- [Information Security Policy](#).
- [Information Security Incident Management Policy](#) (internal)
- [Records Management Policy](#).
- [Record Retention Schedule](#).
- [Data Protection Impact Assessment Policy](#). (internal)
- [Information rights requests](#)

8.2 We maintain other documentation relating to compliance with Data Protection legislation, including other organisational guidance. Our Record of Processing Activities is set out in an Information Asset Register.

9 Review

- 9.1 This policy will be reviewed every 2 years and published internally and externally.
- 9.2 Contact policycontrol@ombudsman.wales for any queries about this document.