

Scattergoods Agency Ltd

Data Retention Policy & Schedule

Introduction

It is a requirement under UK law that any organisation which processes the Personal Data of natural persons must do so according to the principles set under the General Data Protection Regulation (GDPR). This policy document refers specifically to one of those – the principle that data shall only be processed for as long as it is necessary for the purpose it was initially intended for.

The GDPR does not set out any specific minimum or maximum periods for retaining Personal Data. Article 5 (1, e) states that Personal Data shall be: “kept in a form which permits identification of data subjects for no longer than necessary to the purposes for which the Personal Data are processed.”

In practice, this principle means that organisations must:

- Review the length of time they keep Personal Data
- Consider the purpose or purposes of holding information when deciding whether (and for how long) to retain it
- Securely delete information that is no longer needed for this purpose or these purposes
- Update, archive or securely delete information if it goes out of date
- Think carefully about what data it wishes to keep for longer for internal monitoring and statistical purposes and ensure any such records have any information which could identify individuals removed.

1. Overview

- 1.1** The Company endeavours to meet the highest working standards and intends to comply fully with any current or future Data Protection Legislation.
- 1.2** Under the GDPR, the Company is bound to uphold the Principles of Data Protection, namely:
 - (a)** To process Personal Data fairly, lawfully and in a transparent manner
 - (b)** To collect data only for specified, explicit and legitimate purposes
 - (c)** To ensure data is adequate, relevant and limited to what is necessary for its specified purposes
 - (d)** To ensure data is accurate and up to date
 - (e)** To retain data only for as long as it is necessary for its specified purposes
 - (f)** To process data securely and protect against unauthorised disclosure, loss, destruction or damage
- 1.3** As such, the Company adheres to this Policy to ensure that data is either securely deleted, minimised or anonymised when it is no longer needed for its intended purposes.
- 1.4** Some kinds of Personal Data are important for the Company’s internal management: to protect against any potential litigation; for the purposes of insurance claims; or to otherwise provide necessary contemporaneous records. In such cases retaining or processing data for longer periods are justified. Where this is the case Personal Data will be kept for an appropriate period after the termination of any contract or business agreement, or other relationship with a Data Subject which requires the processing of their Personal Data.
- 1.5** Data retention periods shall be specific to the types of data being held and are outlined in the Company’s Schedule of Data Retention Periods below. These will be determined with reference to applicable legal bases under the Company’s ‘Data Protection: Legal Basis for Processing Policy’.
- 1.6** Where Data is necessary to comply with legal requirements other than the Data Protection Legislation, the Company shall retain such Data for at least this period and will have reference to:
 - Trade, tax, employment and administrative law
 - Regulators’ Codes of Conduct and suggested retention periods
 - The Limitations Act 1980

- 1.7 In the absence of any legal requirement, the Company shall retain Personal Data only for as long as necessary to fulfil the specified purpose/s for processing plus a reasonable additional period to provide a buffer and time for administration processes to be undertaken.
- 1.8 Every effort will be made to ensure the erasure or return of data to a Data Subject when the data is no longer necessary to fulfil its specified purpose.
- 1.9 Any change/s to retention periods or process purposes will be communicated to the Data Subject.

2. Responsible Persons

- 2.1 The responsibility for ensuring data protection compliance ultimately falls to the Company's senior management.
- 2.2 The Company's senior management may delegate authority to one or more Data Officers.
- 2.3 Data Officers will have the authority to:
 - Monitor departmental compliance with the Data Protection Legislation
 - Restrict employees' access to certain kinds of data
 - Purge any Company database of expired data

3. Data Retention Procedures

- 3.1 The Company adopts an organised approach to attributing appropriate data retention periods to the data it processes about Data Subjects.
- 3.2 This approach shall be adhered to by all employees responsible for creating and organising databases containing personal information.
- 3.3 Any new or existing database will be formatted or otherwise organised in a manner which allows for the labelling of data retention periods, or expiry dates onto data records. This may include any of the following measures:
 - A scheme of retention codes to allow for purging of files in which data is captured and stored.
 - Automated purging of electronic records and files
 - Periodic purging of emails and correspondence

4. Data Deletion Procedures

- 4.1 The company shall ensure it takes all appropriate measures to delete or destroy any data which is no longer lawfully held according to the retention period associated with its intended purpose of processing.
- 4.2 It shall use automated means of deleting data or imposing an alert system to flag up expired data on the Company's systems wherever feasible.
- 4.3 A Responsible Person shall have appropriate authority to ensure the destruction of paper files whose retention period has expired on a regular basis, using such methods as:
 - (a) separating out worker folders for those who are inactive
 - (b) regular review of inactive clients;
 - (c) maintenance of a journal of expiring data to conduct a comprehensive data purge at regular intervals.

5. Schedule of Retention Period

- 5.1 The Company shall adopt the following retention periods to ensure Personal Data is retained only for as long as necessary to fulfil its intended purpose:

Data Type	Retention Period	Justification
APPLICANTS FOR EMPLOYMENT		
Application Form / Recruitment Process Documents	6 months from end of recruitment process if unsuccessful / duration of employment plus 7 years if successful	INTEREST: to preserve evidence of recruitment process in case of litigation or applicant enquiry.
All employee records relevant to legal claim intimated or issued	Duration of litigation or 7 years, whichever is longer	LEGAL: duty to preserve and disclose relevant evidence in relation to actual or potential claims.
EMPLOYEES		
Application forms / C.V.s and related application documents	Duration of employment plus 7 years	INTEREST: to track and maintain an accurate record of recruitment documentation both in relation to the individual contract and statutory employment rights generally
Statement of Employment Particulars / Contract of Employment / Side letters varying key terms	Duration of employment plus 7 years	CONTRACT: an accurate and up to date record of key terms (e.g. pay, job title, etc) necessary for performance of contract. LEGAL: compliance with s.1 Employment Rights Act 1998 and other employment legislation / evidencing same in case of claim/s.
Correspondence between employee and organisation held for HR purposes	Duration of employment plus 7 years	INTEREST: demonstrating compliance with contractual terms and conditions and legislation / evidencing same in case of claim/s / maintaining records of employment history
Appraisal / Performance Review records / Disciplinary Documents / Training Records	Duration of employment plus 7 years	INTEREST: demonstrating compliance with contractual terms and conditions and legislation / evidencing same in case of claim/s / maintaining records of employment history.
Notes of meetings relating to employment	Duration of employment plus 7 years	INTEREST: demonstrating compliance with contractual terms and conditions and legislation / evidencing same in case of claim/s / maintaining records of employment history.
Documents relevant to a legal claim intimated or issued	Duration of litigation or 7 years whichever is longer	LEGAL: duty to preserve and disclose relevant evidence in relation to actual or potential claims.
WORKERS (SUPPLIED BY EMPLOYMENT AGENCY)		
Application, registration, qualifications, references and placement documents	7 years after services last provided	LEGAL: s.29 Conduct of Employment Agencies and Employment Business Regulations 2003 which require at least 1 year
Terms of engagement / worker contract	7 years after services last provided	LEGAL: s.29 Sch 4 para 3 Conduct of Employment Agencies and Employment Business Regulations 2003 INTEREST: demonstrating compliance with contractual terms and conditions and legislation / evidencing same in case of claim/s
Contact information	7 years after services last provided or last contact (whichever is last)	INTEREST: to notify worker or new placements and / or resolve any issues regarding pay and / or annual leave

EMPLOYEES / WORKERS GENERALLY

Payroll and Wage Records (to include workers' pay, tax code, D.o.B., hours, overtime, deductions, absence, leave, benefits, gender and NI number)	7 years from end of relevant financial year	LEGAL: Payroll and wage records must be kept under s. 21 (1) (2) Finance Act 1998 LEGAL: Reg 97 Income Tax Regulations 2003 requires PAYE records to be held for not less than 3 years following tax year end but these records wholly or mainly fall within definition of payroll and wage records
Gender	7 years from end of relevant financial year	LEGAL: Payroll and wage records must be kept under s. 21 (1) (2) Finance Act 1998 LEGAL: Reg 97 Income Tax Regulations 2003 requires PAYE records to be held for not less than 3 years following tax year end but these records wholly or mainly fall within definition of payroll and wage records
Annual leave records	7 years from end of relevant financial year	LEGAL: Payroll and wage records must be kept under s. 21 (1) (2) Finance Act 1998 Also to demonstrate compliance with Working Time Regs 1998 and preserve evidence in relation to any claim/s for breach of contract or unlawful deduction from wages.
Working Time Opt-Out forms	Duration of employment / engagement plus 6 months or 2 years from creation date (whichever is longer) or if contained in Employment or Worker Contract see above	LEGAL: Reg 5 requires records to be kept for a minimum of 2 years from creation date. INTEREST: to demonstrate ongoing compliance with Reg 5 Working Time Regs 1998.
Maternity Records	4 years from end of tax year	LEGAL: Reg 26 Statutory Maternity Pay (General) Regs 1986 requires records to be kept for a minimum of 3 years from the end of the tax year in which maternity leave ends.
Bank Details	Duration of employment plus 6 months	CONTRACT: necessary to make payments for work undertaken.
Records of advances or loans	Duration of employment plus 7 years	INTEREST: to preserve evidence in case of any claim in relation to breach of contract and / or collateral agreement and / or in relation to s.13 Employment Rights Act 1996.
Disclosure and Barring Service (DBS) checks and disclosures of criminal record forms	6 months following commencement of employment unless assessed as relevant to ongoing employment in which case duration of employment plus 6 months	INTEREST: to comply with duty to safeguard children and vulnerable individuals and provide a 6 month period for deletion and resolution of any dispute or complaint arising from recruitment.
Immigration Checks and Right to Work	Duration of employment / engagement plus 3 years	LEGAL: The Immigration (Restrictions on Employment) Order 2007 requires records to be kept for a minimum of 2 years from termination of employment.
Pensions (auto-enrolment data, joining date, opt-in/out, contributions paid)	7 years	Pensions Regulator 'Detailed Guidance for Employers – Keeping Records' April 2017

Health related information (medical questionnaires, GP Fit Notes, self cert forms, OH reports, etc)	Duration of employment / engagement plus 7 years	INTEREST: to inform decisions around risk assessments, adjustments and sickness absence management. (also) LEGAL: for the purposes of compliance with duty of care {common law, time limitation 3 years} and to make reasonable adjustment {Equality Act 2010, time limitation 5 months max plus possible extension for justice and equity} and to preserve evidence in case of alleged breach of implied term {common law, time limitation 6 years} / Special category processed under Art 9.2(b): employment.
SSP Records and GP Fit Notes maintained for SSP purposes	4 years from end of relevant tax year	LEGAL: The Statutory Sick Pay (General) Regulations 1982 / Special Category processed under Art 9.2(b) exemption (employment)
Health records for employees who are exposed to hazardous conditions and fall under Health Surveillance (name, gender, DOB, address, NI number, employment commencement date, health surveillance check details)	40 years	LEGAL: Individual's health monitoring under HSE http://www.hse.gov.uk/health-surveillance/record-keeping/index.htm // Special category processed under Art 9.2(b): employment.

FINANCIAL

All sales and income, invoices, business expenses, debtors, VAT records, payroll and PAYE records	7 years after end of relevant tax year	LEGAL: records in support of company return must be kept under s. 21 (1) (2) Finance Act 1998
---	--	---

CLIENTS

Data subject name and contact details	Duration of contract plus 3 years	CONTRACT: when client is the data subject INTEREST: for the purposes of correspondence, instructions and enquires
Data subject bank details	Duration of contract plus 3 months	CONTRACT: only when client is a data subject and for the purposes of issuing a refund only
Terms of business where this includes personal data of a data subject	1 year from last date of supply	LEGAL: s.29 Conduct of Employment Agencies and Employment Business Regulations 2003

MARKETING

Personal data within marketing / lead lists / databases	2 years from last contact from data subject	INTEREST: to market to those who are given or held out as point of contact for clients or potential clients
---	---	---

OTHER

CCTV footage	Three months	INTEREST: to prevent fraud and aid in the investigation of crimes.
Consents for the processing of Personal Data	For as long as the data is being processed and 7 years thereafter	INTEREST: to preserve evidence relevant to any claim or action taken under the Data Protection Legislation.
All documents relevant to claims or legal process/es generally	Duration of litigation or legal process + 1 year	LEGAL: where any claim/s or legal process arises to comply with duty to preserve evidence under the Civil Procedure Rules

6. Definitions

6.1 The following defined terms are used in the context of this Policy:

- (a) **Consent:** The freely-given, unambiguous indication that a Data Subject has provided a positive affirmation that they consent to particular kinds of data being processed for particular purposes. Consent is necessary for certain special categories of sensitive data and in order to justify the processing of data for longer than is required under other legal bases.
- (b) **Data Controller:** An organisation which holds, transfers or otherwise processes Personal Data and is in a position to make a decision about that processing.
- (c) **Data Officer:** An officer or employee of the Company who has delegated responsibility for ensuring and / or promoting compliance with the Company's data protection policies.
- (d) **Data Protection Legislation:** the General Data Protection Regulation (EU 2016/679) and the Data Protection Act 2018 (pending at the time this policy was produced).
- (e) **Data Subject:** a living identifiable individual about whom we hold Personal Data.
- (f) **Personal Data (or 'The Data'):** Any information which can identify a natural person either directly or indirectly, alone or in combination with other data. For the purposes of this Policy, the only Personal Data which is captured by the Data Protection Legislation is that which is processed by automated electronic means, or which is organised in any kind of structured filing system which can be searched and individuals found by using specific criteria.
- (g) **Privacy Notice:** Formal written notification given to data subjects at the point where their data is collected, outlining which categories of data will be processed, the purpose for processing, retention periods and information about their rights to make requests and complaints.