
Management of HR Personal Files, Information and Records Policy

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Management of HR Personal Files, Information and Records

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1. Policy Statement

- 1.1. Human Resource records cover a wide range of personal and organisational documents and data which are typically stored as computer or paper files.
- 1.2. It is important that the CCG has effective systems for the collection, access, storage and destruction of this information to ensure it remains compliant with all relevant legislation and to support sound and effective HR practice and administration.
- 1.3. The guidance and practice contained in this document applies to all staff at all times and failure to follow it may result in disciplinary action.

2. Principles

2.1. Employee records are an essential resource in order for the CCG to demonstrate:

- Compliance with statutory and regulatory standards in all stages of employment;
- Compliance with statutory responsibilities in checking an individual's eligibility to work in the UK;
- Audit trails to provide assurance of currency of professional registration;
- Accuracy and currency of data held in relation to individual employees;
- Compliance with statutory requirements and best practice in:
 - Recruitment and selection
 - Equality
 - Health and safety
 - Management of workplace disputes
 - Management of capability / discipline / conduct
 - Training provision / CPD
 - Equal Pay
 - General Data Protection Regulation (GDPR) and Data Protection Act 2018
- In each of these areas the information collected (including that collected at interview) must be relevant and not excessive and respect the employees' right to a private life;
- Information (including that collected at interview) must be recorded accurately and only be kept for as long as is necessary;
- The employee must be aware of the reasons for the information being collected and any information collected 'covertly' about the employee, for whatever purpose, is likely to breach the GDPR and Data Protection Act 2018 (DPA).

3. Scope

3.1 This document encompasses all files and records that include personal data relating to individual employees and may include;

3.2. Personal files created at the point of appointment;
Incident and issues “Case files” for example:

- Misconduct
 - Sickness absence
 - Performance / capability issues
 - Individual grievances / disputes
-
- Health and safety records, including compliance with Working Time Directive;
 - Training records including statutory continuous professional development.

4. Definitions

- 1.1. Data Controller - Determines the purposes and means of processing personal data.
- 1.2. Personal Data - This contains details that identify individuals even from one data item or a combination of data items. The following are demographic data items that are considered identifiable such as name, address, NHS Number, full postcode, date of birth. Under GDPR, this now includes location data and online identifiers.
- 1.3. Special Category Data (Sensitive Data) - This is personal data consisting of information as to: race, ethnic origin, political opinions, health, religious beliefs, trade union membership, sexual life and previous criminal convictions. Under GDPR, this now includes biometric data and genetic data.

For more information about special categories of data please refer to the ICO guide <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/special-category-data/> at:

- 1.4. Processing – this means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

5. General Data Protection Regulation and the Data Protection Act 2018

- 5.1. The EU General Data Protection Regulation (GDPR) was approved in 2016 and became directly applicable as law in the UK from 25th May 2018. GDPR will still be applicable in the UK post Brexit and the Data Protection Act (DPA) 2018 (which was enacted on the 23rd May 2018) will ensure continuity by putting in place the same data protection regime in the UK.
- 5.2. The GDPR applies to personal data about all natural persons (living and breathing individual human beings who can be identified directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person). The aim of the GDPR is to protect the fundamental rights and freedoms of all natural persons with regard to the processing of personal data and the rules enabling the free movement of Personal Data. The majority of HR records would fall under this Regulation regardless of the media used for information storage.

Article 5 of the GDPR sets out seven key principles which lie at the heart of the general data protection regime, these can be found in **Appendix 1**

- 5.3. GDPR states that the CCG must have a legal basis for processing personal data and also where it processes special category of data (formerly known as sensitive data) such as occupational health data. HR information meets Article 6 and Article 9. For more detail on the areas where HR process staff's data and to see the legal basis for each area please refer to **Appendix 2**.

Under GDPR staff must be made aware where the CCG processes Personal Data about them, the type of data, the legal basis for processing data and how to access this data should they require a copy. This is detailed under the CCG's Staff Privacy Notice.

Where files and records are held on an individual employee, the CCG must ensure that information and data relating to that employee is handled and used in compliance with the GDPR.

Under GDPR staff must be made aware where the CCG holds Personal data.

- 5.4. In addition to the GPDR there is a substantial amount of EU and UK legislation relating to the retention and destruction of personal information and related records. Some of the other key Acts, Statutory Instruments and Directives are listed in **Appendix 4**.

6. Responsibilities

6.1. The Information Commission identifies in its guidance four key areas of HR record keeping and practice, they are:

- Recruitment and Selection
- Employment Record
- Monitoring at Work
- Information about Workers Health

6.2. Full details for each of these areas are available via the link to the Information Commission web site found in **Appendix 3**.

6.3. Senior Information Risk Owner (SIRO)

The Senior Information Risk Owner (SIRO) is held by a member of the CCG Senior Management Team. They are responsible for identifying and managing the information risks to the CCG. The SIRO will risk assess which roles should have access to the HR information within the CCG. For Bury CCG, the SIRO role will be the Chief Financial Officer.

6.4. **HR Service Provider**

The HR Service Provider has responsibility for maintaining the HR information shown in **Appendix 4**

6.5. **Line Managers**

In addition to supporting the HR Service Provider to maintain and update their information the Line Manager also has specific responsibility for the following day to day information gathering, recording and monitoring shown in **Appendix 5**.

See section 8 which provides the process for the management of ESR documents

6.6. **Individual Employees**

All employees must ensure that any changes in their personal circumstances or personal information are notified without delay to their manager to ensure currency and accuracy of data is maintained at all times.

7. Security of Information

7.1. All staff and managers have a duty of care when handling and using personal data. Information held on individuals must not be passed to any person or body with no legitimate interest in it.

7.2. Data must at all times be kept secure. Storage must be provided for paper documents which is lockable. Electronic files must be password protected files or stored on drives accessible only to authorised personnel.

- 7.3. All staff identified as having legitimate access to records must receive training in Data Protection legislation and associated aspects of records management. It is the responsibility of the SIRO to approve access for nominated role . These include:
- HR representatives
 - Corporate Affairs and Governance Manager
 - Corporate Admin team leader
 - Corporate Admin Assistant (Governance)
 - CCG Director where there is a legitimate reason
 - CCD Deputy Director as above
 - Line Managers as above
 - Individuals must be able to advise of the reason for the access to personnel files. Where information is of a particularly sensitive nature , the line manager will be responsible for this.
- 7.4. All HR records have a unique identifier in their employee number. The use and access to electronic files are controlled and monitored by the IT system. If a paper record leaves the secure storage a tracker document should be completed identifying;
- File title
 - Employee number
 - Identity of receiving department/ officer
 - Date of transfer
 - Date of scheduled return
- 7.5. Under no circumstances should files /records be allowed off-site or outside the CCG without written authority of a Departmental Manager. Such files must be transported in sealed envelopes marked 'Strictly Private and Confidential'.
- 7.6. Confidentiality must be maintained at all times. Personal information must not be released without the employee's express knowledge and consent unless there is overriding public interest.
- 7.7. Under no circumstances should line managers retain staff documents or duplicates of documents that should be stored in the personnel files.

8. Process for ESR documents

- 8.1. There are a number of ESR documents that are used to reflect changes to staff details. These include the new starter form, change form and termination form.
- 8.2. To ensure the security of data and timely action of the form, line managers must submit the ESR document to the corporate office where it will be scanned in to the HR provider for action. The master copy will then be stored on the individual's personnel file.
- 8.3. Under no circumstances should line managers keep a duplicate copy of ESR documents or other personnel data which should be stored in the personnel file.
- 8.4. The corporate office will maintain a monthly log of all forms that are submitted for action with the HR provider.
- 8.5. For absence recording, please see SOP for ETAD.

9. Destruction Of Documents

- 9.1. As the Data Controller the CCG have a duty to comply with the requirements of the GDPR and other relevant legislation, including the requirement to only retain information for as long as it is required and to then ensure that information is disposed of in a safe and appropriate way.
- 9.2. HR documents may be required for a number of reasons, one being Employment Tribunal or other legal action where there is an expectation that the original documents are available. It is therefore vital that documents are properly stored throughout their 'life' and are not lost or damaged by storage in damp conditions or when computer equipment is upgraded.
- 9.3. Where information is deliberately destroyed in line with this guidance an accurate record must be kept of the reasons why, when and how this was done. The employer may be required to provide a 'statement of truth' for any legal action and failure to provide a full explanation of why the original documents are no longer available may injure the employers' case.
- 9.4. The CCG contracts with a specialist services for the long-term 'off site' archiving of documents and the disposal of confidential waste and where possible these services should always be used.
- 9.5. If you are unsure if a document falls into a particular group further guidance can be sought from the CCGs Information Governance Officer or The Corporate Affairs & Governance Manager
- 9.6. Guidance on typical Human Resources documents, the period for which they should be retained and how they should be disposed of can be seen in the following link: : <https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/records-management-code-of-practice-for-health-and-social-care-2016>

This is not a definitive list and the retention or destruction of an individual document, if not listed, should be done with consideration of the principles of the GDPR see **Appendix 1**.

10. Equality Statement

- 10.1. In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

11. Monitoring and Review

- 11.1. The policy and procedure will be reviewed every 3 years by the CCG in conjunction with staff, Trade Union representatives and senior managers. Where review is necessary due to legislative change, this will happen immediately.

Appendix 1

The 7 key Principles of General Data Protection Regulation (GDPR)

All staff must adhere to the principles of the General Data Protection Regulation 2016 when processing personal and / or special categories of data and demonstrate compliance with these. Article 5 states that Personal Data must be:

- (a) processed lawfully, fairly and in a transparent manner in relation to individuals ('lawfulness, fairness and transparency');
- (b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes ('purpose limitation');
- (c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- (d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');
- (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals ('storage limitation');
- (f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality')."

Article 5 (2) - The controller (CCG) shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability').

For further information, please refer to the CCG IG Policies.

Appendix 2 – The CCG’s Data Processing Activities and the Legal Bases

GDPR states that the CCG have to inform staff of what the legal basis is for processing personal data and also if the CCG process special category of data such as your occupational health data what the condition is for processing. The CCG also uses the services of data processors to process staff data as detailed below. The organisations the CCG work with are bound by contractual agreements which outline that your information is processed under strict conditions and in accordance with the law.

Recruitment and Employment checks

Data Processor	Greater Manchester Shared Services
Type of data	Personal Data – Demographics / Bank Details Special category of data – Race, ethnic origin, health, sexual life, criminal convictions (covered under DPA 2018)
Source of Data	Staff
Legal basis for processing Personal Data under GDPR	Article 6 (1)(e) - Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority Article 9 (2)(b) – Processing is necessary for the purposes of carrying out the obligations and exercising the specific rights of the controller or of the data subject in the field of employment...social protection law in so far as it is authorised by Union or Member State law

Recruitment and employment checks are carried out by Greater Manchester Shared Services (GMSS) who are the Data Processor for the CCG.

GMSS provide Mediation Services, provide information, advice, training and other services for employers and employees and help to resolve workplace problems.

Workforce Management

Data Processor	ESR (Electronic Staff Record) System
Type of data	Personal Data – Demographics Special Category of Data -
Source of Data	Staff
Legal basis for processing Personal Data under GDPR	Article 6 (1)(e) - Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority Article 9 (2)(b) – Processing is necessary for the purposes of carrying out the obligations and exercising the specific rights of the controller or of the data subject in the field of employment...social protection law in so far as it is authorised by Union or Member State law

The NHS ESR system provides the CCG with a range of tools that facilitate effective workforce management and planning; thereby enabling improved quality, improved efficiency and improved patient safety.

Payroll

Data Processor	ELFS Shared Services (Payroll)
Type of data	Personal Data – Demographics / Bank Details
Source of Data	Staff
Legal basis for processing Personal Data under GDPR	<p>Article 6 (1)e (e) - Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority</p> <p>Article 9 (2)(b) – Processing is necessary for the purposes of carrying out the obligations and exercising the specific rights of the controller or of the data subject in the field of employment...social protection law in so far as it is authorised by Union or Member State law</p>

Payroll services are carried out by ELFS who are a Data Processor for the CCG.

E- Learning

Data Processor	Virtual College
Type of data	Personal Data – Demographics
Source of Data	Data Subjects
Legal basis for processing Personal Data under GDPR	<p>Article 6 (1)(e) - Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority</p> <p>Article 9 (2)(b) – Processing is necessary for the purposes of carrying out the obligations and exercising the specific rights of the controller or of the data subject in the field of employment...social protection law in so far as it is authorised by Union or Member State law</p>

Virtual College provide the CCG with collaborative, customer-focused online e-learning technology.

Appendix 3 - Examples of Recruitment and Selection documents

Recruitment and Selection	
Minimum data set of recruitment documentation for all new employees to include:-	Job Advertisement Application form/CV Job Description Person Specification 2 x References CRB Clearance Offer Letter Statement of Particulars Letter ID Checks
Current and up-to-date personal information and data on employees to include	Home address and contact details Next of kin Ethnicity etc Evidence of current registration/licence etc (as appropriate) Relevant qualifications/certificates National Insurance details Eligibility to work in UK Current sanctions, performance measures etc
Case files to include a full audit trail of all formal stages including	Invitations to meetings Records of meetings Notes of formal hearings Actions taken Appeal records
Job Evaluation	Job Evaluation documents for individual posts as evidence of compliance with the principles of equal pay.

Appendix 4 - Examples of Employment documents

Employment Records/Monitoring at Work/ Information about Workers' Health	
Monitoring at Work	Attendance Annual leave records Departmental work/shift rosters identifying shifts worked and time off allowed
Training records	Details of mandatory training attended Records of individual appraisals/performance plans/development plans Courses attended
Information about Workers' Health Departmental records around health and safety at work	Sickness records/return to work procedures Occupational Health Records Accident and Incident report Risk assessments RIDDOR

Appendix 5 - Source Documents

Information Commissioner

https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf

UK Legislation

- Limitations Act 1980
- General Data Protection Regulation
- Data Protection Act 2018
- Freedom of Information Act 2000
- The Regulation of Investigatory Powers Act 2000
- Anti-Terrorism, Crime and Security Act 2001

Statutory Instruments

- Privacy and Electronic Communications (EU Directive) Regulations 2003
- The Regulation of Investigatory Powers (Acquisitions and Disclosure of Communications Data: Code of Practice) Order 2007
- The Data Retention (EU Directive) Regulations 2009

Directives

- Data protection Directive
- Privacy and Electronic Communications Directive

Other Useful Sources

- ACAS – Personal data and record keeping, Advisory Booklet.
- GOV.UK – “Data protection and your business”.
- HM Revenue and Customs for information on retaining pay, pensions and tax records.