

Healthwatch Hillingdon

Data Protection Policy & Procedure

Index number	HWH006
Date Approved by Board	
Date of Consultation with Staff	
Number of pages	14
Number of appendices	4
Issue Number	1
Date of First Issue	15/05/2013
Date of Last Revision	

CONTENTS

1 RESPONSIBILITIES UNDER THE DATA PROTECTION ACT 1998	3
2 RECRUITMENT AND SELECTION	3
3 EMPLOYMENT RECORDS	5
4 ACCESS TO INFORMATION FOR ABUSE	9
5 DISCLOSURE	11
6 APPENDICES	11
APPENDIX 1 - Photographic Material Guidelines	12
APPENDIX 2 - Data Protection Consent Form	13
APPENDIX 3 - Data Processor Agreement Form	14
APPENDIX 4 - Publicity Consent Form	15

1. RESPONSIBILITIES UNDER THE DATA PROTECTION ACT 1998

The responsibility for ensuring employment practices comply with the Data Protection Act 1998 lies with the Chief Executive Officer (CEO) of Healthwatch Hillingdon (HWH).

The responsibility for processing employee records as regards registration under the Data Protection Act 1998 lies with the CEO.

The responsibility for maintaining confidentiality as regards 'sensitive' material as defined by the Data Protection Act 1998 lies with HWH and all HWH employees.

HWH will ensure that all employees are made aware of the extent to which they can be criminally liable if they knowingly or recklessly disclose personal data without the consent of HWH. Such a disclosure will count as Gross Misconduct under the Disciplinary Policy and Procedure (HWH001).

2. RECRUITMENT AND SELECTION

2.1 Application forms

HWH will undertake to ensure that all application forms delivered electronically will be secure once they reach HWH, and will be received ONLY by employees relevant to the application.

HWH will keep all application forms for a maximum of 6 months after the post has been filled. HWH will keep all names and addresses of applicants on an applicant details database for a maximum of 6 months after the post has been filled.

Under its obligations arising from the Race Relations Act 1976 and Race Relations (Amendment) Act 2000, the Sex Discrimination Act 1975, The Sex Discrimination (Gender Reassignment) Regulations 1999, Disability Discrimination Act 1995 HWH will record and monitor all information from applicants as regards gender, ethnic group, and disability on a database. This information will be recorded in such a way as to ensure there can be no way of identifying the information with an individual person.

2.2 Speculative applications

HWH will acknowledge receipt of any speculative applications/CV's with an email or letter. However this information will not be retained any longer than necessary to reply to a letter and in any case for no more than two months.

2.3 Pre-employment checks

Disclosure information will be kept separately and securely (i.e. in a lockable, non-portable container with access strictly controlled and limited to the CEO) and not on an applicant's file.

Disclosure information will not be kept for any longer than is generally necessary. This will generally be for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If it is necessary to keep the Disclosure information for longer than six months, HWH will consult with the organisation that has carried out the checks (i.e. the Disclosure and Barring Service - DBS) and will give full consideration to the Data Protection and Human Rights.

Throughout this time the usual conditions regarding safe storage and strictly controlled access will prevail.

Once the retention period has elapsed, HWH will ensure that any Disclosure information is immediately suitably destroyed by secure means i.e. by shredding. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle, i.e. waste bin.

2.4 Recruitment Records

HWH may keep Information gathered as part of the recruitment process in order to analyse the success of recruitment campaigns or to monitor recruitment candidates. For such purposes, HWH will keep only anonymous records.

HWH will ensure that any personal data recorded or retained as part of the interviewing process is relevant and necessary for the recruitment process. Line Managers will be trained in what should/should not be recorded on interview notes and reminded that applicants will be entitled to access their interview notes.

All recruitment information will be retained securely and retained for a maximum of six months. Once the retention period has elapsed, HWH will ensure that any recruitment information is immediately suitably destroyed by secure means i.e. by shredding.

2.5 References

HWH will not disclose reference information provided for recruitment and selection purposes (i.e. pre-employment check) by a third party (i.e. past employer) to an employee without gaining consent from the third party. In the case where consent is not provided and the employee makes a request

to see the reference, will give due consideration to the case for disclosing the information.

Reference information will not be kept for any longer than is generally necessary. This will generally be for a period of up to one year, to allow for the consideration and resolution of any disputes or complaints. Throughout this time the usual conditions regarding safe storage and strictly controlled access will prevail.

Once the retention period has elapsed, HWH will ensure that any reference information is immediately suitably destroyed by secure means i.e. by shredding, pulping, or burning. While awaiting destruction, reference information will not be kept in any insecure receptacle, i.e. waste bin.

3. EMPLOYMENT RECORDS

HWH, as an employer clearly needs to hold records that enable it to keep under review the ability of employees to undertake the work they are employed to do. HWH also needs to hold records it might reasonably require to defend itself, for example, in an employment tribunal.

HWH will obtain written consent from all its employees to hold sensitive information on file with regard to the following: ethnic group, gender, disability, health, trade union membership, children's birth dates, training, educational qualifications, marital status, salary and deduction details (tax and National Insurance). HWH will do so via the attached form (Appendix 2).

HWH will provide employees with a copy of their basic record through the HR database and will ask the employee to identify any information that is inaccurate.

Information that is identified as inaccurate at this point (or at any other point if HWH is notified by the employee to whom the inaccurate information relates), will be deleted.

Records of sickness will be made available to managers only regarding the staff for whom they have management responsibility.

A log of non-routine access to employment records will be kept securely i.e. by Inland Revenue Inspectors.

3.1 Security

HWH will ensure that staff access to employment records is strictly on a "need to know" basis, and will take steps to ensure the reliability of staff including staff employed via employment agencies who have access to

employment records. Agency staff and volunteers working as data processors for HWH will be asked to sign a contract tying them to only processing the data in accordance with instructions they are given, and to keeping the data secure (Appendix 3).

Information will only be transmitted between locations if a secure network or comparable arrangements are in place (i.e. email/fax). Copies of emails or faxes received by Line Managers should be held securely and should either be destroyed or returned to the HR Department to go on an employee record once a matter has been dealt with.

HWH will ensure that the risk of transmitting employee information via email is dealt with by making access to email password protected.

3.2 Payroll information

HWH will ensure that any agreement with an external payroll processor will require it only to process personal information to HWH's instructions and to maintain appropriate security with regards to the personal information processed. HWH will regularly review its arrangement with the external payroll processor to ensure that the security measures are appropriate both in terms of the technology used and how it is managed.

3.3 Pension/benefit schemes

HWH will hold on employee's records only such data which relates to HWH's financial relationships to the pension or benefit scheme i.e. payroll deduction information, how much HWH pays into a scheme etc. HWH will not hold copies of other correspondence relating to schemes i.e. medical reports etc unless requested to do so by an employee in order for HWH to assist the employee.

HWH will ensure that an agreement is in place with all agencies operating such schemes to comply with the Data Protection Act by means of service level agreement with scheme operators, obtaining copies of their Data Processing policies etc.

3.4 Occupational Health

HWH will only pass on information to those involved in an occupational health scheme on a "need to know" basis. HWH will ensure that the Occupational Health scheme complies with the ethical guidelines of the Faculty of Occupational Medicine.

HWH will write to any employee subject to an Occupational Health review, clearly stating what information will be passed to the scheme and obtaining their consent to do so.

3.5 Employment Agencies

HWH will ensure that any employment agency that it deals with applies the same standards to the collection processing and retention of personal information about agency staff as are applied to HWH employees.

3.6 Equal opportunities monitoring

HWH will keep such details as relating to ethnic group etc separately from employee records and in an anonymous way. HWH is required to monitor such information to carry out its duties under the Race Relations Act 1976 and Race Relations (Amendment) Act 2000, the Sex Discrimination Act 1975, The Sex Discrimination (Gender Reassignment) Regulations 1999, Disability Discrimination Act 1975.

3.7 Collection and retention of employment records

HWH will ensure that personal information is not held for longer than is necessary and that there is a real business need to retain the information that is kept. The relevance of particular information/documentation will be evaluated in each instance and there will be longer retention periods for some documents than others or different needs for certain employees.

HWH follows the retention periods recommended by the Information Commissioner in its Employment Practices Data Protection Code.

The following should be treated as guidelines for retention times in the absence of a specific business case supporting a longer period.

Application form	Duration of employment
References received	1 year
Payroll and tax information	6 years
Sickness records	3 years
Annual leave records	2 years
Unpaid leave/special leave records	3 years
Annual appraisal/assessment records	5 years
Records relating to promotion, transfer, training, disciplinary matters	1 year from end of employment
References given/information to	5 years from reference/end of

enable references to be provided	employment
Summary of record of service, e.g. name, position held, dates of employment	10 years from end of employment
Records relating to accident or injury at work	12 years

3.8 Probationary period review/appraisal

HWH will ensure that the recording of information at probationary period review and appraisal is limited to that needed to support recent or future employment decisions, and that records kept identify the source of any comments, that opinions are not presented as facts, that information recorded is correct and not misleading, and that if the employee has challenged the accuracy, this is noted.

3.9 Sickness Records

HWH will access sickness and accident records (records of the cause or nature of any illness or accident) in circumstances where absence records (records of the amount of absence with sickness or absence) do not suffice. In all other circumstances, sickness/accident records will be kept separate from absence records. Under its obligations under the Disability Discrimination Act (1995) and Health and Safety at Work Act (1974) HWH will retain records of reason for absence but will store these records in a secure place with appropriate access restrictions, away from the employees personnel file.

Access to details of sickness and accident records will be restricted to those individuals with a genuine need.

3.10 Disciplinary and Grievance Records

Warnings issued as part of the HWH Disciplinary Policy and Procedure (HWH001) will be clearly marked as “spent” once the appropriate time has elapsed. Spent warnings will not be relied upon in future disciplinary or capability action other than as possible evidence of a pattern of behaviour.

3.11 Former employees

HWH will retain information on former employees in the following way:

1 year	3 years	6 years	12 years
<p>Information relating to promotion, transfer, and training.</p> <p>References received</p> <p>Probationary period if employee has left as a result of unsuccessful probationary period.</p>	<p>Information relating to medical history/sickness absence, unpaid leave/special leave, and annual leave</p> <p>Annual appraisal.</p> <p>Information relating to disciplinary matters</p>	<p>Information relating to payroll and tax.</p> <p>Redundancy.</p> <p>Voluntary redundancy agreements.</p> <p>References given by HWH.</p>	<p>Records relating to accident or injury at work</p>

HWH will keep a summary record of all former employees, which will state only the employee name, position (s) held, and dates of employment. These will be kept for 10 years after the employee has left.

4. ACCESS TO INFORMATION

Current and past employees and job applicants have a right to know what information is kept about them.

Requests for access must be made in writing (including email and fax). Where necessary HWH will ask for further information to help them locate the record i.e. dates of employment. HWH will not levy the access charge of £10 for current or past employees. However where a job applicant who has not become an employee makes a request, they will be charged £10.

Any information kept for management planning or forecasting will be withheld where supplying it would prejudice HWH's business.

Requests for access will be responded to within 40 days. HWH will ask for proof of identity when access is requested by an ex-employee or job applicant who has not become an employee.

In responding to an access request HWH will tell the data subject whether any information is kept about him/her, and give a description of the type of information kept, purposes it is used for, and any other organisations HWH passes it on to. The data subject will be shown all the information kept about him/her and any codes or other unintelligible terms will be explained. The information will be provided to the data subject in a hard copy and/or on digital media, unless the data subject agrees to receive it another way.

Where there is information relating to a third party on an employee record etc, HWH will decide whether it is reasonable to release it. In doing so HWH will:

1. obtain the consent of the third party unless it is impractical to do so (e.g. the third party's whereabouts are unknown).
2. if consent has not been given, it will be decided whether it is reasonable to give access by balancing the employee's right of access with the third party's right to respect for his/her private life. In doing so HWH will take into account:
 - whether the third party is owed a duty of confidence
 - whether the third party has expressly refused consent
 - the impact the information has had or is likely to have on actions or decisions affecting employee
 - the nature of the third party information, in particular whether its release will be damaging to the third party or whether it is sensitive
 - the extent to which the employee is already likely to be aware of the information
 - whether the information includes facts which might be disputed by the employee were he/she aware of them
 - whether the third party information relates to the third party acting in a business or personal capacity.

However, there is a special exemption from the right of access to a confidential reference in the hands of the person who gave it. Therefore an ex-employee of HWH cannot request to see a reference written about them by a member of HWH staff. Current employees can request to see references supplied by other organisations but HWH will take the steps outlined above with regard to third parties.

5. DISCLOSURE

Decisions on disclosure of information will only be taken by the CEO or relevant Board members

The identity of the person requesting disclosure will be checked. Requests for disclosure should be made in writing (including faxes on letterheaded paper) where possible. Where those requesting information suggest that HWH has a legal responsibility to disclose, the request **MUST** be made in writing spelling out the basis on which it is asserted there is a legal duty. This assertion will then be checked if necessary by taking legal advice. There is no requirement to disclose even if failure to do so would prejudice crime and taxation purposes.

If a disclosure is to be made, the employee must be informed as soon as possible and a copy of the disclosure information must be sent to the employee. Where the employee is likely to challenge the accuracy of the information, where practicable, HWH will provide the employee with a copy of the disclosure information and address any concerns the employee might have at that stage, before the disclosure is made.

A record of all non-routine disclosures made will be kept securely. This will record the person who made the disclosure, the person who authorised it, the person requesting it, the reasons, the information disclosed, and the date and time.

References will not be provided by HWH for employees unless they are sure that the employee has given their consent to the disclosure, either directly to HWH or to a trustworthy third party.

When the security or confidentiality of employee records has been significantly prejudiced because they have been disclosed knowingly or recklessly without the employer's consent and there is a reasonable prospect of obtaining evidence as to who was responsible, HWH will inform the Data Protection Commissioner.

6. APPENDICES

Appendix 1 Photographic Material Guidelines

Appendix 2 Data Protection Consent Form

Appendix 3 Data Processor Agreement Form

Appendix 4 Publicity Consent Form

APPENDIX 1

Data Protection - Photographic Material Guidelines

1. Letting groups/individuals know in advance

Where possible

If you intend to take photographs for your project and you know in advance when that might be i.e. date of event, it is your responsibility as an employee of HWH to notify the groups/individual in advance.

Please add this paragraph to your material

HWH is a charity who from time to time may take photographs for promotional purposes. If you have any objection to your photograph being used please contact HWH.

2. Taking photographs

If you intend to take photographs for your project, please obtain consent where possible to enable HWH to use the images for promotional purposes.

The consent form should be printed on headed paper

APPENDIX 2

Under the Data Protection Act 1998, Healthwatch Hillingdon is required to notify employees on how data will be processed and use. During and after your employment, it is envisaged that Healthwatch Hillingdon will hold information relating to you with respect to the following:

Personal details; medical history; membership union; academic performance; work performance; salary information including statutory deduction; pension; family details, sensitive data relating to ethnic origin.

Such data will be held in both paper form and on computer to assist us during and after your employment. You may access your personnel after giving notice at any time during your employment.

I, give my consent to Healthwatch Hillingdon to use data relating to me, in the way described above.

Signed _____

Date _____

APPENDIX 3

Data processor agreement form

I hereby agree that in any data processing activity I undertake on behalf of Healthwatch Hillingdon, I will follow the instructions I am given with regard to the processing of the data and keeping the data secure.

Print Name _____

Agency _____

Signature _____ Date _____

APPENDIX 4

Healthwatch Hillingdon Publicity Consent Form

Healthwatch Hillingdon is a charity. From time to time photographs may be taken at events, which may be kept for a period of time and used for future publicity purposes.

I understand and authorise the use of my photograph and/or that of my dependent(s) for publicity purposes for Healthwatch Hillingdon.

Signed: _____

Date: _____