

# ASH Scotland

## Job applicant data policy



This document sets out the Company's policy on the protection of information relating to job applicants. Protecting the confidentiality and integrity of personal data is a critical responsibility that the Company takes seriously at all times. The Company will ensure that data is always processed in accordance with the provisions of relevant data protection legislation, including the General Data Protection Regulation (GDPR).

### **KEY DEFINITIONS**

#### **Data processing**

Data processing is any activity that involves the use of personal data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data including organising, amending, retrieving, using, disclosing, erasing or destroying it. Processing also includes transmitting or transferring personal data to third parties.

#### **Personal data**

Personal data is any information identifying a data subject (a living person to whom the data relates). It includes information relating to a data subject that can be identified (directly or indirectly) from that data alone or in combination with other identifiers the Company possesses or can reasonably access. Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person's actions or behaviour.

#### **Sensitive personal data**

Sensitive personal data is a special category of information which relates to a data subject's racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual life, sexual orientation, biometric or genetic data. It also includes personal data relating to criminal offences and convictions.

## **PRIVACY NOTICE**

This policy, together with the information contained in the table of applicant data appended to the policy, constitutes a privacy notice setting out the information the Company holds about applicants, the purpose for which this data is held and the lawful basis on which it is held. The Company may process personal information without applicants' knowledge or consent, in compliance with this policy, where this is required or permitted by law.

If the purpose for processing any piece of data about applicants should change, the company will update the table of applicant data with the new purpose and the lawful basis for processing the data and will notify applicants.

## **FAIR PROCESSING OF DATA**

### **Fair processing principles**

In processing applicants' data the following principles will be adhered to. Personal data will be:

- Used lawfully, fairly and in a transparent way;
- Collected only for valid purposes that are clearly explained and not used in any way that is incompatible with those purposes;
- Relevant to specific purposes and limited only to those purposes;
- Accurate and kept up to date;
- Kept only as long as necessary for the specified purposes; and
- Kept securely.

### **Lawful processing of personal data**

Personal information will only be processed when there is a lawful basis for doing so. Most commonly, the Company will use personal information in the following circumstances:

- when it is needed to perform applicants' contracts of employment;
- when it is needed to comply with a legal obligation; or
- when it is necessary for the Company's legitimate interests (or those of a third party) and applicants' interests and fundamental rights do not override those interests.

The Company may also use personal information in the following situations, which are likely to be rare:

- when it is necessary to protect applicants' interests (or someone else's interests); or
- when it is necessary in the public interest [or for official purposes].

### **Lawful processing of sensitive personal data**

The Company may process special categories of personal information in the following circumstances:

Action on Smoking & Health (Scotland) (ASH Scotland) is a registered Scottish charity (SC 010412) and a company limited by guarantee (Scottish company no 141711)

- in limited circumstances, with explicit written consent;
- in order to meet legal obligations;
- when it is needed in the public interest, such as for equal opportunities monitoring [or in relation to the Company's occupational pension scheme]; or
- when it is needed to assess working capacity on health grounds, subject to appropriate confidentiality safeguards.

Less commonly, the Company may process this type of information where it is needed in relation to legal claims or where it is needed to protect an applicant's interests (or someone else's interests) and the applicant is not capable of giving consent, or where an applicant has already made the information public. The Company may use particularly sensitive personal information in the following ways:

- information relating to leaves of absence, which may include sickness absence or family related leaves, may be used to comply with employment and other laws;
- information about applicants' physical or mental health, or disability status, may be used to ensure health and safety in the workplace and to assess fitness to work, to provide appropriate workplace adjustments, to monitor and manage sickness absence and to administer benefits;
- information about race or national or ethnic origin, religious, philosophical or moral beliefs, or sexual life or sexual orientation, may be used to ensure meaningful equal opportunity monitoring and reporting; and
- information about trade union membership may be used to pay trade union premiums, register the status of a protected applicant and to comply with employment law obligations.

### **Lawful processing of information about criminal convictions**

The Company envisages that it may hold information about criminal convictions, in relation to disclosure checks. If it becomes necessary to do so, the Company will only use this information where it has a legal basis for processing the information. This will usually be where such processing is necessary to carry out the Company's obligations. Less commonly, the Company may use information relating to criminal convictions where it is necessary in relation to legal claims, where it is necessary to protect an applicant's interests (or someone else's interests) and the applicant is not capable of giving consent, or where the applicant has already made the information public.

The Company will only collect information about criminal convictions if it is appropriate given the nature of the role and where it is legally able to do so.

### **Consent to data processing**

The Company does not require consent from applicants to process most types of applicant data. In addition, the Company will not usually need consent to use special categories of personal information in order to carry out legal obligations or exercise specific rights in the field of employment law.

In limited circumstances, applicants may be asked for written consent to process sensitive data. In those circumstances, applicants will be provided with full details of the information that sought and the reason it is needed, so that applicants can carefully consider whether to consent.

Where applicants have provided consent to the collection, processing and transfer of personal information for a specific purpose, they have the right to withdraw consent for that specific processing at any time. Once the Company has received notification of withdrawal of consent it will no longer process information for the purpose or purposes originally agreed to, unless it has another legitimate basis for doing so in law.

### **Automated decision making**

Automated decision-making takes place when an electronic system uses personal information to make a decision without human intervention.

The Company does not envisage that any decisions will be taken about applicants using automated means, however applicants will be notified if this position changes.

## **COLLECTION AND RETENTION OF DATA**

### **Collection of data**

The Company will collect personal information about applicants through the application and recruitment process, either directly from candidates or sometimes from an employment agency or background check provider. The Company may sometimes collect additional information from third parties including former employers, credit reference agencies or other background check agencies.

From time to time, the Company may collect additional personal information from an applicant. If the Company requires to obtain additional personal information this policy will be updated or applicants will receive a separate privacy notice setting out the purpose and lawful basis for processing the data.

### **Retention of data**

The Company will only retain applicants' personal information for as long as necessary to fulfil the purposes it was collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements. Details of retention periods for different aspects of personal information are set out in the table of applicant data appended to this policy.

When determining the appropriate retention period for personal data, the Company will consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of personal data, the purposes for which the personal data is processed, whether the Company can achieve those purposes through other means, and the applicable legal requirements.

In some circumstances the Company may anonymise personal information so that it can no longer be associated with individual applicants, in which case the Company may use such information without further notice to applicants. After the data retention period has expired, the Company will securely destroy applicants' personal information.

## **DATA SECURITY AND SHARING**

### **Data security**

The Company has put in place appropriate security measures to prevent personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. Details of these measures are available upon request.

### **Data sharing**

The Company may share personal information with third parties. The Company requires third parties to respect the security of applicant data and to treat it in accordance with the law. The Company may also need to share personal information with a regulator or to otherwise comply with the law.

The Company may also share applicant data with third-party service providers where it is necessary to administer the working relationship with applicants or where the Company has a legitimate interest in doing so. The following activities are carried out by third-party service providers: pension administration, benefits provision and administration, IT services.

## **STAFF MEMBER RIGHTS AND OBLIGATIONS**

### **Accuracy of data**

The Company will conduct regular reviews of the information held by it to ensure the relevancy of the information it holds. Applicants are under a duty to inform the Company of any changes to their current circumstances. Where an Applicant has concerns regarding the accuracy of personal data held by the Company, the Applicant should contact the Chief Executive to request an amendment to the data.

### **Applicant rights**

Under certain circumstances, applicants have the right to:

- **Request access** to personal information (commonly known as a “data subject access request”).
- **Request erasure** of personal information.
- **Object to processing** of personal information where the Company is relying on a legitimate interest (or those of a third party) to lawfully process it.
- **Request the restriction of processing** of personal information.
- **Request the transfer** of personal information to another party.

If an applicant wishes to make a request on any of the above grounds, they should contact [POSITION] in writing. Please note that, depending on the nature of the request, the Company may have good grounds for refusing to comply. If that is the case, the applicant will be given an explanation by the Company.

### **Data subject access requests**

Applicants will not normally have to pay a fee to access personal information (or to exercise any of the other rights). However, the Company may charge a reasonable fee if the request for access is clearly unfounded or excessive. Alternatively, the Company may refuse to comply with the request in such circumstances.

The Company may need to request specific information from the applicant to help confirm their identity and ensure the right to access the information (or to exercise any of the other rights). This is another appropriate security measure to ensure that personal information is not disclosed to any person who has no right to receive it.

## **COMPLIANCE WITH THIS POLICY**

### **The Company’s responsibility for compliance**

The Chief Executive is tasked with overseeing compliance with this policy. If applicants have any questions about this policy or how the Company handles personal information, they should contact the Chief Executive. Applicants have the right to make a complaint at any time to the Information Commissioner’s Office (ICO), the UK supervisory authority for data protection issues.

### **Data security breaches**

The Company has put in place procedures to deal with any data security breach and will notify applicants and any applicable regulator of a suspected breach where legally required to do so. Details of these measures are available upon request.

**APPLICANT DATA**

Type of personal data	Sensitive data?	Purpose of processing	Potential transfer to third parties	Lawful basis for processing	Grounds for processing sensitive personal data	Retention period
Contact details	No	Contacting applicants	Professional advisors	Legal obligation / Legitimate interests	N/A	6 months post-application
Date of birth	No	Equal opportunities monitoring	Professional advisors	Legal obligation / Legitimate interests	N/A	6 months post-application
Gender	Yes	Equal opportunities monitoring	Professional advisors	Legal obligation / Legitimate interests	employment purposes / statistics / conduct of legal claims	6 months post-application
Marital status	Yes	Equal opportunities monitoring	Professional advisors	Legal obligation / Legitimate interests	employment purposes / statistics / conduct of legal claims	6 months post-application
Information about race	Yes	Equal opportunities monitoring	Professional advisors	Legal obligation / Legitimate interests	employment purposes / statistics / conduct of legal claims	6 months post-application
Information about ethnicity	Yes	Equal opportunities monitoring	Professional advisors	Legal obligation / Legitimate interests	employment purposes / statistics / conduct of legal claims	6 months post-application
Information about religious beliefs	Yes	Equal opportunities monitoring	Professional advisors	Legal obligation / Legitimate interests	employment purposes / statistics / conduct of legal claims	6 months post-application
Information about sexual orientation	Yes	Equal opportunities monitoring	Professional advisors	Legal obligation / Legitimate interests	employment purposes / statistics / conduct of legal claims	6 months post-application
Information about political affiliations	Yes	Equal opportunities monitoring	Professional advisors	Legal obligation / Legitimate interests	employment purposes / statistics / conduct of legal claims	6 months post-application
Driving license	No	Making recruitment decisions / ascertaining ability to work	N/A	Legal obligation / Legitimate interests	N/A	6 months post-application
CV	No	Making recruitment decisions / ascertaining ability to work	N/A	Legal obligation / Legitimate interests	N/A	6 months post-application
Right to work documents	Yes	Checking right to work in the UK	Professional advisors	Legal obligation / Legitimate interests	employment purposes / conduct of legal claims	6 months post-application
Qualifications	No	Making recruitment decisions / ascertaining ability to work	Professional advisors	Legal obligation / Legitimate interests	N/A	6 months post-application
Employment history	No	Making recruitment decisions / ascertaining ability to work	N/A	Legal obligation / Legitimate interests	N/A	6 months post-application
Information about disability	Yes	Health and safety requirements / ascertaining fitness to work	Professional advisors	Legal obligation / Legitimate interests	employment purposes / statistics /	6 months post-application

					conduct of legal claims	
Professional memberships	No	Education, training and development requirements	N/A	Legal obligation / Legitimate interests	N/A	6 months post-application
Health records	Yes	Ascertaining fitness to work	Professional advisors	Legal obligation / Legitimate interests	employment purposes / conduct of legal claims	6 months post-application