PRIVACY NOTICE for candidates, current and former employees, workers and contractors

The Office of the Children’s Commissioner (OCC) is committed to protecting the privacy and security of your personal information.

It describes how we collect and use personal information about you before, during and after your working relationship with us.

This notice applies to all candidates, current and former employees, workers and contractors. It does not form part of any contract of employment or other contract to provide services.

It is important that you read this notice, together with any other privacy notice that is provided on specific occasions when we are collecting or processing personal information about you, so that you are aware of how and why we are using such information.

This notice can be updated at any time and is currently under review. An updated version 2 will be available from 1 July 2018. We will also notify you in other ways from time to time about the processing of your personal information.

1. Definitions

‘Data Controller’ means that we are responsible for deciding how we hold and use personal information about you.

‘Data Protection Legislation’ means all the data protection law including the General Data Protection Regulation [EU/2016/679] (GDPR) and the Data Protection Act 2018.

‘Personal data’ or personal information, means any information about an individual from which that person can be identified. It does not include data where the identity has been removed (anonymous data).

‘Sensitive personal data’ or information means special categories of more sensitive personal data which require a higher level of protection.

‘Process/processing’, in relation to personal information or data, means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including the organisation, adaptation or alteration of the information or data; retrieval, consultation or use of the information or data; disclosure of the information or data by transmission, dissemination or otherwise making available, or alignment, combination, blocking, erasure or destruction of the information or data.

1. Data protection principles

We will comply with data protection law. This says that the personal information we hold about you must be:

* Used lawfully, fairly and in a transparent way;
* Collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes;
* Relevant to the purposes we have told you about and limited only to those purposes;
* Accurate and kept up to date;
* Kept only as long as necessary for the purposes we have told you about; and
* Kept securely.
1. Legal basis for processing

We process personal data relating to those we employ or who apply to work for OCC for employment and pre-employment purposes:

Processing of your personal data will be necessary

1. for the fulfilment of a contract to which the person is subject (GDPR Art 6 para 1(b))
2. with other information being processed in compliance with legal obligations (Art 6 para 1 (c))
3. tasks in the public interest (Art 6 para 1 (e)).
4. Your employment related condition for processing special category information is employment and social security purposes (art 9 para 2 (b)) as well as health (occupational health) (Art 9 para 2 (h)).
5. criminal records information in line with Article 10.
6. Collection and use of personal data

We typically collect personal information or data about candidates through the application and recruitment process, either directly from candidates or sometimes from an employment agency or background check provider. We will sometimes collect additional information from third parties including former employers, credit reference agencies or other background check agencies, including the Disclosure and Barring Services (DBS).

We will collect additional personal information in the course of job-related activities throughout the period of you work for us. We process the following categories of personal information about you:

* Attendance management;
* Disputes and Discipline management;
* Employment, Pay, Pensions and Allowances;
* HR data and sensitive information.
* Monitoring the [use of information technology](https://educationgovuk.sharepoint.com/how-do-i/it/Pages/policies-and-guidance.aspx) and [information technology security](https://educationgovuk.sharepoint.com/how-do-i/it/Pages/security.aspx);
* Performance, Development and Talent management;
* Personal, Health and Welfare;
* Recruitment;
* Restructuring and Redeployment; and
* Security;

We will only use your personal information when the law allows us to. Most commonly, we will use your personal information in the following circumstances:

* Where it is necessary for performing the contract we have entered into with you;
* Where we need to comply with a legal obligation;
* Where it is in the public interest to do so; or for official purposes; or in the exercise of a function of the Crown, a Minister of the Crown or the Government Legal Department. Where we need to comply with a legal obligation;
* There can be rare occasions where it becomes necessary to use your personal information to protect your interests (or someone else’s interests).
1. Situations in which we will use your personal information

We need all the categories of information in the list above (see: The kind of information we hold about you) to enable us to perform our contract with you; to enable us to comply with legal obligations, to carry out our functions as a Non-Departmental Public Body /functions of the Crown; or where it is necessary to do so in the public interest.

The situations in which we will process your personal information are:

* making a decision about your recruitment or appointment;
* determining the terms on which you work for us;
* checking you are legally entitled to work in the UK and to provide you with the security clearance appropriate for your role.
* paying you and, if you are an employee, deducting tax and National Insurance contributions and reporting this to HMRC;
* providing employment-related benefits to you including: occupational Sick, Adoption, Maternity, Paternity, Shared Parental and Annual leave and pay; pension, and advances of salary;
* liaising with your pension provider, providing information about changes to your employment such as promotions, changing in working hours;
* general administration of the contract we have entered into with you;
* business management and planning, including accounting and auditing;
* conducting performance reviews, managing performance and determining performance requirements;
* making decisions about salary reviews and compensation.
* assessing qualifications for a particular job or task, including decisions about promotions;
* gathering evidence and any other steps relating to possible grievance or disciplinary matters and associated hearings;
* making decisions about your continued employment or engagement;
* making arrangements for the termination of our working relationship;
* education, training and development requirements;
* dealing with legal disputes involving you, or other employees, workers and contractors, including accidents at work;
* ascertaining your fitness to work, managing sickness absence;
* complying with health and safety obligations;
* to prevent fraud;
* to monitor your business and personal use of our information and communication systems to ensure compliance with our IT policies;
* to ensure network and information security, including preventing unauthorised access to our computer and electronic communications systems and preventing malicious software distribution.
* to conduct data analytics studies to review and better understand employee retention and attrition rates;
* equal opportunities monitoring; and
* dealing with Freedom of Information Act/Environmental Information Regulations requests.

Some of the purposes will overlap and there can be several grounds which justify our use of your personal information.

1. Failure to provide personal information

If you fail to provide certain information when requested, we will not be able to fully perform the contract we have entered into with you (such as paying your or providing a benefit), or we could be prevented from complying with our legal obligations (such as to ensure the health and safety of our workers).

1. Change of purpose

We will only use your personal information for the purposes for which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose. If we need to use your personal information for an unrelated or new purpose, we will notify you and we will explain the legal basis which allows us to do so.

Please note that we will, if necessary, process your personal information without your knowledge or consent, in compliance with the above rules, where this is required or permitted by law.

1. How we use particularly sensitive personal information

‘Special categories’ of particularly sensitive personal data require higher levels of protection. We need to have further justification for collecting, storing and using this type of personal information.

We will, if necessary, process special categories of personal information in the following circumstances:

* Where we need to carry out our legal obligations or exercise our employment related legal rights and in line with our data protection policy;
* Where it is in line with our data protection policy, it is substantially in the public interest to do so and necessary for:
	1. Performing our functions as a Non-Departmental Government Body or a function of the Crown,
	2. Equal opportunities monitoring,
	3. Administering our pension scheme, and
	4. Preventing or dectecting unlawful acts; and
* Where it is needed to access your working capacity on health grounds, subject to appropriate confidentiality safeguards.

In some circumstances, we will process this type of information where it is needed in relation to legal claims or where it is needed to protect your interests (or someone else’s interests) and you are not capable of giving your consent, or where you have already made the information public.

We will use your particularly sensitive personal information in the following ways.

* we will use information relating to leaves of absence; this can include sickness absence or family related leave, to comply with employment and other laws;
* we will use information about your physical or mental health, or disability status, to ensure your health and safety in the workplace and to assess your fitness to work, to provide appropriate workplace adjustments, to monitor and manage sickness absence and to administer benefits;
* we will use information about your race or national or ethnic origin, religious, philosophical or moral beliefs, or your sexual life or sexual orientation, to ensure meaningful equal opportunity monitoring and reporting;
* register the status of a protected employee and to comply with employment law obligations.

We do not need your consent if we use special categories of your personal information in accordance with our written policy to carry out our legal obligations, or for one of the other reasons outlined above: ‘How we use particularly personal information’. In limited circumstances, if the need arises, we will approach you for your written consent to allow us to process certain particularly sensitive data. If we do so, we will provide you with full details of the information that we would like and the reason we need it, so that you can carefully consider whether you wish to consent. You should be aware that it is not a condition of your contract with us that you agree to any request for consent from us.

1. Information about criminal convictions

We will only use information relating to criminal convictions or alleged criminal behaviour where the law allows us to do so. This can arise when it is necessary for us to comply with the law or for another reason where there is a substantial public interest in us doing so.

Less commonly, we will, if necessary, use information relating to criminal convictions or alleged criminal behaviour where it is necessary in relation to legal claims, where it is necessary to protect your interests (or someone else's interests) and you are not capable of giving your consent, or where you have already made the information public.

We will only collect information about criminal convictions or allegations of criminal behaviour where it is appropriate given the nature of the role and where we are legally able to do so. Where appropriate, we will collect information about criminal convictions/allegations as part of the recruitment process or if we are notified of such information directly by you in the course of you working for us. We will use information about criminal convictions/allegations and offences in the following ways:

* pre-employment checks;
* Disclosure and Barring Service checks; and
* national security vetting.

We are allowed to use your personal information in this way where it is in line with our data protection policy and where one of the following reasons arises:

* where we need to carry out our legal obligations or exercise our employment-related legal rights; and
* where it is substantially in the public interest to do so and necessary for performing our functions as a Non-Departmental Government Body or a function of the Crown.

# Data sharing

We will in some circumstances have to share your date with third parties, including third party service providers and Civil Service bodies. We require third parties to respect the security of your data and to treat it in accordance with the law.

We will share your personal information with third parties where required by law, where it is necessary to administer the working relationship with you; where it is in the public interest to do so or where it is necessary for the performance of our functions as a Non-Departmental Government Body or a function of the Crown. This will, in some circumstances, involve sharing special categories of personal data and, where relevant, data about criminal convictions/allegations.

"Third parties" includes third-party service providers (including contractors and designated agents) and other entities within the Civil Service.

All our third-party service providers are required to take appropriate security measures to protect your personal information in line with our policies. We do not allow our third-party service providers to use your personal data for their own purposes. We only permit them to process your personal data for specified purposes and in accordance with our instructions.

We will share your personal information with Civil Service organisations as part of our regular reporting activities on departmental performance, in the context of a business reorganisation or restructuring exercise, for system maintenance support and hosting of data; business planning/talent management initiatives, succession planning, statistical analysis; and general management and functioning of the Civil Service. Personal data is also shared with the Office for National Statistics, mainly for statistical purposes.

If required, we will need to share your personal information with a regulator or to otherwise comply with the law.

There may be occasions where we may need to share your information but we will inform you at the time unless we are prohibited in law to do so.

# 11. Data security

We have put in place appropriate security measures to prevent your personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. In addition, we limit access to your personal information to those employees, agents, contractors and other third parties who have a business need to know. They will only process your personal information on our instructions and where they have agreed to treate the information confidentially and keep it secure.

We have put in place procedures to deal with any suspected data security breach and will notify you and any applicable regulator of a suspected breach where we are legally required to do so.

12. Data Retention

We will only retain your personal information for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements. Details of retention periods for different aspects of your personal information are available in our retention policy which forms part of our Data Protection Policy. To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements.

In some circumstances we will anonymise your personal information so that it can no longer be associated with you, in which case we will use such information without further notice to you. Once you are no longer a candidate, employee, worker or contractor of the company we will retain and securely destroy your personal information in accordance with our retention policy.

13. Rights of access, correction, erasure and restriction

It is important that the personal information we hold about you is accurate and current. Please keep us informed if your personal information changes during your working relationship with us.

Under certain circumstances, by law you have the right to:

* **request access** to your personal information (commonly known as a "data subject access request"). This enables you to receive a copy of the personal information we hold about you and to check that we are lawfully processing it.
* **request correction** of the personal information that we hold about you. This enables you to have any incomplete or inaccurate information we hold about you corrected.
* **request erasure** of your personal information. This enables you to ask us to delete or remove personal information where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal information where you have exercised your right to object to processing (see below).
* **object to processing** of your personal information where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground. You also have the right to object where we are processing your personal information for direct marketing purposes.
* **request the restriction of processing** of your personal information. This enables you to ask us to suspend the processing of personal information about you, for example if you want us to establish its accuracy or the reason for processing it.
* **request the transfer** of your personal information to another party.

If you want to review, verify, correct or request erasure of your personal information, object to the processing of your personal data, or request that we transfer a copy of your personal information to another party, please contact Business Support – Lyn.Foster@childrenscommissioner.gsi.gov.uk.

You will not normally have to pay a fee to access your personal information (or to exercise any of the other rights). However, we are allowed under the law to charge a reasonable fee if your request for access is clearly unfounded or excessive. Alternatively, we can refuse to comply with the request in such circumstances.

We sometimes need to request specific information from you to help us confirm your identity and ensure your right to access the information (or to exercise any of your 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.

14. Right to withdraw consent

In the limited circumstances where you have provided your consent to the collection, processing and transfer of your personal information for a specific purpose, you have the right to withdraw your consent for that specific processing at any time. To withdraw your consent, please contact the Business Services. Once we have received notification that you have withdrawn your consent, we will no longer process your information for the purpose or purposes you originally agreed to, unless we have another legitimate basis for doing so in law.

# 15. Data protection officer

If you have any questions about this privacy notice or how we handle your personal information, you should raise your concern with us in the first instance with your line manager. If you remain concerned, please contact Business Services – Lyn.Foster@childrenscommissioner.gsi.gov.uk

We have appointed a data protection officer (DPO) to oversee compliance with this privacy notice. If you wish to complain about this Notice or any of the procedures set out in it please contact Richard Bradley, Data Protection Officer – dataprotectionofficer@childrenscommissioner.gsi.gov.uk.

You also 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, at <https://ico.org.uk/concerns/> or telephone 0303 123 1113.