

# **HARDING EVANS LLP**

## **Data Protection Privacy Notice for Employees, Consultants, Contractors and Prospective Employees**

### **1. What is the purpose of this document?**

1.1 Harding Evans is committed to protecting the privacy and security of your personal information.

1.2 This privacy notice describes how we collect and use personal information about you during and after your working relationship with us, in accordance with the General Data Protection Regulation (GDPR).

1.3 It applies to all employees, workers and contractors.

1.4 Harding Evans LLP, Harding Evans Legal Services Limited and Harding Evans Services Limited are the “data controllers”. This means that we are responsible for deciding how we hold and use personal information about you. We are required under data protection legislation to notify you of the information contained in this privacy notice.

1.5 This notice applies to current and former employees, workers, contractors and consultants. This notice does not form part of any contract of employment or other contract to provide services. We may update this notice at any time.

1.6 It is important that you read this notice, together with any other privacy notice we may provide 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.

### **2. Data Protection Principles**

2.1 Anyone processing personal data must comply with the seven enforceable principles of good practice. These provide that personal data must be:

(a) processed lawfully, fairly and in a transparent manner in relation to the data subject (‘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 (‘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 and that reasonable steps will 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 (‘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’)

(g) accountable and responsible for what we do with personal data and how we comply with the other principles (‘accountability’)

### **3. The kind of information we hold about you**

3.1 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).

3.2 There are “special categories” of more sensitive personal data which require a higher level of protection.

3.3 We may collect, store, and use the following categories of personal information about you:

- Personal contact details such as name, title, addresses, telephone numbers, and personal email addresses.
- Date of birth.
- Gender.
- Marital status and dependants.
- Next of kin and emergency contact information.
- National Insurance number.
- Bank account details, payroll records and tax status information.
- Salary, annual leave, pension and benefits information.
- Start date.
- Location of employment or workplace.
- Copy of driving licence.
- Recruitment information (including copies of right to work documentation, references and other information included in a CV or cover letter or as part of the application process).
- Employment records (including job titles, work history, working hours, training records and professional memberships).
- Compensation history.
- Performance information.
- Disciplinary and grievance information.
- Information about your use of our information and communications systems.
- Photographs.
- Holiday records.

3.4 We may also collect, store and use the following “special categories” of more sensitive personal information:

- Information about your race or ethnicity, religious beliefs, sexual orientation and political opinions.
- Information about your health, including any medical condition, health and sickness records.
- Information received from CRB checks about criminal convictions and offences.

### **4. How is your personal information collected?**

4.1 We typically collect personal information about employees, workers and contactors through the application and recruitment process, either directly from candidates or sometimes from an employment agency or background check provider. We may sometimes collect additional information from third parties including former employers, credit reference agencies or other background check agencies.

4.2 We will collect additional personal information in the course of job-related activities throughout the period of you working for us.

### **5. How we will use information about you**

5.1 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 we need to perform the contract we have entered into with you.
- Where we need to comply with a legal obligation.
- Where it is necessary for our legitimate interests (or those of a third party) and your interests and fundamental rights do not override those interests.

5.2 We may also use your personal information in the following situations, which are likely to be rare:

- Where we need to protect your interests (or someone else's interests).
- Where it is needed in the public interest, for official purposes or to comply with the regulatory obligations imposed on us, for example, by the SRA.

## **6. Situations in which we will use your personal information**

6.1 We need all the categories of information in the list above (see *The kind of information we hold about you*) primarily to allow us to perform our contract with you and to enable us to comply with legal obligations. In some cases we may use your personal information to pursue legitimate interests of our own or those of third parties, provided your interests and fundamental rights do not override those interests. The situations in which we will process your personal information are listed below. We have indicated the purpose or purposes for which we are processing or will process your personal information, as well as indicating which categories of data are involved.

- Making a decision about your recruitment or appointment.
- Determining the terms on which you work for us.
- Checking that you are legally entitled to work in the UK.
- Paying you and, if you are an employee, deducting tax and National Insurance contributions.
- Providing life assurance or medical insurance benefits.
- Liaising with your pension provider.
- Administering 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 for possible grievance or disciplinary 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 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.

6.2 Some of the above grounds for processing will overlap and there may be several grounds which justify our use of your personal information.

## **7. Monitoring**

7.1 We reserve the right to monitor telephone, computer, mobile telephone and internet use as detailed in our Computer/Telephone/Electronic Communications and Expenses Policies to ensure compliance with Company rules and policies. If non-compliance with Company policy is identified information identified may be processed as part of a disciplinary investigation.

7.2 We reserve the right to operate security (including CCTV and ID badges), governance, audit and quality assurance arrangements.

## **8. If you fail to provide personal information**

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

## **9. Change of purpose**

9.1 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 purpose, we will notify you and we will explain the legal basis which allows us to do so.

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

## **10. How we use particularly sensitive personal information**

10.1 “Special categories” of particularly sensitive personal information require higher levels of protection. We need to have further justification for collecting, storing and using this type of personal information. We may process special categories of personal information in the following circumstances:

- In limited circumstances, with your explicit written consent.
- Where we need to carry out our legal obligations and in line with our data protection policy.
- Where it is needed in the public interest, such as for equal opportunities monitoring, and in line with our data protection policy.
- Where it is needed to assess your working capacity on health grounds, subject to appropriate confidentiality safeguards.

10.2 Less commonly, we may 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 may also process such information about members or former members in the course of legitimate business activities with the appropriate safeguards.

## **11. Our obligations as an employer**

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

- We will use information relating to leaves of absence, which may include sickness absence or family related leaves, 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.

## **12. Do we need your consent?**

12.1 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 exercise specific rights in the field of employment law. In limited circumstances, we may 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.

## **13. Information about criminal convictions**

13.1 We may only use information relating to criminal convictions where the law allows us to do so. This will usually be where such processing is necessary to carry out our obligations as an organisation regulated by the SRA and provided we do so in line with our data protection policy.

13.2 Less commonly, we may use information relating to criminal convictions 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.

13.3 We may also process such information about members or former members in the course of legitimate business activities with the appropriate safeguards.

13.4 We envisage that we will hold information about criminal convictions.

13.5 We will only collect information about criminal convictions if 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 as part of the recruitment process or we may be notified of such information directly by you in the course of you working for us. We will use information about criminal convictions and offences in the following ways:

- To liaise with our regulatory bodies to determine whether you can fulfil the specific roles required of you.

## **14. Automated Decision-Making**

14.1 Automated decision-making takes place when an electronic system uses personal information to make a decision without human intervention. We are allowed to use automated decision-making in the following circumstances:

- Where we have notified you of the decision and given you 21 days to request reconsideration.
- Where it is necessary to perform the contract with you and appropriate measures are in place to safeguard your rights.
- In limited circumstances, with your explicit written consent and where appropriate measures are in place to safeguard your rights.

14.2 If we make an automated decision on the basis of any particularly sensitive personal information, we must have either your explicit written consent or it must be justified in the public interest, and we must also put in place appropriate measures to safeguard your rights.

14.3 You will not be subject to decisions that will have a significant impact on you based solely on automated decision-making, unless we have a lawful basis for doing so and we have notified you.

14.4 We do not envisage that any decisions will be taken about you using automated means, however we will notify you in writing if this position changes.

## **15. Data Sharing**

15.1 We may have to share your data with third parties, including third-party service providers and other entities in the group.

15.2 We require third parties to respect the security of your data and to treat it in accordance with the law.

15.3 We may transfer your personal information outside the EU.

15.4 If we do, you can expect a similar degree of protection in respect of your personal information.

## **16. Why might you share my personal information with third parties?**

16.1 We may share your personal information with third parties where required by law, where it is necessary to administer the working relationship with you or where we have another legitimate interest in doing so.

## **17. Which third-party service providers process my personal information?**

17.1 "Third parties" includes third-party service providers (including contractors and designated agents) and other entities within our group. The following activities are carried out by third-party service providers: pension administration, benefits provision, archiving and administration, IT services, and where we store documents off site after your employment has ended.

## **18. How secure is my information with third-party service providers and other entities in our group?**

18.1 All our third-party service providers and other entities in the group 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.

## **19. When might you share my personal information with other entities in the group?**

19.1 We will share your personal information with other entities in our group as part of our regular reporting activities on company performance, in the context of a business reorganisation or group restructuring exercise, for system maintenance support and hosting of data.

## **20. What about other third parties?**

20.1 We may share your personal information with other third parties, for example in the context of the possible sale or restructuring of the business. We may also need to share your personal information with a regulator or to otherwise comply with the law.

## **21. Data Security**

21.1 We have put in place measures to protect the security of your information. Details of these measures are available upon request. Any hard copy documents are stored in a locked cabinet only accessible by the Practice Director and HR team. Electronic documents are stored on a restricted drive and/or Simply Personnel only accessible by the Practice Director and the HR team. Some personal information may be contained in emails only accessible by the sender and recipient of the email.

21.2 Third parties will only process your personal information on our instructions and where they have agreed to treat the information confidentially and to keep it secure.

21.3 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 they are subject to a duty of confidentiality. Details of these measures may be obtained from the Human Resources Department.

21.4 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.

## **22. Data Retention**

22.1 How long will you use my information for?

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 is available from the Human Resources Team. 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 may anonymise your personal information so that it can no longer be associated with you, in which case we may use such information without further notice to you. Once you are no longer an employee, worker or contractor of the company we will retain and securely destroy your personal information in accordance with our data retention policy.

## **23. Rights of access, correction, erasure, and restriction**

23.1 Your duty to inform us of changes

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.

23.2 Your rights in connection with personal information

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

(a) **Subject access:** the right to request information about how your personal data is being processed, including whether personal data is being processed and the right to be allowed access to that data and to be provided with a copy of that data along with the right to obtain the following information:

- the purpose of the processing;
- the categories of personal data;
- the recipients to whom data has been disclosed or which will be disclosed;
- the retention period;
- the right to lodge a complaint with the Information Commissioner's Office;
- the source of the information if not collected direct from the subject; and
- the existence of any automated decision making.

- (b) **Rectification:** the right to allow you to rectify any inaccurate personal data held about you.
- (c) **Erasure:** the right to have data erased and to have confirmation of erasure, but only where:
- the data is no longer necessary in relation to the purpose for which it was collected, or
  - where consent is withdrawn, or
  - where there is no legal basis for the processing, or
  - there is a legal obligation to delete data.
- (d) **Restriction of processing:** the right to ask for certain processing to be restricted in the following circumstances:
- if the accuracy of the personal data is being contested; or
  - if our processing is unlawful but you do not want it erased; or
  - if the data is no longer needed for the purpose of the processing but it is required by you for the establishment, exercise or defence of legal claims; or
  - if you have objected to the processing, pending verification of that objection.
- (e) **Data portability:** the right to receive a copy of personal data which has been provided by you and which is processed by automated means in a format which will allow you to transfer the data to another data controller. This would only apply if Harding Evans was processing the data using consent or on the basis of a contract.
- (f) **Object to processing:** the right to object to the processing of personal data relying on the legitimate interests processing condition unless Harding Evans can demonstrate compelling legitimate grounds for the processing which override your interests or for the establishment, exercise or defence of legal claims.

If you want to request information about your personal information, rectify, restrict 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 the Practice Manager in writing.

## 24. No fee usually required

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

## 25. What we may need from you

25.1 We may 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.

## 26. Right to Withdraw Consent

26.1 In the limited circumstances where you may 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 Practice Manager. 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.



## **27. Changes to this Privacy Notice**

27.1 We reserve the right to update this privacy notice at any time, and we will provide you with a new privacy notice when we make any substantial updates. We may also notify you in other ways from time to time about the processing of your personal information.

**If you have any questions about this privacy notice, please contact the Practice Manager.**