



A DATA PROTECTION PROCEDURE FOR THE EFFECTIVE MANAGEMENT OF PERSONNEL RECORDS

Title	A Data Protection Procedure for the Effective Management of Personnel Records
Who should use this	All Staff
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Approved by Management Team	
Approved by Joint Board	10 th November 2015
Reviewer	Assessor & ERO
Review Date	2018

Review History

REVIEW NO.	DETAILS	RELEASE DATE
1	NEW – OCTOBER 2015	
2		
3		
4		
5		
6		

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1 **PURPOSE**

Ayrshire Valuation Joint Board recognises the importance of respecting the personal privacy of our employees and the need to build in appropriate safeguards during the collection, storage, processing and utilisation of personal information. The purpose of this procedure is to set out how this is to be achieved and to ensure the Board meets the relevant requirements of the Data Protection Act 1998.

2 **SCOPE**

This procedure covers all personal information held or processed by the Board relating to all past, present or future employment within the Board (“personnel information”). The information may be administered centrally by the Board’s Personnel Representatives or through Line Managers. Personnel information may also be administered by some South Ayrshire Council departments, e.g. Financial Services for payroll purposes.

3 **GENERAL**

This procedure is designed to provide the necessary information without overloading the reader with detail. Further general information and definitions are available in the more general “Data Protection Information Sheet for Employees”. The Board’s Personnel Representatives may also be consulted where further clarification or guidance is required.

4 **RESPONSIBILITY**

It is the responsibility of the Head of Valuation Services & Assistant ERO to ensure this procedure is implemented. All Line Managers must ensure it is followed within their area of responsibility.

5 **REASON FOR HOLDING PERSONNEL INFORMATION**

The main purposes for holding personnel information are as follows:

- general personnel record keeping
- recruitment, promotion, training, career development
- redeployment, job evaluation
- calculation of payroll, benefits, superannuation, etc
- time and attendance
- deployment of staff
- health and safety administration and audit
- security and access control
- disciplinary and grievance purposes
- contacting next of kin or arranging medical attention in an emergency
- compliance with statutory requests from 3rd parties (e.g. Inland Revenue)
- compliance with non-statutory requests from organisations (e.g. banks) only with the written request and authorisation of the employee
- monitoring effectiveness of policy

Any proposal to use personnel information for any other purpose must be referred to the Head of Valuation Services & Assistant ERO before the use commences.

6 RECRUITMENT AND SELECTION

As a general approach you should respect the privacy and human dignity of all employees and job applicants. Specific requirements are detailed below.

- 6.1 Provide applicants with a current job description (where available) and an application form. Only applicants invited for interview should be asked to complete the Criminal Conviction Form and the Health Questionnaire.
- 6.2 Ensure that the Board is entitled to hold the information requested and can justify requesting the information.
- 6.3 Inform applicants about:-
 - the purposes for which you are collecting the information
 - how long you intend to keep the information
 - the security safeguards in place
 - who will have access to the information
 - how the application will be processed
- 6.4 Obtain the written consent from applicants to hold the personal information in these terms. All forms to be completed by applicants in the recruitment process should contain the necessary written consent in their design and be retained as proof that the Board has a right to hold the information concerned.
- 6.5 Inform applicants in advance that you may seek to verify information contained in the application form. Gain written consent for this.
- 6.6 Inform applicants in advance that you may take up any third party references contained in the application form. Gain written consent for this.
- 6.7 Do not ask applicants to use their individual access rights to gain and supply you with a copy of their previous employment record.
- 6.8 Equalities Monitoring Forms should be kept separate from the personnel records and destroyed once the statistical data has been recorded.
- 6.9 Completed Criminal Convictions Forms should be opened and discussed during interview. Forms of unsuccessful applicants must be securely destroyed.

6.10 Health Questionnaires must be reviewed for successful applicants prior to a formal job offer being made. For reasons of confidentiality, these are supplied by the applicant in a sealed envelope and must not be opened by the interview panel. The sealed envelope of successful applicants must be passed to South Ayrshire Council's Occupational Health Adviser to open and review the questionnaire. Where the Occupational Health Adviser is not available for any reason, the sealed envelope should be passed instead to the SAC's Health and Safety Adviser who will organise for an alternative suitably qualified person to review the questionnaire.

Advice on suitability for employment will then be provided to the Chair of the interview panel as soon as possible. The target turnaround time is 24 hours from receipt. Health Questionnaires of successful applicants will then be stored with the Occupational Health Advisor.

Upon the appointment, all Health Questionnaires of unsuccessful applicants must be securely destroyed.

6.11 Facts and opinions recorded on interview evaluation forms must be considered and justifiable. Individuals are entitled to request access to completed copies.

6.12 Current Board recruitment processes do not involve:

- testing for alcohol or other drug use
- genetic tests or any other test identifying susceptibility to disease
- disease testing for any blood borne disease (including HIV / AIDS)

6.13 Express consent is required before completing any aptitude, psychometric or any other test of knowledge, mental capacity or disposition. Only those with the British Psychological Certificate of Competence in Occupational Testing (or equivalent) are allowed to carry out psychometric testing.

6.14 Successful job applications will be stored in the personnel file and will be subject to the maintenance guidelines set out in the next section. Where unsuccessful job applications are held they must also be regularly reviewed. Such reviews should remove and destroy those records: -

- which have been held for any period exceeding an undertaking made to the applicant (normally 3 months)
- which contain any details of criminal convictions which are "spent" as defined in the Rehabilitation of Offenders Act 1974 and which you have no right to hold under the Police Act 1997

7 PERSONNEL ADMINISTRATION

As a general approach you should respect the privacy and human dignity of all past, present and future employees. Specific requirements are detailed below.

7.1 Collect personal information only for justified reasons and for the purposes specified earlier in section 5.

- 7.2 Ensure that only information required to achieve the stated purpose is held. Do not hold information that is irrelevant or excessive.
- 7.3 Obtain the information, as far as possible, on the basis of informed consent.
- 7.4 Any access must be clearly justified and controlled. This should be on a strict “need to know” basis and must be in support of the performance of Board duties.
- 7.5 Ensure any necessary copying of information is kept to a minimum.
- 7.6 Ensure the information is adequately protected through the effective implementation of the Board Information Security Management System.
- 7.7 Ensure personal information subject to any third party processing is covered by an appropriate written contract providing security safeguards equivalent to those in the Board. An example of this would be the Strathclyde Pensions Fund.
- 7.8 Do not process information about any alleged criminal offence, or any legal proceedings involving an employee unless processing is permitted under the Police Act 1997, or it concerns forthcoming proceedings to which Ayrshire Valuation Joint Board are a party.
- 7.9 Personnel records must be regularly reviewed and updated. In particular, information held on an employee’s criminal record must be removed as soon as the conviction is legally “spent”, unless the employee concerned is in an exempt occupation under the Rehabilitation of Offenders Act 1974 (exemption) order 1975.

Internal disciplinary records must also be removed at the end of their term of force.

- 7.10 The Board has made a statutory notification to the Data Protection Commissioner detailing the personnel information recorded and what we do with it. We must keep the notification accurate and up to date and are obliged to process information only in the way it describes. Should any changes to the current methods be required this must be reviewed against the existing notification.
- 7.11 The Board Data Protection Officer should be consulted wherever doubt exists in the application of any of the above requirements.

8 SENSITIVE INFORMATION

The Data Protection Act 1998 defines some personal information as “sensitive” and special care has to be taken with the management of this information. Sensitive information and our required actions are as follows:

8.1 Racial or Ethnic Origin

This information may only be collected with the express permission of the employee or applicant concerned. It must then be processed for statistical purposes only such that individuals cannot be identified.

- 8.2 **Political Opinion, Religious or Philosophical Beliefs, Sexual Life**
This information is not to be recorded on any personnel file.
- 8.3 **Trade Union Membership**
This will only be held on file with the express permission of each employee concerned and only for the purpose of collecting union subscriptions by SAC payroll staff.
- 8.4 **Physical or Mental Health or Condition**
Health Questionnaires should be stored with SAC Occupational Health Adviser. Where this position is vacant, the SAC Health and Safety Advisor will organise secure storage until the SAC Occupational Health Advisor position is filled. Anyone requesting access to the health questionnaire must obtain the prior written permission of the individual.
- 8.5 **Sickness Absence Records**
These may be held in the personnel file.
- 8.6 **Chronic Illness Affecting All Aspects of Normal Work**
Such information must be collected and retained only with the express permission of the employee concerned and must be removed when no longer valid or relevant.
- 8.7 **Information Required to Comply with the Equality Act 2010**
Such information must be collected and retained only with the express permission of the employee concerned and must be removed when no longer valid or relevant.
- 8.8 **Actual or Alleged Offences, Criminal Proceedings and Convictions**
Any offence internal to the Board must only be held as defined in the Disciplinary and Equalities at Work policies. Criminal convictions may only be held with regard to the Rehabilitation of Offenders Act 1974. All such records must be removed from the personnel file once they are "spent".

9 ACCESS TO INFORMATION

There are three types of access requests that can be made and the requirements for each are detailed below.

9.1 The Individual Themselves

- 9.1.1 Any employee has the right of access to the personal information contained in their personnel file. Employees wishing to exercise this right should complete section A of the Access to Personnel Records Request form **DPA98PCoP-F1** and pass it to the Board's Personnel Representatives, who is then responsible for organising access. In most circumstances access to the local personnel file should be sufficient, however the individual is entitled to access their records held in other area where their employment related personal information is processed (e.g. payroll). Access should be given as soon as possible, but certainly no later than 40 days from receipt of the request.

- 9.1.2 It is possible that within an individual's record there may be information that could identify a third party and it is important to note that the individual does not have the automatic right of access to this information. The Board's Personnel Representative should review the file prior to access to ensure any such information is identified. If it is possible to mask all the third party details such that the individual could not be identified this should be done and access should be granted. Where this is not possible, the Data Protection Officer should be consulted for guidance.
- 9.1.3 Several factors will affect the individual's right of access to confidential references. In all instances the Board's Personnel Representatives should seek prior written approval for disclosure from the reference provider. Where written approval is received, this should be retained and access granted. Where written approval is not received, either through a written refusal or by receiving no reply, a distinction needs to be made between references received from outside the Board and references received from within the Board. In these circumstances the individual would not be entitled to access a reference received from within the Board. The individual may however still be entitled to access a reference received from outside the Board and the Data Protection Officer should be consulted on this.
- 9.1.4 Access may be given by simply showing the individual the actual record(s) or preparing a document containing the required information. In either case, the uses of the information should be explained and the individual should be offered a permanent copy of all information. It should be made clear to the individual at the time of access that they may have the right to object to the processing of their information and if they wish to investigate this possibility they should consult the Data Protection Officer for guidance.
- 9.1.5 The Board's Personnel Representatives should record details of the disclosure in section B of the request form (**DPA98PCoP-F1**) and place this in the personnel file.
- 9.2 **Another Board Employee**
- 9.2.1 Where a Board employee requests personnel information about another Board employee, the information should only be disclosed on a "need to know" basis and in line with the disclosure section of the statutory Notification made to the Data Protection Commissioner. All disclosures must be justifiable and must only be made if required for the performance of the duties of the employee requesting the information.
- 9.3 **Another Third Party**
- 9.3.1 All third party requests for personnel information about a Board employee must be made in writing.
- 9.3.2 Where the information is contained in a public register (where the Board is required by statute to maintain a public record) it may be disclosed. Otherwise the disclosure to all third parties should either be on the basis of a statutory right or after obtaining the prior written consent of the employee concerned.

- 9.3.3 Organisations like the Police, the Inland Revenue, VAT Inspectors and others may in some circumstances be legally entitled to access personnel information as part of their investigations into crime or for the assessment or collection of tax. Such requests must be considered on a case by case basis. The Board are responsible for ensuring that each disclosure is covered by relevant statutory powers. It is therefore a requirement that each written request from any such organisation includes details of the information requested, the purpose of the request and the statutory powers under which the request is made. The Board must be satisfied that sufficient information has been provided about the matter being investigated and the importance of the personal information to that matter. Before passing on the information, the Board must also be sure that the legislation quoted covers the disclosure of the requested information for the stated purpose. The statutory power quoted will vary depending on the individual request, so when an unknown type of request is made the Data Protection Officer must be contacted for guidance prior to any disclosure.
- 9.3.4 Prior written authorisation must be obtained from the individual before a disclosure is made at their request (e.g. to a Bank). In these instances the requesting organisation should be asked for a suitable mandate. It is not Ayrshire Valuation Joint Board's role to seek out authorisation from the individual direct.
- 9.3.5 Any request with no confirmed statutory right or written employee consent will be refused. Inform the employee if any disclosure request appears to involve fraudulent behaviour of any kind. Organisations who are refused access should be referred to the Data Protection Officer if they wish to discuss the matter further.
- 9.3.6 Complete the Disclosure of Personnel Information to Third Parties Form (**DPA98CoP-F2**) for each disclosure and file this, along with the original written request, in the relevant personnel file.

10 RECORDS

- 10.1 The Board's Personnel Representatives shall maintain individual's Personnel files locally in accordance with current Record Management Legislation.
- 10.2 SAC Occupational Health Adviser shall maintain records of Health Questionnaires and any other occupational health related information.
- 10.3 Any other department processing Personnel information (e.g. payroll) must also maintain appropriate records.
- 10.4 The Data Protection Officer shall maintain the public notification register via the Data Protection Commissioner.

ACCESS TO PERSONNEL RECORDS REQUEST

Employees wishing to access employment related personal information should complete Section A of this form and pass it to their line manager. The line manager must then organise access through the Board's Personnel representatives. The form should be used in conjunction with the Personal Data Protection Policy DPA98PcoP.

SECTION A – EMPLOYEE TO COMPLETE	
Your Details	
Full Name	
Department and Location	60/5000 – AVJB, 9 Wellington Square, Ayr
Work Telephone Number	

I confirm I am the person named above and request access to the following personal information. I understand that my rights under the Data Protection Act 1998 will be protected and the information provided to me in this form shall only be used for the purpose of administering my access request.

My Department Personnel File	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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And/or the following specific information:-

Signature _____ Date _____

SECTION B – PERSONNEL REPRESENTATIVE TO COMPLETE	
Access must be provided within 40 days of the request date above	
Detail how access was provided	
Date of Access	
Detail any outstanding request from employee	

I understand that my rights under the Data Protection Act 1998 will be protected and the information provided by me in this form shall only be for the purpose of administering the access request.

Signature _____ Date _____

DISCLOSURE OF PERSONNEL INFORMATION TO THIRD PARTIES

The Board's Personnel Representative must complete this form where the disclosure of an employee's personnel information is made to a third party. The form should be completed with reference to the Personal Data Protection Policy DPA98PcoP.

DETAILS OF REQUESTING BODY	
Name of Organisation	
Contact Person Name	
Contact Telephone Number	

DETAILS OF REQUEST	
Date of Request	
Purpose of Request	
Information Requested	
Date Request Made	

AUTHORITY UNDER WHICH REQUEST IS MADE	
Written Authorisation from Employee (any authorisation must be attached to this form)	<i>Please tick</i> <input type="checkbox"/>
Or	
Statutory Power (details must be provided)	<input type="checkbox"/>

DISCLOSURE	
Date Disclosure Made	
Information Disclosed	

I understand that my rights under the Data Protection Act 1998 will be protected and the information provided by me in this form shall only be for the purpose of administering the access request.

Signature _____ Date _____