

Southwark Disablement Association (SDA)
General Data Protection Regulation (GDPR)
Privacy Notice for Employees and Volunteers

Revision 20/11/18

1. Introduction – The Purpose of a Privacy Notice

The new General Data Protection Regulation (GDPR) is a European-wide Legislation supported by the UK Data Protection Act 2018. It places greater obligations on organisations on how your personal data is handled, provides you with more control over how your personal information is used and offers you more protection. These changes have been in effect since 25th May 2018.

Southwark Disablement Association (referred to as SDA) is a non-profit organisation registered as a charity in England & Wales and company limited by guarantee, also registered with and regulated by the Care Quality Commission to provide care and support services to people with disabilities.

This Privacy Notice is a public document available to everyone and applies to all Employees and Volunteers (including Trustees) of SDA to explain what information SDA collects, why it is collected, what SDA does with it, and who SDA shares it with.

Please refer to this Notice when you provide information and/or report change of circumstances to SDA, so you are aware of how and why such data is used. Where the term Employees is used this also applies to Volunteers where appropriate.

2. Responsibility

SDA is the Data Controller and Data Processor in their own right whose head office is located at: Cambridge House, 1 Addington Square, SE5 7JZ - Tel: 020 7358 7744

What is a Data Controller? - The organisation who (either alone or in common with other people) determine the purpose for which, and the manner in which data / your information are processed

What is a Data Processor? - A person or organisation who process data on behalf of and on the orders of a data controller. For the purposes of data protection legislation, the terms 'process', 'processed' or 'processing' apply to any activity involving the personal data, such as:

- collecting
- storing
- sharing
- destroying

(please note, this list is not exhaustive)

What is a Data Protection Officer? – A person appointed by SDA to carry out impact assessments and oversee compliance - the SDA Chief Executive Officer.

The Management Committee, having formally adopted this Privacy Notice, accepts the overall responsibility for its implementation and for monitoring its effectiveness, determining the purpose and manner in which data is processed. SDA has a duty to inform Employees how it processes the data that is within its control.

The Management Committee though remaining responsible for the effective implementation of this Notice, delegates the Data Protection Officer to ensure appropriate measures are taken and any necessary actions are completed.

3. Further Information – Privacy Notice

This Privacy Notice is also available on the SDA website for its existing and prospective employees and job applicants, so that it is easily accessible at all times. Alternatively a paper copy can be provided on request by contacting the SDA office.

For more information on Privacy Notices and the changes required as a result of GDPR, please see the ICO (Information Commissioners Office) website: <https://ico.org.uk/>

SDA collects and processes personal data relating to its employees to manage the employment relationship. SDA is committed to being transparent about how it collects and uses that data and to meeting its data protection obligations.

4. What Information (data) does SDA Collect?

The organisation collects and processes a range of information about you as listed below. Some data is described as being in a “Special Category” for which we need to your explicit consent as asterisked*.

- your name, address and contact details, including email address and telephone number, date of birth and gender;
- the terms and conditions of your employment;
- details of your qualifications, skills, experience and employment history, including start and end dates, with previous employers and with the organisation;
- information about your remuneration, including entitlement to benefits such as pensions or insurance cover;
- details of your bank account and national insurance number;
- information about your marital status, next of kin, dependants and emergency contacts;
- information about your nationality and entitlement to work in the UK;

- information about any criminal history / record you may have had*;
- details of your schedule (days of work and working hours) and attendance at work;
- details of periods of leave taken by you, including holiday leave, sickness absence, family leave and sabbaticals, and the reasons for the leave;
- details of any disciplinary or grievance procedures in which you have been involved, including any warnings issued to you and related correspondence;
- details of any concern raised about any aspect of your work during the course of your employment with SDA, including any letters issued to you and/or related correspondence;
- assessments of your performance, including appraisals, performance reviews and ratings, training you have participated in, performance improvement plans and related correspondence;
- information about medical or health conditions*, including whether or not you have a disability for which the organisation needs to make reasonable adjustments;
- details of trade union membership; and
- equal opportunities monitoring information*, including information about your ethnic origin, sexual orientation, health and religion or belief etc.

5. How we collect your information

SDA collects this information in a variety of ways. For example, data is collected through application forms, CVs or resumes; obtained from your passport or other identity documents such as your driving licence; from forms completed by you at the start of or during employment (such as benefit nomination forms); from correspondence with you; or through interviews, meetings or other assessments.

SDA may also collect personal data about you from third parties, such as references supplied by former employers and your referees, information from employment background check providers, information from credit reference agencies and information from criminal records checks permitted by law. SDA may also seek information from other third parties when necessary, but with your consent only.

Data is stored in a range of different places, including manually in your personnel file, and digitally in the SDA's Human Resources management and other IT systems including SDA's email system.

6. SDA's legal basis for processing the information collected

SDA needs to process data to enter into an employment contract with you and to meet its obligations under your employment contract. For example, it needs to process your data to provide you with an employment contract, to pay you in accordance with your employment contract and to administer benefit, pension and insurance entitlements.

In some cases, SDA needs to process data to ensure that it is complying with its legal obligations. For example, it is required to check an employee's entitlement to work in the UK, to deduct tax, to arrange workplace pension, to comply with health and safety laws and to enable employees to take periods of leave to which they are entitled. Additionally, for all care staff, it is necessary to carry out criminal records checks to assess whether the individual can be permitted to undertake the role in question.

In other cases, the organisation has a legitimate interest in processing personal data before, during and after the end of the employment relationship. Processing employee data allows the organisation to;

- run recruitment and promotion processes;
- maintain accurate and up-to-date employment records and contact details (including details of who to contact in the event of an emergency), and records of employee contractual and statutory rights;
- operate and keep a record of disciplinary and grievance processes, to ensure acceptable conduct within the workplace;
- operate and keep a record of employee performance and related processes, to plan for career development, and for succession planning and workforce management purposes;
- operate and keep a record of absence and absence management procedures, to allow effective workforce management and ensure that employees are receiving the pay or other benefits to which they are entitled;
- to ensure that it complies with duties in relation to individuals with disabilities, meet its obligations under health and safety law, and ensure that employees are receiving the pay or other benefits to which they are entitled;
- operate and keep a record of other types of leave (including maternity, paternity, adoption, parental and shared parental leave), to allow effective workforce management, to ensure that SDA complies with duties in relation to leave entitlement, and to ensure that employees are receiving the pay or other benefits to which they are entitled;
- ensure effective general Human Resources and business administration;
- provide references on request for current or former employees;
- respond to and defend against legal claims; and
- maintain and promote equality in the workplace.

Where SDA relies on legitimate interests as a reason for processing data, it has considered whether or not those interests are overridden by the rights and freedoms of employees or workers and has concluded that they are not.

Some special categories of personal data, such as information about health or medical conditions, is processed to carry out employment law obligations (such as those in relation to employees with disabilities and for health and safety purposes).

Where SDA processes other special categories of personal data, such as information about ethnic origin, sexual orientation, health or religion or belief, this is done for the purposes of equal opportunities monitoring. Data that SDA uses for these purposes is anonymised or is collected with the express consent of employees, which can be withdrawn at any time. Employees are entirely free to decide whether or not to provide such data and there are no consequences of failing to do so.

7. Who has Access to Data?

Your information will be shared internally, including with your line manager and the management team, with members of the Human Resources and recruitment team including payroll as well as our accountants and IT staff if access to the data is necessary for performance of their roles.

SDA shares your data with third parties in order to obtain pre-employment references from other employers, obtain employment background checks from third-party providers and obtain necessary criminal records checks from the Disclosure and Barring Service. SDA may also share your data with third parties in the context of transfer of some or all of its business. In those circumstances the data will be subject to confidentiality arrangements.

SDA also shares your data with third parties that process data on its behalf, in connection with auditing and quality assurance e.g. Care Quality Commission.

SDA will not transfer your data to countries outside the European Economic Area.

8. How does SDA Protect Data?

SDA takes the security of your data seriously. SDA has internal policies and controls in place to try to ensure that your data is not lost, accidentally destroyed, misused or disclosed, and is not accessed except by its employees in the performance of their duties.

Where SDA engages third parties to process personal data on its behalf, they do so on the basis of written instructions, are under a duty of confidentiality and are obliged to implement appropriate technical and organisational measures to ensure the security of data in line with the GDPR.

9. For How Long does SDA Keep Data?

The organisation will hold your personal data for the duration of your employment or six months for unsuccessful job applicants. The period for which your data is held after the end of employment is three years except for details required to provide a reference for future employers which will be kept for a further reasonable period.

10. Your Rights

As a data subject, you have a number of rights. You can:

- access and obtain a copy of your data on request;
- require SDA to change incorrect or incomplete data;
- require SDA to delete or stop processing your data, i.e. where and when the data is no longer necessary for the purposes of processing;
- object to the processing of your data where SDA is not relying on its legitimate interests as the legal ground for processing; and
- ask SDA to stop processing data for a period, if data is inaccurate or there is a dispute about whether or not your interests override SDA's legitimate grounds for processing data.

If you would like to exercise any of these rights, please contact the SDA Chief Executive Officer at: sda@sdail.org

You can make a subject access request by following the ICO guidance and using the template letter at <https://ico.org.uk/your-data-matters/your-right-of-access/>

If you believe that SDA has not complied with your data protection rights, you can complain to the Information Commissioner at: <https://ico.org.uk/>

11. What If You Do Not Provide Personal Data?

You have some obligations under your employment contract to provide SDA with data. In particular, you are required to report absences from work and may be required to provide information about disciplinary or other matters under the implied duty of good faith. You may also have to provide SDA with data in order to exercise your statutory rights, such as in relation to statutory leave entitlements. Failing to provide the data may mean that you are unable to exercise your statutory rights.

Certain information, such as contact details, your right to work in the UK and payment details, have to be provided to enable SDA to enter a contract of employment with you. If you do not provide other information, this will hinder SDA's ability to administer the rights and obligations arising as a result of the employment relationship efficiently.

12. Review

This Privacy Notice will be reviewed as and when necessary and amended accordingly when required.

Appendix A - Law relating to this document

Leading statutory authority

General Data Protection Regulation (2016/679 EU)

Data Protection Act 2018

The General Data Protection Regulation (GDPR) requires employers to be transparent about the personal data that they hold and how it is used. The GDPR requires employers to provide the following information to employees at the point that data is collected from them:

- the identity and contact details of the organisation;
- the contact details of the data protection officer, if relevant;
- the purposes for which the personal data will be processed, as well as the legal basis for the processing;
- if the employer is relying on its legitimate interests as the lawful condition for processing, what those legitimate interests are;
- the recipients or categories of recipients of the personal data;
- any transfer of the data outside the European Economic Area and the basis for such transfer;
- the period for which data will be stored, or the criteria used to determine how long data will be retained;
- the individual's rights to subject access, rectification or erasure of personal data, and the right to restrict processing or object to processing;
- the right to withdraw consent to processing at any time, if the data controller is relying on consent as a ground for processing;
- the right to lodge a complaint with the Information Commissioner;
- whether or not providing the data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, and whether or not the data subject is obliged to provide the personal data, and the consequences of failing to provide the data;
- the existence of any automated decision-making and meaningful information about the logic involved and the consequences of any such processing for the individual; and
- where data is obtained from a third party, the source of the data, including if it came from publicly accessible sources.

Employers are required to provide the information in a concise, transparent, intelligible and easily accessible form. It must be in writing, and written in clear and plain language.

Where an employer wishes to process existing personal data for a new purpose, it must inform the employee of that further processing.

Organisations are required to appoint a data protection officer under the GDPR if they are a public authority, if their core activities include the regular and systemic monitoring of data subjects on a large scale, or if their core activities consist of processing special categories of personal data or data relating to criminal convictions and offences on a large scale.

The GDPR and the Data Protection Act 2018 place restrictions on the processing of special categories of personal data and data on criminal convictions and offences. Under the GDPR, special categories of personal data are defined as information about an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sex life or sexual orientation and genetic and biometric data. Data on criminal convictions and offences includes information relating to criminal allegations and proceedings. These types of data were previously known as "sensitive personal data" under the Data Protection Act 1998.

In order to process special categories of employment data, such as disability information, or data on criminal convictions and offences employers are likely to rely on the ground that processing is necessary to perform or exercise obligations or rights under employment law.

Where an employer collects employee data for equal opportunities monitoring purposes, it may rely on a limited exception under the Data Protection Act 2018 for processing data related to racial or ethnic origin, sexual orientation, health and religious or belief only. Alternatively, in limited circumstances, the employer may choose to ask for employee consent where processing is entirely optional (eg for employee support networks or employee wellness programs).