

# **Guidance on Personal Information held by the Force and Data Protection**

## **1. Background**

Under the Data Protection Act, 1998 and the Codes of Practice on Employment Practices produced subsequently by the Information Commissioner, employees have a right to see personal information collected about them both prior to and in the course of employment. This guidance details employee rights in relation to personal data held about them.

## **2. Coverage**

The Data Protection Codes cover the following groups:

- a) Applicants (successful and unsuccessful);
- b) Former applicants (successful and unsuccessful);
- c) Employees (police officers and police staff) (current and former);
- d) Agency workers (current and former);
- e) Casual workers (current and former);
- f) Contract workers (current and former).

These requirements also apply to others in the workforce such as volunteers and special constables and those on work experience placements.

## **3. Access to Information**

If personal information is kept or collected by an employer for their purposes the information must be made available to the worker if an access request is made, unless an exemption applies. The applicable exemptions may be:

- Information about plans to promote, transfer or make a worker redundant may be withheld to the extent to which access would be likely to prejudice conduct of the Force's business;
- Information consisting of records of the intentions of the employer in relation to negotiations with a worker;

- Information that consists of a reference given or to be given in confidence by the employer for the employment of a worker;
- Information held for:
  - (i) the prevention or detection of crime
  - (ii) the apprehension or prosecution of offenders;
- Information that identifies someone other than the worker can sometimes be withheld.

Where individuals wish to access information, i.e. have copies of information requests for subject access should be made in writing to the Data Protection Officer at Headquarters unless stated otherwise below. The Data Protection Officer will need to supply the information or provide access within 40 days of receipt of the request, the cost of this is a fee of £10. Personal files may be viewed by application to HR Managers.

#### **4. Checking of Information held on the Delphi HR System**

All staff will be issued annually with a copy of the data held on them on the Delphi HR system and requested to amend any inaccuracies.

#### **5. Workers' Responsibilities**

To comply with the Data Protection Act, 1998, personal data must be processed fairly and lawfully. Disclosure of personal data other than in accordance with the Act is a criminal offence. The Professional Standards Reporting Policy under the Ethical Standards website provides a vehicle for reporting wrongdoing by members of staff and disclosure of information is specifically encouraged in those circumstances.

#### **6. Requirement for Consent**

An individual's consent to hold personal data is not usually required if it is for a legitimate business purpose. If processing sensitive personal data, the Force is allowed to process it in order that it may comply with any legal requirement associated with employment, for example, data regarding ethnic origin may be held in order that the Force is able to comply with the Race Relations Amendment Act, 2000 (see also paragraph 20 Sensitive Information).

## **7. Types of Records Kept and Retention**

Guidance is given below on all the types of personal records kept by the Force.

Retention periods are as per the retention schedule within Section 23 of Standing Orders.

## **8. Recruitment and Selection**

Records of applications for a post within the Force will be kept in the following format:

The application form submitted by successful candidates will be retained on personal files and the data relevant to the computerised HR system (known as Delphi) (extracted from it – home address, telephone no, qualifications, monitoring, etc.).

### Access to Assessments / Interview Notes

Applicants for police officer vacancies who go through the Assessment Centre process are given feedback as part of the process.

In line with the Force Recruitment Policies officers and staff are allowed to see the notes taken about them personally but not other candidates. Application should be made in writing to the HR Manager.

### Further Applications

With regard to any subsequent application made during the course of employment, copies of unsuccessful applications are not retained on personal files but reference to any application is kept on the computerised HR system for monitoring purposes.

### Vetting Checks

Once background checks are made on successful applicants a record that the check was made will be kept on the personal file but not the check itself, which will be retained separately. All other issues regarding vetting are included in the Vetting Policy.

### Occupational Health, Sickness and Accident Records

Two types of sickness records are kept by the Force:

1. Occupational health;

2. Sickness records held for the purpose of managing attendance.

## 9. **Occupational Health**

Guidance on medical records is being produced separately.

### Accident Reports

Accident Reports are held on occupational health files and sickness files.

## 10. **Sickness Records**

These will be held by Human Resources Managers and will contain advice from the Occupational Health Unit on individuals' absences and details of those absences / any reasonable adjustments made (if applicable) any submissions to Sick Pay Panel, etc.

The Criminal Justice Unit have access to sickness absence information (name and the fact of the absence only **not** the reason) to inform availability of officers and staff for court.

## 11. **Personal Files**

Personal files on all staff (police officers, police staff, special constables and volunteers) are held by Divisions or Headquarters. Four different types of files may therefore be kept on an individual, occupational health, sickness, as above, personal and PDRS (see below).

The contents of personal files for police officers are prescribed by Police Regulations is:

### Contents of Personal Files (for his also read her)

The chief officer of a police force shall cause a personal file of each member of the police force to be kept.

The personal record shall contain:

- a) A personal description of the member;
- b) Particulars of the member's place and date of birth;
- c) Particulars of his marriage (if any) and of his children (if any);
- d) A record of his service (if any) in any branch of Her Majesty's naval, military or air forces or in the civil service;

- e) A record of his service (if any) in any other police force and of his transfers (if any) from one police force to another;
- f) A record of whether he passed or failed to pass any qualifying examination at which he was a candidate;
- g) A record of his service in the police force and the date of his ceasing to be a member of the police force with the reason, cause or manner thereof.

The record of service kept in accordance with paragraph (g) shall include particulars of all promotions, postings, removals, injuries received, periods of illness, commendations, rewards, sanctions other than cautions imposed under regulation 31 of the Police (Conduct) Regulations, 1999, or under regulation 17 of the Police (Efficiency) Regulations, 1999, but, subject to the below paragraph:

- (i) A sanction of a fine or of a reprimand shall be expunged after 3 years free from sanction other than a caution;
- (ii) Any other sanction shall be expunged after 5 years free from sanction other than a caution;
- (iii) A sanction under regulation 17 of the Police (Efficiency) Regulations, 1999 shall be expunged after 2 years free from any such sanction.

In the case of a period free from sanction other than a caution, which expired before 1<sup>st</sup> January, 1989, a sanction shall be expunged under the above paragraph only if the member so requests.

Where, following a review of a sanction imposed under Regulation 31 of the Police (Conduct) Regulations, 1999 or under Regulation 17 of the Police (Efficiency) Regulations, 1999, the reviewing officer substitutes for the decision of the conduct hearing or, as the case may be, inefficiency hearing a decision that the member concerned had not failed to meet the appropriate standard or, as the case may be, that the performance or attendance of the member concerned was not unsatisfactory, the sanction imposed by that hearing shall be expunged forthwith.

A member of a police force shall, if he so requests, be entitled to inspect his personal record.

## **12. Police Staff**

The records of Police Staff will contain information related to their employment, personal details, recruitment, qualifications, current disciplinary warnings, details of memberships of pension schemes, contractual terms and changes to those terms, etc.

## **13. Identity Photographs**

Photographs of staff are normally taken on appointment for the purpose of warrant cards or identity cards. These are made available to senior officers of the Force only for recognition purposes. They are not made available to external agencies (e.g. the press) without the explicit consent of the individual concerned, nor used for any other internal purpose without the same consent.

## **14. Grievance and Discipline Files (including dismissals)**

All staff have the same rights of access to files containing information about disciplinary matters or grievances about themselves as they do to other personal data held unless this information is associated with a criminal investigation, in which case an exemption might apply.

Records of allegations about staff which have been investigated and found to be without substance should not normally be retained once an investigation has been completed unless it is in the Force's interest to do so, i.e. where there may be a need in future to confirm that an allegation was received and investigated.

The same disclosure rules apply as quoted in paragraph 2 of this Guidance and the Professional Standards Reporting Policy.

## **15. Payroll and Pensions**

Computerised records and paper records are kept covering all staff and officers for the purposes of the payment of salary and expenses. The Inland Revenue requires retention of these documents for current year and six previous years. Paper records beyond this date are shredded normally annually. The Force is obliged to respond to agencies such as the DSS, Inland Revenue and Child Support Agency. Should other organisations request information regarding an employee the

employee's consent is first sought before information is given, unless it is already expressly given within the information request.

#### Access

Any request by staff to access these records should be made to the Finance Department.

#### **16. Job Evaluation Records (Police Staff)**

Job Evaluation files are not normally considered personal data. Job Evaluation does not focus upon the post holder but focuses upon the role the post holder currently undertakes. The role/post is the focus of the recorded information, not the individual who happens to be currently in that post and has participated in the evaluation. It is the role they undertake that is assessed. Although job evaluation papers may include the name and details, and even statement and signature of the current post holder the focus of the information is not the post holder himself or herself, and therefore the job evaluation information does not form their personal data. Any queries on this should be referred to the Human Resources Policy Manager.

#### **17. Equal Opportunities Monitoring**

Information on employees' gender, ethnic origin, age, sexual orientation, disability, religion or belief and whether or not the individual is a Welsh speaker, will be kept for monitoring purposes, where disclosed, on the Delphi HR system. Such information may be collated and published from time to time in an anonymised statistical format to ensure equality of opportunity. This particularly applies in the areas of recruitment, career progression, retention, discipline and grievance.

#### **18. Personal Development Review System and Training Records**

The Personal Development Review System (PDRS) (appraisal system) is open at all stages and staff are allowed to comment on comments made regarding their progress.

#### **19. Training Records**

Records are kept of attendance at any training event and added to the computerised record (Delphi) of the individual concerned.

#### **20. Marketing**

It is the policy of the Force not to disclose employees' details to a third party for the purposes of advertising or marketing. However, the Force may co-operate in sending out literature on schemes which have the agreement of staff associations.

## **21. References**

References provided to the Force by external organisations (particularly employment references) may be made available to individuals to whom they apply. The Force is entitled to take steps to protect the identity of third parties such as the author of the reference and will not provide the reference if it was given in confidence.

References given by members of the Force both for internal promotion and to external employers should be made available to those who are the subject of the reference on request. Human resources staff should normally write or agree the content of references sent externally.

Whilst the Force does not usually require permission of an individual before providing a reference, reasonable steps will be taken to ensure the bona fide nature of the request, i.e. requests should be in writing from a reputable source.

Staff leaving the Force will be asked to give permission for the Force to provide references to prospective future employers via form A270 for Police Officers and A270A for Police Staff.

## **22. Other Sensitive Information**

In line with best practice, no records should be kept which are not pertinent to employment, e.g. political belief. Membership or otherwise of trade unions / staff associations is not retained within HR records.

The Force is committed to examining all aspects of its Human Resources records to ensure that only relevant data is kept and will examine each requirement for date as it arises to ensure this occurs.