

# Data Protection: General Data Protection Regulations Policy

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<b>Compliance</b>	General Data Protection Regulations 2018 Health and Social Care Act 2008 (Regulated Activities) Regulations 2014	
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The Outstanding Society aims to support other providers to help achieve Outstanding CQC Inspection Ratings and provide support to existing Outstanding Providers to maintain their inspection ratings.

## 1 Introduction: Data Protection — GDPR Policy

The Outstanding Society is fully committed to comply with the General Data Protection Regulation (GDPR). The GDPR applies to all organisations that process data relating to their employees, as well as to others including customers, contractors and clients. It sets out principles which should be followed by those who process data; it gives new and extended rights to those whose data is being processed.

To this end, the organisation endorses fully and adheres to the six principles of data protection, as set out in the Article 5 of the GDPR.

1. Data must be processed lawfully, fairly and in a transparent manner in relation to individuals.
2. Data must be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.
3. Data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
4. Data must be accurate and, where necessary, kept up to date; every reasonable step must 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.
5. Data must be 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.

6. Data must be 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.

These principles must be followed at all times when processing or using personal information. Therefore, through appropriate management and strict application of criteria and controls, the organisation will:

- observe fully the conditions regarding the fair collection and use of information including the giving of consent (with due consideration to the Mental Capacity Act 2005)
- meet its legal obligations to specify the purposes for which information is used
- collect and process appropriate information only to the extent that it is needed to fulfil our operational needs or to comply with any legal requirements
- ensure the quality of information used
- ensure that the information is held for no longer than is necessary
- ensure that the rights of people about whom information is held can be fully exercised under the GDPR (ie the right to be informed that processing is being undertaken, to access one's personal information; to prevent processing in certain circumstances, and to correct, rectify, block or erase information that is regarded as incorrect)
- take appropriate technical and organisational security measures to safeguard personal information
- publicise and abide by individuals' right to appeal or complain to the supervisory authority (the Information Commissioner's Office (ICO)) in the event that agreement cannot be reached in a dispute regarding data protection
- ensure that personal information is not transferred abroad without suitable safeguards.

## **2 Status of this Policy**

The Policy does not form part of a formal contract of employment or membership of the society, but it is a condition of membership that staff / members will abide by the rules and policies made by the Outstanding Society from time to time. Any failure to follow the Data Protection Policy may lead, therefore, to membership being revoked and possible legal action.

## **3 Designated Data Controllers and Data Protection Officers**

The Designated Data Controllers (the Outstanding Society Board) will deal with day-to-day matters. Any member of staff / member, or other individual who considers that the policy has not been followed in respect of personal data about himself or herself should raise the matter with one of the Board of the Outstanding Society.

## **4 Staff Responsibilities**

All staff and members are responsible for:

- checking that any information that they provide to the organisation in connection with their employment or membership is accurate and up to date
- informing the society of any changes to information that they have provided, e.g. changes of address, either at the time of appointment or subsequently. The organisation cannot be

held responsible for any errors unless the employee / member has informed it of such changes.

## **5 Data Security**

All staff / members are responsible for ensuring that:

- any personal data that they hold is kept securely
- personal information is not disclosed either orally or in writing or via Web pages or by any other means, accidentally or otherwise, to any unauthorised third party.

Staff / members should note that unauthorised disclosure will be considered seriously and membership will likely be revoked. Legal action could be taken. Personal information should be kept in a locked filing cabinet, drawer, or safe. If it is computerised, it should be coded, encrypted or password protected both on a local hard drive and on a network drive that is regularly backed up. If a copy is kept on removable storage media, that media must itself be kept in a locked filing cabinet, drawer, or safe.

## **6 Disaster Recovery**

1. The organisation backs up data and has multiple copies. Records of these are kept.
2. Backups are kept off site. Any kept on site are in special heat-proof safes: fire-proofing alone is inadequate.
3. Backups are verified regularly by the software and system supplier.
4. Master copies of software are stored off site or in a heat-proof safe.
5. Firewalls and virus checkers are kept up to date and running, and users are trained in virus avoidance and detection.
6. Computers are protected from physical harm, theft or damage, and from electrical surges using protective plugs.
7. The organisation plans for how to deal with loss of electricity, external data links, server failure, and network problems. It uses paper forms where necessary for temporary record keeping.

## **7 Subject Consent**

The GDPR sets a high standard for consent and requires a positive opt-in (where people are evidenced to lack the capacity to consent and there is no clear lawful bases as per below, then the best interest process would be followed in line with the principals and requirements of the Mental Capacity Act). Neither pre-ticked boxes nor any other method of default consent are allowed. As required by the GDPR, The Outstanding Society takes a "granular" approach ie it asks for separate consent for separate items and will not use vague or blanket requests for consent. As well as keeping evidence of any consent, the organisation ensures that people can easily withdraw consent (and tells them how this can be done).

It should be noted, however, that consent is only one of the lawful bases on which data processing depends. In brief, the others include the following:

- **Contract:** if processing someone's personal data is necessary to fulfil the organisation's contractual obligations to them (eg to provide a quote).
- **Legal obligation:** if processing personal data is necessary to comply with a common law or statutory obligation.
- **Vital interests:** not one that will occur often as it refers to processing personal data to protect someone's life (and even then, it cannot be relied on with regard to health data or other special category data if the individual is capable of giving consent).
- **Legitimate interests:** the most flexible lawful basis for processing and one which applies when data is used in ways people would reasonably expect and which have a minimal privacy impact, or where there is a compelling justification for the processing.

Note that the GDPR provides for special protection for children's personal data and the organisation will comply with the requirement to obtain parental or guardian consent for any data processing activity involving anyone under the age of 16, though this would be an exception as all staff / members and people involved are above this age.

## 8 Subject Access

An employee or member may request details of personal information which the organisation holds about him or her under the GDPR. A small fee may be payable and will be based on the administrative cost of providing the information. If an employee would like a copy of the information held on him or her, they should write to a Board Member. The requested information will be provided within one month. If there is any reason for delay, that will be communicated within the four-week time period. A request which is manifestly unfounded or excessive may be refused. The person concerned will then be informed of their right to contest this decision with the supervisory authority (the ICO).

If an employee / member believes that any information held on him or her is incorrect or incomplete, then they should write to or email a Board Member as soon as possible. The organisation will promptly correct any information found to be incorrect.

## 9 Conclusion

This policy sets out this organisation's commitment to protecting personal data and how that commitment is implemented in respect of the collection and use of personal data.