

## **INFORMATION SHEET 2 – YOUR RIGHT TO INFORMATION**

### **DATA PROTECTION ACT**

Employers collect and retain information about employees. The law seeks to ensure that this information is used fairly. The law derives from the Data Protection Act 1998.

The law covers paper and computer records.

It applies to information held by an employer which is organized by reference to individuals or information relating to individuals. In the jargon this is called a 'relevant filing system'.

Such 'personal data' includes any expression of opinion about a person and indications of intentions by the employer or any other person. So, for instance, paper based personnel records are clearly covered.

The law covers: obtaining, recording, holding, collection, storage, organization, retrieval, alteration, use, disclosure or destruction of data. In the jargon this is called 'processing'.

Generally this processing of personal data must be handled in the following ways

- Fairly and lawfully processed
- Processed for limited purposes
- Adequate, relevant and not excessive
- Accurate and up to date
- Not kept for longer than is necessary
- Processed in line with your rights
- Secure
- Not transferred to other countries without adequate protection

There are additional considerations when dealing with what is called 'sensitive personal data'. This is, broadly, information concerning

- Ethnic or racial origins
- Political opinions
- Religious beliefs or other beliefs of a similar nature
- Trade union membership
- Physical or mental health
- Criminal charges, convictions and sentencing

To process this information one or more of the following must be the case

- The processing is necessary for performing or exercising a right or obligation imposed by or in connection with employment
- The processing is necessary in connection with legal proceedings or for the purposes of obtaining legal advice

- The processing is necessary for the administration of justice or statutory duty
- The processing of racial or ethnic information is necessary for the purposes of monitoring equality of opportunity or treatment.

### **RIGHT OF ACCESS**

Employees have the right to be told by the employer whether personal data about them is being processed, to be given a description of the data and its recipients and to have this information supplied in an intelligible form.

This request must be in writing. Organisations are entitled to require a payment of a fee - normally up to a maximum of £10.00.

The employer must comply with the request within 40 days.

Personnel files are included. References are excluded. However, you should be entitled to a copy of a reference from the recipient.

The law limits the use of computers in making certain decisions affecting individuals.

More information can be obtained at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk).

### **HEALTH AND SAFETY**

Employers are obliged to provide their employees with information necessary to ensure, so as far as possible, their health and safety at work

An employer must prepare and, when appropriate, revise a written statement of his general policy with respect to the health and safety at work of his employees and the organization and arrangements for the time being for carrying out that policy, and bring the statement any revision of it to the notice of all his employees

Employers are required to consult with safety representatives from the workforce on health and safety matters.

Safety representatives, appointed by a recognized trade union, are entitled to certain information.

### **OCCUPATIONAL PENSION SCHEMES**

The trustees of such schemes must make available to members and prospective members and (in most instances) to their spouses and to beneficiaries and independent recognized trade unions, various categories of information. These include

- Constitution of the scheme
- basic information about the scheme
- information about entitlements
- audited accounts and annual reports

### **FREEDOM OF INFORMATION**

The Freedom of Information Act deals with access to official information and gives individuals or organisations the right to request information from any public authority.

The Freedom of Information Act gives you the right to request information held by public authorities, companies wholly owned by public authorities in England, Wales and Northern Ireland and non-devolved public bodies in Scotland.

For more information go to: [www.ico.gov.uk/Home/what\\_we\\_cover/freedom\\_of\\_information.aspx](http://www.ico.gov.uk/Home/what_we_cover/freedom_of_information.aspx)

### **MEDICAL INFORMATION**

Medical reports obtained by an employer should not be disclosed to a third party without the employee's consent.

Individuals have a right to a copy of any medical report relating to them which has been supplied to their employer

An employer may not apply to a medical practitioner for such a report without the employee's consent. However, this does not apply to report prepared by a medical practitioner who does not have responsibility for your clinical care (eg. an occupational health doctor). However, you are entitled to see this report.

You also have the right to apply to have inaccurate records corrected.

### **DISCLOSURES BY EMPLOYEES TO THIRD PARTIES**

Employers are normally under a duty not to disclose to third parties confidential information regarding employees.

Under certain circumstances employees are entitled to disclose information regarding their employer to outside organizations. More information about these rights can be obtained from [www.pcaw.co.uk](http://www.pcaw.co.uk).

#### **In Addition**

There are duties of disclosure to

- Recognized trade unions for the purposes of collective bargaining
- To trade unions or elected representatives when there is a transfer of an Undertaking.

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