



## DATA PROTECTION POLICY

### 1. INTRODUCTION

- 1.1. Off The Record (Twickenham), “the Charity” is the Data Controller for the purposes of the EU General Data Protection Regulation.
- 1.2. The Data Protection Officer for the Charity is Deborah Kerpner, OTR Manager.
- 1.3. The Charity collects and uses certain types of personal information about the following categories of individuals:
  - 1.3.1. Employees and prospective employees through recruitment
  - 1.3.2. Volunteers and prospective volunteers
  - 1.3.3. Trustees
  - 1.3.4. Counselling clients and service users
  - 1.3.5. Parents and carers of clients and service users
  - 1.3.6. Donors
  - 1.3.7. Local stakeholders, supporters and friends, and any other individuals who come into contact with the Charity
- 1.4. The Charity will process this personal information in the following ways:
  - 1.4.1. to comply with statutory and contractual obligations relating to employment;
  - 1.4.2. to provide a counselling, support and information service for young people experiencing difficulties with their emotional and mental health and wellbeing;
  - 1.4.3. to process referrals to the service from GPs and statutory agencies;
  - 1.4.4. to comply with statutory and other legal obligations relating to safeguarding;
  - 1.4.5. to collect statistical data on age, gender, ethnicity, and location to help identify gaps in the service;
  - 1.4.6. to demonstrate the need for the service to funders;
  - 1.4.7. to reclaim tax paid through gift aided donations;
  - 1.4.8. to communicate with local supporters regarding our news and events.
- 1.5. This policy is intended to ensure that personal information is dealt with properly and securely and in accordance with the EU General Data Protection Regulation (the “GDPR”) and other related legislation. It will apply to information regardless of the way it is used or recorded and applies for as long as the information is held.
- 1.6. The GDPR applies to all computerised data and manual files if they come within the definition of a filing system. Broadly speaking, a filing system is one where the data is structured in some way that it is searchable on the basis of specific criteria (so you would be able to use something like the individual’s name to find their information), and if this is the case, it does not matter whether the information is located in a different physical location.
- 1.7. This policy will be updated when necessary to reflect changes in practice, or amendments made to the GDPR.
- 1.8. This policy forms part of OTR’s overall Information Governance Management Framework.

## **2. PERSONAL DATA**

2.1. 'Personal data' is information that identifies an individual, and includes information that would identify an individual to the person to whom it is disclosed because of any special knowledge that they have or can obtain. A sub-set of personal data is known as 'special category personal data'. This special category data is information that relates to:

- 2.1.1. race or ethnic origin;
- 2.1.2. political opinions;
- 2.1.3. religious or philosophical beliefs;
- 2.1.4. trade union membership;
- 2.1.5. physical or mental health;
- 2.1.6. an individual's sex life or sexual orientation;
- 2.1.7. genetic or biometric data for the purpose of uniquely identifying a natural person.

2.2. Special Category information is given special protection, and additional safeguards apply if this information is to be collected and used.

2.3. Information relating to criminal convictions shall only be held and processed where there is legal authority to do so.

## **3. THE DATA PROTECTION PRINCIPLES**

3.1. The six data protection principles as laid down in the GDPR are followed at all times:

- 3.1.1. personal data shall be processed fairly, lawfully and in a transparent manner, and processing shall not be lawful unless one of the processing conditions can be met;
- 3.1.2. personal data shall be collected for specific, explicit, and legitimate purposes, and shall not be further processed in a manner incompatible with those purposes;
- 3.1.3. personal data shall be adequate, relevant, and limited to what is necessary for the purpose(s) for which it is being processed;
- 3.1.4. personal data shall be accurate and, where necessary, kept up to date;
- 3.1.5. personal data processed for any purpose(s) shall not be kept for longer than is necessary for that purpose/those purposes;
- 3.1.6. personal data shall be processed in such a way that ensures appropriate security of the data, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage, using appropriate technical or organisational measures.

3.2. In addition to this, the Charity is committed to ensuring that at all times, anyone dealing with personal data shall be mindful of the individual's rights under the law (as explained in more detail in paragraphs 7 and 8 below).

3.3. The Charity is committed to complying with the principles in 3.1 at all times. This means that the Charity will:

- 3.3.1. inform individuals as to the purpose of collecting any information from them, as and when we ask for it;
- 3.3.2. be responsible for checking the quality and accuracy of the information;
- 3.3.3. regularly review the records held to ensure that information is not held longer than is necessary, and that it has been held in accordance with our records retention policy;
- 3.3.4. ensure that when information is authorised for disposal it is done appropriately;
- 3.3.5. ensure appropriate security measures to safeguard personal information whether it is held in paper files or on our computer system, and follow the relevant security requirements at all times;
- 3.3.6. share personal information with others only when it is necessary and legally appropriate to do so;

- 3.3.7. set out clear procedures for responding to requests for access to personal information known as subject access requests;
- 3.3.8. report any breaches of the GDPR in accordance with the procedure in paragraph 9 below.

#### **4. CONDITIONS FOR PROCESSING IN THE FIRST DATA PROTECTION PRINCIPLE**

- 4.1.1. The individual has given consent that is specific to the particular type of processing activity, and that consent is informed, unambiguous and freely given;
- 4.1.2. The processing is necessary for the performance of a contract, to which the individual is a party, or is necessary for the purpose of taking steps with regard to entering into a contract with the individual, at their request;
- 4.1.3. The processing is necessary for the performance of a legal obligation to which we are subject;
- 4.1.4. The processing is necessary to protect the vital interests of the individual or another;
- 4.1.5. The processing is necessary for the performance of a task carried out in the public interest, or in the exercise of official authority vested in us;
- 4.1.6. The processing is necessary for a legitimate interest of the Charity or that of a third party, except where this interest is overridden by the rights and freedoms of the individual concerned. More details of this are given in our Privacy Notice.

#### **5. DISCLOSURE OF PERSONAL DATA**

- 5.1. The Charity does not sell, rent, share, or otherwise disclose personally identifiable information with any other parties except under the following conditions which represent the most usual reasons for the Charity to authorise disclosure of personal data to a third party:
  - 5.1.1. to give a confidential reference relating to a current or former employee, or volunteer;
  - 5.1.2. for the prevention or detection of crime;
  - 5.1.3. for the assessment of any tax or duty;
  - 5.1.4. where it is necessary to exercise a right or obligation conferred or imposed by law upon us (other than an obligation imposed by contract)
  - 5.1.5. for the purpose of, or in connection with, legal proceedings (including prospective legal proceedings);
  - 5.1.6. for the purpose of obtaining legal advice;
  - 5.1.7. for research, historical and statistical purposes where personal information will always be made anonymous
  - 5.1.8. when we believe that someone may be at risk of serious harm, when we might have to share personal information with other professionals or statutory agencies. This will only be done if informed consent is provided, or without consent if extreme circumstances necessitate it. In these circumstances, if a decision is made to disclose personal information, with or without consent, the information disclosed will be kept to a minimum and provided on a need to know basis only. Our **“Confidentiality Statement for Clients”** and **“Confidentiality Policy and Procedure”** explain the context for disclosure in these situations in more detail. Copies are available from the OTR Manager.
- 5.2. The Charity may receive requests from third parties (i.e. those other than the data subject, the Charity, and its employees) to disclose personal data it holds about individuals. This information will not generally be disclosed unless one of the specific exemptions under the GDPR which allow disclosure applies, or where disclosure is necessary for the legitimate interests of the third party concerned or the Charity.
- 5.3. All requests for the disclosure of personal data must be sent to the OTR Manager, who will review and decide whether to make the disclosure, ensuring that reasonable steps are taken to verify the identity of the requesting third party before making any disclosure.

#### **6. SECURITY OF PERSONAL DATA**

- 6.1. The Charity will take reasonable steps to ensure that members of staff and volunteers will only have access to personal data where it is necessary for them to carry out their duties. The Charity will take all reasonable steps to ensure that personal information is held securely and is not accessible to unauthorised persons. We will use suitable physical, electronic and operational management procedures to safeguard the information we collect on paper, in digital format, and online. Access to information is restricted to staff, volunteers (and authorised trustees). Everyone who has access is appropriately trained to manage and safeguard personal information. Staff and volunteers will be made aware of this Policy and their duties under the GDPR as part of their induction.

## **7. SUBJECT ACCESS REQUESTS**

- 7.1. Anybody who makes a request to see any personal information held about them by the Charity is making a subject access request. All information relating to the individual, including that held in electronic or manual files should be considered for disclosure, provided that they constitute a “filing system” (see clause 1.6).
- 7.2. All requests should be directed to the OTR Manager within 3 working days of receipt and must be dealt with in full without delay and at the latest within one month of receipt.
- 7.3. Where a child or young person does not have sufficient understanding to make his or her own request (usually those under the age of 12, or over 12 but with a special educational need which makes understanding their information rights more difficult), a person with parental responsibility can make a request on their behalf. The OTR Manager must, however, be satisfied that:
  - 7.3.1. the child or young person lacks sufficient understanding; and
  - 7.3.2. the request made on behalf of the child or young person is in their interests.
- 7.4. Any individual, including a child or young person with ownership of their own information rights, may appoint another person to request access to their records. In such circumstances the Charity must have written evidence that the individual has authorised the person to make the application and the OTR Manager must be confident of the identity of the individual making the request and of the authorisation of the individual to whom the request relates.
- 7.5. Access to records will be refused in instances where an exemption applies, for example, information sharing may place the individual at risk of significant harm or jeopardise police investigations into any alleged offence(s).
- 7.6. A subject access request may be made in writing or verbally. The Charity may ask for any further information reasonably required to locate the information.
- 7.7. An individual only has the automatic right to access information about themselves, and care will be taken not to disclose the personal data of third parties where consent has not been given, or where seeking consent would not be reasonable, and it would not be appropriate to release the information. Particular care must be taken in the case of any complaint or dispute to ensure confidentiality is protected.
- 7.8. All files must be reviewed by the OTR Manager before any disclosure takes place. Access will not be granted before this review has taken place.
- 7.9. Where all the data in a document cannot be disclosed a permanent copy will be made and the data obscured or retyped if this is more sensible. A copy of the full document and the altered document will be retained, with the reason why the document was altered.

### **Exemptions to Access by Data Subjects**

7.10. Where a claim to legal professional privilege could be maintained in legal proceedings, the information is likely to be exempt from disclosure unless the privilege is waived.

## **8. OTHER RIGHTS OF INDIVIDUALS**

8.1. The Charity has an obligation to comply with the rights of individuals under the law, and takes these rights seriously. The following section sets out how the Charity will comply with the rights to:

- 8.1.1. object to processing;
- 8.1.2. rectification;
- 8.1.3. restrict processing
- 8.1.4. erasure; and
- 8.1.5. data portability.

### **Right to object to processing**

8.2. An individual has the right to object to the processing of their personal data on the grounds of pursuit of a public interest or legitimate interest (grounds 4.5 and 4.6 above) where they do not believe that those grounds are made out.

8.3. Where such an objection is made, it must be sent to the OTR Manager within 2 working days of receipt, and the OTR Manager will assess whether there are compelling legitimate grounds to continue processing which override the interests, rights and freedoms of the individuals, or whether the information is required for the establishment, exercise or defence of legal proceedings.

8.4. The OTR Manager shall be responsible for notifying the individual of the outcome of their assessment within one month of receipt of the objection.

8.5. Where personal data is being processed for direct marketing purposes an individual has the right to object at any time to processing of personal data concerning him or her for such marketing (which includes profiling to the extent that it is related to such direct marketing) and their personal data shall no longer be processed by the Charity for direct marketing purposes.

### **Right to rectification**

8.6. An individual has the right to request the rectification of inaccurate data without undue delay. Where any request for rectification is received, it should be sent to the OTR Manager within 2 working days of receipt, and where adequate proof of inaccuracy is given, the data shall be amended as soon as reasonably practicable, and the individual notified.

8.7. Where there is a dispute as to the accuracy of the data, the request and reasons for refusal shall be noted alongside the data, and communicated to the individual. The individual shall be given the option of a review under the complaints procedure, or an appeal direct to the Information Commissioner.

8.8. An individual also has a right to have incomplete information completed by providing the missing data, and any information submitted in this way shall be updated without undue delay.

### **Right to erasure**

8.9. Individuals have a right, in certain circumstances, to have data permanently erased without undue delay. This right arises in the following circumstances:

- 8.9.1. where the personal data is no longer necessary for the purpose or purposes for which it was collected and processed;
  - 8.9.2. where consent is withdrawn and there is no other legal basis for the processing;
  - 8.9.3. where an objection has been raised under the right to object, and found to be legitimate;
  - 8.9.4. where personal data is being unlawfully processed (usually where one of the conditions for processing cannot be met);
  - 8.9.5. where there is a legal obligation on the Charity to delete.
- 8.10. The OTR Manager will make a decision regarding any application for erasure of personal data, and will balance the request against the exemptions provided for in the law. Where a decision is made to erase the data, and this data has been passed to other controllers, and/or has been made public, reasonable attempts to inform those controllers of the request shall be made.

### **Right to restrict processing**

- 8.11. In the following circumstances, processing of an individual's personal data may be restricted:
- 8.11.1. where the accuracy of data has been contested, during the period when the Charity is attempting to verify the accuracy of the data;
  - 8.11.2. where processing has been found to be unlawful, and the individual has asked that there be a restriction on processing rather than erasure;
  - 8.11.3. where data would normally be deleted, but the individual has requested that their information be kept for the purpose of the establishment, exercise or defence of a legal claim;
  - 8.11.4. where there has been an objection made under 8.2 above, pending the outcome of any decision.

### **Right to portability**

- 8.12. If an individual wants to transfer their personal data from OTR to another organisation's IT environment, they have a right to request that the Charity provides their information in a structured, commonly used, and machine readable format. If a request for this is made, it should be forwarded to the OTR Manager within 2 working days of receipt, and the OTR Manager will review and revert as necessary.

## **9. BREACH OF ANY REQUIREMENT OF THE GDPR**

- 9.1. Any and all breaches of the GDPR, including a breach of any of the data protection principles shall be reported as soon as it is discovered, to the OTR Manager.
- 9.2. Once notified, the OTR Manager shall assess:
- 9.2.1. the extent of the breach;
  - 9.2.2. the risks to the data subjects as a consequence of the breach;
  - 9.2.3. any security measures in place that will protect the information;
  - 9.2.4. any measures that can be taken immediately to mitigate the risk to the individuals.
- 9.3. Unless the OTR Manager concludes that there is unlikely to be any risk to individuals from the breach, it must be notified to the Information Commissioner's Office within 72 hours of the breach having come to the attention of the Charity, unless a delay can be justified.
- 9.4. The Information Commissioner shall be told:
- 9.4.1. details of the breach, including the volume of data at risk, and the number and categories of data subjects;
  - 9.4.2. the contact point for any enquiries (which shall usually be the OTR Manager);

- 9.4.3. the likely consequences of the breach;
- 9.4.4. measures proposed or already taken to address the breach.

9.5. If the breach is likely to result in a high risk to the rights and freedoms of the affected individuals then the OTR Manager shall notify data subjects of the breach without undue delay unless the data would be unintelligible to those not authorised to access it, or measures have been taken to mitigate any risk to the affected individuals.

9.6. Data subjects shall be told:

- 9.6.1. the nature of the breach;
- 9.6.2. who to contact with any questions;
- 9.6.3. measures taken to mitigate any risks.

9.7. The OTR Manager shall then be responsible for instigating an investigation into the breach, including how it happened, and whether it could have been prevented. Any recommendations for further training or a change in procedure shall be reviewed by the Board of Trustees and a decision made about implementation of those recommendations.

## **10. CONTACT**

10.1. If anyone has any concerns or questions in relation to this policy they should contact the OTR Manager, Off The Record Twickenham, 2 Church Street, Twickenham TW1 3NJ – email: [info@otrtwickenham.com](mailto:info@otrtwickenham.com). Telephone: 020 8744 1644

## DOCUMENT RETENTION POLICY

### 1. INTRODUCTION

- 1.1. The main aim of this policy is to enable Off The Record Twickenham (the Charity) to manage our records effectively and in compliance with data protection and other regulation. As an organisation we collect, hold, store and create significant amounts of data and information and this policy provides a framework of retention and disposal of categories of information and documents.
- 1.2. The Charity is committed to the principles of data protection including the principle that information is only to be retained for as long as necessary for the purpose concerned.
- 1.3. The table below sets out the main categories of information that we hold, the length of time that we intend to hold them, and the reason for this. If we have decided to keep information longer than the statutory requirement, this has been explained in the table at Section 2.
- 1.4. Section 2 of this policy sets out the destruction procedure for documents at the end of their retention period. The OTR Manager shall be responsible for ensuring that this is carried out appropriately, and any questions regarding this policy should be referred to them.
- 1.5. If a document or information is reaching the end of its stated retention period, but there are good reasons for it being retained longer, it should be referred to the OTR Manager who will make a decision as to whether it should be kept, for how long, and note the new time limit and reasons for extension.

DOCUMENT CATEGORY	RETENTION PERIOD	REASON
<b>Corporate/Constitutional</b>		
Company and Charity Memorandum and Articles of Association	Permanent	Companies Act 2006 Charities Act 2011
Trustee Minutes of Meetings and Written Resolutions	Recommended for at least 10 years	Companies Act 2006 Charities Act 2011
Documents of clear historical/archival significance	Permanent if relevant data protection regulation provisions are met	Data Protection legislation
Contracts, e.g. with funders, confidentiality and non-disclosure agreements	Length of contract term plus 6 years	Limitation Act 1980
Contracts executed as deeds	Length of contract term plus 12 years	Limitation Act 1980
Intellectual Property records and legal files re provision of service	Life of service provision or IP plus 6 years	Limitation Act 1980
<b>Tax and Finance</b>		
Annual Accounts and Reports	Permanent	Companies Act 2006 Charities Act 2011
Tax and Accounting Records	6 years from end of relevant tax year	Finance Act 1998 Taxes Management Act 1970



DOCUMENT CATEGORY	RETENTION PERIOD	REASON
Banking Records/receipts book/sales ledger	6 years from transaction	Companies act 2006 Charities Act 2011
Deed of Covenant/Gift Aid declarations and correspondence re donations	6 years after last payment or 12 years if payments are outstanding or dispute over deed	Legal requirement for tax records
<b>Insurance</b>		
Employer's Liability Insurance	40 years	Employers' Liability (Compulsory Insurance Regulation) 1998
Policies	3 years after lapse	Commercial
Claims correspondence	3 years after settlement	Commercial
<b>Health &amp; Safety and Medical</b>		
General records	Minimum of 3 years	Limitation Act 1970
Records re work with hazardous substances	Permanent (Recommended up to 40 years)	Control of Hazardous Substances to Health Regulations 2002
Accident Books/records and reports	3 years after last entry or end of investigation	Reporting of Injuries Diseases and Dangerous Occurrences Regulations 1995
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<b>Charity Premises/Property</b>		
Leases	12 years after lease has elapsed	Limitation Act 1980
Building records, plans, consents, certification and warranties, etc	6 years after disposal or permanent if of historical/archival interest. Review re longer retention as appropriate.	Limitation Act 1980
<b>Pensions Records</b>		
Records about employees and workers	As applicable	In line with detailed guidance for employers 2017 <a href="http://www.thepensionsregulator.gov.uk">http://www.thepensionsregulator.gov.uk</a>
<b>Employees Administration records</b>		
Payroll/Employee/Income Tax and NI records: P45, P6, P11D, P60 etc	For the entire duration of their contact with OTR and then archived for six years	
Payroll/Employee/Income Tax and NI records: P45, P6, P11D, P60 etc	6 years from end of current year	Taxes Management Act 1970/IT (PAYE) Regulations
Maternity Pay	3 years after the end of the tax year	Statutory Maternity Pay Regulations
Sick Pay	3 years after the end of the tax year	Statutory Sick Pay (General Regulations)
HR files and training records	Maximum of 6 years from end of employment	Limitation Act 1970 and Data Protection legislation
Job Applications (CVs and related materials re unsuccessful applicants	6 – 12 months from the notification of outcome of application	ICO Employment Practices Code (Recruitment & Selection); Disability Discrimination Act 1995 and Race Relations Act 1976
Disclosure and Barring Service Checks	Record of satisfactory/unsatisfactory	ICO Employment Practice Code

DOCUMENT CATEGORY	RETENTION PERIOD	REASON
	result; other information deleted	
<b>Volunteer records</b>	Assessment undertaken to decide on retention period taking into account risk (e.g. safeguarding re work with children or vulnerable adults). Volunteer Counsellor records will be retained for the entire duration of their service with OTR and archived thereafter for a period of six years, prior to shredding and disposal	In line with guidance from British Association for Counselling and Psychotherapy to reflect professional liability and legal requirements
<b>OTR Service Contacts</b>		
Service users/parents	For the entire duration of their contact with services provided by OTR and archived thereafter for a period of six years, prior to shredding and disposal	In line with guidance from British Association for Counselling and Psychotherapy to reflect professional liability and legal requirements
Other contacts	Records will be kept on file for as long as the relationship with OTR lasts, with longer retention in terms of archival interest where appropriate	

## 2 DELETION OF DOCUMENTS

2.1 When a document is at the end of its retention period, it should be dealt with in accordance with this policy.

### Confidential waste

2.2 Paper records that contains personal information should be treated as confidential and will be shredded.

2.3 Where deleting electronically, please refer to the OTR Manager to ensure that this is carried out effectively.

### Other documentation

2.4 Other documentation can be deleted or recycled where appropriate.

### Individual responsibility

2.5 Much of the retention and deletion of documents will be undertaken on a regular day-to-day and to an annual cycle, but when faced with a decision about an individual document, consideration will be given as follows:

2.5.1 Has the information come to the end of its useful life?

- 2.5.2 Is there a legal requirement to keep this information or document for a set period? (with reference to the table for more information)
  - 2.5.3 Would the information be likely to be needed in the case of any legal proceedings? (Is the information contentious, does it relate to an incident that could potentially give rise to proceedings?)
  - 2.5.4 Would the document be useful for the organisation as a precedent, learning document, or for performance management processes?
  - 2.5.5 Is the document of historic or statistical significance?
- 2.6 If the decision is made to keep the document, this should be referred to the OTR Manager and reasons given.

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