



**HR Manual**

**Human Resources**

**Data Protection**

**Policy**

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**Responsibility: Human Resources**

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## **1. Introduction**

1.1 The General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) is a regulation by which the European Parliament, the European Council and the European Commission intend to strengthen and unify data protection for individuals within the European Union (EU). It also addresses the export of personal data outside the EU. The primary objectives of the GDPR are to give citizens back control of their personal data and to simplify the regulatory environment for international business by unifying the regulation within the EU.

1.2 The Regulations cover both written and computerised information and the individual's right to see such records.

1.3 The regulations cover's not only the handling of our client's personal information but that of all staff employed by A Class Care Ltd or those offering a voluntary service.

1.4 All of A Class Care staff are required to follow this Data Protection Policy at all times.

1.5 The Company Directors have overall responsibility for data protection within A Class Care but each individual processing data is acting on the controller's behalf and therefore has a legal obligation to adhere to the Regulations.

## **2 Definitions**

**2.1 Processing of information** – how information is held and managed.

**2.2 Information Commissioner** - formerly known as the Data Protection Commissioner.

**2.3 Notification** – formerly known as Registration.

**2.4 Data Subject** – used to denote an individual about whom data is held.

- 2.5 **Data Controller** – used to denote the entity with overall responsibility for data collection and management. The Company Directors are the Data Controller for the purposes of the Act.
- 2.6 **Data Processor** – an individual handling or processing data
- 2.7 **Personal data** – any information which enables a person to be identified
- 2.8 **Special categories of personal data** – information under the Regulations which requires the individual's explicit consent for it to be held by the Charity.

### 3 **Data Protection Principles**

3.1 As data controller, A Class Care is required to comply with the principles of good information handling.

#### 3.2 **These principles require the Data Controller to:**

1. Process personal data **fairly, lawfully and in a transparent manner.**
2. Obtain personal data only for one or more **specified** and **lawful purposes** and to ensure that such data is not processed in a manner that is incompatible with the purpose or purposes for which it was obtained.
3. Ensure that personal data is **adequate, relevant and not excessive** for the purpose or purposes for which it is held.
4. Ensure that personal data is **accurate** and, where necessary, **kept up-to-date.**
5. Ensure that personal data is not kept for any longer than is necessary for the purpose for which it was obtained.
6. Ensure that personal data is kept secure.
7. Ensure that personal data is not transferred to a country outside the European Economic Area unless the country to which it is sent ensures an adequate level of protection for the rights (in relation to the information) of the individuals to whom the personal data relates.

### 4 **Consent**

4.1 A Class Care must record service users' explicit consent to storing certain information (known as 'personal data' or 'special categories of personal data') on file.

4.2 For the purposes of the Regulations, personal and special categories of personal data covers information relating to:

1. The racial or ethnic origin of the Data Subject.
2. His/her political opinions.
3. His/her religious beliefs or other beliefs of a similar nature.
4. Whether he/she is a member of a trade union.
5. His/her physical or mental health or condition.
6. His/her sexual life.
7. The commission or alleged commission by him/her of any offence
8. Online identifiers such as an IP address

9. Name and contact details
  10. Genetic and/or biometric data which can be used to identify an individual
- 4.3 Special categories of personal information collected by A Class Care will, in the main, relate to service users' physical and mental health. Data is also collected on ethnicity and held confidentially for statistical purposes.
  - 4.4 Consent is not required to store information that is not classed as special category of personal data as long as only accurate data that is necessary for a service to be provided is recorded.
  - 4.5 As a general rule A Class Care will always seek consent where personal or special categories of personal information is to be held.
  - 4.6 It should also be noted that where it is not reasonable to obtain consent at the time data is first recorded and the case remains open, retrospective consent should be sought at the earliest appropriate opportunity.
  - 4.7 If personal and/or special categories of personal data need to be recorded for the purpose of service provision and the service user refuses consent, the case should be referred to the Company Directors for advice.

## 5. Obtaining Consent

5.1 Consent may be obtained in a number of ways depending on the nature of the interview, and consent must be recorded on or maintained with the case records:

- **Face-to-face** - A pro-forma or consent form should be used.
- **Written** - A pro-forma or consent form should be used
- **Telephone** - Verbal consent should be sought and noted on the case record.
- **Email** - The initial response should seek consent.

5.2 Consent obtained for one purpose cannot automatically be applied to all uses e.g. where consent has been obtained from a client in relation to information needed for the provision of that service, separate consent would be required if, for example, direct marketing of insurance products were to be undertaken.

5.3 Preliminary verbal consent should be sought at point of initial contact as personal and/or special categories of personal data will need to be recorded either in an email or on a computerised record (e.g. People Planner). The verbal consent is to be recorded in the appropriate fields on the computer record or stated in the email for future reference. Although written consent is the optimum, verbal consent is the minimum requirement.

5.4 Specific consent for use of any photographs and/or videos taken should be obtained in writing. Such media could be used for, but not limited to, publicity material, press releases, social media, and website.

5.5 Consent should also indicate whether agreement has been given to their name being published in any associated publicity. If the subject is less than 18 years of age then parental/guardian consent should be sought.

5.6 Individuals have a right to withdraw consent at any time. If this affects the provision of a service(s) by A Class Care then the Service Co-ordinator should discuss with the Registered Manager at the earliest opportunity.

## **6. Ensuring the Security of Personal Information**

### **6.1 Unlawful disclosure of personal information**

1. It is an offence to disclose personal information 'knowingly and recklessly' to third parties.
2. It is a condition of receiving a service that all clients for whom we hold personal details sign a consent form allowing us to hold such information.
3. Service users may also consent for us to share personal or special categories of personal information with other helping agencies on a need to know basis.
4. A client's individual consent to share information should always be checked before disclosing personal information to another agency.
5. Where such consent does not exist information may only be disclosed if it is in connection with criminal proceedings or in order to prevent substantial risk to the individual concerned. In either case permission of the Company Directors are to be sought first.
6. Personal information should only be communicated within A Class Care staff team on a strict need to know basis. Care should be taken that conversations containing personal or special categories of personal information may not be overheard by people who should not have access to such information.

## **7 Ethnic Monitoring**

7.1 In order for A Class Care to monitor how well our staff and clients reflect the diversity of the local community we request that they complete an Equality and Diversity Monitoring form. The completion of the form is voluntary, although strongly encouraged. Responses are securely stored and held on a pass worded database for statistical purposes only.

## **8. Use of Files, Books and Paper Records**

8.1 In order to prevent unauthorised access or accidental loss or damage to personal information, it is important that care is taken to protect personal data. Paper records should be kept in locked

cabinets/drawers overnight and care should be taken that personal and special categories of personal information is not left unattended and in clear view during the working the day.

8.2 It is strictly prohibited for personal data and or special categories of personal data to be left at home or in the car without the expressed consent of the Company Director.

8.3 Should personal information be required to be managed outside of the office strict procedures are to be followed including completing a signing in and out log and a full personal data management risk assessment is to be adhered to.

## **9. Disposal of Scrap Paper, Printing or Photocopying Overruns**

9.1 Be aware that names/addresses/phone numbers and other information written on scrap paper are also considered to be confidential. Please do not keep or use any scrap paper that contains personal information but ensure that it is shredded.

9.2 If you are transferring papers from your home, or your client's home, to the office for shredding this should be done as soon as possible and not left in a car for a period of time. When transporting documents they should be carried out of sight in the boot of your car.

## **10 Computers**

10.1 Where computers are networked, access to personal and special categories of personal information is restricted by password to authorised personnel only.

10.2 Computer monitors in the reception area, or other public areas, should be positioned in such a way so that passers-by cannot see what is being displayed. If this is not possible then privacy screens should be used on the monitor to afford this level of protection. If working in a public area, e.g. reception, you should lock your computer when leaving it unattended.

10.3 Firewalls and virus protection to be employed at all times to reduce the possibility of hackers accessing our system and thereby obtaining access to confidential records.

10.4 Documents should only be stored on the server or cloud-based systems and not on individual computers.

10.5 Where computers or other mobile devices are taken for use off the premises the device must be password protected.

## **11. Cloud Computing**

11.1 When commissioning cloud based systems, A Class Care will satisfy themselves as to the compliance of data protection principles and robustness of the cloud based providers.

11.2 A Class Care currently uses two cloud based data management systems to hold and manage information about its service users and staff members.

**13. Direct Marketing**

- 13.1 Direct Marketing is a communication that seeks to elicit business from perspective enquiries. The communication may be in any of a variety of formats including mail, telemarketing and email. The responses should be recorded to inform the next communication. A Class Care will not share or sell its database(s) with outside organisations.
- 13.2 A Class Care holds information on our staff, clients and other supporters, to whom we will from time to time send copies of our newsletters, magazine and details of other activities that may be of interest to them. Specific consent to contact will be sought from our staff, clients and other supporters, including which formats they prefer (eg mail, email, phone etc) before making any communications.
- 13.3 We recognise that clients, staff and supporters for whom we hold records have the right to unsubscribe from our mailing lists. This wish will be recorded on their records and will be excluded from future contacts.
- 13.4 The following statement is to be included on any forms used to obtain personal data:

We promise never to share or sell your information to other organisations or businesses and you can opt out of our communications at any time by telephoning 01223 864 066, writing to

A Class Care, Suite F16, Stirling House  
Cambridge Innovation Park  
Waterbeach  
Cambridge  
CB25 9QE or by sending an email to [infor@aclasscare.co.uk](mailto:infor@aclasscare.co.uk)

## **14. Privacy Statements**

14.1 Any documentation which gathers personal and/or special categories of personal data should contain the following Privacy Statement information:

- Explain who we are
- What we will do with their data
- Who we will share it with
- Consent for marketing notice
- How long we will keep it for
- That their data will be treated securely
- How to opt out
- Where they can find a copy of the full notice

14.2 A fuller Privacy Statement will also be published on our website.

## **15. Personnel Records**

15.1 The Regulations apply equally to volunteer and staff records. A Class Care Ltd may at times record special categories of personal data as part of a staff member's contract of employment.

15.2 For staff members who are regularly involved with vulnerable adults, it will be necessary for A Class Care to apply to the Disclosure & Barring Service to request a disclosure of spent and unspent convictions, as well as cautions, reprimands and final warnings held on the police national computer.

15.3 Any information obtained will be dealt with under the strict terms of the DBS Code. Access to the disclosure reports is limited to the Senior Management Team. If there is a positive disclosure the Company Directors will discuss this, anonymously, with and our insurers to assess the risk of appointment. The insurers should not see the report itself.

## **16 Confidentiality**

16.1 Further guidance regarding confidentiality issues can be found in our Confidentiality Policy.

16.2 When working from home, or from some other off-site location, all data protection and confidentiality principles still apply. All computer data, e.g. documents and programmes related to work for A Class

Care Ltd should not be stored on any external hard disk or on a personal computer. If documents need to be worked on at a non-networked computer, they should be saved onto a USB drive which should be password protected.

- 16.3 The use of a USB must be approved by the Company Directors and IT specialist in advance. The use of the USB without the appropriate authority is strictly prohibited.
- 16.4 Workstations in areas accessible to the public, e.g. reception or trading office, should operate a clear desk practice so that any paperwork, including paper diaries, containing personal and/or special categories of personal data is not left out on the desk where passers-by could see it.
- 16.5 When sending emails to outside organisations, e.g. social worker or hospital staff, care should be taken to ensure that any identifying data is removed and that codes (e.g. initials or identifying code number, such as social services number, etc.) are to be used. Confidential and/or special categories of personal information should be written in a separate document which should be password protected before sending. Wherever possible, this document should be 'watermarked' confidential.
- 16.6 Any paperwork kept away from the office (e.g. clients care plan kept at home by a worker) should be treated as confidential and kept securely as if it were held in the office. Documents should not be kept in open view (e.g. on a desktop) but kept in a file in a drawer or filing cabinet as examples, the optimum being a locked cabinet but safely out of sight is a minimum requirement. Enablers needing to take paperwork away from a client's home (e.g. unable to make a required phone call during the visit) must ensure that it is returned to the client's home on the next visit.
- 16.7 If you are carrying documents relating to a number of clients when on a series of home visits, you should keep the documents for other clients locked out of sight in the boot of the car (not on the front seat) and not take them into the client's home. When carrying paper files or documents they should be in a locked briefcase or in a folder or bag which can be securely closed or zipped up. The briefcase/folder/bag should contain A Class Care Ltd contact details. Never take more personal data with you than is necessary for the job in hand. Care should be taken to ensure that you leave a client's home with the correct number of documents and that you haven't inadvertently left something behind.
- 16.8 Where the careplan is to be sent to the care before commencing a placement the care plan must be password protected before this has been emailed and the password is to be issued them verbally or via text message. The recipients contact number and email address must be verified before issuing.
- 16.9 Under no circumstances should the password be issued with the same document.

## **17 Retention of Records**

17.1 Paper records should be retained for the following periods at the end of which they should be shredded:

- Client records – 6 years after ceasing to be a client.



- Staff records – 6 years after ceasing to be a member of staff.
- Unsuccessful staff application forms – 6 months after vacancy closing date.
- Volunteer records – 6 years after ceasing to be a volunteer.
- Timesheets and other financial documents – 7 years.
- Employer’s liability insurance – 40 years.
- Other documentation, e.g. clients care plan sent to a worker as briefing for a visit, should be destroyed as soon as it is no longer needed for the task in hand.

17.2 Archived records should clearly display the destruction date.

17.8 Computerised records e.g. people planner, to be anonymised 6 years after ceasing to have any services from us. (Anonymising will remove the personal and special categories of personal data but will not remove the statistical data.)

## **18 What to Do If There Is a Breach**

18.1 If you discover, or suspect, a data protection breach you should report this to your line manager who will review our systems, in conjunction with the IT Manager, to prevent a reoccurrence. IT Manager should be informed of the breach, action taken and outcomes to determine whether it needs to be reported to the Information Commissioner. There is a time limit for reporting breaches to ICO so the IT Manager and Company Director Manager should be informed without delay.

18.2 Any deliberate or reckless breach of this Data Protection Policy by an employee or volunteer may result in disciplinary action which may result in dismissal.

## **19. The Rights of an Individual**

19.1 Under the Regulations an individual has the following rights with regard to those who are processing his/her data:

- Personal and special categories of personal data cannot be held without the individual’s consent (however, the consequences of not holding it can be explained and a service withheld).
- Data cannot be used for the purposes of direct marketing of any goods or services if the Data Subject has declined their consent to do so.
- Individuals have a right to have their data erased and to prevent processing in specific circumstances:
  - Where data is no longer necessary in relation to the purpose for which it was originally collected
  - When an individual withdraws consent

- When an individual objects to the processing and there is no overriding legitimate interest for continuing the processing
- Personal data was unlawfully processed
- An individual has a right to restrict processing – where processing is restricted, A Class Care Ltd is permitted to store the personal data but not further process it. A Class Care Ltd can retain just enough information about the individual to ensure that the restriction is respected in the future.
- An individual has a 'right to be forgotten'.

19.2 A Class Care will not undertake direct telephone marketing activities under any circumstances.

19.3 Data Subjects can ask, in writing to the Company Director, to see all personal data held on them, including e-mails and computer or paper files. The Data Processor (A Class Care) must comply with such requests within 30 days of receipt of the written request.

## **20 Powers of the Information Commissioner**

20.1 The following are criminal offences, which could give rise to a fine and/or prison sentence

- The unlawful obtaining of personal data.
- The unlawful selling of personal data.
- The unlawful disclosure of personal data to unauthorised persons.

### **21.1 Further Information**

21.2 Further information is available at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

## **22 Details of the Information Commissioner**

22.1 The Information Commissioner's office is at:

Wycliffe House  
 Water Lane  
 Wilmslow  
 Cheshire SK9 5AF

Switchboard: 01625 545 700

Email: [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk)

**Data Protection Help Line:** 01625 545 745

**Notification Line:** 01625 545 740