

## **Addendum Fair Processing Notice for Employees re: COVID-19**

We are committed to protecting your personal data and being transparent about what data we process about you. This privacy notice applies to all employees, agency and other workers and it explains how we collect, use, process and share your personal data in relation to COVID-19 and your rights regarding your personal data.

We've used a Q&A method to explain:

- What information we collect about you;
- How we may use that information; and
- In what situations we may disclose your information to third parties.

### ***1. Can we ask employees if they have any symptoms or to notify us if they have been diagnosed?***

**Yes.** ICO states that it would be reasonable to ask people if they are experiencing symptoms.

Data about an employee's health, including whether or not they are experiencing COVID-19 symptoms, is "special category" personal data as defined in the GDPR.

As well as requiring a lawful basis for processing under Article 6, we need an additional exemption to process this data under Article 9.

The relevant legal bases are:

- compliance with health and safety obligations under employment law (GDPR Article 9(2)(b); DPA 2018 Sch.1 Para.1)
- for reasons of public health (GDPR Art.9(2)(i); DPA 2018 Sch.1 Para.3)

We will not be relying on your consent for the processing of your COVID-19 health data because consent from employees is generally not regarded as freely given (and is therefore invalid) due to the imbalance in power between the organisation and the individual. Therefore, relying on consent as the legal basis for processing is unlikely to be compliant with the GDPR.

We will:

- not collect more data than we need and we will limit the collection of your health data to COVID-19 only
- ensure collection of this data is in the least intrusive way possible
- make sure that we keep the data safe and secure and limit circulation on a 'need to know' basis only

### ***2. Can we take employee's temperature readings?***

**Yes, if strictly necessary.** ICO guidance does not prevent collecting and recording employees' temperatures.

Conducting health screening in an employment context needs to be carefully considered in the circumstances. It is only likely to be appropriate in a very small number of situations (e.g. where such testing is necessary to determine an employee's fitness to work, particularly when exposed to a risk group).

The available lawful bases are compliance with health and safety obligations under employment law (Article 9(2)(b) GDPR; para.1, Sch.1 DPA 2018) and for reasons of public health (Art.9(2)(i) GDPR; para.3, Sch.1 DPA 2018).

### **3. Can we ask about symptoms in the employee's household?**

**Yes.** ICO states that, where necessary, the collection of additional data from employees may be proportionate. However, the data minimisation principle is key - do not collect more information than needed and ensure it is treated with appropriate safeguards. We will not collect information regarding specific symptoms about each household member.

### **4. Can we keep a record of staff who are diagnosed as infected?**

**Yes.** Note that such collection of data would need to comply with data protection principles. In particular, data minimisation and purpose limitation will be important.

### **5. Can we notify other members of staff about an infected employee?**

**Yes.** The ICO has advised that informing employees that a colleague may have contracted the virus is permitted by virtue of the employer's duty of care and to ensure the employees' health and safety.

Such information may, for example, facilitate contact tracing and thereby reduce virus exposure. However, this will be done on an anonymised and need-to-know basis, disclosing the minimum data required.

### **6. Can we notify customers and visitors of an infected employee?**

**Yes.** We can notify our customers if an infected employee has interacted with customers or visitors.

It is unlikely that information about specific individuals will need to be disclosed. However, where identification is required, the processing of health-related personal data can be carried out under Art 9(2)(i) GDPR and para.3, Sch.1 DPA 2018, where it is necessary for reasons of public interest in the area of public health.

### **7. How long do we keep your COVID-19 health data?**

We will hold your personal data for the duration of the pandemic and then as directed by the government.

### **8. Your rights in connection with your personal information**

You have rights in respect of our processing of your personal data which are:

- To request access to your personal data and information about our processing of it. You also have the right to request a copy of your personal data (but we will need to remove information about other people).
- To request we rectify incorrect personal data that we are processing.
- To request that we erase your personal data if:
  - o we no longer need it;
  - o if we are processing your personal data by consent and you withdraw that consent;
  - o if we no longer have a legitimate ground to process your personal data; or
  - o we are processing your personal data unlawfully
- To object to our processing if it is by legitimate interest.
- To restrict our processing if it was by legitimate interest.
- To request that your personal data be transferred from us to another company if we were processing your data under a contract or with your consent and the processing is carried out automated means.

If you want to exercise any of these rights, please contact us.

If you have any questions or concerns, please contact us as most matters can be resolved informally in the first instance.

You also have the right to lodge a complaint about our processing via the UK's [Information Commissioner's Office](#).