

# Data Protection and Confidentiality Policy

Signed (Business Development Lead) \_\_\_\_\_

Signed (Chair) \_\_\_\_\_

Renew Date \_\_\_/\_\_\_/\_\_\_

Creation Date \_\_\_/\_\_\_/\_\_\_

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## 1. Policy Statement

“The Data Protection Act 2018 is the UK's implementation of the General Data Protection Regulation (GDPR). Everyone responsible for using personal data has to follow strict rules called 'data protection principles'. They must make sure the information is: used fairly, lawfully and transparently.”

<https://www.gov.uk/data-protection> As of 25th May 2021

The Gateway Collective keeps personal information under the Data Protection Act 2018 legislation and will only use information in a fair, lawful and transparent way. The information at The Gateway Collective is stored either on written documents or on authorised computer systems. All such information is confidential and access is available only to authorised persons.

Our registration number with the Information Commissioner's Office (ICO) (the regulator for the Act) is ZA680817

### 1.1 What is Data Protection?

Data Protection is not about protecting data for its own sake; it is about protecting individuals from the consequences of data being misused or handled badly. The Act is generally written to ensure it is never used for doing something harmful, including causing harm through inaction.

**The Data Protection Act ONLY applies to 'personal data' and should not be confused with the confidentiality of other important and sensitive non-personal information.**

### 1.2 Breaking Confidentiality of Personal Data

It is important to realise that the Act does not impose a blanket ban on disclosure even when permission for data to be passed on HAS NOT BEEN GIVEN (either expressly; by omission; or without the knowledge of the Data Subject). In a case where keeping data confidential would cause harm to anyone, not just the Data Subject, it is important to consider whether the potential harm is serious enough to make disclosure the right course of action.

- If another law requires you to provide information or
- If you choose to disclose information, because not to do so would prejudice crime prevention, catching criminals or collecting taxes duties.

*In either of these cases, the disclosure can be on your own initiative – for example because you see a problem and decide to report a child protection or vulnerable adult concern, or a suspected fraud – or can be at the request of an official agency.*

## 2. Data Protection Principles

The Gateway Collective will follow these principles detailed in UK law so that all information is:

- 1) **Processed lawfully, fairly and transparently-** The Gateway Collective recognises that it needs a legal basis for collecting and using personal data. We will use personal data in a way that is fair, and not in a way that is excessively detrimental or misleading to the individuals concerned. We will be clear and honest with people from the start about how we will use their personal data.
- 2) **Used for specified, explicit, and legitimate purposes-** The Gateway Collective will be clear about the purpose for processing personal data from the start, and the processing must be necessary and proportionate to this specified purpose. We shall not use data for any other purpose than specified unless we get consent from the data subject or have a clear obligation set out in law.
- 3) **Processed in a way that is adequate, relevant and limited to only the purpose for which it was collected-** The Gateway Collective shall collect data so that we can properly fulfil our purpose, but it will only be data that is relevant to that purpose. We will not hold more data than we need.
- 4) **Accurate and, where necessary, kept up to date-** The Gateway Collective will take reasonable steps to ensure that the personal data we hold isn't incorrect or misleading, and if it is, that it's erased or rectified as soon as possible. The Gateway Collective will keep personal data up to date depending on the type of data. The quality of personal data will be verified before it's processed, and the information used to verify it will be documented.
- 5) **Kept for no longer than is necessary-** The Gateway Collective will not keep personal data for longer than it's needed to fulfil its purpose. Data held will be periodically reviewed, erased or anonymised if it's no longer needed.
- 6) **Handled in a way that ensures appropriate security-** The Gateway Collective will ensure that personal data is processed using appropriate technical and organisational measures, including protection against unauthorised or unlawful processing and safeguard against accidental loss, destruction or damage. The Gateway Collective will take all reasonable measures to protect an individual's data along with its confidentiality and integrity.

## 2.1 The lawful bases for processing data are:

One or more of the following bullet points must be true for The Gateway Collective to legally hold data on a person:

- the person expects you to process their data so you can deliver a service (legitimate interest)
- you have the person's consent for a specific use of data.
- someone's health or safety is at risk which is why you are processing their data (protection of life)
- you have a contract that allows you to process the data.
- you have to process the data by law (for example, in some safeguarding situations)
- the processing is necessary to perform a task in the public interest (this does NOT mean all charitable activities).

### **Note:**

The DPA 2018 states that a child can consent to data processing at age 13.

### **3. Employee, Volunteer and Service Users Data**

The Gateway Collective can keep the following data about our employees without their permission(legitimate interest):

- name
- address
- date of birth
- gender
- education and qualifications
- work experience
- National Insurance number
- tax code
- emergency contact details
- employment history with the organisation
- employment terms and conditions (eg pay, hours of work, holidays, benefits, absence)
- any accidents connected with work
- any training taken
- any disciplinary action

The Gateway Collective recognises that other sensitive data such as listed below require the employees permission and that this sensitive data will be held more securely than other data(consent).

- race and ethnicity
- religion
- political membership or opinions
- trade union membership
- genetics
- biometrics, for example if your fingerprints are used for identification
- health and medical conditions
- sexual history or orientation
- outcome of DBS

#### **Volunteers and Employees DBS**

Any person wishing to be a volunteer must complete a volunteer registration form that gives consent for their details to be held on our secure database and other The Gateway Collective systems. This information will be validated with the DBS service and a record kept of the result of the DBS enquiry including date and outcome. A copy of the DBS will not be kept only a record of the authorising activity.

#### **Service User Authority**

Community Gardeners that 'opt in' to using our services must complete a registration form, consenting for their details to be held on our database. Any child over the age of 12(13 and above)

must also consent to their personal details being held for this purpose. This data will only be used for the purpose that it was collected to enable The Gateway Collective to meet its business function.

### **3.1 The Gateway Collective Data Deletion Guidelines**

The Gateway Collective will not keep personal data for longer than it is needed to fulfil its purpose. This is to ensure that it complies with point 5 and data is not kept for longer than necessary. Data will be deleted or anonymised when it is no longer needed unless there is a legal obligation or legitimate interest for The Gateway Collective to keep the data.

### **3.2 Examples of The Gateway Collective Time Specific Data Retention**

Data collected during the recruitment process, which could include CVs, Interview notes or recordings and cover letters. All recruitment documentation will be kept for 6 months. This is the period of time during in which a discrimination claim could be brought against The Gateway Collective and this data is important for defending any of these potential claims. After this time the data will deleted or securely disposed of. Consent of the applicant must be sought to be kept on record after this time and it must be time specific.

Data relating to PAYE, maternity pay or SMP (statutory mandatory pay) will only be kept for 3 years after an employee leaves The Gateway Collective, as this is the length of time that the HMRC may be interested in the information for conducting reviews or audits.

Employees' personal records, performance appraisals, employment contracts, etc. will be held on to for 6 years after they have left. This is because of potential tribunals for the 3-month risk period during which terminated employees can bring a claim against The Gateway Collective, but it could be used for defending a county court or high court claim, which can occur many years down the line. Under the GDPR, the condition for processing would be legal obligation, or legitimate interest.

## 4. Rights of Data Subjects

All data subjects of The Gateway Collective (including employees) have a right to be told:

- how their data is being used
- have access to their personal data
- have incorrect data updated
- have data erased
- stop or restrict the processing of their data
- data portability (allowing them to get and reuse their data for different services)
- object to how their data is processed in certain circumstances

If a data subject asks to find out what data is kept on them, The Gateway Collective will have 30 days to provide a copy of the information. Failure to supply data within 30 days could result in the ICO employing enforcement action.

There are a number of reasons laid out in the act where an organisation can withhold information without stating a reason to the request, the most likely for The Gateway Collective being “the prevention, detection or investigation of a crime”.

### 4.1 Access to Personal Data held by The Gateway Collective

All individuals and companies have the right to request a copy of any personal data held and to have a response within 30 days.

- An application must be made in writing for the attention of the Organisation Lead
- A person may nominate an agent to act on their behalf and proof of this nomination and the person’s identity is required.
- If a response is not given within 30 days, the individual can complain to the Information Commissioners Office who can issue an enforcement notice.

## 5. Staff Compliance for Data Confidentiality

For reasons of security and in order to restrict access to personal data all staff shall observe the following:

- Display Screen Equipment (DSE) is sited so that information cannot be seen by un-authorised persons
- Passwords for documents containing personal data are not given to members of staff who do not need them.
- Regular backups of data and files are made and are kept securely.
- Access to personnel files is restricted to the Business Development Lead and when appropriate, the individual's line-manager.
- All personnel files are kept in locked storage (Physical or electronic).
- Only the members of staff who work with them can access client files.
- Files only contain data that can be justified under DPA 2018.
- Carers must give their written permission for relevant personal information to be obtained and store.

### 5.1 Confidentiality

- Any requests for information by the media are referred to the Organisation Lead
- Computer input and output paperwork is covered by the Act and care is taken to ensure that this is not left unattended.
- To limit disclosure of personal data, all letters and documents posted to clients are posted in sealed envelopes.
- Unwanted paperwork is shredded either in-house or using a recognised confidential waste contractor.
- Real data is not used for training or demonstration purposes.
- All data complies with the acts Data Protection Principles.

### 5.2 Provision of Information to Relevant Organisations or Others

The Gateway Collective may be asked by community gardeners to act as an intermediary and communicate with agencies such as Social Services, GP surgeries, community services and other charities and organisations. When working in this capacity, we must have the expressed and documented permission of the individual community gardener to divulge the information necessary to allow the other agency to act. In situations where it is necessary to disclose information without permission to either prevent harm or prevent a crime (see note 1.2 – breaking confidentiality), The Gateway Collective Organisation Lead would take the final decision after making an assessment of the situation.

## Appendix A : ICO Registration

Registration Number: ZA680817  
Date First Registered: 24<sup>th</sup> February 2020  
Registration Expires: 23<sup>rd</sup> February 2023  
Data controller: The Gateway Collective  
Address: 99 Stanley Road  
Bootle  
Merseyside  
L20 7DA

This register entry describes, in very general terms, the personal data being processed by: The Gateway Collective

This original register entry contains personal data held for 4 main purposes:

### **Purpose 1 – Staff Administration**

Purpose Description:

Appointments or removals, pay, discipline, pensions, work management or other personnel matters in relation to the staff of the data controller.

Data subjects are:

Staff including volunteers, agents, temporary and casual workers. Complainants, correspondents and enquirers. Relatives, guardians and associates of the data subject.

Data classes are:

Personal Details  
Education and Training Details  
Employment Details  
Financial Details  
Racial or Ethnic Origin  
Religious or Other Beliefs of a Similar Nature  
Trade Union Membership  
Physical or Mental Health or Condition

Sources (S) and Disclosures (D) (1984 Act). Recipients (1998 Act):

Data subjects themselves  
Relatives, guardians or other persons associated with the data subject  
Education, training establishments and examining bodies  
Financial organisations and advisers  
Central Government  
Employment and recruitment agencies

Transfers: None outside the European Economic area

### **Purpose 2 – Administration of Membership Records**

Purpose Description:

The administration of membership records.

Data subjects are:

Staff including volunteers, agents, temporary and casual workers

Members or supporters

Complainants, correspondents and enquirers

Data classes are:

Personal Details

Family, Lifestyle and Social Circumstances

Membership Details

Sources (S) and Disclosures (D) (1984 Act) Recipients (1998 Act):

Data subjects themselves

Transfers: None outside the European Economic Area

### **Purpose 3 – Fundraising**

Purpose Description:

Fundraising in support of the objectives of the data controller

Data subjects are:

Staff including volunteers, agents, temporary and casual workers

Members or supporters

Complainants, correspondents and enquirers

Advisers, consultants and other professional experts

Business or other contacts

Employees of other organisations

Donors and lenders

Data classes are:

Personal Details

Family, Lifestyle and Social Circumstances

Financial Details

Goods or Services Provided

Membership Details

Sources (S) and Disclosures (D)(1984 Act). Recipients (1998 Act):

Data subjects themselves

Persons making an enquiry or complaint

Central Government

Voluntary and charitable organisations

Auditors

Members including shareholders

Transfers: None outside the European Economic Area

#### **Purpose 4 - Realising the Objectives of a Charitable Organisation**

Purpose Description:

The provision of goods and services in order to realise the objectives of the **charity** or voluntary body

Data subjects are:

Staff including volunteers, agents, temporary and casual workers

Customers and clients

Suppliers

Members or supporters

Complainants, correspondents and enquirers

Relatives, guardians and associates of the data subject

Advisers, consultants and other professional experts

Business or other contacts

Employees of other organisations

Donors and lenders

Data classes are:

Personal Details

Family, Lifestyle and Social Circumstances

Education and Training Details

Employment Details

Goods or Services Provided

Physical or Mental Health or Condition

Membership Details

Sources (S) and Disclosures (D) (1984 Act). Recipients (1998 Act):

Data subjects themselves

Relatives, guardians or other persons associated with the data subject

Healthcare, social and welfare advisers or practitioners

Business associates and other professional advisers

Employees and agents of the data controller

Suppliers, providers of goods or services

Persons making an enquiry or complaint

Voluntary and charitable organisations

Members including shareholders

Transfers: None outside the European Economic Area