Brogdale CIC: Data Protection Policy

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Privacy & Data Protection Policy

1. POLICY STATEMENT

This policy seeks to ensure that anyone working within ***Brogdale CIC***, processes personal information fairly and lawfully, and in compliance with the eight principles of the Data Protection Act 1998 and the update of the 14th September 2017 and in line with the GDPR, General Data Protection Regulation EU to be updated in line with Brexit. It also seeks to ensure that anyone working within ***Brogdale CIC*** has respect for private and family life in accordance with Article 8 Human Rights Act 1998.

1.1 INTRODUCTION

Brogdale CIC needs to keep certain information about its employees, volunteers, clients and workers in other agencies to allow it to monitor performance, achievements, health and safety, equal opportunities, diversity and child and adult protection and in order to deliver the most appropriate support for all its clients (most of whom are young people or vulnerable adults). By definition, much of this personal data is sensitive. All such information must be collected and used fairly, stored safely and not disclosed to any other person unlawfully.

1.2 TERMS AND DEFINITIONS OF DATA PROTECTION

- Personal information - Any information from which a living individual can be identified. It includes details such as opinions or intentions of ***Brogdale CIC*** or another individual or organisation. It applies to information held on manual files as well as information recorded on computer including visual images such as photographic images as well as written text.
- sensitive personal information includes:

  Racial / ethnic origins — Political opinions and other personal observations
  Religious beliefs — Trade Union membership
  Health data — Sexuality
  Criminal matters

- Data subject - The individual to which personal information relates.
- Data controller – The individual or organisation who "controls" / makes decisions as to how personal data is processed.
- Data Processor - Someone other than an employee of the data controller, who processes data on behalf of the data controller in accordance with the data controller's instructions.
- Processing:

Obtaining	Retrieving	Recording	Consulting	Holding	Disclosing
Organising	Combining	Adapting	Altering	Blocking	Deleting / Erasing

1.3 SUMMARY OF PRINCIPLES OF DATA PROTECTION

Principle 1 - *All personal information will be processed fairly and lawfully and not unless one of the following conditions is met:*

- The data subject has given their consent.
- The processing is necessary for the performance of a contract, or with a view to entering into a contract.
- The processing is necessary for compliance with any legal obligation.
- The processing is necessary in order to protect the vital interests of the data subject.
- The processing is necessary for the administration of justice.
- The processing is necessary for the purposes of the legitimate interests of the data controller unless it would prejudice the rights and freedoms or legitimate interests of the data subject.In the case of sensitive information:
- The data subject has given explicit consent to the processing.
- The processing is necessary for the purposes of exercising any legal right or obligation in connection with employment.
- The processing is necessary in order to protect the vital interests of the data subject or another person in a case where consent cannot be given.
- The information has been made public as a result of steps deliberately taken by the data subject.
- The processing is necessary for the purpose of, or in connection with legal proceedings, or for obtaining legal advice.
- The processing is necessary for the administration of justice.

- The processing is necessary for medical purposes and is undertaken by a health professional, or a person who in the circumstances owes a duty of confidentiality, which is equivalent to a health professional.
- The information as to racial or ethnic origin is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity treatment.

Principle 2 - *Personal information shall only be processed for lawful purposes.*
Principle 3 - *Personal information shall be adequate, relevant and not excessive.*
Principle 4 - *Personal information shall be accurate and kept up to date.*
Principle 5 - *Personal information shall not be kept for longer than is necessary.*
Principle 6 - *Personal information shall be processed in accordance with the rights of the individual.*
Principle 7 - *Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal information, and against accidental loss or destruction or damage.*
Principle 8 - *Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.*

1.4 HUMAN RIGHTS ACT

Article 8 Human Rights Act 1998 states:
"Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others".
Privacy is therefore an essential human right for all service users, employees and contractors. Any conduct in relation to any of the above categories of individuals must place the right to privacy at the highest level. Employees must at all times weigh up the potential breach of privacy against the necessity for any action contemplated for instance when considering entering a property without the presence or consent of the resident. Employees should ensure where they are responsible for distributing correspondence, that it is delivered unopened.

2. POLICY

2.1 USAGE

2.1.1 All personal information whether it comprises fact or opinion, given to ***Brogdale CIC***, will be used only in direct connection with the purpose for which it was provided. Personal data will not be transferred, shared or passed onto a third party or used for a mailing list unless approval has been given specifically sought from the person to whom it refers (the Data Subject).

2.1.2 While data may be held or processed at various places, these same commitments still apply at all times, the only exceptions to this being in response to a court order or other legal obligation

2.2 TRANSPARENCY

2.2.1 ***Brogdale CIC*** will give clear and unambiguous guidance to any individual for whom it holds or will potentially hold personal information, about the type of personal information; its sources and type of processing likely to be carried out.

2.3 CONSENT

2.3.1 Sensitive data can be processed only when the data subject has been given explicit consent it is very important that signed consent is obtained at first point of contact with the individual. Without that consent for example it would not even be possible to process the application form.

2.3.2 Nothing in the above shall prevent specific consent from an individual being obtained relating to a particular matter where it may be appropriate to do so.

2.3.3 Therefore, all prospective employees and service users will be asked to give their consent to their data being processed when an offer of employment or place is made or when it deems a necessary or legal obligation to do so. If specific consent has been unreasonably withheld, it may be used only in order to protect the vital interests of another person. Apart from this reason, if specific consent is withheld it may be that the processing could be carried out under one of the exceptions in Principle 1 which should be checked.

2.3.4 If it is considered that processing could continue; would be "proportionate to do so" and this is supported by the Managing Directors of ***Brogdale CIC***, the reasons for continuing with the processing must be communicated to the individual (unless it would be completely inappropriate to do so) and recorded. The individual's own opinion and lack of consent must also be recorded and may result in the offer being withdrawn. This includes processing Criminal Record Bureau information about previous criminal convictions in accordance with the Rehabilitation of Offenders Act 1974

2.4 DISCLOSURE

2.4.1. Disclosure of personal information to an external person or agency is potentially a particular infringement of an individual's privacy. It is therefore important that specific consent is obtained.

2.4.2. Employees should not make any form of disclosure to "representatives" of individuals unless that individual has been given "Power of Attorney" and the scope of that power would cover such a disclosure; is a solicitor / licensed conveyancer instructed by the individual regarding an issue to which the disclosure would be relevant.; is an individual or Local Authority who has "parental responsibility" for the individual who is an individual under 18 years.

2.4.3 Before making any disclosure to an external individual or agency (even if generally permitted) staff must consider whether the disclosure is necessary enough to outweigh the infringement of privacy. This should equally be considered before personal information is disclosed to another individual outside the department, but within ***Brogdale CIC.***

2.4.4 Any disclosure should be following a request in writing to ensure that the officer is not making any unintended disclosure to an unaccepted party. Disclosure should therefore not be made over the telephone unless the staff member dealing is sure of the identity of the person requesting information. When dealing over the telephone with an individual who states that he/she is the individual whom information is sought, care should be taken to ensure that this is the case, for instance additional questions should be asked such as dates of birth.

2.4.5 Wherever possible it would be better to ensure that disclosure is made in writing and sent to the recipient. All such correspondence must be marked "Private and Confidential", and where appropriate (where the disclosure would only be authorised to a named individual) "Addressee Only". The nature, recipient and where appropriate reasons for disclosure should also be recorded. Whenever disclosure is being made either specifically, or in accordance with standard accepted reasons, the recipient must be advised that the personal information belongs to ***Brogdale CIC*** and cannot be used by the recipient for any other purpose other than that for which it is disclosed. Standard contracts between ***Brogdale CIC*** and Third Parties to whom personal information will be regularly disclosed should incorporate a clause that also states that personal information provided to them is for specific purposes and no other, and that they must operate systems to ensure that the personal information is kept secure in accordance with the Data Protection Act 1998.

2.4.6. Where ***Brogdale CIC*** (or an employee of ***Brogdale CIC***) is requesting personal information, care should be taken to ensure that the request is limited to personal information that is essential to allow ***Brogdale CIC*** to complete work loads.

2.5 OBTAINING INFORMATION

All information obtained by Brogdale CIC from staff, volunteers or participants will be in line with the 8 principles of the Data Protection Act. All information given will be with specific consent. All background forms for participants will be signed by a young person if over 12 or by a parent or guardian if under 12 or not able to give consent personally.

2.6 DISPOSING OF INFORMATION

2.6.1 Personal information contained in a manual form must always be disposed of by shredding, or at least by tearing the paper to ensure that the personal information could not be further accessed. This would include draft letters to clients which are rewritten or otherwise discarded etc.

2.7 ACCURACY

Brogdale CIC will ensure that any personal information held on computer systems or manual files is not excessive, and is as accurate and up-to-date as possible (although the onus is on the individual to keep ***Brogdale CIC*** informed of any changes).

2.8 RETENTION

2.8.1 Data will not be kept longer than necessary. When its purpose has been fulfilled, it will be deleted confidentially and totally, either by deleting computer files or by shredding records. Manual files should be periodically checked, once a year, to ensure that information is not being kept for longer than is necessary.

2.8.2 In some cases, client and staff personal data may be retained (in line with Child Protection Best Practice). This is primarily where records may be required for subsequent referrals or investigation.

2.9 SECURITY

2.9.1 All personal information whether on computer systems or manual files will be kept as secure as necessary to avoid unintentional or unauthorised access by third parties (either internal or external).

2.9.2 All employees should, in particular, ensure that no third party can oversee their computer monitor/laptops when displaying personal information, especially service users. Manual files when not being worked on should be stored in lockable cabinets that must always be locked when an office area is unsupervised by those who have primary authority to access the files, such as weekend staff or night security staff. Employees must be particularly careful where work stations/laptops are within areas regularly visited by members of the public or and service users to ensure no file is left unattended however briefly.

2.9.3 Where it is necessary for files containing personal information to be taken out of the office, it is the responsibility of the employee with conduct of the file to maintain appropriate security with regard to the personal information contained within that file to ensure no un-authorised person or third party has access to that information. If files have to be left in a car they should be locked in the boot of the car. If files are not being carried in a brief case or similar, staff should consider the risk of un-authorised access when carrying files relating to more than one individual when visiting an individual. In all operations care should be taken by employees to ensure that indirectly individuals do not discover personal information about another individual.

2.10 SENSITIVE DATA

2.10.1 Sensitive data is personal data about an individual's racial or ethnic origin, political opinions, religious beliefs, trade union membership, physical or mental health, disability, sexual orientation, details of the commission or alleged commission of any offence and any court proceedings relating to the commission or alleged commission of an offence

2.11 SENSITIVE DATA PROCESSING

2.11.1 Sometimes it is necessary to process information about a person's criminal convictions, race and gender and family details. This may be to ensure that ***Brogdale CIC*** is a safe place for everyone, or to operate other ***Brogdale CIC*** policies, such as its Equal Opportunities and Diversity Policy.

2.11.2 ***Brogdale CIC*** may, at its discretion, also ask for information about particular health needs, such as allergies to particular forms of medication, or any conditions such as asthma or diabetes or disabilities. ***Brogdale CIC*** will only use the information in the protection of the health and safety of the individual, but will need consent to process it, for example in the event of a medical emergency. Due to this information being considered sensitive as well as it is recognized that the processing of it may cause particular concern or distress to individuals, staff, volunteers, parents and guardians will be asked to give express consent for ***Brogdale CIC*** to do this. Offers of employment or course/project places may be withdrawn if an individual refuses to consent to this, without good reason.

2.12 CHILDREN AND YOUNG PEOPLE

2.12.1 ***Brogdale CIC*** provides services for individuals under the age of 16 and over. Where data must be collected on persons under the age of 16, ***Brogdale CIC*** will in all circumstances, define this as Sensitive Data and subject to the additional rules regarding such data.

3. SUPPLIERS / CONTRACTORS AND OTHER THIRD PARTIES

3.1 Information relating to any individual, which ***Brogdale CIC*** maintains and processes must be processed in accordance with all the Data Protection principles and in accordance with the company's individual up to date data protection "notification".

3.1.1 Where ***Brogdale CIC*** or any subsidiary organisation enters into a contract with a third party information relating to that "contractor" will be held and processed in accordance with the data protection principles. It will be expected that all suppliers / contractors / partners etc., where they are maintaining and controlling

personal information either in relation to the individuals working within the group or its customers, and that all agreements with third party suppliers will have an appropriate Data Protection Clause to the effect:

The exchange and processing of personal information between ***Brogdale CIC*** and ..... will be fair and lawful. In particular, both / all parties will ensure that the relevant processing is notified to the Information Commissioner and is conducted (where relevant) with the necessary consent of the individual concerned. Both / All parties will ensure that personal information is accurate; not kept for longer than is necessary; secure; and adequate, relevant and not excessive for the purposes of this agreement. All information will be processed in accordance with the rights of the individual.

3.1.2 Where a contract is with a "Data Processor" and the individual or company would not make any decision with regard to the data or how it is processed the following provision would be more appropriate: Personal information obtained by ..... in the course of performing the terms of this contract / agreement remains under the sole control of ***Brogdale CIC***. Processing is only permitted to the extent that it is necessary for the performance of this agreement / contract, and that information must not in any way be retained by .....must provide ***Brogdale CIC*** access for the purposes of conducting an audit of the processing, upon receipt of a request by ***Brogdale CIC*** giving reasonable notice. ***Brogdale CIC*** will respond.

4. IT AND DATA PROTECTION

Appropriate technical measures have been put in place to ensure that all electronic data is processed strictly in accordance with the Data Protection Act Principles. These are as follows:

4.1 PHYSICAL SECURITY

4.1.1 All electronic data resides within physically controlled access areas which is the offices used by all members of staff within ***Brogdale CIC***, these areas are kept locked when no authorised personnel are present.

4.1.2 All monitors/laptops displaying information must be positioned to ensure limited opportunity for unauthorised viewing. Screen savers will be activated to protect the contents of the screen, where there has been a protracted period with no user input. The screen savers can be password protected depending on the likely sensitivity of the information being processed and viewed through the monitor by any particular individual.

4.2 SYSTEM SECURITY

4.2.1 Only authorised personnel can have access to computers (and relevant applications) via a personal password, which must not be disclosed to any other individual. The range of applications (and profiles / directories / menus within applications) that is available to any authorised individual is tailored on the basis of the function / department and role needs of that individual.

4.3 INTERNET AND EMAIL

4.3.1 All employees of ***Brogdale CIC*** must abide by the Electronic Communications Use Policy.

4.4 DESTRUCTION OF DATA

4.4.1 Where so advised by employees of ***Brogdale CIC*** using the personal data, that there is no longer justification for keeping that personal data electronically, the personal records will be permanently deleted from the "live" operating system.

4.4.2 Systems withdrawn from service are cleaned of any resident data before being taken off site.

4.4.3 Data used by suppliers for test purposes is tracked and later recovered and thereafter either destroyed or safely stored. The supplier is officially notified prior to commencement of work, of their obligation to the data protection act.

5. DISCLOSURE OF INFORMATION WITHIN THE GROUP

All information that is disclosed will only be done so with consent unless there is considered to be a need that overrides consent such as safeguarding of an individual or the general public. The principles of disclosing information within Brogdale CIC will be:

1. The Data Protection Act is not a barrier to sharing information
2. Be open and honest with the person/family
3. Seek advice if you are in any doubt
4. Share with consent where appropriate

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5. Consider safety and well-being
6. Necessary, proportionate, relevant, accurate, timely and secure
7. Keep a record of your decision and reasons

6. DATA PROTECTION RIGHTS

Any individual for whom ***Brogdale CIC*** holds personal information regarding them has specific rights under the Data Protection Act 1998. These are as follows:

6.1 SUBJECT ACCESS RIGHTS

6.1.1 The right to request, in writing, the details ***Brogdale CIC*** holds about an individual / to have a permanent copy of the information and to know the purpose for which it is held; to know the source of the information; and disclosures made of the information, and logic behind any decisions made from the information. This will involve computer and manual records. However, this right does not entitle the individual to information about third parties (even where relating to the individual and kept on their file) and so this must not be inadvertently disclosed through the process. Any information that is "privileged" can also be withheld. "Privileged" information is that which is the legal advice relating to an individual or is information prepared for the subject of legal advice.

6.1.2 Upon the information being provided to the individual, they can insist on rectification of inaccurate information, take Court action for breaches of the Data Protection Principles and claim compensation for damage. An individual can also make a request to the Data Protection Commissioner for an assessment as to whether it is likely or unlikely that the processing is being carried out in compliance with the Act.

6.2 RIGHT TO PREVENT PROCESSING

6.2.1 An individual has the right to require ***Brogdale CIC*** to stop or not begin information on the grounds that it is likely to cause substantial damage or distress to the subject or another and that damage or distress would be unwarranted, except where the individual has already consented to processing of personal information.

6.3 RIGHT NOT TO HAVE AUTOMATED DECISIONS MADE

6.3.1 An individual has the right to require ***Brogdale CIC*** to ensure that no decision is taken by or on behalf of ***Brogdale CIC*** that significantly affects an individual, is based solely on the automated processing of personal information, for instance a computer pointing system for allocations.

Signed _____ Name _____

Role _____ Date _____