



## **GDPR DATA PROTECTION & CONFIDENTIALITY POLICY**

### **Key Definitions**

Personal data – this is defined as any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Special categories of personal data – personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade-union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

Data controller – the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.

Data subject – any living individual who is the subject of personal data held by an organisation.

Processing – any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Profiling – is any form of automated processing of personal data intended to evaluate certain personal aspects relating to a natural person, or to analyse, or predict that person's performance at work, economic situation, location, health, personal preferences, reliability, or behaviour. This definition is linked to the right of the data subject to object to profiling and a right to be informed about the existence of profiling, of measures based on profiling and the envisaged effects of profiling on the individual.

Personal data breach – a breach of security leading to the accidental, or unlawful, destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed. There is an obligation on the controller to report personal data breaches to the supervisory authority and where the breach is likely to adversely affect the personal data or privacy of the data subject.

Data subject consent - means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data.

Child – the GDPR defines a child as anyone under the age of 16 years old. The processing of personal data of a child under 13 years of age is only lawful if parental or custodian consent has been obtained.

Third party – a natural or legal person, public authority, agency or body other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data.

Filing system – any structured set of personal data which is accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis.

## **Company Responsibilities**

Hybrid Mail Solutions is a data processor as defined under the GDPR.

Senior Management and all those in managerial or supervisory roles throughout Hybrid Mail Solutions are responsible for developing and encouraging good information handling practices within the organisation; responsibilities are set out in individual job descriptions.

A Data Protection Officer, a member of the senior management team, is accountable to the top management of Hybrid Mail Solutions for the management of personal information within Hybrid Mail Solutions and for ensuring that compliance with data protection legislation and good practice can be demonstrated. This accountability includes the development and implementation of security and risk management to ensure compliance.

Hybrid Mail Solutions has appointed a suitably qualified and experienced Data Protection Officer (DPO) who is responsible for day to day compliance with this policy. The DPO is responsible for ensuring that Hybrid Mail Solutions complies with the GDPR in relation to all aspects of data processing. The DPO has direct responsibility for policy and procedures, including Subject Access Requests. The DPO is also the person to whom all staff will go to seek guidance regarding GDPR compliance.

It should be noted that compliance with GDPR requirements remains the responsibility of all staff who process or control personal information for Hybrid Mail Solutions. All members of staff employed by Hybrid Mail Solutions are also responsible for ensuring that any personal data that is about them that is supplied by them to Hybrid Mail Solutions is accurate and up-to-date.

The Training Policy defines specifically what training is required for all staff, including specific roles.

## **Risk Assessment in relation to GDPR**

Hybrid Mail Solutions needs to ensure that it is aware of any risks associated with the processing of all types of personal information. A Risk Assessment procedure has been implemented and is used by Hybrid Mail Solutions to assess any risk to individuals during processing of their personal information. Assessments will also be completed by Hybrid Mail Solutions for any processing that is undertaken on their behalf by any third-party organisation. Hybrid Mail Solutions will also, through the application of the Risk Assessment procedure, ensure that any identified risks are managed appropriately to reduce the risk of non-compliance.

Where processing of personal information may result in a high risk to the “rights and freedoms” of natural persons, Hybrid Mail Solutions shall complete a data protection impact assessment, prior to conducting the processing, to ensure the personal information is protected. This assessment may also be used to apply to a number of similar processing scenarios with a similar level of risk.

Where, as a result of a Data Protection Impact Assessment, it is clear that Hybrid Mail Solutions will process personal information in a manner that may cause damage and/or distress to the data subjects, the DPO must review the process before Hybrid Mail Solutions proceeds to process the information. If the DPO decides that there are significant risks to the data subject he will escalate to the ICO for final guidance. The organisation shall apply selected controls for the ISO 27001 Annex A to reduce risk. This should also reference Hybrid Mail Solutions risk acceptance criteria and the requirements of the GDPR.

## **Principles of Data Protection**

Any processing of personal data must be conducted in accordance with the following data protection principles of the Regulation, and Hybrid Mail Solutions policies and procedures will ensure compliance.

Personal data must be processed lawfully, fairly and transparently. Hybrid Mail Solutions Fair Processing Procedure details how this is achieved.

The GDPR introduces the requirement for transparency whereby the controller has transparent and easily accessible policies relating to the processing of personal data and the exercise of individuals’ ‘rights and freedoms’.

Information must be communicated to the data subject in an intelligible form using clear and plain language.

The specific information that must be provided to the data subject must as a minimum include:

- The identity and the contact details of the controller and, if any, of the controller's representative
- The contact details of the Data Protection Officer, where applicable
- The purposes of the processing for which the personal data are intended as well as the legal basis for the processing
- The period for which the personal data will be stored
- The existence of the rights to request access, rectification, erasure or to object to the processing
- The categories of personal data concerned
- The recipients or categories of recipients of the personal data, where applicable
- Where applicable, that the controller intends to transfer personal data to a recipient in a third country and the level of protection afforded to the data
- Any further information necessary to guarantee fair processing.

Personal data can only be collected for specified, explicit and legitimate purposes. Data obtained for specified purposes must not be used for a purpose that differs from those formally notified to the Information Commissioner as part of Hybrid Mail Solutions GDPR registration.

Personal data must be adequate, relevant and limited to what is necessary for processing. The Data Protection Officer is responsible for ensuring that information, which is not strictly necessary for the purpose for which it is obtained, is not collected.

All data collection methods (electronic or paper-based), including data collection requirements in new information systems, must be approved by the Data Protection Officer and approval recorded.

The Data Protection Officer will ensure that all data collection methods are reviewed annually by internal audit or external experts to ensure that collection continues to be adequate, relevant and not excessive.

The DPO is responsible for ensuring that any data that is shown to have been obtained excessively, or is not specifically required by Hybrid Mail Solutions, is securely deleted or destroyed in line with the Secure Disposal of Data Procedure.

## **Other Considerations**

Personal data must be accurate and kept up to date.

Data that is kept for a long time must be reviewed and updated as necessary. Any data that is considered to be inaccurate or likely to be inaccurate must be removed.

Top management is responsible for ensuring that all staff are trained in the importance of collecting accurate data and maintaining it.

All individuals are responsible for ensuring that any data held by Hybrid Mail Solutions is accurate and up-to-date. Any data submitted by an individual to a company, such as via a registration form, will be considered to be accurate at the time of receipt.

Employees or other individuals should notify Hybrid Mail Solutions of any changes in personal information to ensure personal information is kept up to date. It is the responsibility of Hybrid Mail Solutions to ensure that any notification of changes to personal information is implemented.

The DPO is responsible for ensuring that all necessary actions are taken to ensure personal information is accurate and up to date. This should also take into account the volume of data collected, the speed with which it might change and any other relevant factors.

The DPO will review, at least once a year, all the personal data processed by Hybrid Mail Solutions, held in the Data Register. The DPO will note any data that is no longer required in the context of the registered purpose and will ensure that it is appropriately removed and securely disposed of in line with the Secure Disposal of Data Procedure.

If a third-party organisation has provided inaccurate or out-of-date personal information, the DPO is responsible for informing them that the personal information is inaccurate and/or out-of-date and advise them that the information should no longer be used. The DPO should also ensure that any correction to the personal information is passed on to the third party.

## **Personal Data Considerations**

Personal data must be kept in a form such that the data subject can be identified only as long as is necessary for processing.

Where personal data is retained beyond the processing date, it will be encrypted in order to protect the identity of the data subject in the event of a data breach.

Personal data will be retained in line with the retention of records procedure and, once its retention date is passed, it must be securely destroyed as set out in the Retention of Records Procedure.

The DPO must specifically approve any data retention that exceeds the retention periods defined in the Retention of Records procedure and must ensure that the justification is clearly identified and in line with the requirements of the data protection legislation. This approval must be written.

Personal data must be processed in a manner that ensures its security

Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data. These controls have been selected on the basis of identified risks to personal data, and the potential for damage or distress to individuals whose data is being processed. Security controls will be subject to audit and review.

Hybrid Mail Solutions compliance with this principle is contained in its Information Security Management System (ISMS), which has been developed in line with ISO/IEC 27001:2013 and the Security Policy set out in the ISMS Manual.

Personal data shall not be transferred to a country or territory outside the European Union Member States 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.

The transfer of personal data outside of the EU Member States is prohibited unless one or more of the specified safeguards or exceptions apply.

#### Safeguards

An assessment of the adequacy by the data controller taking into account the following factors:

- The nature of the information being transferred
- The country or territory of the origin, and final destination, of the information
- How the information will be used and for how long
- The laws and practices of the country of the transferee, including relevant codes of practice and international obligations and
- The security measures that are to be taken as regards the data in the overseas location. (This is a UK-specific option.)

### **Binding corporate rules**

Hybrid Mail Solutions may adopt approved Binding Corporate Rules for the transfer of data outside the EU Member States. This requires submission to the relevant Supervisory Authority for approval of the rules that Hybrid Mail Solutions is seeking to rely upon.

### **Model contract clauses**

Hybrid Mail Solutions may adopt approved model contract clauses for the transfer of data outside of the EU Member States. If Hybrid Mail Solutions adopts the model contract clauses approved by the relevant Supervisory Authority there is an automatic recognition of adequacy.

## Exceptions

In the absence of an adequacy decision, including binding corporate rules, for the transfer of personal data to a third country, or an international organisation, it shall take place only on one of the following conditions:

- The data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequacy decision and appropriate safeguards
- The transfer is necessary for the performance of a contract between the data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request
- The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person
- The transfer is necessary for important reasons of public interest
- The transfer is necessary for the establishment, exercise or defence of legal claims
- The transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent
- The transfer is made from a register which according to Union or Member State law is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down in Union or Member State law for consultation are fulfilled in the particular case.

A list of countries that satisfy the adequacy requirements of the Commission are published in the Official Journal of the European Union and in the GDPR 2016.

## Accountability

The GDPR states that the controller is not only responsible for ensuring compliance but for demonstrating that each processing operation complies with the requirements of the GDPR. As a result, controllers are required to keep all necessary documentation of all processing operations and implement appropriate security measures. They are also responsible for completing Data Processing Impact Assessments (DPIAs), complying with requirements for prior notifications, or approval from supervisory authorities and ensuring a DPO is appointed if required.

## Data subjects' rights

Data subjects have the following rights regarding data processing, and the data that is recorded about them:

- To make subject access requests regarding the nature of information held and to whom it has been disclosed
- To prevent processing likely to cause damage or distress
- To prevent processing for purposes of direct marketing
- To be informed about the mechanics of automated decision-taking process that will significantly affect them
- Not to have significant decisions that will affect them taken solely by automated process
- To sue for compensation if they suffer damage by any contravention of the GDPR

- To take action to rectify, block, erase, including the right to be forgotten, or destroy inaccurate data
- To request the ICO to assess whether any provision of the GDPR has been contravened
- The right for personal data to be provided to them in a structured, commonly used and machine-readable format, and the right to have that data transmitted to another controller
- The right to object to any automated profiling without consent.

Data subjects may make data access requests as described in the Subject Access Requests procedure. This procedure also describes how Hybrid Mail Solutions will ensure that its response to the data access request complies with the requirements of the Regulation.

## **Complaints**

A Data Subject has the right to complain to at any time to Hybrid Mail Solutions if they have concerns about how their information is used. If they wish to lodge a complaint this should be directed to the DPO following the complaints procedure using a complaint form supplied by Hybrid Mail Solutions.

A Data subject also has the option to complain directly to the Information Commissioners Office. Details of the options for lodging a complaint are provided by Hybrid Mail Solutions on the 'Contact Us' section on of our company website.

## **Consent**

Hybrid Mail Solutions understands 'consent' to mean that it has been explicitly and freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she by statement, or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her. The consent of the data subject can be withdrawn at any time.

In addition, Hybrid Mail Solutions understands 'consent' to mean that the data subject has been fully informed of the intended processing and has signified their agreement, while in a fit state of mind to do so and without pressure being exerted upon them. Consent obtained under duress or on the basis of, misleading information will not be a valid basis for processing. There must be some active communication between the parties which demonstrate active consent. Consent cannot be inferred from non-response to a communication. For sensitive data, explicit written consent of data subjects must be obtained unless an alternative legitimate basis for processing exists.

Consent to process personal and sensitive data is obtained routinely by Hybrid Mail Solutions using standard consent documents. This may be through a contract of employment or during induction.

Where Hybrid Mail Solutions provides online services to children, parental, or custodial authorisation must be obtained. This requirement applies to children under the age of 16 (unless the Member State has made provision for a lower age limit – which may be no lower than 13).

## **Data Security**

All Hybrid Mail Solutions Staff that are responsible for any personal data which Hybrid Mail Solutions holds must keep it securely and ensure that it is not disclosed under any conditions to any third party unless that third party has been specifically authorised by Hybrid Mail Solutions to receive that information and has entered into a confidentiality agreement.

All personal data should be accessible only to those who need to use it, and access may only be granted in line with the Access Control Policy. You should form a judgment based upon the sensitivity and value of the information in question, but personal data must be kept:

- In a lockable room with controlled access; and/or
- In a locked drawer or filing cabinet; and/or
- If computerised, it must be password protected in line with the Access Control Policy
- Stored on encrypted removable media in line with the Cryptographic Controls Policy.

Care must be taken to ensure that PC screens and terminals are not visible except to authorised Staff of Hybrid Mail Solutions. All Staff must sign up to the Acceptable Use Policy before they are given access to organisational information of any sort.

Manual records may not be left where they can be accessed by unauthorised personnel and may not be removed from business premises without explicit [written] authorisation. As soon as manual records are no longer required for day-to-day client support, they must be removed from secure archiving in line with [procedure reference].

Personal data may only be deleted or disposed of in line with the Retention of Records procedure. Manual records that have reached their retention date are to be shredded and disposed of as 'confidential waste'. Hard drives of redundant PCs are to be removed and immediately destroyed as required by the Secure Disposal of Data Procedure. Because of the increased risk all Staff must be specifically authorised to process data off-site.

## **Rights of access to data**

Data subjects have the right to access any personal data (i.e. data about them) which is held Hybrid Mail Solutions in electronic format and manual records which form part of a relevant filing system. This includes the right to inspect confidential personal references received by Hybrid Mail Solutions, and information obtained from third-party organisations about that person. Subject Access Requests are dealt with as described in the Subject Access Request Procedure.

## **Disclosure of data**

Hybrid Mail Solutions must ensure that personal data is not disclosed to unauthorised third parties which includes family members, friends, government bodies, and in certain circumstances, the Police. All Employees/Staff should exercise caution when asked to disclose personal data held on another individual to a third party [and will be required to attend specific training that enables them to deal effectively with any such risk]. It is important to bear in mind whether or not disclosure of the information is relevant to, and necessary for, the conduct of Hybrid Mail Solutions' business.

GDPR permits a number of exemptions where certain disclosure without consent is permitted, as long as the information is requested for one or more of the following purposes:

- To safeguard national security
- Prevention or detection of crime including the apprehension or prosecution of offenders
- assessment or collection of tax duty;
- Discharge of regulatory functions (includes health, safety and welfare of persons at work)
- To prevent serious harm to a third party
- To protect the vital interests of the individual, this refers to life and death situations.

All requests to provide data for one of these reasons must be supported by appropriate paperwork and all such disclosures must be specifically authorised by the Data Protection Officer.

## **Retention and disposal of data**

Personal data may not be retained for longer than it is required. Once a member of staff has left Hybrid Mail Solutions, it may not be necessary to retain all the information held on them. Some data will be kept for longer periods than others. Hybrid Mail Solutions' data retention and data disposal procedures will apply in all cases.

## **Disposal of records**

Personal data must be disposed of in a way that protects the "rights and freedoms" of data subjects (e.g. shredding, disposal as confidential waste, secure electronic deletion) and in line with the Secure Disposal of Data Procedure.

## **E-mail and Internet privacy**

The inappropriate use of e-mail and the Internet by employees, e.g. using the Internet for non-work purposes, can have significant consequences for our Organisation. This can be in terms of:

- Embarrassment/damage to the Organisation's reputation
- Loss of productivity
- Increased risk of liability and legal action, e.g. for sexist or racist e-mails
- Increased virus risk

# DATA PROTECTION POLICY

**(continued)**

To avoid inappropriate usage, we have introduced security electronic safeguards. A firewall checks, guarantees and manages e-mail attachments.

## Acceptable use of E-mail and the Internet

Please see the E-mail and Internet Acceptable Usage Policy.

In addition, the Organisation's employees will be kept fully informed about overall information security procedures and the importance of their role within these procedures. Similarly, manual filing systems are held in secure locations and only authorised employees can access them.

## RESPONSIBILITIES & REVIEW

The **(Managing Director)** has overall responsibility for the administration and implementation of the Organisation's Data Protection Policy.

Each Department Manager will assume authority for the compliance of the employees within their department.

This Policy will be updated as necessary to reflect best practice in data management, security and control and to ensure compliance with any changes or amendments made to the Data Protection Act 1998 and the GDPR.

The Data Protection Policy will, under normal circumstances, be managed and reviewed annually. The reviews to the Policy will be subject to scrutiny and, from time to time, updates and re-issues will be circulated.

However, the Policy will be reviewed sooner in the event of any one or more of the following:

- Weakness in the Policy is highlighted
- Weaknesses in hardware and software controls are identified
- In case of new threat(s) or changed risks
- Changes in legislative requirements
- Changes in Government, company or other directives and requirements.

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Date of Next Review: 09th May, 2022	Print Name: COLUM COURTNEY