



East Durham
PARTNERSHIP
Supporting Communities

East Durham Partnership

**Data Protection and Freedom of Information Processing
Procedure**

East Durham Partnership is committed to safeguarding & promoting the welfare of children and young people, as well as vulnerable adults, and expects all staff and volunteers to share this commitment.

East Durham Partnership Data Protection and Freedom of Information Processing Procedure

1. Introduction

East Durham Partnership is committed to transparency in its dealings with the public and fully embraces the aims of the Freedom of Information Act 2000 and the General Data Protection Regulations. East Durham Partnership will make every effort to meet its obligations under the respective legislation and will regularly review procedures to ensure that it is doing so.

The underlying principle of this procedure is that individuals including clients, customers, employees and other stakeholders have a right to ensure that information about them is obtained and processed correctly and that they can access recorded information held by the East Durham Partnership, subject to the exemptions contained within the relevant legislation.

This procedure describes the requirements for the obtaining, processing and accessing such data by East Durham Partnership to meet its legal obligations.

2. Scope

a. *What is Personal Data?*

Personal data is information that can be used to identify directly or indirectly an individual. Examples of personal data which may be used by East Durham Partnership include but is not limited to addresses, telephone numbers, email addresses and statements of opinion or intention regarding individuals. Some information is considered to be Sensitive Personal Data. The categories of sensitive personal data are identified in Article 9 of the GDPR and includes but is not limited to information relating to:-

- i. race or ethnic origin;
- ii. political opinions;
- iii. religious or similar beliefs;
- iv. physical or mental health or conditions;
- v. sexual orientation/behaviour; or
- vi. information relating to the commission or alleged commission of any offence and any related court proceedings(Article 10).

The purpose for process the data is outlined in the Privacy Notices.

b. *What is Processing?*

East Durham Partnership will process personal data it holds by carrying out any operation relating to that information to enable East Durham Partnership to carry out its obligations. It is irrelevant whether the information is stored as a manual or electronic record.

3. Responsibilities

East Durham Partnership has responsibility to collect and hold information to meet its legal requirements and provide a high quality service to clients and stakeholders. The responsibility for ensuring compliance with this procedure lies with the Board of East Durham Partnership's Trustees.

The Board of East Durham Partnership Trustees is also responsible for dealing with requests under this procedure and will commit to regular training to discharge this obligation.

The Data Protection Officer has day-to-day responsibilities for the East Durham Partnership's Data Protection function.

These responsibilities include ensuring that East Durham Partnership is able to demonstrate compliance with the principles of GDPR in that personal data shall be:

- a. processed lawfully, fairly and in a transparent manner in relation to individuals;
- b. collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- c. adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- d. accurate and, where necessary, kept up to date;
- e. kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; and
- f. processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All staff have responsibilities for:-

- a. familiarising themselves with this procedure and any relevant GDPR guidelines and Policy on Data Protection ;
- b. ensuring that they comply with the GDPR when processing data
- c. if identified as part of their job role, dealing with Subject Access Requests (section 4.g.iii) within 20 working days of receipt;
- d. contacting the Data Protection Officer when assistance is required.

Compliance with this Procedure is compulsory for all staff employed by the East Durham Partnership. A member of staff who fails to comply with the Procedure may be subjected to disciplinary action under East Durham Partnership disciplinary procedure. It is the responsibility of Data Protection Officer to ensure that their staff are made aware of the existence of this procedure and its content.

Employees should be aware that they may also face criminal liability in certain circumstances if they do not comply with this procedure.

4. Guidance for Processing Personal Data

a. Right to be informed

There are four categories of stakeholder identified by East Durham Partnership in which we process personal data, these are:

- Clients/ Customers
- Workforce
- Suppliers
- Third party contractors

The fair processing information is identified in the privacy notice for each stakeholder.

b. Use of Personal Data Must be Fair and Lawful

East Durham Partnership will ensure that individuals are advised of the personal data which has been obtained or retained, its source and the purposes for which the personal data may be used or disclosed. The valid lawful basis in which we process the data is detailed on the privacy notices. Where applicable, consent will be obtained to use the information.

The intended processing of an individual's personal information will be detailed on the privacy notice and we will request consent on the relevant forms. If the information is not received directly from the individual then East Durham Partnership will ensure that the legal or contractual reason for processing the information is outlined in the privacy notice. Where East Durham Partnership is processing Sensitive Personal Data under Article 10 of the GDPR we will have the explicit consent of the individual to process. If there is no explicit consent or the information has not been received directly from the individual, East Durham Partnership will not process this information unless it obtains the relevant consents or is otherwise lawfully entitled or obliged to do so.

If the reasons for processing data change, then the data subject will be notified.

c. Use of Personal Data Must be 'Necessary'

The personal data processed by East Durham Partnership must be necessary for the East Durham Partnership's purposes in delivering support to clients and employer. Methods of data capture will:-

- i. be specific to the particular processing purpose;
- ii. obtain all personal information necessary on which to base any decision that is to be taken for the processing purpose;
- iii. not collect personal data that is not necessary for the processing purpose for which the individual has provided details, or which is to be used for another purpose (ie marketing) about which the individual has not been informed;
- iv. ensure that the privacy notices details the information collected and of the processing purpose.
- v. Ensure that consent is unambiguous and that the data subject provides clear indication of the acceptance of East Durham Partnership processing the data.

d. *Personal Data Must be Accurate*

East Durham Partnership will take all reasonable steps to ensure that personal data held in its systems is accurate.

Stakeholders will have the opportunity to update/delete their data by writing to the DPO

e. *Personal Data Must be Held No Longer Than Necessary*

East Durham Partnership must not keep information for longer than is necessary for the purpose for which it is being processed. The retention of personal data is outlined in the privacy notices and in section 7 of this procedure.

f. *Personal Data Must be Processed in Accordance with Individuals' Rights*

All stakeholders have the right to:-

- i. have the right to access the information on request;
- ii. have the right to rectify the information, if it is deemed to be inaccurate or incomplete on request;
- iii. have the right to erasure, if the information is no longer necessary or consent is withdrawn on request;
- iv. have the right to restrict the processing of the information unless this contravenes the East Durham Partnership' legal or contractual obligations on request;
- v. have the right to have the data provided in a portable form such as a CSV file;
- vi. have the right to object to the data processing;
- vii. request that East Durham Partnership does not process information which will or is likely to cause substantial and unwarranted damage or distress to them;
- viii. be notified of any decisions made solely on the basis of automatic processing, such as performance at work, reliability or conduct and the logic for that decision making;

- ix. have any decision based solely on automatic processing to be reviewed upon written request; and
- x. prevent East Durham Partnership from taking any decision which significantly affects the individual based solely on personal information processed by automatic means.

All Subject Access Requests will be dealt with within 1 month of receipt of the request from the individual in writing and this will be provided 'free of charge'. However, if the request is deemed to be excessive, unfounded or repetitive then East Durham Partnership may charge for this request.

All amendments to the data will be provided 'free of charge' and will be responded to within 1 month of the receipt of the request.

g. Appropriate Security must be Applied to all Personal Data

East Durham Partnership has appropriate technical and organisational security measures in place to prevent unauthorised or unlawful processing, accidental loss of or destruction or damage to personal information.

Any third party processing personal information on behalf of East Durham Partnership must sign a declaration of confidentiality and undertake to process the information under this Procedure.

In addition, any arrangement to share personal data with any third party is detailed in the privacy notice and the third party will agree to the East Durham Partnership Data Sharing Agreement which ensures procedures are in place to secure the data.

i. Transfers outside the European Economic Area

All transfers of personal information outside the European Economic Area must be approved first by the Data Protection Officer and will be in compliance with Chapter V of the GDPR.

Direct Marketing

East Durham Partnership will not directly market to any individual without obtaining prior consent to do so. East Durham Partnership will comply with any request by an individual not to receive direct marketing information.

6. Further Guidance:-

<https://ico.org.uk/for-organisations/guide-to-data-protection/>

7. Retention of Records

The retention of the personal data records in which East Durham Partnership hold on its stakeholders is detailed in the Retention and Disposal of Data Schedule.

8. Training

Every new member of staff will have a full induction which will include Data Protection training. East Durham Partnership will provide staff training regular updates to ensure that staff are up to date with data protection.

9. Data Protection Impact Assessment

The DPO will carry out an annual assessment on compliance with data protection procedures.

10. Clean Desk Procedure

a. Overview

To improve the security and confidentiality of information, East Durham Partnership have adopted a Clean Desk Procedure for all work areas including but not limited to employee desks, offices, computer and printer workstations.

This ensures that all personal, sensitive and confidential information, whether it be on paper, a storage device, or an electronic device, is properly locked away or disposed of when a workstation is not in use.

This procedure will reduce the risk of unauthorised access, loss of, and damage to information during and outside of normal business hours or when workstations are left unattended. This procedure is an important security and privacy control compliance.

b. Staff responsibilities

Whenever a work station is unoccupied for an extended period of time the following will apply:

1. All personal, sensitive and confidential paperwork must be removed from the desk and placed in a secure location. This includes any electronic storage devices.
 2. All waste paper which contains sensitive or confidential information must be placed in the designated confidential waste bins. Under no circumstances should this information be placed in regular waste paper bins.
 3. Computer workstations must be locked when the desk is unoccupied and completely shut down at the end of the work day.
 4. Clients must not log on to staff work stations.
 5. Staff must not share their password with any other person
 6. Laptops, tablets, and other hardware devices must be removed from the desk and locked in a drawer or filing cabinet.
 7. Keys for accessing secure locations should not be left unattended at a desk.
 8. Printers should be treated with the same care under this procedure:
 - a. Any print jobs containing sensitive and confidential paperwork should be retrieved immediately.
 - b. All paperwork left over at the end of the work day will be properly disposed of.
- c. Compliance

This procedure will be officially monitored for compliance by Data Protection Officer and may include random and scheduled inspections.

11. Non-Conformance

This procedure requires the participation of all staff and contractors to be successful. Any employee or contractor found to have violated this procedure may be subject to disciplinary action, up to and including termination of employment.

12. Freedom of Information

The FoIA applies to all public authorities and came fully into force on 1st January 2005. It provides the public with a statutory right of access to

recorded information held by authorities, subject to certain exemptions, within twenty working days. The Act is fully retrospective and applies to all information that falls within the scope of the Act, not just information created from 1st January 2005.

This is in addition to an individual's statutory right of access to their own "personal data" under the DPA.

Any decision to withhold information under an exemption can be referred by the applicant to the Information Commissioner, who can overturn any decision to withhold information. For the purposes of this procedure, the "public" is defined as any individual or organisation anywhere in the world and an "information request" refers to any request for recorded information made under the FOIA, EIR or DPA.

13. Scope

This procedure applies to all recorded information held by East Durham Partnership that relates to the business of the East Durham Partnership. This includes:

- Information created and held by the East Durham Partnership
- Information created by the East Durham Partnership and held by another organisation on our behalf
- Information held by East Durham Partnership provided by third parties, where this relates to a function or business of the East Durham Partnership (such as contractual information) and
- Information held by the East Durham Partnership relating to Governors where the information relates to the functions or business of the each East Durham Partnership.

This procedure does not cover personal written communications (such as personal e-mails sent by staff). This Procedure and the associated Policy on Data Protection establishes the standards regarding the use of "personal data" (as defined in the DPA).

14. Requesting information

i. Procedures

Practical procedures for handling information enquiries in line with the relevant legislation will be produced and copies can be obtained from the East Durham Partnership's Data Protection Officer

East Durham Partnership has a duty under both the FOIA and EIR to provide advice and assistance to applicants making information requests. This includes assisting the applicant in making the application for information. Although no such duty exists under the DPA, the same level of care will be provided.

ii. Charges

The three information regimes contain different provisions that permit charges to be made for responding to information requests. East Durham Partnership may charge a fee for complying with requests that are repetitive, as calculated in accordance with FOIA regulations. If a charge is to be made, East Durham Partnership will give written notice to the applicant before supplying the information requested.

East Durham Partnership will only charge for the cost of copying and transmitting information, not for time taken in reaching decisions regarding whether information is covered by an exemption.

Where East Durham Partnership estimates that the cost of locating the information will exceed the statutory threshold of £450, it will consider whether or not to comply with the request. East Durham Partnership is not obliged to comply with such a request but may choose to do so.

15. Withholding Information

The Freedom of Information Act contains 23 exemptions whereby information can be withheld. There are two categories; absolute and non-absolute. East Durham Partnership will only withhold information if it falls within the scope of one or more of these exemptions.

Where an absolute exemption applies, East Durham Partnership can automatically withhold the information. However, where the exemption is non-absolute the information can only be withheld where East Durham Partnership decides that the public interest is best served by withholding the information.

Certain exemptions also contain a "prejudice test", which means that the exemption can only be claimed if disclosing the information would prejudice the interest protected by the exemption.

East Durham Partnership will only withhold information covered by the exemption. Complete files or documents will not be withheld just because part of the information is covered by an exemption.

East Durham Partnership will only apply an exemption where it has reason to believe that prejudice might occur to the interest protected by the exemption. In addition, wherever a "public interest" exemption is being considered, East Durham Partnership will only withhold that information which it can demonstrate that the public interest will be best served by withholding. When considering withholding information under a non-absolute exemption East Durham Partnership will take into account whether the release of the information would:

- promote further understanding of current issues of public debate;
- promote the accountability of decisions taken by East Durham Partnership and the spending and allocation of public money;
- bring to light matters of public safety;
- allows the public to understand and challenge decisions made by East Durham Partnership;
- be otherwise in the public interest.

Where information is withheld under an exemption in most cases the reason behind the decision will be made clear to the applicant, citing the exemption under which the information is being withheld. The applicant will also be given details of the right to challenge the decision through East Durham

Partnership's Board of Trustees and the right of appeal to the Information Commissioner's Office.

East Durham Partnership will also refuse to supply information under the FOIA, where the request is considered "vexatious" or "repeated" and under the EIR, where the request is considered 'manifestly unreasonable'.

16. Third Party Contractors

Third Party contractors are required to confirm in writing that they will abide by the provision of both East Durham Partnership Data Protection Policy and Data Protection and Freedom of Information Processing Procedure

17. Evaluation and review

The performance of this Procedure will be reported on annually and it will be formally reviewed every five years by the appropriate Trustees

In addition, the effectiveness of this Procedure will be monitored as necessary on an on-going basis to ensure it is compliant with relevant legislation.