



EQUALITY & HUMAN RIGHTS COMMISSION

Policy Title: **Information Sharing and Protection**

This policy regulates the processing of information relating to individuals. This includes the obtaining, holding, using or disclosing of such information, and covers computerised records as well as manual filing systems and card indexes

Policy Ownership

Responsibility rests with all Commissioners and Staff to follow the policy

Lead Officer

Chief Executive Officer

Policy Links

Links with other Policies: TBC

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CONTENTS

Introduction	2
Summary of Data Protection Principles	2
Types of Data Held	2
Responsibilities	3
Internal Communication	3
Communication with third parties	4
Criminal Acts	4
Sensitive Personal Data	4
Data Subjects' consent	5
Right to Access Personal Data	5
Fee Charging	5
Complaints	6



INTRODUCTION

This policy regulates the processing of information relating to individuals. This includes the obtaining, holding, using or disclosing of such information, and covers computerised records as well as manual filing systems and card indexes. The Equality and Human Rights Commission (EHRC) will hold the minimum personal information necessary to enable it to perform its functions. All such information is confidential and needs to be treated with care, to comply with the laws of Saint Helena. In the absence of local data protection legislation this policy will (as far as is practicable) follow the principles of the UK/European legislation.

SUMMARY OF DATA PROTECTION PRINCIPLES

The Commissioners and staff must comply with the following principles. Personal data shall:

1. Be obtained and processed fairly and lawfully (that the subject of the data has consented to its collection and use)
2. Be held only for specified purposes
3. Be adequate, relevant but not excessive
4. Be accurate and kept up to date.
5. Be held for no longer than necessary
6. Be accessible to data subjects
7. Be subject to the appropriate security measures

TYPES OF DATA HELD

The EHRC, its Commissioners and staff may hold and processes information about

1. Its staff (past and present which includes employees, agency staff and consultants),
2. Commissioners
3. Its clients
4. Members of the public involved or implicated in a complaint or inquiry.

This policy covers both computerised and manual records which contain personal information.

The EHRC will keep some forms of information longer than others in line with Financial, Legal or Archival requirements.



RESPONSIBILITIES

Chief Executive Officer (CEO) has overall responsibility for the Data Protection Policy. Commissioners are responsible for making sure the policy and procedures for handling requests and complaints are followed

The Commission and all staff who process, have access to or use personal data must ensure that they familiarise themselves with this policy and abide by the principles set out above at all times.

Staff and Commissioners owe a duty of confidence which extends to handling of personal data.

It is the responsibility of the individual collectors, keepers and users of personal data to keep records up to date and accurate.

Any breach of the Data Protection Policy, whether deliberate, or through negligence may lead to disciplinary action being taken or even a criminal prosecution, which could result in a fine of up to £10,000 or 6 months in gaol.

All Commissioners and staff are responsible for ensuring that:-

- Any personal data held, electronic or paper format, is kept securely.
- Personal information is not disclosed deliberately or accidentally either orally or in writing to any unauthorised third party.
- They promptly forward all initial requests for personal data from outside the EHRC to the CEO who will provide responses promptly to requests.
- That the information provided to EHRC in connection with their employment is accurate and as up to date as possible.
- They check that the details of people they deal with outside the EHRC are as up to date as possible.

INTERNAL COMMUNICATION

Information will be shared between Commissioners except where a conflict of interest is established or the client requests that the information is not shared with specific Commissioner(s)



COMMUNICATION WITH THIRD PARTIES

No Commissioner or ex-Commissioner or an employee of the Commission shall disclose information acquired by the Commission, unless it is

1. for the purpose of the exercise of a function of the Commission;
2. in pursuance of a lawful order of the Court, a tribunal, commission, authority or a superior Court, having jurisdiction in St Helena; or
3. with the consent of each person to whom the disclosed information relates.

The Commission may not make, a disclosure of information provided by, or relating to, an intelligence service unless the service has authorised the disclosure.

CRIMINAL ACTS

If in the course of their work the Commission begins to suspect that a person may have committed a criminal act, the Commission shall report its suspicions to the Attorney General and cease any further consideration of whether or not the person has committed a criminal act.

SENSITIVE PERSONAL DATA

EHRC may from time to time process sensitive personal data regarding employees or individuals that it deals with.

"Personal data" relates to living individuals that could be identified by the information.

"Sensitive personal data" is information as to a data subject's racial or ethnic origin, political opinion, religious beliefs, trade union membership, sexual orientation or marital status, physical or mental health, offences or alleged offences and information relating to criminal proceedings.

This information may be processed for equal opportunity monitoring or to meet the needs of individuals with disabilities, or for disciplinary proceedings or other legal obligations. Any personal or sensitive data that the EHRC holds will only be held for the purposes for which it was gathered.

In other circumstances where sensitive personal data is being processed or held, EHRC will seek the explicit consent of the individual involved.

All EHRC staff are responsible for ensuring that data which they hold is held securely and that personal data is not disclosed orally or in writing or otherwise to an unauthorised third party and that every reasonable effort is made so that data is not disclosed accidentally.



DATA SUBJECTS' CONSENT

Although in some cases certain third parties may have access to personal data without the consent of the individual concerned, it is the EHRC's policy to seek express consent wherever practicable of the individual data subject where EHRC may hold or process data relating to them. This allows individuals an opportunity to raise any concerns or objections. The EHRC will consider any such objections but reserves the right to process personal data in order to carry out its functions as permitted by law.

RIGHT TO ACCESS PERSONAL DATA

The Commissioners, Staff (past and present), members of the public and individuals who have dealings with the EHRC have a right to access personal data that is being held about them. Where the name of, or information on another individual appears this will be removed to respect that person's right to confidentiality.

Neither the Commission nor the staff will allow information to be used:-

1. in a way that that is likely to cause damage or distress;
2. for the purpose of direct marketing;
3. in relation to automated decision making;

FEE CHARGING

The EHRC's policy is not to charge a fee however if a request (or requests) requires us to incur significant costs such as in photocopying or postage, we reserve the right to charge for such reasonable disbursements. Before any information is disclosed, the requester will be informed of any fee which will be paid before the information is released.

Once full details of a request have been received with the relevant fee **and identity** has been confirmed, the EHRC will provide a response within 14 calendar days after the date of the request. The EHRC does not need to comply with a request where it has received an identical or similar request from the same individual unless an interval of at least 6 months has elapsed between compliance with the original request and the current request. Vexatious requests will be refused.



COMPLAINTS

If the requester is not happy with the response that they receive following their access request they must first complain to the EHRC in writing (appropriate assistance will be provided to requesters with access requirements which may include non disability related needs)

Complaints will be acknowledged within 5 working days of receipt and a response will be provided within 20 working days of receipt.