

Privacy Notice

Employees

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General Data Protection Regulations (GDPR) – Overview

From 25th May 2018 the Data Protection Act (1998) will be replaced by the General Data Protection Regulations (GDPR).

The main reason for releasing this new Regulation is due to the significant advancements in technology over the last 20 years since the Data Protection Act came into force. The new law was required to reflect and address the current and foreseeable trends in technology and misuse of personal data by organisations.

The GDPR aims to provide individuals with more control over how organisations use their personal data.

1. What is personal data?

The GDPR defines personal data as: *“Any information relating to an identified or identifiable natural (living) person.”*

This means that if anyone can identify an individual using the information, it is considered personal data.

Everything from names, dates of births, addresses (the more obvious ones) etc. to such things as mobile phone numbers and even IP addresses.

There is also “special category data” such as ethnicity, religion and health.

OTC collects and processes personal data relating to its employees to manage the employment relationship. The company is committed to being transparent about how it collects and uses that data and to meeting its data protection obligations.

2. Data Controller

OTC is known as the Data Controller.

OTC’s Data Protection Representative for the purposes of general OTC business matters is Emma Topham, Quality Improvement Officer (etopham@otctraining.co.uk).

In relation to human resource and payroll records, all queries should be referred to Kath Soliman, Chief Executive Officer (CEO).

3. Why OTC collects and processes personal data

The company needs to process data to enter into an employment contract with you and to meet its obligations under your employment contract. For example, it needs to process your data to provide you with an employment contract, to pay you in accordance with your employment contract.

In some cases, the company needs to process data to ensure that it is complying with its legal obligations. For example, it is required to check an employee's entitlement to work in the UK, to deduct tax, to comply with health and safety laws and to enable employees to take periods of leave to which they are entitled.

In other cases, the company has a legitimate interest in processing personal data before, during and after the end of the employment relationship. Processing employee data allows the company to:

- run recruitment and promotion processes;
- maintain accurate and up-to-date employment records and contact details (including details of who to contact in the event of an emergency), and records of employee contractual and statutory rights;
- operate and keep a record of disciplinary and grievance processes, to ensure acceptable conduct within the workplace;
- operate and keep a record of employee performance and related processes, to plan for career development, and for succession planning and workforce management purposes;

- operate and keep a record of absence and absence management procedures, to allow effective workforce management and ensure that employees are receiving the pay or other benefits to which they are entitled;
- obtain occupational health advice, to ensure that it complies with duties in relation to individuals with disabilities, meet its obligations under health and safety law, and ensure that employees are receiving the pay or other benefits to which they are entitled;
- operate and keep a record of other types of leave (including maternity, paternity, adoption, parental and shared parental leave), to allow effective workforce management, to ensure that the company complies with duties in relation to leave entitlement, and to ensure that employees are receiving the pay or other benefits to which they are entitled;
- ensure effective general HR and business administration;
- provide references on request for current or former employees;
- respond to and defend against legal claims; and
- maintain and promote equality in the workplace.

Some special categories of personal data, such as information about health or medical conditions, is processed to carry out employment law obligations (such as those in relation to employees with disabilities).

Where the company processes other special categories of personal data, such as information about ethnic origin, sexual orientation, health or religion or belief, this is done for the purposes of equal opportunities monitoring. Data that the company uses for these purposes is anonymised or is collected with the express consent of employees, which can be withdrawn at any time. Employees are entirely free to decide whether or not to provide such data and there are no consequences of failing to do so.

4. What personal data is processed and how

The company collects and processes a range of information about you. This includes:

- your name, address and contact details, including email address and telephone number, date of birth and gender;
- the terms and conditions of your employment;
- details of your qualifications, skills, experience and employment history, including start and end dates, with previous employers and with the company;
- information about your remuneration, including any entitlement to benefits such as pensions or insurance cover;
- details of your bank account and national insurance number;
- information about your marital status, next of kin, dependants and emergency contacts¹;

¹ *If at the commencement of your employment or during the course of employment you provide personal information relating to another person/s, you warrant that person/s has/have authorised you to provide such information and is aware of the contents of this document.*

- information about your nationality and entitlement to work in the UK;
- information about your criminal record (if applicable);
- details of your schedule (days of work and working hours) and attendance at work;
- details of periods of leave taken by you, including holiday, sickness absence, family leave, and the reasons for the leave; attendance records (for example signing in/out sheets)
- details of any disciplinary or grievance procedures in which you have been involved, including any warnings issued to you and related correspondence;
- assessments of your performance, including appraisals, performance reviews and ratings, performance improvement plans and related correspondence;
- information about an accident or injury at work;
- information about medical or health conditions, including whether or not you have a disability for which the company needs to make reasonable adjustments; and

The company may collect this information in a variety of ways. For example, data might be collected through application forms, CVs or resumes; third parties (Recruitment Agency); obtained from your passport or other identity documents such as your driving licence; from forms completed by you at the start of or during employment (such as benefit nomination forms); from correspondence with you; or through interviews, meetings or other assessments.

In some cases, the company may collect personal data about you from third parties, such as references supplied by former employers, information from employment background check providers, information from credit reference agencies and information from criminal records checks permitted by law.

Data will be stored securely in a range of different places, including in your personnel file, in the company's HR management systems and in other IT systems (including the company's email system).

5. Sharing and transfer of personal data

Your information may be shared internally, including your line manager, managers in the business area in which you work and senior managers or OTC Board Members. In the case of a health and safety matter (for example, injury or accident), data collected via an accident report will be shared with OTC's retained Health and Safety Consultant for the purposes of analysis, feedback and guidance aimed at prevent future occurrences.

OTC shares your data with third parties

- in order to obtain pre-employment references from other employers, obtain employment background checks from third-party providers and obtain necessary criminal records checks from the Disclosure and Barring Service.
- in order to process any employee benefits to which you may be entitled and these will include but are not limited to: pension, life insurance, child care vouchers
- company auditors for the purposes of ensuring legal and regulatory compliance

- awarding bodies and Ofsted – as required to deliver the Apprenticeship Contract and any commercial training
- apprenticeship subcontractors in order to deliver the Apprenticeship Contract
- legal bodies such as HMRC and HSE in order to comply with legislative requirements
- in respect of any reference requests where you have applied for employment elsewhere and have given your permission for another employer to contact us. It is OTC's policy that only the CEO will provide an outbound reference for any current or past employee.

OTC also shares your data with third parties that process data on its behalf in connection with Payroll and Human Resources matters. Payroll data is transferred and processed outside of the EU however there is an adequate data protection framework in place which meet the requirements for GDPR.

We may also share your personal data if required by law, including responding to requests by government or law enforcement authorities, or for the prevention of crime or fraud.

OTC requires all third parties to respect the security of Personal Data and to treat it in accordance with the Law. OTC does not permit our third-party service providers to use your personal data for their own purposes and only permit them to process it for the specified purposes and in accordance with our strict instructions.

6. How does the company protect data?

OTC takes the security of your data seriously. The company has internal policies and controls in place to try to ensure that your data is not lost, accidentally destroyed, misused or disclosed, and is not accessed except by its employees in the performance of their duties. Where the company engages third parties to process personal data on its behalf, they do so on the basis of written instructions, are under a duty of confidentiality and are obliged to implement appropriate technical and organisational measures to ensure the security of data.

Human Resources records are kept under lock and key in a secure office and are only accessible by the CEO.

The staff signing in/out registers are located in reception and operated on a monthly basis after which time they will be scanned and stored electronically in a secure part of OTC's IT system.

Payroll records are maintained by a third party supplier; such records are held in a secure electronic system.

Accident records are kept under lock and key in a secure office accessible only by authorised staff; electronic copies are held securely within OTC's IT system; all records are only accessible via authorised personnel.

OTC has requested copies of all third parties privacy statements in order to ensure that privacy and confidentiality of data is maintained. We seek to ensure that all of our chosen third-party providers are GDPR compliant or equivalent.

Where OTC employees have been authorised to use company property such as mobile phones, laptops and tablets, section 15 of the employee handbook also applies.

6. Your rights explained

Under GDPR you have the following rights when it comes to your data which are;

- **The right to be informed** – how OTC uses your personal data (covered within this document);
- **The right to rectification** – if you believe the data we hold is inaccurate (for example change of phone number, address or email) you have the right to request this is rectified.
- **The right of access** – you may complete a Subject Access Request form if you would like a copy of any personal data we hold on you i.e to check for accuracy;
- **The right to data portability** – in certain circumstances, you have the right to request that some of your personal data is provided to you, or to another data controller, in a commonly used, machine-readable format;
- **The right to object** – to direct marketing, processing data for research or statistical purposes and processing based on legitimate or public interests;
- **The right to erasure** (*to be forgotten*) – where there is a problem with the underlying legality of the processing or where the data is no longer necessary for the purposes of processing; and
- **The right to restrictions** - if we are unable to erase your data we may sometimes be able to 'restrict' the use of your data. This means that it can only be used for legal or regulatory reasons, but not for other reasons while it is restricted.

Please note that the GDPR sets out exceptions to these rights such as legal or other regulatory reasons why we need to keep or use your data. If we are unable to comply with your request due to an exception we will explain this to you in our response.

If you would like to exercise any of these rights, please contact Kath Soliman, CEO.

7. What happens if you do not provide personal data

You have some obligations under your employment contract to provide OTC with data. In particular, you are required to report absences from work and may be required to provide information about disciplinary or other matters under the implied duty of good faith. You may also have to provide OTC with data in order to exercise your statutory rights, such as in relation to statutory leave entitlements. Failing to provide the data may mean that you are unable to exercise your statutory rights.

Certain information, such as contact details, your right to work in the UK and payment details, have to be provided to enable the company to enter a contract of employment with you. If you do not provide other information, this will hinder OTC's ability to administer the rights and obligations arising as a result of the employment relationship efficiently.

8. Retention Policy

OTC will hold your personal data for the duration of your employment. The periods for which your data is retained after the end of employment are six years (plus the current year of employment) in line with legal requirements. Employees who hold senior positions will have their records retained for a period of 12 years. Accident records are required by law to be held for a minimum of three years except in circumstances which relate to, for example, hand arm vibration, noise, reportable injuries.

If other specifications (including legal requirements) indicate or require a longer period of retention, then these will over-ride the six year storage requirement.

9. Complaints

Any complaint – in relation to employees' personal data relating to HR and payroll - should, in the first instance, be raised in writing to Kath Soliman, CEO.

If you are not satisfied with the outcome of the investigation, you believe the complaint is more serious, or if you believe OTC has not complied with your data protection rights, you can complain to the Information Commissioner's Office (ICO) at <https://ico.org.uk/>