

# **Privacy Notice**

## **Associates & Trainers**

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## Associates and Trainers Definition

For the purpose of clarity and in regard to this policy, OTC uses the terms 'Associates' and 'Trainers' to describe those persons who provide a service to, or on behalf of, OTC but who are not directly employed by OTC; they do not hold employment contracts with OTC; they are commissioned by OTC to undertake specific work or projects. 'Associates' and 'Trainers' are often self-employed and paid through invoicing arrangements or freelancers paid through invoicing or via PAYE (Pay As You Earn). 'Associates' and 'Trainers' may sign an OTC Service Level Agreement (SLA) particularly where they are providing training and assessment services. The term 'Associate' will be used throughout this document to refer to both 'Associates' and 'Trainers'.

## General Data Protection Regulations (GDPR) – Overview

From 25<sup>th</sup> May 2018 the Data Protection Act (1998) was replaced by the General Data Protection Regulations (GDPR) and the Data Protection Act (2018).

The main reason for releasing these new Regulations is due to the significant advancements in technology over the last 20 years since the Data Protection Act came into force. The new laws were 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](mailto:etopham@otctraining.co.uk)).

In relation to queries regarding the processing of:

- Invoices relating to work provided by ‘Associates’ and ‘Trainers’ should be relayed in the first instance to OTC Accounts
- PAYE payments, these 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 agreement with you (including an SLA) and/or to pay for your services when they have been commissioned and to meet its obligations in this regard. In other words, OTC needs to process your data to pay you in accordance with the SLA or other agreement you have reached with a member of the leadership team (including senior management team).

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 Associate's entitlement to work in the UK and to comply with health and safety laws.

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

- run recruitment processes (for new Associate work);
- check that Associates have the right qualifications, accreditations and experience needed to carry out the work commissioned;

- maintain accurate and up-to-date contact details (including details of who to contact in the event of an emergency), and records of contractual rights and obligations;
- make payments for services provided to OTC;
- operate and keep a record of complaints involving an Associate;
- operate and keep a record of performance and related processes, for example quality of training delivery;
- 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;
- ensure effective general HR and business administration and accounting procedures;
- provide references on request where Associates wish to tender for work with other companies and;
- respond to and defend against legal claims;

## 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 commissioned work with OTC;
- details of your qualifications, skills, experience and work history;
- information about your agreed rate of pay;
- details of your bank account, national insurance number and confirmation of self-employment (where relevant);
- information about emergency contacts<sup>1</sup>;
- information about your nationality and entitlement to work in the UK;
- information about your criminal record (if applicable);
- details of your agreed schedule of work with OTC;
- assessments of your performance including delegate or management feedback;
- information about an accident or injury whilst attending OTC premises;
- information about medical or health conditions, including whether or not you have a disability for which the company needs to make reasonable adjustments;

The company may collect this information in a variety of ways. For example, data might be collected through 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

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<sup>1</sup> *If at the commencement of your contract or during the course of the contract 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.*

the start of commissioned work and/or through the SLA); 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 other companies and information from criminal records checks permitted by law.

Data will be stored securely in a range of different places, including in your Associate file, in the company's HR management systems (e.g. payroll and Accounting 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 the OTC leadership team. In the case of a health and safety matter (for example, injury or accident), data collected via an accident report will also 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 necessary criminal records checks from the Disclosure and Barring Service;
- in order to process payments to you;
- company auditors for the purposes of ensuring legal and regulatory compliance;
- awarding bodies – as required to deliver externally accredited commercial provision;
- apprenticeship subcontractors in order to deliver the Apprenticeship Contract;
- legal bodies such as Her Majesty's Revenue and Customs (HMRC) and Health and Safety Executive (HSE) in order to comply with legislative requirements and;
- in respect of any reference requests where you have tendered for work elsewhere and have given your permission for another organisation to contact us.

OTC also shares your data with third parties that process data on its behalf in connection with Accounts and Payroll (for PAYE). Information for payments made to Associates through PAYE 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.

Paper based accounting records are kept under lock and key in a secure office. Electronic records are stored electronically in a secure part of OTC's IT system and held securely by third party who process Accounts data.

The 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.

## 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 the SLA (and any other arrangements with us – verbal or written) to provide OTC with data in order that we can enter into an agreement with you to provide the work we have commissioned. If you do not provide the required information, this will hinder OTC's ability to work with you.

## **8. Retention Policy**

OTC will hold your personal data for the duration of your SLA or other agreement relating to commissioned work. The periods for which your data is retained following completion of your commissioned work with us, are six years (plus the current year of working). 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 Associates' personal data relating to accounts, business management, HR and payroll (for the administration of PAYE) - 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/>