

Data processing clauses for ARC's Disclosure Services.

DEFINITIONS

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in Data Protection Legislation.

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Domestic Law: the law of the United Kingdom or a part of the United Kingdom.

Employer: the organisation registered to use ARC's Disclosure Service

EU GDPR: the General Data Protection Regulation ((EU) 2016/679).

EU Law: the law of the European Union or any member state of the European Union.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

1. DATA PROTECTION

1.1 Both parties will comply with all applicable requirements of Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Data Protection Legislation.

1.2 The parties acknowledge that for the purposes of Data Protection Legislation, the Employer is the Controller and ARC is the Processor. Schedule 1 sets out the scope, nature and purpose of processing by ARC, the duration of the processing and the types of Personal Data and categories of Data Subject.

1.3 Without prejudice to the generality of clause 1.1, the Employer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to ARC and/or lawful collection of the Personal Data by ARC on behalf of the Employer for the duration and purposes of this agreement.

1.4 Without prejudice to the generality of clause 1.1, ARC shall, in relation to any Personal Data processed in connection with the performance by ARC of its obligations under this agreement:

(a) process that Personal Data only on the documented written instructions of the Employer which are set out in Schedule 1 unless ARC is required by Domestic Law to otherwise process that Personal Data. Where ARC is relying on Domestic Law as the basis for processing Personal Data, ARC shall promptly notify the Employer of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits ARC from so notifying the Employer;

(b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Employer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

(c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

(d) not transfer any Personal Data outside the EEA unless the prior written consent of the Employer has been obtained and the following conditions are fulfilled:

(i) the Employer or ARC has provided appropriate safeguards in relation to the transfer;

(ii) the data subject has enforceable rights and effective legal remedies;

(iii) ARC complies with its obligations under Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

(iv) ARC complies with reasonable instructions notified to it in advance by the Employer with respect to the processing of the Personal Data;

(e) assist the Employer, at the Employer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

- (f) notify the Employer without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of the Employer, delete or return Personal Data and copies thereof to the Employer on termination of the agreement unless required by Domestic Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the Employer or the Employer's designated auditor and immediately inform the Employer if, in the opinion of ARC, an instruction infringes the Data Protection Legislation.

1.5 The Employer consents to ARC appointing UCheck Limited and EmploymentCheck as third-party processors of Personal Data under this agreement. ARC confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause and ARC confirms that the terms will continue to reflect the requirements of the Data Protection Legislation. As between the Employer and ARC, ARC shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.

Schedule 1 Processing, Personal Data and Data Subjects

1. Processing by ARC

ARC will process the personal data of applicants as instructed by the Employer so that the relevant application can be made to the relevant disclosure body (Disclosure and Barring Service, Disclosure Scotland or AccessNI) as required by the Employer in terms of safeguarding requirements.

ARC will then process information provided by the relevant disclosure body and provide this to the Employer or the Applicant as appropriate.

1.1 Scope

ARC will only process the personal data of applicants as instructed by Employers who have registered with their Disclosure Service and in line with the relevant Code of Practice.

1.2 Nature

Most of the processing will be carried out electronically although hard copy certificates are provided by Disclosure Scotland.

1.3 Purpose of processing

ARC is registered with the relevant disclosure bodies and can process applications for enhanced levels of disclosure (or higher levels if required) when Employers who are not registered require assistance to carry out these checks.

1.4 Duration of the processing

ARC will only hold on to the information required to carry out the Service for as long as the relevant Code of Conduct requires.

2. Types of Personal Data

ARC will process the following information in relation to applicants:

- Name
- Contact details
- Identification documentation
- Criminal history information (or lack thereof)

3. Categories of Data Subject

Applicants who are seeking employment with Employers where enhanced disclosure checks are required.