



# CONFIDENTIALITY & DATA PROTECTION POLICY

This policy does not form part of your contract of employment. OTR may change this policy from time to time and you will be notified of changes. This policy will be applied equally, fairly, and without exception.

## 1. POLICY STATEMENT

1.1 OTR operates a data protection and confidentiality policy designed to both enable and protect the young people that access any of our services and to work within the law. Young people use the services at OTR on the understanding that such a policy is in place and has integrity.

1.2 Under the Children's Act 1989, OTR is legally bound to report matters related to the Prevention of Terrorism. OTR also holds a duty of care in relation to the young people that access the organisation, and this must be balanced against the right to a confidential service. OTR has safeguarding policies for children and adults, both of which acknowledge the importance of protecting vulnerable young people who are suffering, or at significant risk of suffering, abuse. These policies make it clear that in such circumstances it is necessary for OTR to break confidentiality.

1.3 This policy also covers those provisions under GDPR as they relate to information OTR holds about staff.

## 2. RESPONSIBILITIES

2.1 As with all OTR governance, ultimate responsibility for the organisation's policies and their implementation rests with the Trustees.

2.2 It is the responsibility of the Chief Executive to ensure OTR is registered with the Information Commissioners Office.

2.3 It is the responsibility of all staff, volunteers and trustees to abide by confidentiality as a principle and to use the associated organisational safeguards that promote and protect it within OTR.

## 3. POLICY

3.1 'Personal data' means recorded information we hold about clients and staff from which an individual can be identified. It may include contact details, other personal information, photographs, expressions of opinion about you or indications as to our intentions about you.

3.2 'Processing' means doing anything with the data, such as accessing, disclosing, destroying or using the data in any way. At OTR, the duty of confidence any worker owes their client is exactly the same as that owed by OTR; there are not two levels of confidentiality. Staff and volunteers are agents acting on behalf of OTR and therefore sharing information internally - with a supervisor or safeguarding lead - is not considered a breach of this confidence.

3.3 Client records (which include all OTR monitoring and evaluation data, as well as the content of all sessions and the workers process notes) are considered confidential and part of the 'client record'.

3.4 Under all normal circumstances, nothing will be revealed to anyone outside the service without the clients express permission. (See Privacy Policy).

3.5 In some circumstances, it is necessary for OTR to reserve the right to share information externally to the organisation. Such occasions are where there appears to be a disclosure that raises safeguarding concerns for the worker, or if a staff member or volunteer is made aware of serious illegal activities.

3.6 On occasion, OTR may also hold a particular contractual obligation for a project or funding stream where it is not the data controller. In such circumstances clients must be made aware of this and who their personal information is being shared with (e.g. the NHS).

## 4. DATA PROTECTION (CLIENTS)

4.1 OTR works under the terms of the Data Protection Act(2018) and is registered as a data controller with the Information Commissioner's Office. Under the Act, OTR must:

- Only collect information needed for a specific purpose.
- Keep the information secure.
- Ensure the information is relevant and up to date.
- Only hold as much information as needed, and only for as long as it is needed.
- Allow the subject of the information to see it on request.

4.2 OTR collects information about young people that includes details of their name, age, contact details (including address), demographic profile (ethnicity, gender, sexual orientation, faith, employment/education status), and through assessment a holistic picture of their present and past circumstances (housing, caring responsibilities, use of services etc). Outcome measures relating to mental wellbeing, risk, and themes and issues are also collected.

4.3 Some therapists may also keep their own process notes, which for the avoidance of doubt are considered in law to also be part of the 'client's record' (see OTR's Managing Client Records Guidance and Privacy Policy).

4.4 OTR acknowledges that taken together, this level of data collection represents a considerable amount of detailed and intimate personal information, and assumes responsibility for this most seriously. It is a reality of modern funding arrangements that data collection extends so far, but to help mitigate against any abuses of these circumstances the following rules and controls are in place:

- All OTR clients have both the parameters and meaning of confidentiality at OTR explained to them verbally and before they disclose personal information when registering with the service. This is displayed prominently in child friendly language at all OTR premises, including the OTR website, and is reinforced by all staff and volunteers working with young people.
- Young people must consent (opt-in) to OTR gathering the information about them described above, and may withhold any information they choose without fear of penalty (i.e. withdrawal of a service).
- Electronic client records are held on an encrypted case management system (IAPTUS). No service client records must ever leave OTR premises. The exception to this are staff and volunteer process notes, though these are still considered to be part of the client's record and must be anonymised by the worker and transited and stored with the utmost care and due regard for their sensitivity. (See OTR Managing Client Records Policy).
- OTR must by law retain client records for ten years where there has been a safeguarding disclosure. Electronic records are generally archived for a period of six years consistent with the period in which litigation may occur. Client details may be shared with a particular funder only where the client has consented to this.
- OTR operates a 'membership' model, whereby clients register and remain 'registered' with the service until they unsubscribe or their twenty fifth

birthday, whichever is sooner. Until that time, OTR will hold client information securely and consistent with the protocols in this policy. Young people must consent to this arrangement upon registration.

- No client details must ever be shared by text, email or other insecure medium.
- Internally, equalities and other monitoring data is recorded for statistical purposes only. None of it is used in such a way as to identify an individual young person. OTR collects evaluation data from clients that is also anonymous. No evaluation information can be linked to an individual service users notes, nor will it be disseminated in a way that could identify the young person. Data from evaluation and equalities monitoring is used to determine an overall picture of OTR's service, forming a core platform of the organisations clinical governance (see OTR Clinical Governance Policy), and this may be disseminated in broad statistical terms in public documents such as Annual Reports.

## 5. ACCESS TO RECORDS

5.1 All OTR clients and staff have a right to access the information OTR stores about them. The only exceptions to this is where the disclosure of information would be likely to cause serious harm to the client. (Please note that even worker's private process notes are in law considered to be part of the client's record and are therefore possible to subpoena).

5.2 OTR will not provide access to client records if requested by third parties unless this is with the express written consent of the client, or directed by a court order.

5.3 Staff and clients have the right to:

- Request access to any personal data we hold about them.
- Prevent the processing of their data for direct marketing purposes.
- Ask to have inaccurate data held about them amended.
- Prevent processing that is likely to cause unwarranted substantial damage or distress to them or anyone else.
- Object to any decision that significantly affects them being taken solely by a computer or other automated process.

## 6. EMPLOYEE PRIVACY NOTICE

6.1 Information is kept about employees for legal purposes (e.g. for payroll), for administration purposes and for the purposes of day-to-day management. OTR

will process the information in your employment record in accordance with its Employee Privacy Notice which may be revised and re-issued from time to time.

6.2 This notice is compliant with the General Data Protection Regulation (GDPR) which came into effect in the UK on the 25th May 2018 and provides employees with information about how their personal data will be used during their employment with the Company.

Data controller: Karen Black (CEO)  
Data protection officer: Susan Parry (Facilities & Resources Manager)

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

6.4 OTR 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, inc. start and end dates, with previous employers and with OTR;
- information about your remuneration, including 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 contacts;
- information about your nationality and entitlement to work in the UK;
- information about your criminal record;
- 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 sabbaticals, and the reasons for the leave;
- 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 medical or health conditions, including whether or not you have a disability for which OTR needs to make reasonable adjustments;

- equal opportunities monitoring information including information about your ethnic origin, sexual orientation and religion or belief.

#### 6.5 How does OTR collect this data?

OTR may collect this information in a variety of ways. For example, data might be collected through application forms, CV, 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.

OTR seeks information from third parties with your consent only.

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

#### 6.6 How will OTR process this data?

OTR 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 and to administer pension entitlements.

In some cases, OTR 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, OTR has a legitimate interest in processing personal data before, during and after the end of the employment relationship. Processing employee data allows OTR 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/former employees or for mortgage/rental applications; and
- respond to and defend against legal claims.

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 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.

### 6.7 Who has access to data?

Your information may be shared internally, including with members of the HR and recruitment team (including payroll), your line manager, managers in the area in which you work and IT staff if access to the data is necessary for performance of their roles.

OTR 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.

OTR will not transfer your data to countries outside the European Economic Area.

### 6.8 How does OTR protect data?

OTR takes the security of your data seriously and 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 OTR 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 OTR measures to ensure the security of data.

### 6.9 For how long does OTR keep data?

OTR will hold your personal data for the duration of your employment. Following the end of employment we will keep your data no longer than is required.

### 6.10 Your rights

As a data subject, you have a number of rights. You can:

- access and obtain a copy of your data on request;
- require the Company to change incorrect or incomplete data;
- require the Company to delete or stop processing your data, for example where the data is no longer necessary for the purposes of processing; and
- object to the processing of your data where the Company is relying on its legitimate interests as the legal ground for processing.

If you would like to exercise any of these rights, please contact Susan Parry - Facilities & Resources Manager (susan@otrbristol.org.uk).

If you believe that the Company has not complied with your data protection rights, you can complain to the Information Commissioner.

### 6.11 What if you do not provide personal data?

You have some obligations under your employment contract to provide OTR 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 OTR 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 OTR to enter a contract of

employment with you. If you do not provide other information, this will hinder OTR's ability to administer the rights and obligations arising as a result of the employment relationship efficiently.

#### 6.12 Automated decision-making

Employment decisions are not based solely on automated decision-making.

Any processing undertaken will be processed in accordance with the terms of EU GDPR. Your personal data will only be disclosed for administration of your employment with OTR, if required by law or with your consent. Only the Senior Management team, your Manager and those responsible for payroll have access to individual records.

#### 6.13 Handling of personal information whilst carrying out your role

In the course of your employment with OTR, you may have access to personal information of other employees, customers and other contacts of OTR. You must follow OTR's procedures on dealing with personal information to ensure that a breach of the EU GDPR, the OTR Confidentiality policy and other related legislation does not occur. Personal Data should only be used for OTR purposes and in accordance with our Confidentiality and Privacy policies. Downloads/use of data for anything which is not necessary for the performance of your job will be subject to disciplinary proceedings.

#### 6.14 Monitoring

OTR reserves the right to monitor email communications, Internet usage and telephone calls to ensure responsible usage as described in the IT User Policy.

OTR reserves the right to monitor and/or intercept telephone calls, email transmissions, internet usage and post where it feels that the business tools provided are being used for purposes other than business use. As such you should be aware that communications in the work environment may not remain private.

The Data Protection Act (2018) allows employees to have access to information stored about them. You can ask for access to your own personal details held on computer or held manually. If you wish to see your records, you should give OTR notice in writing and it may take up to 1 month to provide the information.

Any concerns about records or data protection should be addressed to the Data Protection Officer (Susan Parry).

## 7. COMPUTER & ONLINE

7.1 All OTR computers must be fitted with a current and effective firewall.

7.2 All OTR computers must be set up to automatically update their operating system.

7.3 All OTR staff email accounts must display the standardised confidentiality statement.

7.4 Only sufficiently encrypted software packages like and IAPTUS should be used for storing electronic client records.