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Amendments Made Yes No

Data Protection Policy

1. Policy Statement

Ballymun Job Centre recognises its responsibilities under the Freedom of Information Act 1997 & 2003 and Data Protection Acts 1988 & 2003 to ensure confidentiality and rights of access to information for all service users, staff and volunteers. This includes high standards of written and/or computerised documentation and record keeping pertaining to all employment and client records. It should be read alongside the organisations confidentiality policy, and policy on internet and email usage.

2. Purpose

- 2.1. This policy ensures that procedures are in place for employees and service users to access records about themselves in a way that is transparent and consistent with legal requirements.
- 2.2. This policy sets out the required standards for safe and effective record keeping of all Ballymun Job Centre service users. This includes all records kept on service users, for example; case histories, assessments, care plans etc.
- 2.3. This policy sets out the required standards for safe and effective record keeping of all Ballymun Job Centre employment records.

3. Glossary of Terms and Definitions

- 3.1. Data means information in a form which can be processed. It includes both automated (computerised) and manual data
- 3.2. Processing means performing any operation or set of operations on data including:
 - 3.2.1. Obtaining, recording or keeping data
 - 3.2.2. Collecting, organising, storing, altering or adapting data
 - 3.2.3. Retrieving, consulting or using the data
 - 3.2.4. Disclosing the information or data by transmitting, disseminating or otherwise making it available
 - 3.2.5. Aligning, combining, blocking or destroying the data
- 3.3. Data Protection Commissioner: External person responsible for ensuring that people's rights are respected, and that the persons who keep personal information on computer or in manual format meet their responsibilities¹. The Commissioner has certain powers to ensure organisations operate in accordance with these responsibilities. Such powers include the power to: Investigate any complaints and to request information to further any investigations; enter and examine

¹ <http://www.dataprotection.ie/ViewDoc.asp?fn=/documents/legal/4c.htm&CatID=22&m=e>

premises; bring proceedings for an offence under the Act; enforce compliance with the Acts; prohibit overseas transfers of Data; appeals to the court; and preparing and publishing codes of practice.

Part 1: Documentation and Record Keeping Policy (Service users)

4. Scope

- 4.1. Part 1 of this policy specifically applies to data protection issues in relation to service users. It covers all service users and staff within Ballymun Job Centre and applies to all record keeping, both written and computerised.

5. Principles

- 5.1. Taking and keeping records, computerised or written, is an essential and integral part of the care of the service user, and not a distraction from its provision
- 5.2. Service users must be informed of the purpose of the collection of information by workers
- 5.3. As far as possible service users should be involved in inputting into their own record keeping. However care must be taken that other people files are not accessed.
- 5.4. All information pertaining to clients is to be kept secure and confidential at all times
- 5.5. Records should provide objective, accurate, current, comprehensive and concise information concerning the condition of the client.
- 5.6. Any document which records any aspects of the clients care can be required as evidence before a court of law.
- 5.7. Records are made as soon as possible after the events/actions to which they relate.
- 5.8. Data should be retained for no longer than is necessary for its purpose or purposes. All files should be regularly archived.

6. Roles and Responsibilities

- 6.1. Record keeping will form part of the induction process for new staff. It will be the responsibility of the person in charge of the appointee to ensure that new staff are aware of the policies and standards of record keeping.
- 6.2. All employees are responsible for ensuring that all client documentation and record keeping is consistent with the practices outlined in this policy.
- 6.3. Managers are responsible for ensuring that case files are at a standard adequate to meet the requirements of this policy.

7. Types of Records

- 7.1. Ballymun Job Centre may collect the following for the client file:
 - 7.1.1. Registration forms.
 - 7.1.2. Career Guidance plans/notes
 - 7.1.3. Guidance assessment records
 - 7.1.4. Notes of meetings with clients
 - 7.1.5. Career Action Plans

8. Written Record

- 8.1. All records should be kept in a locked file, with the key being held only by relevant members of the project team.
- 8.2. Records are not to include jargon or subjective statements. All records should be written in a way that the client is able to understand.
- 8.3. Records must be objective and factual and describe what is observed. If an incident has not been observed, but is relevant to service user care, then it must be clearly stated i.e. service user reports. If for some reason a more subjective statement needs to be made, the recorder should acknowledge this as a subjective opinion.
- 8.4. Records should include only essential and relevant details.
- 8.5. Where possible, records should use the clients own words.

9. Computerised Records

- 9.1. The principles for written records also apply to electronic records. Staff are accountable for entries made and all electronic records must be uniquely identifiable.
- 9.2. Staff must ensure that computerised records are not left unattended, and that all computerised systems are logged off appropriately.
- 9.3. All computerised client recording systems should be password protected.

10. Review of Records

- 10.1. Data management systems need to be regularly monitored.

11. Client Access to Records

- 11.1. All requests for access to service user information will be dealt with in relation to the FOI 1997 & 2003 and Data Protection Acts 1988 & 2003.
- 11.2. Clients have the right to know why information is being collected about them, and who it will be shared with.
- 11.3. They also have a right to access their records. Ballymun Job Centre
- 11.4. recognises its legal obligations to supply a description of the requested information to the service user within 21 days of receiving a written request, and a copy of the documentation within 40 days of receiving a written request. The following procedures should be followed:
 - 11.4.1. Find out why the client wants to see their records to identify if there is a specific piece of information they want to see rather than their entire file.
 - 11.4.2. Make an appointment to meet the client with their records. Personal information should only be given to the individual concerned (or someone acting on his or her behalf and with their pre-arranged authority). For instance, you normally would not provide such information by phone.
 - 11.4.3. Collate the records, removing all information relating to other people. When providing clients with access to their records, care must be taken to ensure the confidentiality of other

individuals identified or discussed in such records. If other names are mentioned on the documentation, these should be blacked out by a permanent pen.

- 11.4.4. Present the records to the client and offer to take them through it. When necessary, explain how the different records are used and be prepared to answer any questions the service user may have.
- 11.4.5. Inform the service user that they are entitled to receive copies of files, but that all original documentation will remain on their file in a secured location. If the information includes information about other clients, such information should be blanked out.
- 11.4.6. If a client disagrees with the information that is written about them the following action should be taken:
- 11.4.7. If there is agreement about changes, information should be corrected.
- 11.4.8. If there is a disagreement about changes then this should be noted on the file and the matter referred to a manager for review. The service user should be informed of the manager's decision at the earliest possible time, if they do not agree with this, they should be informed of the complaints procedure see policy on complaints.

12. Record Retention

- 12.1.1. Precautions should be taken to protect written copies from damages due to fire, and water.
- 12.1.2. Precautions should be made for all electronic data to protect it against electronic viruses or technical failure.
- 12.1.3. The Data Protection Acts require that personal information held by Ballymun Job Centre should be retained for no longer than is necessary for the purpose or purposes for which it was obtained.
- 12.1.4. Records should be kept for (no.) of years after the client leaves the project. Some types of documentation may need to be kept for longer under legal specification.
- 12.1.5. Care should be taken to ensure that records are disposed off correctly. Where possible, old records should be shredded

Part 2: Documentation and Record Keeping Policy (Staff)

1. Scope

This policy applies to all employment records of Ballymun Job Centre. This includes incumbent staff, new employees, and all applicants for employment. It also includes all volunteers and staff locums.

2. Keeping staff records

- 2.1. In relation to the records keeping system itself (electronic and hard copy):
 - 2.1.1. paper filing system should be securely locked;

- 2.1.2. electronic records are protected with passwords, anti-virus software and firewalls;
- 2.1.3. only staff that need to use the data should have open access to it. That will include (managers, supervisors, etc).
- 2.2. To comply with the legal requirements, the following records will be kept:
 - 2.2.1. hours worked
 - 2.2.2. pay rates
 - 2.2.3. payroll
 - 2.2.4. sickness of more than four days and how much sick pay has been paid
 - 2.2.5. accidents, injuries and incidents
 - 2.2.6. accounting data
 - 2.2.7. garda vetting information
 - 2.2.8. pensions information
 - 2.2.9. employee's training and appraisals
 - 2.2.10. employment history - date employment began, promotions, job title(s)
 - 2.2.11. records of employee lateness, sickness, and any other authorised or unauthorised absences
 - 2.2.12. employee personal details - name, address, emergency phone number(s), qualifications, work-relevant disability
 - 2.2.13. terms and conditions and employment - including a copy of each employee's signed approval of any changes to their terms and conditions
 - 2.2.14. minutes - of meetings with workplace representatives
 - 2.2.15. correspondence or records of any disciplinary action ever taken
 - 2.2.16. individual and collective redundancy consultation meetings and agreements
- 2.3. Documentation Retention Period
 - 2.3.1. The Data Protection Acts require that personal information held by Ballymun Job Centre should be retained for no longer than is necessary for the purpose/s for which it was obtained. If the purpose for which the information was obtained has ceased and the personal information is no longer required, the data must be deleted or disposed of in a secure manner.
 - 2.3.2. The table below outlines Ballymun Job Centre defined policy on retention periods for all items of personal data.
 - 2.3.3. These records need to be available for inspection by Labour Inspectors of the Department Of Enterprise, Trade & Employment. Records are also maintained to show as evidence in the event of a Rights Commissioner or Labour Court investigation of an employee's complaint.

Type of Record	Duration
Registration forms	6 years from date of registration
Accident books, accident record /	3 years after the date of last

reports	entry
Accounting Records	3 years for private companies, 6 years for public limited companies
Tax records	Not less than three years after the financial year to which they relate
Statutory Maternity Pay Records	3 years after the end of the tax year in which the maternity period ends
Statutory Sick Leave records	3 years after the end of the tax year in which the sick leave period ends
Holidays, public holidays, and rest periods	3 years after the end of the tax year in which the holiday period ends
Wages/salary records (also overtime, bonuses, expenses)	6 years
Application forms and interview notes (for unsuccessful candidates)	1 year
Pension Records	12 years after benefits cease
Personnel files and training records (including disciplinary records and working time records)	6 years after employment ceases
Redundancy details	6 years after employment ceases
Time cards	3 years after audit
Trade Union Agreement	10 years after ceasing to be effective

- 2.3.4. If there is uncertainty on any specific piece of data it is good practice to keep records for six years to cover the time limit for civil legal action.
- 2.3.5. Where documents may be relevant to a contractual claim, it is recommended that these be retained for at least the corresponding 6-year limitation period.

3. Accessing Personal Information

- 3.1. Under section 4 of the Data Protection Acts, 1988 and 2003, all employees have a right to obtain a copy, clearly explained, of any information relating to them kept on computer or in a structured manual filing system, by any person or organisation, regardless of when the data was created. No issues should generally arise in respect of access requests made for most personnel records. This note seeks to address access requests for data relating to:
- 3.1.1. Discipline, grievance and dismissal. The general rule is that an employee has a right of access to personal data relating to him/her in connection with discipline, grievance and dismissal procedures, even if the disciplinary procedure is on-going or the subject of legal proceedings such as an unfair dismissals claim.

There are however some limitations and exemptions to this right which include:

- 3.1.1.1. Opinions given in confidence as part of an investigation on the understanding that they will be kept confidential. This will be at the discretion of the senior manager.
- 3.1.1.2. Professional legal privilege: the subject's access, as described in section 4 of the Act, does not apply to personal data where the circumstances are such that a claim of privilege could be maintained in court proceedings in relation to communications between a client and their professional legal advisers or between those advisers.
- 3.1.1.3. Protecting the source of data: this does not have to be provided if it would be contrary to the public interest to do so.
- 3.1.1.4. Investigation of an offence: If access would prejudice a criminal investigation.
- 3.1.2. Appraisal and performance reports.
- 3.1.3. Medical reports. An employee has a right of access to medical data held by the organisation's company doctor or medical officer, unless the following applies:
 - 3.1.3.1. The Data Protection (Access Modification) (Health) Regulations, 1989 (S.I. No. 82 of 1989) provide that health data relating to an individual should not be made available to that individual, in response to an access request, if that would be likely to cause serious harm to the physical or mental health of the data subject. A person who is not a health professional should not disclose health data to an individual without first consulting the individual's own doctor or some other suitably qualified health professional.

Ballymun Job Centre recognises its legal obligations to supply a description of the requested information to the service user within 21 days of receiving a written request, and a

Signed

Mick Creedon
Manager