

## Data Protection Policy

As a childcare recruitment company, Kensington Nannies is obliged to comply with data protection legislation in the UK, and in particular with the EU General Data Protection Regulation ("GDPR") which has been brought into UK law via the Data Protection Act 2018

This Data Protection Policy ("DPP") sets out Kensington Nannies (and all those who work for Kensington Nannies ) commitment to protecting personal data of our clients and our candidates, and how that commitment is implemented in respect of the collecting, processing, using, storing and sharing of personal data.

## DATA PROTECTION LAW

All organisations that process personal data are required to comply with data protection legislation. This includes in particular the Data Protection Act 1998 (or its successor) and the EU General Data Protection Regulation (together the 'Data Protection Laws').

The Data Protection Laws give individuals (known as 'data subjects') certain rights over their personal data whilst imposing certain obligations on the organisations that process their data.

As a recruitment business Kensington Nannies collects and processes both personal data and sensitive personal data.

This policy sets out how Kensington Nannies implements the Data Protection Laws.

## DEFINITIONS

In this policy the following terms have the following meanings:

- **'Consent'** means any freely given, specific, informed and unambiguous indication of an individual's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her
- **'Data controller'** means an individual or organisation which, alone or jointly with others, determines the purposes and means of the processing of personal data
- **'Data processor'** means an individual or organisation which processes personal data on behalf of the data controller
- **'Personal data'**\* means any information relating to an individual who can be identified, such as by a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person
- **'Personal data breach'** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data
- **'Processing'** means any operation or set of operations performed on personal data, such as collection, recording, organisation, structuring, storage (including archiving), adaptation or alteration, retrieval, consultation, use,

disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction

- **'Sensitive personal data'**\* means personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data, data concerning health, an individual's sex life or sexual orientation and an individual's criminal convictions, such as DBS/Access NI/PVG information.

*\* For the purposes of this policy we use the term 'personal data' to include 'sensitive personal data' except where we specifically need to refer to sensitive personal data.*

- **'Supervisory authority'** means an independent public authority which is responsible for monitoring the application of data protection. In the UK the supervisory authority is the Information Commissioner's Office (ICO).

## **ICO REGISTRATION AND DATA PROTECTION OFFICER (DPO)**

Kensington Nannies processes personal data in relation to its own staff, work-seekers and individual client contacts and is a data controller for the purposes of the Data Protection Laws. Kensington Nannies Limited are registered with the ICO. The ICO number for Kensington Nannies Limited is **Z1823452**

Kensington Nannies has appointed a **Data Protection Officer (DPO)** who is responsible for ensuring compliance with the Data Protection Laws. The DPO's contact details are:

Name: Louise Taylor

Email: Louise@kensington-nannies.com

Tel: 0207 937 3525

## **DATA PROCESSING UNDER THE DATA PROTECTION LAWS**

Kensington Nannies may hold personal data on individuals for the following purposes:

- Staff administration;
- Advertising, marketing and public relations;
- Accounts and records;
- Administration and processing of work-seekers' personal data for the purposes of providing work-finding services, including processing using software solution providers and back office support;
- Administration and processing of clients' personal data for the purposes of supplying/introducing work-seekers

## **A: The data protection principles**

The Data Protection Laws require Kensington Nannies acting as either data controller or data processor to process data in accordance with the principles of data protection. These require that personal data is:

1. Processed lawfully, fairly and in a transparent manner;
2. Collected for specified and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
3. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
4. Accurate and kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
5. Kept for no longer than is necessary for the purposes for which the personal data are processed;
6. Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures; and that
7. The data controller shall be responsible for, and be able to demonstrate, compliance with the principles.

#### **B: Legal bases for processing**

Kensington Nannies will only process personal data where it has a legal basis for doing so (see **Annex A**). For the avoidance of doubt and in summary, Kensington Nannies processes data where it has the consent of the individual and where the processing of data is necessary for the performance of the contract between Kensington Nannies and the candidate and Kensington Nannies and the client (i.e. to carry out work seeking services for candidates and to find staffing solutions for clients). In very rare cases, we may be legally obliged to pass on data, for example to DBS.

Kensington Nannies will review the personal data it holds on a regular basis to ensure it is being lawfully processed and it is accurate, relevant and up to date.

Before transferring personal data to any third party (such as past, current or prospective employers, customers and clients, Regulatory Bodies, persons making an enquiry or complaint and any other third party that is relevant to the work finding/child carer finding services that Kensington Nannies offers), Kensington Nannies will establish that it has a legal reason for making the transfer. In the majority of cases, this legal basis will be in order to carry out the performance of its contract with the candidates/clients or pursuant to consent obtained from those individuals.

#### **SECURITY OF DATA**

Kensington Nannies has implemented measures and procedures that adequately protect the data of individuals and ensures that data protection is integral to all processing activities. This includes the following:

- A Security Specifications audit and document undertaken by our IT developers
- Data Cleanse of the existing database whereby we deleted very old data records

- Data minimisation (i.e. not keeping data for longer than is necessary) – Kensington Nannies have implemented an **automatic data deletion** for all records after 6 years of non-activity. 6 years is the statute of limitation in terms of contractual disputes, as well as a 6-year requirement to keep certain financial records. Kensington Nannies also had to assess the reasonable length of time to keep data where the care of children is involved, given that there is no legal recommended time on this. Kensington Nannies felt that 6 years was reasonable (until such time as legislation is passed setting out the required length of time to keep records on childcare recruitment). If a safeguarding issue has ever been raised in relation to a child carer registered with Kensington Nannies, Kensington Nannies has taken the view that data should never be erased permanently, because the protection of vulnerable children is paramount.
- In addition, for clients, Kensington Nannies will limit Data held if they do not currently employ a candidate introduced by Kensington Nannies or have not used our services/ contacted us for 2 years
- Once notified the client/candidate has notified Kensington Nannies that they have fulfilled their requirement for which they registered their Data is archived, processing and passing on of their data & contact with them shall cease.
- Candidates & Clients whose details have been archived can:
  - a) consent to their data being reactivated ,processed, used, passed on by Kensington Nannies for the purposes of finding them work/staffing services
  - b) withdraw consent;
  - c) update their data; and
  - d) request that their data be deleted.
- Kensington Nannies has implemented internal procedures and policies for all staff (and training for those procedures and policies) to ensure the protection of data from those handling the data within Kensington Nannies organisation.
- 3rd Parties: Kensington Nannies has identified the following as needing to comply with GDPR:
  - a) our website and IT Support (Focus PC) & database developers I-Tec Systems,

All have confirmed that they are GDPR compliant.

## **RIGHTS OF THE INDIVIDUAL**

Kensington Nannies shall provide any information relating to data processing to an individual in a concise, transparent, intelligible and easily accessible form, using clear and plain language. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means. Kensington Nannies may provide this information orally if requested to do so by the individual.

### **1. Privacy Notice**

Where Kensington Nannies collects personal data from the individual, Kensington Nannies will refer give the individual a Privacy Notice at the time when it first obtains the personal data (Either in person -printed letter or via email) This Privacy Notice can also be found on our website and will be emailed to all individuals when they register with Kensington Nannies

Kensington Nannies does not collect personal data other than from the individual directly. If a candidate emails Kensington Nannies their CV for example, then Kensington Nannies does not process any of that data until such time as the individual has registered with Kensington Nannies (which includes interviewing with Kensington Nannies), which is when the individual receives a copy of the Privacy Notice, and the consent to data processing questions have been completed.

Where Kensington Nannies is asked directly (consent given) by the candidate to process personal Data prior to a scheduled registration interview (such as checking previous employment references prior to registration interview in order to accelerate the collection of documentation required to be fully registered post interview) Kensington Nannies shall only do so once the referees have given the candidate consent for Kensington Nannies to contact them. Until such time the candidate is interviewed the information is not added to the Database & is destroyed securely if the candidate fails to present themselves for the scheduled interview.

Where Kensington Nannies have sought and obtained a reference from a consensual referee who has responded to a reference request, said reference & referee details shall not be released without prior consent.

## **2. Subject access requests**

Individuals are entitled to access their personal data on request from Kensington Nannies.

*For more information on how to make/process a Subject Access Request, please refer to Kensington Nannies Data Protection Procedure Policy which can be obtained on request.*

## **3. Right to Rectification**

The individual, or another data controller at the individual's request, has the right to ask Kensington Nannies to rectify any inaccurate or incomplete personal data concerning an individual.

If Kensington Nannies has given the personal data to any third parties it will tell those third parties that it has received a request to rectify the personal data unless this proves impossible or involves disproportionate effort. Those third parties should also rectify the personal data they hold - however Kensington Nannies will not be in a position to audit those third parties to ensure that the rectification has occurred.

*For more information on how to make/process a Rectification Request, please refer to Kensington Nannies Data Protection Procedure Policy which can be obtained on request.*

## **4. Right of Erasure**

The individual or another data controller at the individual's request, has the right to ask Kensington Nannies to erase an individual's personal data.

If Kensington Nannies receives a request to erase, it will delete that individual's data completely, save for a record of their name, contact details, date they first registered with Kensington Nannies and the date they made the right of erasure request. All other data will be permanently deleted, unless Kensington Nannies is required by law to retain certain data for a period of time, or if there is a safeguarding issue:

- Different laws require us to keep different data for different periods of time. For example, if you are a child carer registered with Kensington Nannies, the Conduct of Employment Agencies and Employment Businesses Regulations 2003, require us to keep work-seeker records for at least one year (a) from the date of their creation or (b) after the date on which we last provide you with work-finding services.

Please note that if there is any safeguarding issue, or safeguarding allegation, relating to a child carer or client we are obliged to keep your data indefinitely.

If an individual asks for their data to be deleted from Kensington Nannies database, and their data is deleted, but later the same individual applies for a Kensington Nannies job or contacts Kensington Nannies looking for work, please note that Kensington Nannies will have to re-register the individual all over again and obtain the data again that has been erased. Including checking previous employment references.

If Kensington Nannies has given the personal data to any third parties it will tell those third parties that it has received a request to erase the personal data, unless this proves impossible or involves disproportionate effort. Those third parties should also rectify the personal data they hold - however Kensington Nannies will not be in a position to audit those third parties to ensure that the rectification has occurred.

*For more information on how to make/process an Erasure Request, please refer to Kensington Nannies Data Protection Procedure Policy which can be obtained on request.*

## **5. Restriction of processing**

The individual, or a data controller at the individual's request, has the right to ask Kensington Nannies to restrict its processing of an individual's personal data where:

- The individual challenges the accuracy of the personal data;
- The processing is unlawful;
- Kensington Nannies no longer needs the personal data for the purposes of the processing, but the personal data is required for the establishment, exercise or defence of legal claims; or
- The individual has objected to processing (on the grounds of a public interest or legitimate interest) pending the verification of whether the legitimate grounds of Kensington Nannies override those of the individual.

If Kensington Nannies has given the personal data to any third parties it will tell those third parties that it has received a request to restrict the personal data, unless this proves impossible or involves disproportionate effort. Those third parties should also rectify the personal data they hold - however Kensington Nannies will not be in a position to audit those third parties to ensure that the rectification has occurred.

*For more information on how to make/process a Restriction of Processing Request, please refer to Kensington Nannies Data Protection Procedure Policy which can be obtained on request.*

## **6. Data portability**

The individual shall have the right to receive personal data concerning him or her, which he or she has provided to Kensington Nannies, in a structured, commonly used and machine-readable format and have the right to transmit that data to another data controller in circumstances where:

- The processing is based on the individual's consent or a contract; and
- The processing is carried out by automated means.

Where feasible, Kensington Nannies will send the personal data to a named third party on the individual's request.

*For more information on how to make/process a Data Portability Request, please refer to Kensington Nannies Data Protection Procedure Policy which can be obtained on request.*

## **7. Object to processing**

The individual has the right to object to their personal data being processed based on a public interest or a legitimate interest.

Kensington Nannies shall cease processing unless it has compelling legitimate grounds to continue to process the personal data which override the individual's interests, rights and freedoms or for the establishment, exercise or defence of legal claims.

The individual has the right to object to their personal data for direct marketing. Please refer to Kensington Nannies Marketing Policy for further information.

*For more information on how to make/process an Objection to Processing Request, please refer to Kensington Nannies Data Protection Procedure Policy which can be obtained on request.*

## **8. Enforcement of rights**

All requests regarding individual rights should be sent to the DPO whose details are given at the top of this policy (under "ICO Registration and DPO")

Kensington Nannies shall act upon any subject access request, or any request relating to rectification, erasure, restriction or data portability within one month of receipt of the request. Kensington Nannies may extend this period for two further months where necessary, taking into account the complexity and the number of requests, and having informed the individual of such an extension (before the end of the 1 month time frame) and the reasons for the delay.

Where Kensington Nannies considers that a request under this section is manifestly unfounded or excessive due to the request's repetitive nature Kensington Nannies may either refuse to act on the request or may charge a reasonable fee taking into account the administrative costs involved.

### **9. Automated decision making**

Kensington Nannies does not use profiling or automated decision making in the provision of its work seeking and childcare services.

## **REPORTING PERSONAL DATA BREACHES**

All data breaches should be referred to the DPO (details of which are given at the top of this policy under "ICO Registration and DPO").

### **1. Personal data breaches where Kensington Nannies is the data controller:**

Where Kensington Nannies establishes that a personal data breach has taken place, Kensington Nannies will take steps to contain and recover the breach. Where a personal data breach is likely to result in a risk to the rights and freedoms of any individual Kensington Nannies will notify the ICO.

### **2. Personal data breaches where Kensington Nannies is the data processor:**

Kensington Nannies will alert the relevant data controller as to the personal data breach as soon as they are aware of the breach.

### **3. Communicating personal data breaches to individuals:**

Where Kensington Nannies has identified a personal data breach resulting in a high risk to the rights and freedoms of any individual, Kensington Nannies shall tell all affected individuals without undue delay.

Kensington Nannies will not be required to tell individuals about the personal data breach where:

- Kensington Nannies has implemented appropriate technical and organisational protection measures to the personal data affected by the breach, in particular to make the personal data unintelligible to any person who is not authorised to access it, such as encryption.
- Kensington Nannies has taken subsequent measures which ensure that the high risk to the rights and freedoms of the individual is no longer likely to materialise.

- It would involve disproportionate effort to tell all affected individuals. Instead, Kensington Nannies shall make a public communication or similar measure to tell all affected individuals.

*For more information on communicating a data breach, please refer to Kensington Nannies Data Protection Procedure Policy which can be obtained on request.*

## **HUMAN RIGHTS**

All individuals have the following rights under the Human Rights Act 1998 (HRA) and in dealing with personal data these should be respected at all times:

- Right to respect for private and family life (Article 8).
- Freedom of thought, belief and religion (Article 9).
- Freedom of expression (Article 10).
- Freedom of assembly and association (Article 11).
- Protection from discrimination in respect of rights and freedoms under the HRA (Article 14).

## **COMPLAINTS**

If you have a complaint or suggestion about Kensington Nannies handling of personal data then please contact the DPO whose details appear at the start of this policy (under "ICO Registration and DPO").

Alternatively you can contact the ICO directly on [0303 123 1113](tel:03031231113) or at the [ICO website](#).

## **ANNEX A**

### **A. The lawfulness of processing conditions for personal data are:**

1. Consent of the individual for one or more specific purposes. At Kensington Nannies we ask all of our candidates and clients consent to process their personal data (including sensitive data).
2. Processing is necessary for the performance of a contract with the individual or in order to take steps at the request of the individual to enter into a contract. At Kensington Nannies all candidates and clients receive terms and conditions setting out the terms by which we provide work seeking services/child carer placements. In order to perform those services provided under those contracts, Kensington Nannies has to process the personal data of those individuals.
3. Processing is necessary for compliance with a legal obligation that the controller is subject to.
4. Processing is necessary to protect the vital interests of the individual or another person.
5. Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller.

6. Processing is necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests or fundamental rights or freedoms of the individual which require protection of personal data, in particular where the individual is a child.

**B. The lawfulness of processing conditions for sensitive personal data are:**

1. Explicit consent of the individual for one or more specified purposes, unless reliance on consent is prohibited by EU or Member State law.
2. Processing is necessary for carrying out data controller's obligations under employment, social security or social protection law, or a collective agreement, providing for appropriate safeguards for the fundamental rights and interests of the individual.
3. Processing is necessary to protect the vital interests of the individual or another individual where the individual is physically or legally incapable of giving consent.
4. In the course of its legitimate activities, processing is carried out with appropriate safeguards by a foundation, association or any other not-for-profit body, with a political, philosophical, religious or trade union aim and on condition that the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes) and provided there is no disclosure to a third party without the consent of the individual.
5. Processing relates to personal data which are manifestly made public by the individual.
6. Processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity.
7. Processing is necessary for reasons of substantial public interest on the basis of EU or Member State law which shall be proportionate to the aim pursued, respects the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and interests of the individual.
8. Processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of EU or Member State law or a contract with a health professional and subject to the necessary conditions and safeguards.
9. Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of healthcare and of medicinal products or medical devices, on the basis of EU or Member State law which provides for suitable and specific measures to safeguard the rights and freedoms of the individual, in particular professional secrecy. Processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard fundamental rights and interests of the individual.

