

## ACCESS TO EMPLOYEE RECORDS

Subject to the following provisions employees will have the right of open access to their personal employment records.

### 1. SCOPE

A **personal employment record** is a manual and/or electronic record, and their contents, which is capable of enabling the identification of the particular employee by way of an index and/or a personal identifier e.g. name, any form of reference number etc. including:

any record the contents of which relate exclusively to a named employee and which is held in the Human Resources Department, and which would be regarded, in whole or in part, as being **the** "personnel record".

any record the contents of which relate exclusively to a named employee and which is held in the Payroll Section, and which would be regarded, in whole or in part, as being **the** "payroll record".

any record the contents of which relate exclusively to a named employee and which is held in the Faculty, School or Department and which would be regarded, in whole or in part, as being **the** Faculty, School or Departmental record.

any similar or equivalent record.

The above does not imply any requirement to create such a record where no such record exists at present. However, any records that exist or are created must comply with this policy.

### 2. WHO MAY KEEP SUCH RECORDS?

**2.1** The ownership of a personal employment record rests with the University. In order to ensure clear accountability for the proper conduct of such records it is important to identify who may establish and maintain them. This can only properly be based on the principles of "need" and then "access".

Personal employment records may only be established and maintained by:

the Head of HR under the direction of the Executive Director of Human Resources.

the Payroll Manager under the direction of the Director of Finance.

the Head of School or Department - or their equivalents where no such post exists - under the direction of the relevant member of the Executive

- 2.2** Low level data (e.g. job descriptions) may be kept at a lower level and would not fall within the scope of these provisions except where it is traceable by a personal identifier.
- 2.3** Responsibility for maintenance shall be delegated to the relevant staff within the HR Department and to the relevant Administrative staff at Faculty/School/Departmental level. Such delegation shall be in writing using the standard form DP1 shown in **Appendix 1**. This form will be issued on an annual basis by the Records Manager and must be completed and returned, with a copy being retained by the School/Department.
- 2.4** It follows that, operationally, the Head of HR Manager, the Payroll Manager and the Deans of Faculty, Heads of School/Department, as appropriate, are responsible for the proper application of this policy.
- 2.5** No other personal employment records may be established or maintained.

### **3. OTHER EMPLOYMENT RECORDS**

From time to time there may be a requirement to establish and maintain a separate record for particular purposes e.g. complex disciplinary cases, grievances etc. Where this is the case the same rights of access will apply.

### **4. WHAT MAY A PERSONAL EMPLOYMENT RECORD CONTAIN?**

- 4.1** It may contain any information legitimately required for the purposes of:
- statutory employment records, and / or
  - operational management and administration

Other legitimate entries may also be included.

- 4.2** What may not be included is information, data or other material that cannot legitimately be shown to be related directly or indirectly to the employment of the employee concerned.
- 4.3** Within the individual personal employment record, all records must be kept in a form that is, by and large, chronological, easily readable and auditable. They should be kept in a secure location with controlled access for those that are authorised to have access.

### **5. SENSITIVE PERSONAL DATA**

- 5.1** It is the University's policy that the explicit and informed consent of employees will be obtained for the processing of information which may include sensitive personal data such as racial or ethnic origin, sexual orientation or any other data defined as "sensitive personal data" under the Data Protection Act.

**5.2** For prospective and new employees this is obtained by a specific signed declaration in the employment Application Form, separate Recruitment Monitoring Form and the Statement of Particulars of Terms of Employment.

## **6. DISCLOSURE INFORMATION**

### **6.1 General Principles**

The University complies fully with the Code of Practice, issued by Scottish Ministers, regarding the correct handling, holding and destroying of Disclosure Information, for the purposes of assessing applicants' suitability for positions of trust.

### **6.2 Usage**

The University uses Disclosure Information only for the purpose for which it has been provided. The information provided by an individual for a position within the University is not used or disclosed in a manner incompatible with the purpose. The University processes data only with the express consent of the individual. Individuals are notified of any non-obvious use of the data, including further disclosure to a third party.

### **6.3 Handling**

The University recognises that it is a criminal offence to disclose Disclosure information to any unauthorised person. Disclosure information is only passed to those who are authorised to see it in the course of their duties. The University will not disclose information provided which is not included in the Disclosure, to the applicant.

### **6.4 Access and Storage**

The HR Department does not keep Disclosure information in an individual's personal employment record. It is kept separately and securely, in lockable, non-portable storage containers. Access to storage units is strictly controlled to authorised and named individuals, who are entitled to see such information in the course of their duties. These individuals are named using the standard form DP1.

### **6.5 Retention**

The University does not keep Disclosures or Disclosure information for any longer than is required after recruitment (or any other relevant) decision has been taken. In general, this is no longer than 90 days. This is to allow for the resolution of any disputes or complaints.

### **6.6 Disposal**

As soon as a recruitment decision has been taken, the University will ensure that Disclosure information is immediately destroyed in a secure manner i.e. by shredding, pulping or burning. The University will not keep

receptacle (e.g. a waste bin or confidential waste sack). The University will not retain any image or photocopy or any other form of the Disclosure information. The HR Department will, however, keep a record of the date of issue of the Disclosure, the name of the subject, the Disclosure type, the position for which the Disclosure was requested, the unique reference number of the Disclosure and details of the recruitment decision taken.

## **7. 'SECRET' OR 'ALTERNATIVE' RECORDS**

Secret or alternative records may not be established for the purposes of by-passing the spirit or intention of this policy.

## **8. EMPLOYEE RIGHTS**

**8.1** Employees will have right of access to their personal employment record normally ***within 5 working days*** of written notice being received by the Executive member, Head of School/Department or the Head of HR. The request should be put in writing using the University's [Subject Access form](#). ***In response to a request, the appropriate official receiving the access request will confirm, in writing, the date, time and place at which access will be provided and will confirm the access fee that will be charged.***

**8.2** Access will be by arrangement and viewing of the contents of the record will be at its kept location in the presence of a person nominated by the Dean, Head of School/Department or the Head of HR. (The sole purpose of this provision is to ensure that no material is inappropriately removed or destroyed).

**8.3** ***The access charge of £10 for subject access is the maximum permitted by the Data Protection Act.***

**8.4** Employees may, *within reason*, request one copy of any or all of the contents of a record if they wish. A record will be made of any copies requested and ***where possible***, provided, including date and place together with the name of the person providing them. Information can be provided in other formats if required.

**8.5** An employee may challenge the accuracy of an entry in the record and where, on investigation, it is found to be inaccurate shall be entitled to have the entry corrected or removed, whichever is the most appropriate and to have this action confirmed in writing as having been done. See Section 10 for further information.

**8.6** An employee may challenge the legitimacy of making or keeping particular data or other information in the record. See Section 10 for further information.

## **ACCESS BY OTHER EMPLOYEES**

**9.1** Normally complete rights of access will be held by:

the relevant member of the Executive  
the relevant Head of School/Department  
the employee in respect of his/her record  
the Executive Director of Human Resources and authorised HR staff

**9.2** Other employees who have line management responsibility may be authorised e.g. Section Heads. Such authorisation shall be in writing using the Authorisation for Access form DP2 at **appendix 2**. It may be for complete access or for defined limited purposes.

**9.3** Personal pay information will be available only to the above persons on a "need to know basis".

## **10. HOW MAY AN EMPLOYEE EXERCISE THE RIGHT TO CHALLENGE THE ACCURACY OR LEGITIMACY OF AN ENTRY?**

**10.1** In the case of Faculty staff, initially in writing, to the relevant Dean of Faculty and thereafter, if not satisfied, to the Executive Director of Human Resources. In the case of the School/Department record, in writing to the relevant Head of School/Department and thereafter, if not satisfied, to the relevant member of the Executive. In the case of the records held by HR and Payroll to the Head of HR or Payroll Manager respectively. In all other cases in writing to the relevant member of the Executive.

**10.2** At all stages, any decision shall be taken in consultation with the appropriate HR Client Partner and reasons shall be given to the employee explaining the decision. Under the Data Protection Act 1998 the employee should receive a written response within 21 days stating what action has or will be taken or stating the reasons for regarding the concerns as unjustified.

**10.3** If still not satisfied the employee may refer the matter to the Executive Director of Human Resources, (or his nominee) for adjudication.

## **11. REFERENCES - EMPLOYEES AND PROSPECTIVE EMPLOYEES**

**11.1** These require particular care. There are legal as well as personal and professional obligations.

**11.2** In general the obligation is to ensure that all references, oral or in writing, given in respect of an employee of the University should contain only information that is factual or is honest opinion or judgement that is capable of being demonstrated as being reasonable by reference to actions, events or circumstances. An individual may sue for damages if they suffer loss or detriment as a consequence of information given in error or with malicious intent.

**11.3** References given formally on behalf of the University shall be given on headed letter paper **and signed by the author**. Where a pro-forma is

completed, this must be authenticated by an official University stamp and/or the signature **of the author**. All references should contain the statement:

***"This is a reference given in strictest confidence and without legal responsibility. We do not expect you to release this to any third parties without first obtaining our explicit and written consent."***

This makes it clear that the recipients rely on the reference at their own risk. However, this will provide no defence against an action for libel and no certain defence against an action for negligence.

The writer of the reference is responsible for meeting the requirement of reasonableness and defensibility. Where necessary, further guidance should be sought from the relevant HR Client Partner.

- 11.4** A copy of each reference given should be retained in the individual's personal employment record.
- 11.5** Confidential references given by the University are exempt from subject access under the Data Protection Act. Nevertheless they should be written in the knowledge that the receiver **may seek consent to** disclose the reference to the prospective employee before or after they have been engaged. The University may, or may not, agree to such disclosure. ***In addition, there are certain legal procedures under which disclosure may be ordered.***
- 11.6** References requested and received by the University from other employers are usually provided in confidence. The following clause should be used in all reference requests:

***"Your reference will be treated as confidential unless you indicate that you wish it to be otherwise or we obtain your explicit and written consent to disclose the reference or we are obliged to disclose it by virtue of a statutory order."***

- 11.7** Employees will be entitled to have access to references received should they so request **if** the provider of the reference has consented and there is no other substantial reason for the University to do otherwise.

## **12. REFERENCES - FOR CURRENT OR PREVIOUS STUDENTS SEEKING EMPLOYMENT**

- 12.1** The same guidance, responsibilities and obligations described above generally apply.
- 12.2** The assumption must be that, if any employee is asked to give a reference in whatever capacity (e.g. Course Leader, Tutor etc.) then the reference must be considered to be in an official capacity and must be prepared accordingly.

**12.3** Heads of School must ensure that relevant staff are briefed appropriately and that a proper *record is kept*.

**13. PERSONAL REFERENCES - GIVEN IN AN ENTIRELY PERSONAL CAPACITY**

These may not be issued on University headed paper, must not in any way suggest that comments are other than personal, and do not form part of the employment record.

**14. AUDIT**

An audit protocol is established and included in the programme of internal and external audits.

**15. RETENTION**

**15.1** Employee records covered by this policy shall be retained, after the actual date of the employee leaving, for the following period.

|                                   |  |
|-----------------------------------|--|
| Faculty/School/Department records | current year + 6 years                         |
| HR Records                        | current year + 6 years                         |
| Payroll Records                   | In accordance with tax requirements            |
| Superannuation Records            | In accordance with pension scheme requirements |
| Disclosure information            | See clause 6.5                                 |

**15.2** In the event that an employee transfers from one Faculty/School/Department to another within the University, the employee record held in the Faculty/School/Department shall transfer with him/her.

**15.3** Health records provided to RGU in relation to statutory health surveillance shall be retained by RGU for the following periods subsequent to the surveillance:

|  |          |
|--|----------|
| Records required by The Control of Lead at Work Regulations 2002                   | 40 Years |
| Records required by The Control of Substances Hazardous to Health Regulations 2002 | 40 Years |
| Records required by The Control of Vibration at Work Regulations 2005              | 40 Years |
| Records required by The Control of Noise at Work Regulations 2005                  | 40 Years |
| Records required by The Working Time Regulations 1998                              | 2 Years  |
| Records required by The Ionising Radiation Regulations 1999                        | 50 Years |

## **16. COMPLIANCE**

Serious and/or repeated non-compliance with this policy will be regarded as misconduct and will render the person liable to disciplinary action.

Appendix 1

**DATA PROTECTION ACT 1998  
DELEGATION OF RESPONSIBILITY  
FOR THE CREATION, MAINTENANCE AND DISCLOSURE OF PERSONAL  
EMPLOYMENT RECORDS**

In accordance with the University's Policy, employment records may only be established and maintained by:

- the Head of Human Resources under the direction of the Executive Director of Human Resources
- the Payroll Manager under the direction of the Director of Finance.
- the Head of School or Department - or their equivalents where no such post exists - under the direction of the relevant Executive Manager.
- the Dean of Faculty or Executive Group Director - in respect of Faculty/Directorate staff.

Responsibility for the creation, maintenance and disclosure (subject to verification of the identity of the data subject) of such employee records is hereby delegated **by**:

|                                 |           |
|---------------------------------|-----------|
|                                 |           |
| Name (please print)             | Signature |
|                                 |           |
| Job Title and School/Department | Date      |

**to** the following named individuals who hereby confirm that they have received a copy of the University's **Employee Records - Policy and Practice** and have been adequately briefed on the procedure for access to employee records :

| Name<br>(please print) | Job Title | Signature | Date |
|------------------------|-----------|-----------|------|
|                        |           |           |      |
|                        |           |           |      |
|                        |           |           |      |
|                        |           |           |      |
|                        |           |           |      |

**DATA PROTECTION ACT 1998  
AUTHORISATION FOR ACCESS TO PERSONAL EMPLOYMENT RECORDS**

The University has a duty to ensure the confidentiality of all Personal Employment Records. Normally complete rights of access to these records will be held by:

- \* the relevant Executive Manager
- \* the relevant Head of School/Department/Unit
- \* the employee in respect of his/her record (subject to completion of Request for Subject Access form and verification of identity)
- \* the Executive Director of Human Resources and his authorised staff

Authorisation may be given to other employees who have line responsibility, e.g. Section Heads, for complete rights of access or for defined limited purposes only. Additional authorisation is hereby given **by:**

|                                 |           |
|---------------------------------|-----------|
| Name (please print)             | Signature |
| Job Title and School/Department | Date      |

**to:**

| Name (please print) | Job Title | Give Details where access is for defined limited purposes only |
|---------------------|-----------|--|
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[Please refer to University's Data Protection pages](#)

