

Processing special category personal data and criminal records data

Introduction

Purpose

Under the General Data Protection Regulation (GDPR) and Data Protection Act 2018, additional protections for job applicants, employees and other data subjects apply if an employer is processing "special categories" of personal data and criminal records data.

One of these protections is a requirement to have an appropriate policy document in place. This policy sets out our approach to processing special category personal data and criminal records data. It supplements our Privacy Notice.

Definitions

The company named on your employment contract is part of the PayStream My Max Holdings group. PayStream My Max Holdings has other subsidiary companies, one of which is PayStream Accounting Services Limited and that is the company that employs all its internal staff to administer and support your upcoming or existing employment. These companies are all part of the PayStream group of companies, which we refer to as 'us,' 'we' and "our" and 'PayStream' in this Privacy Notice.

"Criminal records data" means information about an individual's criminal convictions and offences, and information relating to criminal allegations and proceedings.

"Special category personal data" means information about an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sex life or sexual orientation and genetic or biometric data.

Why we process special category personal data and criminal records data

We process or may process special category personal data and criminal records data for the following purposes:

- Equal opportunities monitoring.
- Data related to racial and ethnic origin, religious and philosophical beliefs, health (including information on whether or not an individual has a disability) and sexual orientation are processed for equal opportunities monitoring purposes.

Health

Data related to health (including information on whether or not an individual has a disability) is processed to:

- ensure that we are complying with its health and safety obligations;
- assess whether or not an employee is fit for work;
- carry out appropriate performance reviews, where this is related to health or capability procedures if an employee is not fit for work or;
- ensure that an employee receives sick pay or other benefits to which they may be entitled; and
- Allow us to comply with our duties under the Equality Act 2010 for individuals with a disability.
- Mitigate the risk of the transmission of infections in the workplace, protect all our employees and where it is necessary to protect clinically vulnerable individuals, and to help us make informed decisions as to the safety of the office working environment and whether our employees should work from home. This is in relation to any data collected on whether employees have been vaccinated in a pandemic situation, such as COVID-19 where such data may in some cases be collected.

Racial or ethnic origin

Data related to individuals' nationality is or may be processed to ensure that we are complying with our obligations to check that they are entitled to work in the UK.

Criminal records data

Criminal records data may be processed as part of onboarding processes and, where necessary, in the course of employment to verify that candidates are suitable for employment or continued employment and to comply with legal and regulatory obligations to which we are subject.

Compliance with data protection principles

Where we process special category personal data and criminal records data we do so in accordance with the following data protection principles.

1. We process personal data lawfully, fairly and in a transparent manner and for specified, explicit and legitimate purposes.

Employers can process special category personal data only if they have a legal basis for processing and, in addition, one of the specific processing conditions relating to special category personal data, or criminal records data, applies.

We process (or may process) special category personal data and criminal records data for the purposes outlined above and in compliance with the following legal conditions for processing.

	Legal basis for processing	Special category personal data/criminal records data processing condition under sch.1 of the Data Protection Act 2018
Equal opportunities data	Processing is in our legitimate interests. These interests are not outweighed by the interests of data subjects.	Processing is necessary for monitoring equality of opportunity or treatment, as permitted by the Data Protection Act 2018 (under para.8 of sch.1).
Health data	Processing is necessary for compliance with legal obligations (e.g. assessing an employee's fitness for work, complying with health and safety obligations, carrying out capability procedures and complying with Equality Act 2010 duties).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment (under para.1 of sch.1).
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	Processing is in our legitimate interests. These interests are not outweighed by the interests of data subjects.	Processing is necessary to assist us in the protection of and health and safety of all its employees. Health and Safety at Work Act 1974.
Racial or ethnic origin data	Processing is necessary for compliance with legal obligations (e.g. checking job applicants' and employees' right to work in the UK).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment (under para.1 of sch.1).

Criminal record data	Processing is in our legitimate interests and where required by regulatory bodies. These interests are not outweighed by the interests of data subjects.	Processing is necessary to comply with regulatory requirements to establish whether or not someone has committed an unlawful act or been involved in dishonesty, malpractice or other seriously improper conduct (under para.12 of sch.1).
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We have considered impact assessments and concluded in each case that processing is necessary and proportionate in light of the other safeguards in place and does not pose a high risk to individuals.

We explain to you how special category personal data and criminal records data is used when we collect the data. This information is set out in our privacy notices, made available to all employees on the online portal.

We does not use the data for any other purpose and we review our processing and policies regularly to ensure that we are not using special category personal data or criminal records data for any other purpose. We will not do anything unlawful with personal data.

Special category personal data is not disclosed to third parties, except in the context of seeking medical advice from our occupational health adviser or other medical advisers who are subject to a professional duty of confidentiality or reporting suspected offences to the appropriate authorities. We comply with the Access to Medical Reports Act 1988 where relevant. Criminal records data is not disclosed to third parties, except where there is contractual and/or legal obligation to do so, or otherwise where we have the employee's consent.

2. We process personal data only where the data is adequate, relevant and limited to what is necessary for the purposes of processing.

We collect and retain the minimum amount of information necessary to allow us to achieve the purposes outlined above. As noted, we include relevant information in privacy notices as to how special category personal data and criminal records data is used and does not use data for any other purpose.

All data is reviewed periodically and unnecessary data is deleted.

3. We keep accurate personal data and takes all reasonable steps to ensure that inaccurate personal data is rectified or deleted without delay.

We take reasonable steps to ensure that the personal data that it holds is accurate. Special category personal data and criminal records data is obtained:

- directly from job applicants, employees and other data subjects; or
- From external sources that we are entitled to assume will provide accurate information, such as the Disclosure and Barring Service in the case of criminal records data, or medical professionals in the case of health data.

We will erase or rectify inaccurate data that it holds without delay.

4. We keep personal data only for the period necessary for processing.

We have considered how long we need to retain special category personal data and criminal records data.

We retain and processes special category personal data for the duration of an individual's employment.

The periods for which special category personal data is retained after the end of employment are in the data retention policy within in our Privacy Notice.

At the end of the relevant retention period, we erase or securely destroys special category personal data and criminal records data.

5. We adopt appropriate measures to make sure that personal data is secure and protected against unauthorised or unlawful processing, and accidental loss, destruction or damage.

We take the security of special category personal data and criminal records data seriously. We have internal policies and controls in place to protect personal data against loss, accidental destruction, misuse or disclosure, and to ensure that data is not accessed, except by employees in the proper performance of their duties. We have analysed the risk presented by processing special category personal data and criminal records data and taken this into account in assessing appropriate security requirements. This information is only shared where necessary to do so, for example in relation to a disability or capability issue where reasonable adjustments are required.