

DATA PROTECTION POLICY

Introduction

LUNNY & CO is law firm and provides legal advice and assistance to its clients. It is regulated by the Law Society of Scotland.

The personal data that LUNNY & CO processes to provide these services relates to its clients and other individuals as necessary, including staff and suppliers' staff.

This policy sets out LUNNY & CO's commitment to ensuring that any personal data, including special category personal data, which LUNNY & CO processes, is carried out in compliance with data protection law. LUNNY & CO processes personal data, including the personal data of non-EU citizens, but is committed to ensuring that all the personal data that it processes is done in accordance with data protection law. LUNNY & CO ensures that good data protection practice is imbedded in the culture of our staff and our organisation.

LUNNY & CO's other data protection policies and procedures are

- record of processing activities
- privacy policy (website, clients, employees)
- personal data breach reporting process and a breach register
- data retention policy
- data subject rights procedure
- data protection impact assessment process

'Data Protection Law' includes the General Data Protection Regulation 2016/679; the UK Data Protection Act 2018 and all relevant EU and UK data protection legislation.

Scope

This policy applies to all personal data processed by LUNNY & CO and is part of LUNNY & CO's approach to compliance with data protection law. All LUNNY & CO staff are expected to comply with this policy.

Data protection principles

LUNNY & CO complies with the data protection principles set out below. When processing personal data, it ensures that:

- it is processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency')
- it is collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes ('purpose limitation')
- it is all adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation')
- it is all accurate and, where necessary, kept up to date and that reasonable steps will 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 ('accuracy')

- it is kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed ('storage limitation')
- it is 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 ('integrity and confidentiality')

LUNNY & CO will facilitate any request from a data subject who wishes to exercise their rights under data protection law as appropriate, always communicating in a concise, transparent, intelligible and easily accessible form and without undue delay.

Process/procedures/guidance

LUNNY & CO will:

- ensure that the legal basis for processing personal data is identified in advance and that all processing complies with the law
- not do anything with your data that you would not expect given the content of this policy and the fair processing or privacy notice
- ensure that appropriate privacy notices are in place advising staff and others how and why their data is being processed, and, in particular, advising data subjects of their rights
- only collect and process the personal data that it needs for purposes it has identified in advance
- ensure that, as far as possible, the personal data it holds is accurate, or a system is in place for ensuring that it is kept up to date as far as possible
- only hold onto your personal data for as long as it is needed, after which time LUNNY & CO will securely erase or delete the personal data – LUNNY & CO's data retention policy sets out the appropriate period of time
- ensure that appropriate security measures are in place to ensure that personal data can only be accessed by those who need to access it and that it is held and transferred securely

LUNNY & CO will ensure that all staff who handle personal data on its behalf are aware of their responsibilities under this policy and other relevant data protection and information security policies, and that they are adequately trained and supervised.

Breaching this policy may result in disciplinary action for misconduct, including dismissal. Obtaining (including accessing) or disclosing personal data in breach of LUNNY & CO's data protection policies may also be a criminal offence.

Data Subject Rights

LUNNY & CO has processes in place to ensure that it can facilitate any request made by an individual to exercise their rights under data protection law. All staff have received training and are aware of the rights of data subjects. Staff can identify such a request and know who to send it to.

All requests will be considered without undue delay and within one month of receipt as far as possible.

Subject access: the right to request information about how personal data is being processed, including whether personal data is being processed and the right to be allowed access to that data and to be provided with a copy of that data along with the right to obtain the following information:

- the purpose of the processing
- the categories of personal data
- the recipients to whom data has been disclosed or which will be disclosed
- the retention period
- the right to lodge a complaint with the Information Commissioner's Office
- the source of the information if not collected direct from the subject, and
- the existence of any automated decision making

Rectification: the right to allow a data subject to rectify inaccurate personal data concerning them.

Erasure: the right to have data erased and to have confirmation of erasure, but only where:

- the data is no longer necessary in relation to the purpose for which it was collected, or
- where consent is withdrawn, or
- where there is no legal basis for the processing, or
- there is a legal obligation to delete data

Restriction of processing: the right to ask for certain processing to be restricted in the following circumstances:

- if the accuracy of the personal data is being contested, or
- if our processing is unlawful but the data subject does not want it erased, or
- if the data is no longer needed for the purpose of the processing but it is required by the data subject for the establishment, exercise or defence of legal claims, or
- if the data subject has objected to the processing, pending verification of that objection

Data portability: the right to receive a copy of personal data which has been provided by the data subject and which is processed by automated means in a format which will allow the individual to transfer the data to another data controller. This would only apply if LUNNY & CO was processing the data using consent or on the basis of a contract.

Object to processing: the right to object to the processing of personal data relying on the legitimate interests processing condition unless LUNNY & CO can demonstrate compelling legitimate grounds for the processing which override the interests of the data subject or for the establishment, exercise or defence of legal claims.

Special category personal data

This includes the following personal data revealing:

- racial or ethnic origin
- political opinions
- religious or philosophical beliefs
- trade union membership
- the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person
- an individual's health
- a natural person's sex life or sexual orientation
- criminal convictions or offences

LUNNY & CO processes special category data of clients and third parties as is necessary to provide legal services for the establishment, exercise or defence of legal claims.

LUNNY & CO processes special category data of employees as is necessary to comply with employment and social security law. This policy sets out the safeguards we believe are appropriate to ensure that we comply with the data protection principles set out above. LUNNY & CO also has a data retention policy which sets out how long special category data will be held onto.

Responsibility for the processing of personal data

The partners of LUNNY & CO take ultimate responsibility for data protection.

If you have any concerns or wish to exercise any of your rights under the GDPR, then you can contact the data protection lead in the following ways:

Mark Lunny, Lunny & Co, 130 Windmillhill Street, Motherwell ML1 1TA

Telephone : 01698 269 387

Monitoring and review

This policy was last updated on 25 May 2018 and shall be regularly monitored and reviewed, at least every two years.

DATA RETENTION POLICY

LUNNY & Co will obtain the following information from Clients and retain this information on its computer management system (CMS) indefinitely:

Name
 Address
 Telephone Numbers
 Email address
 Date of Birth
 Gender
 Marital status
 National Insurance Number
 SLAB identification number
 Occupation
 File Description

This information is retained for the purpose of identifying our clients and ensuring we do not act in cases where a conflict of interest could occur

Other papers and information held for the purposes of representing clients will be retained in paper or electronic format at our discretion and for such period as we deem necessary for regulatory purposes, as required by law or as recommended by the Law Society of Scotland. Information on the Law Society's recommendations are available here:-

<https://www.lawscot.org.uk/members/rules-and-guidance/rules-and-guidance/section-e/division-b/guidance/the-ownership-and-destruction-of-files/>

Our general policy is as follows:-

Category of file	Retention period	Reason
Court instructed papers	5 years after completion of case	Necessary for regulatory purposes should matter return to court
Criminal Summary	3 years	Information on the potential conviction and outcome of the case necessary to challenge future PC's
Criminal Solemn	3 years	Information on the potential conviction and outcome of the case necessary to challenge future PC's
Criminal General	3 years	Information on the potential conviction and outcome of the case necessary to challenge future PC's
Debt recovery	5 years after conclusion of case	As per LSS recommendation
Family – including divorce and contact	10 years after conclusion of case	As per LSS recommendation
Guardianship	Until death of adult or 5 years after papers no longer required	Case is continuing until adult's death. Thereafter retention as per LSS recommendation
Miscellaneous	10 years	As per LSS recommendation
Power of Attorney	Until 5 years after death of Adult	Case is continuing until adult's death. Thereafter retention as per LSS recommendation
Reparation	5 years following completion of case	As per LSS recommendations
SDS	5 years following completion of case	As per LSS recommendations
Wills	Until 5 years after death of adult	

Information may also be retained as required for financial compliance regulations.

PRIVACY POLICY

LUNNY & CO values the privacy of its clients and Staff. Protected information shall not be distributed to any third party without the client's consent or unless required for regulatory purposes or by law. Any distribution of client's protected information shall follow this procedure. All staff have been trained to implement this procedure.

Third Party Requests for information

Any request for information that is received shall require to be justified specifically to each case and a written record of the justification shall be retained on the file. Where information is to be supplied then the supply of information shall where necessary and appropriate include the following:-

"The information you are being supplied is subject to the GDPR and general Data Protections Laws of the United Kingdom and Scotland. It is provided solely for the purpose detailed in your request and shall not be used or retained for any other purpose without our written consent. By requesting this information you confirm you shall hold it in a secure manner and you will process it in terms of the said laws. You confirm you shall securely dispose of the provided data when there is no longer a necessity to hold this data specific to the purposes set out in your request or the data shall be returned to this office. We retain our right to the papers as Data Controller and you have received these papers as Data Processor with all the associated obligations and responsibilities set out in by law."

Distribution of information in the course of our actings for you

This office may require to distribute protected information in the course of our actings all as regulated within our data protection policy and as necessary for the representation of Clients and employment of staff. Where possible we will advise you of any information we shall be sharing in advance.

We have identified that we may share protected information with the following:-

- Our Accountants
- Our Law Accountants
- Additional supporting solicitors undertaking work on your behalf
- Opposing solicitors
- Courts
- Expert witnesses
- Our Staff
- Court appointed Reporters
- Scottish Legal Aid Board
- Law Society of Scotland
- Scottish Legal Complaints Commission
- Local Authority
- Computer management system companies

Any such sharing of information shall only occur when necessary and information shared shall be limited or anonymised where possible. Should you have any concerns about this policy or require further information please contact our office.

Please note that this policy is separate to our obligations of client confidentiality and obligations as an officer of the Court.