

DATA PROTECTION POLICY - Report by Chief Executive

Summary

This report recommends a Data Protection Policy for High Life Highland. It also outlines how High Life Highland will manage its responsibilities under the 1998 Data Protection Act throughout the organisation and indicates the various levels of responsibility.

It is recommend that Directors agree:-

- i. the adoption of the attached Data Protection Policy for High Life Highland;
- ii. to confirm that the Chief Executive and through him/her, Heads of Service and Principal Managers are responsible for the implementation of the Data Protection Policy within their teams;
- iii. that the ICT Manager will present an annual data protection monitoring and review report to the Senior Management Team which will direct the ongoing implementation of the Data Protection Policy;
- iv. that areas of significant concern will be raised by the Chief Executive with Directors; and
- v. that the statement and score in paragraph 4.1 of this report is added to the Risk Register.

1. Background

1.1 All public and private organisations are legally obliged to protect any personal information they hold and may be required to 'notify' the Information Commissioner's Office (ICO) about their processing of personal information, unless they are exempt. Notification is a statutory requirement and every organisation must notify the ICO. Failure to notify is a criminal offence which is pertinent to one of our corporate values: to act legally.

1.2 High Life Highland (HLH) is not exempt from notification.

2. Business Plan Contribution

2.1 The Data Protection Policy contributes to achieving the following elements of the HLH Business Plan 2012-15:-

- i. a positive company image.

3. Data Protection Policy

3.1 The draft Data Protection Policy for staff is outlined in **Appendix A** which details HLH's responsibilities to ensure compliance with the 1998 Data Protection Act. For background information, the Data Protection Guidance for staff is shown in **Appendix B**.

3.2 The Policy also makes provision for ensuring members of the public:-

- i. understand how we manage their personal data;
- ii. formally accept our data protection statement when asked to provide personal information; and
- iii. are aware how they can request details of the information held about them.

3.3 Responsibility for implementing the Policy sits with the Chief Executive and through him/her, Heads of Service and Principal Managers. Monitoring of compliance by means of annual spot checks and general review against ICO requirements will be the responsibility of the ICT Manager.

4. Risk Implications

4.1 There is a risk that failure to implement the Policy may result in legal action against HLH. However, the systems proposed suggest that the risk is relatively low. The following statement and score will be added to the Risk Register and kept under review. The risk is "below the line" and so does not require a specific action plan:

Failure to fully implement the Data Protection Policy results in action by the Data Protection Commissioner: score C2 (Effect – significant, likelihood - marginal).

Recommendation

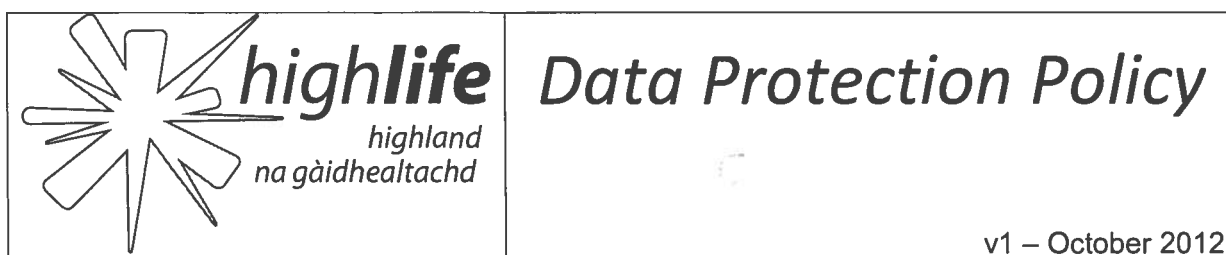
It is recommend that Directors agree:-

- i. the adoption of the attached Data Protection Policy for High Life Highland;
- ii. to confirm that the Chief Executive and through him/her, Heads of Service and Principal Managers are responsible for the implementation of the Data Protection Policy within their teams;
- iii. that the ICT Manager will present an annual data protection monitoring and review report to the Senior Management Team which will direct the ongoing implementation of the Data Protection Policy;
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- v. that the statement and score in paragraph 4.1 of this report is added to the Risk Register.

Signature:

Designation: Chief Executive

Date: 22 November 2012



1. High Life Highland (HLH) is committed to the safeguarding and protection of our customers' personal information at all stages when we gather, process, retain and dispose of it and to comply with our responsibilities under the 1998 Data Protection Act.
2. HLH will ensure that the protection of personal data will be appropriately managed by all staff that have an involvement in handling and processing it.

Background

The Data Protection Act (1998) was introduced to protect personal data [data about living individuals], no matter how it is processed, what it is processed for or who processes it. It gives rights of access to information to individuals both as an employee and as a member of the public.

The Information Commissioner's Office (ICO) is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. All public and private organisations are legally obliged to protect personal information they hold, and may be required to notify with the ICO. Public authorities are also obliged to provide public access to official information.

High Life Highland has a legal responsibility to manage the personal data we collect from individuals. The following guidance must be followed by all staff in order to ensure that we manage and maintain personal data responsibly and legally.

Data Protection Statement

The following statement must be used on all forms which collect personal data, regardless of whether they are paper-based or online forms.

1. The wording must not be altered in any way.
2. Every time you intend to issue a form requesting personal data, it must be checked over by our ICT Manager who has responsibility for our compliance with the Data Protection Act.
3. This statement should replace all statements on existing forms as soon as is practically possible – immediately if it can be.

Data Protection – the information you have supplied will be used for the purpose(s) for which you have provided it. High Life Highland will also use it to plan improvements and to meet our obligations in delivering services on behalf of The Highland Council. This data will be maintained in accordance with the Data Protection Act 1998 and will not be passed on or sold to any other organisation without your prior approval, unless there is a legal requirement to do so.

High Life Highland would like to send you information about our own products and services and the benefits of being a High Life member by post, telephone, email and SMS. If you agree to being contacted in this way, please tick the relevant boxes.

Post Phone Email SMS

Declaration: I agree to the use of my personal data as detailed above.

Signature:

Date:

Whilst it is not acceptable to amend the Data Protection statement, you can add other information elsewhere on the form e.g. you may need to share the data being gathered with a partner agency (sportsotland for example) and you should make that clear at the start of your document. Again, all forms being used to gather personal data must be checked by the ICT Manager who will either approve the intended use, or advise on necessary amendments.

Should you receive a completed form back which has not had the Data Protection Statement signed, the form must be returned to the individual for signing as we cannot process their data otherwise.

Where an individual ticks the box(es) to receive marketing information, you must supply a copy of the form to the Marketing & Communications Manager who collates and manages our central marketing database.

Marketing - Existing Members and Individual's Records

Clearly, there is a huge benefit to HLH as an organisation in communicating information about our products and services to our customers. In order to do this, we need the customer's permission.

At present, there are examples within the organisation where we have been using a form of data protection and marketing opt in which is specific to particular parts of the company and not for High Life Highland as a whole. Following advice from the ICO August 2012, whilst we may add these individuals to our central marketing database (managed by our Marketing & Communications Manager), we must offer them an 'opt out' option the first time we contact them with general HLH information. If they choose to opt out then they can still be contacted for the single service they gave consent for.

Please note that any customer facing marketing activities (including mailing lists) must be carried out in collaboration with the Marketing & Communications Manager (Laurie Piper – laurie.piper@highlifehighland.com or 01349 860814 / 01463 663822).

Databases and Data Retention

High Life Highland has a legal responsibility to gather only the data we actually need or will use and to only retain it for as long as is absolutely necessary. When you submit your form to the ICT Manager for approval you will be asked about the data you are requesting to review the need for it and for how long you will retain it. A record of all databases used by High Life Highland (whether these are paper records, Excel spread sheets or an online database system) will be maintained in accordance with the agreed data retention period(s). Guidance on legal requirements for data retention is being developed with our Records Manager which will be considered alongside the data you will be gathering. At the end of the agreed retention period, you must securely destroy/delete the personal data and notify the ICT Manager that it has been done. There will be occasions where you cannot delete the data as that could negatively impact on the performance of a software system. Where that is the case, the ICT Manager will work with you to investigate options to deal with this scenario e.g. could the data be anonymised so the records still exist but the personal data is no longer available?

Monitoring

The ICT Manager will be running annual checks within each of our 9 services to see if these systems are being properly adopted and provide advice to the Principal Manager of that service re areas which could be improved. This has to be done as failure to comply with the Data Protection Act can lead to not only unlimited corporate fines, but also personal convictions if it is found you are personally guilty of the offence being brought to court by the ICO.

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