

## Forth Valley College Occupational Health Privacy Notice.

This privacy notice applies to all individuals who are referred to an Occupational Health procedure at Forth Valley College, or employees who self-refer and later choose to share data with the College. We provide it to comply with data protection law and to ensure that our handling of your personal data is transparent and lawful.

Forth Valley College is the Data Controller. We have an appointed Data Protection Officer (DPO) who can be contacted by emailing: [dataprotection@forthvalley.ac.uk](mailto:dataprotection@forthvalley.ac.uk)

Forth Valley College is registered as a controller with the Information Commissioner's Office: Registration Number: Z9720531

See [Schedule 1](#) for details of the data that we process.

As your employer we have a duty of care to all of our staff and we collect personal data for the purposes of occupational health (OH) and for the assessment of the working capacity of an employee. We also process employee personal data to ensure the health and safety of the employee at work, and to allow consideration of any reasonable adjustments that may be required to support your ability to work.

### Where do we get the data from?

We collect your information in a number of ways, depending on the circumstances.

### Management Referral

Management referrals are made on the basis of the best interests of the employee and the college, and the best outcomes for both parties. HR staff will administer appointment dates and availability, but it is a decision for the employee whether they wish to attend an appointment, or whether to share with the college the content of the resultant report.

Under AMRA employees have the right to see the report before it is sent to their line manager and HR. Under Section 3 of AMRA requires that medical reports and applications for them are not processed unless the individual has consented. This is consent under AMRA and not under data protection law. Under Section 4 and 5 of AMRA employees have rights and can request inaccurate information is corrected. If the medical professional considers this is accurate a note on the report will be added to accurately reflect this. At the time of receiving the report to review, employees are given a time frame for contacting Occupational Health with consent under AMRA to release the report.

### Employment Health Questionnaires

The College has a duty of care to all employees to ensure their health and safety at work and, when applicable, identify and implement any reasonable adjustments required to enable the employee to work. Therefore, the College requires new employees to complete a health screening in order to determine if the individual is fit for the tasks that they will be performing, and identify any reasonable adjustments that may be required.

The questionnaire is used solely for the purposes of assessing fitness to work and if necessary implementing reasonable adjustments to ensure the employee is able to work.

## Health Surveillance

For some roles, health surveillance will need to be undertaken where risk assessment indicates that an individual might be exposed to certain hazards within the work place e.g. noise, exposure to chemicals. The employer will be sent a fitness to work certificate following the health surveillance appointment.

### Lawful Basis for Processing

The lawful basis for processing for these purposes are GDPR Article 6(1)(b) "Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract".

For the processing of special category personal data (i.e. health data), the lawful basis is GDPR Article 9(2)(h) "Processing is necessary for the purposes of preventive or occupational medicine, for the assessment of 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 Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3".

GDPR Article 9(3) states that processing is permitted "when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy."

## All health professionals will adhere to their governing body of professional standards with regards to confidentiality.

Please note any reference to consent is not consent to process personal data under data protection law. **Consent is in relation to the Access to Medical Reports Act 1988 (AMRA) only** and provides an employee with opportunity to view and correct an OH report prior to it being provided to the employer.

### Who do we share your data with?

For the purposes of Management Referrals, HR will view your report, or extracts from it, if you have agreed for the OH provider to share it. Excerpts from your OH Report may be shared with your line manager. For the purposes of New Employment Questionnaires and Health Surveillance this is shared, if necessary, to the College's HR department to ensure that reasonable adjustments are made and the College is meeting its duty of care and ensuring the health and safety of the workforce.

### How long do we keep your data?

The Occupational Health records will be kept for the length of employment and for 7 years after leaving employment (this applies to Management Referrals and New

Employment Health Questionnaires). Once this retention period has passed, these records will be destroyed securely following College procedures.

For the health surveillance records these are required under The Control of Substances Hazardous to Health Regulations (COSHH) 2002 and the related Health and Safety at Work etc Act 1974 which require that records are kept for 40 years. Following this time period, the records will be destroyed securely in line with College procedures.

### Your rights as a data subject

Under data protection law, you have a number of rights, some of these rights only apply if certain conditions are met.

Your rights are: right to be informed (e.g. privacy notice), right of access, right of rectification, right of erasure (commonly known as the right to be forgotten), right to restrict processing, right to object, right to data portability and the right to know of any automated decision making (including profiling).

You can exercise your rights either verbally or in writing and the College would normally be required to process your request in one month.

The rights that apply for this particular processing are:

- Right to be informed – this privacy notice addresses this.
- Right of access – you can request access and copies of your personal data held by the college. To do this, please email [dataprotection@forthvalley.ac.uk](mailto:dataprotection@forthvalley.ac.uk) and your request will be processed accordingly.
- Right to rectification – you can request that inaccurate or incomplete personal data is rectified.
- Right to erasure (this right is not absolute and is subject to specifics of the request).
- Right to object (including to direct marketing). The right to object to direct marketing is absolute and will be responded to accordingly.
- Right to data portability (this right is not absolute and is subject to specifics of the request).

### Data Protection Complaints

If you are concerned about how your personal data is being used by the College, in the first instance please contact the College Data Protection Officer (DPO) at [dataprotection@forthvalley.ac.uk](mailto:dataprotection@forthvalley.ac.uk)

If you are not satisfied with the outcome then you can complain to the regulator, the UK Information Commissioner's Office (ICO). The ICO has guidance on their website here: <https://ico.org.uk/your-data-matters/raising-concerns/>

You can email them at [casework@ico.org.uk](mailto:casework@ico.org.uk)

## Schedule 1: Job Applicant Data Processed

### **Personal data:**

Name  
Date of birth  
Address  
Telephone number  
email address  
Job role  
Sick/fit notes

### **Special Category/Sensitive personal data:**

Attendance/sickness record  
Health conditions  
Medical reports (if you choose to share them)